BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF	)	
CLINTON/GORE '96 PRIMARY COMMITTEE, INC.	)	**MUR 4407**
AND JOAN POLLITT, AS TREASURER	)	

RESPONSE TO COMPLAINT

I. INTRODUCTION

This is the Response of the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and Joan Pollitt, as Treasurer, to the complaint filed by the Dole for President Committee (the "Complainant" or "Dole Committee") and designated by the Federal Election Commission (the "FEC" or "Commission") as Matter Under Review ("MUR") 4407. As fully demonstrated below, the Dole Committee's politically motivated complaint is factually and legally insufficient to be considered, absolutely devoid of any evidence or support, and should be dismissed by the Commission forthwith. In addition, the material submitted below will demonstrate conclusively that the Commission should find no reason to believe that the Committee has violated any provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 et. seq. (the "Act" or "FECA").

II. FACTUAL BACKGROUND

On July 15, 1996, the Committee received a complaint filed by the Dole Committee, supported solely by excerpts from The Choice, a book authored by Bob Woodward, alleging that the Committee had exceeded the expenditure limit set forth at 2 U.S.C. § 441a(b). Specifically, the Dole Committee alleges that a series of television advertisements paid for by the Democratic National Committee (the "DNC") were "personally directed and controlled" by President Clinton, and solely because of that one alleged "fact", the value of the ads should be added to the Committee's spending. Without identifying a single advertisement and without any other support, the Dole Committee arbitrarily values the DNC ads at $25 million.

III. DISCUSSION

A. The Dole Complaint Is Legally Insufficient As a Matter Of Law And Is Completely Devoid Of Any Factual Support, Compelling Its Immediate Dismissal.

1. The Dole complaint fails to demonstrate that a specific FECA violation has occurred.

The Commission's regulations require a complaint, in order to be valid, to provide a "clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction . . . ." 11 C.F.R. § 111.4(d)(3). The Dole complaint does not satisfy this requirement because it fails to provide any facts which might constitute a violation of FECA or any FEC regulations.

The Dole Committee complaint is so devoid of facts it only alleges two - - (1) that President Clinton "personally directed and controlled from the White House" several DNC television advertisement campaigns and (2) that the ads cost $25 million Complaint at 1-2. However, these are, in actuality, unsupported assertions made by complainant and not facts upon which a complaint can be based. Nor can this Committee possible prepare and submit an adequate response in light of the paucity of factual material in the complaint. To which ads is the Dole Committee referring? When did they air? How was the $25 million cost derived? The complaint neither identifies nor describes any text of the advertisements at issue or when the advertisements were shown. In the absence of these key facts, this Committee is clearly left to guess as to what the complainant is referring.

In addition, the Dole complaint provides absolutely no facts as to how the President impermissibly "controlled" advertisements or on what date such events occurred, nor does it explain why "control," even if it existed, would constitute a violation. The complaint merely states that President Clinton "personally directed and controlled from the White House several ad campaigns that were paid for by the DNC." Complaint at 2. [1]

The two simple facts alleged by the Dole Committee do not describe a violation of the Act. Even if the Committee were to concede their truthfulness -- which it does not -- the DNC could certainly spend $25 million on television advertisements, outside the limitations of 2

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[1]As more fully explained herein, presumably, the Dole Committee means "coordination" when it alleges control, since nothing in the Act or the Commission's regulations pertains to "control". Most importantly for this analysis is the fact that nothing in the Act, regulations or the Commission's Advisory Opinions requires coordinated party expenditures or generic party expenditures, whether or not coordinated, to be subsumed into a presidential candidate's spending limit or somehow converted into an obligation of that candidate's principal campaign committee.

U.S.C. § 441a(d) as long as the appropriate legal standard as to content of the ads is met. No where does the complainant even allege that the ads contained any sort of electioneering message. Unquestionably, and as more fully explained below, the absence of an allegation of electioneering leaves the complaint totally devoid of any allegation of a violation of the Act.

Accordingly, contrary to the explicit requirements of 11 C.F.R. § 111.4(d)(3), the Dole complaint fails to provide "a clear and concise recitation" of the facts which constitute a violation of FECA or FEC regulations. The Dole Committee is alleging an expenditure limit violation but without, at minimum, providing the basic facts of how and when a violation occurred. Even if the complaint's vague descriptions of meetings were true -- there would be no violation of the Act. Merely stating that a FECA violation occurred without providing more specific facts regarding an actual occurrence of a violation is insufficient to constitute a valid FEC complaint under 11 C.F.R. § 111.4(d)(3), and this matter should be dismissed.

2. The use of the Woodward book as a source of information for an alleged FECA violation is facially insufficient and must be found invalid.

The Dole Committee's allegations are based solely on excerpts from Bob Woodward's book, The Choice. Complaint at 1, 3. However, this reliance on the Woodward book as a basis for an FEC complaint is inadequate and misguided. Mr. Woodward has no personal knowledge of any meetings in which television advertisement scripts were ever discussed or reviewed by President Clinton. He merely reconstructed what he thought to have occurred. In no way can Woodward's reporting be considered a truthful and accurate representation of events and conversations.[2]

Mr. Woodward even admits his own limitations on discovering the facts for his book. In a chapter titled "a Note to Readers," Woodward writes: "this [book] is the best version of the story I could write based on the information available to me." Bob Woodward, The Choice 11 (1996). By his own language the author admits that he is telling a "story" and that this is simply one version of the story. It may not be the only version, and it may not be the correct or accurate version, but is the Woodward version. Most compelling, however, is Woodward's subtle admission that he did not have all information, but just certain "available" information. Id.

Thus, the Dole complaint is wholly based on Mr. Woodward's own version and interpretation of events and conversations in which he did not personally participate or witness. At least one similar account has been held to be an insufficient basis for the Commission to make a finding. Federal Election Commission v. GOPAC, 917 F. Supp. 851, 864 (D.D.C. 1996). To allow this insufficient complaint to proceed would indeed be a violation of the "letter and spirit"

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[2]Attached to this response is a copy of a letter from General Counsel Lawrence M. Noble to the Washington Post taking issue with certain inaccurate statements in Woodward's book.

of 11 C.F.R. § 111.4. The Commission should not allow a complaint based on such "third-hand" reporting as probative nor as sufficient enough evidence that this Committee has committed a FECA violation. For these reasons, the Commission must find the Dole complaint, in its present form, invalid under 11 C.F.R. § 111.4.

B. Prior FEC Advisory Opinions Were Relied Upon By The DNC And Compel Dismissal Of The Complaint.

Even if the Commission determines that the inadequate complaint filed by the Dole Committee is sufficient to further consider this matter, the complaint must still be dismissed on the grounds that the DNC relied upon prior Commission Advisory Opinions ("AO"s) that are identical in all material respects to the facts herein. Pursuant to 2 U.S.C. § 437f (c) --

> (1) Any advisory opinion rendered by the Commission under subsection (a) of this section may be relied upon by: . . .
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> (B) Any person involved in any specific transaction or activity which indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.
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> (2) Notwithstanding any other provision of law, any person who relies upon any provision or finding of an advisory opinion . . .and who acts in good faith in accordance with the provision and findings of that advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act . . .

See also 11 C.F.R. § 112.5. In undertaking its ad campaign, the DNC unquestionably relied upon a prior FEC AO, 1985-14, in which the Commission advised, in key part, that proposed party committee expenditures for television advertisements, including those without an electioneering message or an exhortation to vote for that party, "will not be subject to the Act's limitations." Fed. Election Campaign Finance Guide (CCH) ¶5819. The Commission concluded that such advertisements would not be subject specifically to the limits of 2 U.S.C. § 441a(d), regardless of whether the ads were viewed by prospective voters of the party's candidates. To the contrary, according to the Commission, the limits of 2 U.S.C. § 441a(d) would apply only where an advertisement (1) depicted a clearly identified candidate and (2) conveyed an electioneering message.

The facts, in particular the advertisements, herein are materially indistinguishable from the ads considered by the Commission in AO 1985-14. Whereas the texts included as part of the AO covered three issues, the economy, the farm crisis and the oil industry, similarly, the DNC ads of concern here cover a variety of issues, including the budget, Medicare, education, crime, and the environment. Even more importantly, some of the ads considered by the Commission in the AO contained the closing phrase "Vote Democratic". Id. None of the DNC ads at issue contain such a phrase or any exhortation to vote, clearly making the DNC issue ads one step further removed from the electioneering message required by the FEC for application of 2 U.S.C.

§ 441a(d).

Advisory Opinion 1995-25 was similarly relied upon by the DNC and lends additional protection to the Committee. Fed. Election Campaign Finance Guide (CCH) ¶6162. In that AO, the Commission considered the texts of three ads, one on the Balanced Budget Amendment and two on Medicare, one of which mentioned President Clinton's name six times without a single reference to an election. Id. The Commission explicitly recognized that party committees may make expenditures for what the Commission called "legislative advocacy media advertisements", which would not be subject to the limits of 2 U.S.C. § 441a(d), unless the test contained in AO 1985-14 was satisfied. Fed. Election Campaign Finance Guide (CCH) ¶ 6162. Such legislative advocacy media advertisements were distinguishable by the Commission in AO 1995-25 for focusing on "national legislative activity" and promoting the party. Id. The Commission stated that "[a]dvocacy of the party's legislative agenda is one aspect of building or promoting support for the party that will carry it forward to its future election campaigns." Id.

A review of the texts of the DNC's legislative advocacy ad at issue here reveals that these ads are materially indistinguishable from the ads considered by the Commission in AO 1995-25. The clear unmistakable language of the texts relates in their entirety to national legislative activity. Similarly, the DNC ads simply cannot be materially distinguished from the 1985-14 ads in order to find an electioneering message. A comparison of the texts demonstrates there are no real differences. As a result of the DNC's reliance on this AO, the Committee must be protected from any sanction or adverse action under the Act. Accordingly, the Commission is precluded from finding reason to believe that any violation of the Act has occurred, and, instead, consistent with 2 U.S.C. § 437g, the Commission is compelled to dismiss the complaint.

C. The DNC Legislative Advocacy Ads Lack Express Advocacy, Lack Electioneering and Fall Outside the Commission's Jurisdiction, Including the Limitations of 2 U.S.C. § 441a(b) and (d).

As demonstrated below, none of the DNC advertisements contain express advocacy, or even, at a minimum, electioneering. In the absence of such a message, there is simply no legal basis for the costs of the ads to be applied to the limitations at 2 U.S.C. § 441a(b) or (d).

1. The DNC Ads Do Not Expressly Advocate the Election or Defeat of a Clearly Identified Candidate.

a. The express advocacy standard as it exists today.

If the Commission were to accept that the Dole Committee complaint contains a sufficient allegation that certain unidentified DNC television advertisements are subject to the Act's limitations on coordinated party expenditures at 2 U.S.C. § 441a(d), it must then determine the appropriate standard to use in analyzing the texts of the ads. The appropriate standard is that found in the Commission's regulations at 11 C.F.R. § 100.22(a), and, applying that standard to

the ads in questions, it can clearly be determined that the costs thereof are not subject to the limits of 2 U.S.C. § 441a(d), because none of the ads expressly advocated the election or defeat of any clearly identified candidate.

> The Commission regulations, at § 100.22, define expressly advocating as
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> any communication that - (a) Uses phrases such as "vote for the President," re-elect your Congressman," "support the Democratic nominee," "cast your ballot for the Republican challenger for U.S. Senate in Georgia," "Smith for Congress," "Bill McKay in '94," "vote Pro-Life" or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory," "defeat" accompanied by a picture of one or more candidate(s), "reject the incumbent," or communications of campaign slogan(s) or individual word(s), which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s), such as posters, bumper stickers, advertisements, etc. which say "Nixon's the One," "Carter '76," "Reagan/Bush" or "Mondale!"
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> (b) When read as a whole, and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because - (1) The electoral portion of the communications is unmistakable, unambiguous, and suggestive of only one meaning; and (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.

11 C.F.R. § 100.22. In light of the recent ruling in Colorado Republican Federal Campaign Committee v. Federal Election Commission, No. 95-489 (decided June 26, 1996), party communications should be subject to the Acts limitations only when the communications contain express advocacy. In order to avoid unconstitutional vagueness and overbreadth, 2 U.S.C. § 441a(d) must be construed to apply only to those coordinated party communications that contain express advocacy. Colorado Republican, No. 95-489.

However, section 100.22, the Commission's definition of "express advocacy" goes beyond the Buckley decision and is, in fact, a codification of both Buckley v. Valeo, 424 U.S. 1, 44 n. 52 (1976), in subsection (a) and Federal Election Commission v. Furgatch, 807 F.2d 857, 865 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1987) in subsection (b). Few courts have accepted the application of the Furgatch definition of express advocacy. In fact, in Maine Right to Life v. Federal Election Commission, 914 F. Supp. 8, 13 (D. Me. 1996), the district court invalidated 11 C.F.R. § 100.22(b) as beyond the power of the FEC and ruled that only the specific words such as those listed in subsection (a) constitute express advocacy.

At least two additional courts have limited the express advocacy standard to that contained in 11 C.F.R. § 110.22(a). In Federal Election Commission v. Christian Action Network ("CAN"), the court held that

> the only expenditures subject to the statutory prohibition are those that "expressly advocate" the election or defeat of a clearly identified candidate . . . by the use of such words as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," and "reject," . . .

894 F. Supp. 946, 951 (W.D.Va. 1993) aff'd, 1996 WL 431996 (4th Cir.). See also, Federal Election Commission v. Survival Education Fund, 65 F.3d 285 (2d Cir. 1995).

Accordingly, the correct standard is that found in 11 C.F.R. § 100.22(a), the "specific words" test.

b. The "four corners" of the DNC advertisements do not contain express advocacy

When analyzing the specific words in the text of a communication to determine whether express advocacy is present, the Commission may only look for and at the specific words themselves, i.e., the "four corners" of the communication. The Supreme Court's decision in Buckley does not permit a judicial inquiry beyond the words used in a television advertisement. Additionally, "courts generally have been disinclined to entertain arguments made by the Commission that focus on anything other than the actual language used in the advertisement." CAN, 894 F. Supp. at 958.[3]

Examination of the "four corners" and the specific words of the DNC television advertisements can lead only to the conclusion that the advertisements are not express advocacy under 11 C.F.R. §100.22. None of the advertisements expressly advocate the election or defeat of any candidate under the specific words test adopted by the courts in CAN, Maine Right to Life or Survival Education Fund.

The advertisements do not contain pointed exhortations to vote for or against particular

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[3] "[M]essages conveyed by imagery are susceptible to even greater misinterpretation than those that are conveyed by the written or spoken word. Consequently, if courts were to begin considering the images created by a communication to determine if a call to electoral action was present, the likelihood that protected speech would be chilled would be far greater. . . . To expand the express advocacy standard enunciated in Buckley [to include an analysis of the imagery of an advertisement] would be to render the standard meaningless. Such an expansion of the judicial inquiry would open the very Pandora's Box which the Supreme Court consciously sought to keep closed." CAN, 894 F. Supp. at 958.

persons. The advertisements are devoid of any language that directly exhort the public to vote. Even the few references to the Republican congressional leadership or other unambiguous references to the identity of particular candidates do not contain the required specific words.[4] The language of the DNC television advertisements educated viewers on legislative issues. The advertisements informed the public on the likely results of the legislative agenda of the Republican Congress and contrasted it with President's policies.

Nowhere in the advertisements were viewers asked to vote for or against any candidate. None of the advertisements requested any immediate action of the viewers.[5] No election was ever mentioned during the advertisements. Instead, viewers were presented with the President's positions and accomplishments on legislative issues such as Medicare, Medicaid, education, environment, welfare reform, Social Security, and a balanced budget. Viewers were told that the Administration's accomplishments and the President's plans sharply contrasted with some of the positions held and actions taken by the Republican Congress. The DNC advertisements represent the very type of issue advocacy the Buckley Court sought to exempt from governmental regulation.[6]

Accordingly, in the absence of express advocacy, there is no legal basis to apply the costs of the ads to 2 U.S.C. § 441a(b) or (d).

2. Even under the Commission's broadened definition, the DNC ads do not contain express advocacy.

Even accepting the broader interpretation of express advocacy as contained in 11 C.F.R. §100.22(b), i.e., the "reasonable minds could differ" test, all of the DNC ads fall short of express advocacy. Reasonable minds could certainly not dispute what the DNC's advertisements urged the viewers to do - nothing. The advertisements make no appeals for the viewer to vote, call anyone, or do anything. The advertisements merely provide facts about legislative issues that by their nature invoke the names of certain politicians. They do not provide explicit directives to

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[4]See CAN, 894 F. Supp. at 959 (advertisements are not express advocacy even though candidates were clearly identified).

[5]See NOW, 713 F. Supp. at 435 (finding that mailings were not express advocacy because NOW did not go beyond issue discussion to express advocacy; it merely attempted to make its views known).

[6]See also CAN, 894 F. Supp. at 953 (holding that CAN television advertisements that ran days before the 1992 presidential election and presented the Democratic presidential and vice presidential candidates' views on homosexual rights were not express advocacy)

vote against these politicians.[7]

For example, the one ad cited in the Woodward excerpts, "Slash" mentions no candidates by name and contains no exhortation. The plain language of "Slash" addresses the budget and specifically, reductions in the budget. The President's plan is mentioned, because the ad is about the plan. Even the Woodward book itself, although relying on an apparently fictional anecdote, describes clearly the relationships between "Slash" and the then-ongoing budget negotiations. The Choice p. 354. If this ad is to be considered unmistakable and suggestive of only one meaning, then that meaning is related to legislation rather than to an election.

Complainant's unsupported claim that the advertising campaign was controlled by the President is meaningless and does not change the conclusions to be drawn under 11 C.F.R. § 100.22. Nothing in the Act, Commission regulations or court cases makes "control" a relevant factor. Presumably, complainant means "coordination" when it states "control". Yet, such a statement simply highlights complainant's misunderstanding or misstatement of the correct standard. Coordination is irrelevant to the application of section 2 U.S.C. § 441a(d) -- content is controlling. The candidate is presumed to be coordinating with his or her party's expenditures, whether or not that meets the standards set forth herein.

Moreover, complainant suggests that coordination is the standard for whether an expenditure should be applied to the Committee's own base primary expenditure limit of $30,910,000. This suggestion is not worthy of Commission consideration for it would render the very essence of 2 U.S.C. § 441a(d) meaningless. Never has the Commission declared, nor does it have the jurisdiction to do so, that party advertisements could not be coordinated with a Federal candidate without the costs of those ads being attributed to the party spending limit[8].

Therefore, without a frank admonition to take electoral action, the plain language of the DNC advertisements does not constitute express advocacy, and there is no legal basis to apply the costs of the ads to the limitations of 2 U.S.C. § 441a(b) or (d).

3. The Democratic National Committee Ads Are Not Electioneering

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[7]Even when considering the timing of the 1996 presidential election, the advertisements at issue are not express advocacy. All of the DNC legislative advocacy ads ran while related legislation, e.g., the budget plan, was being actively being considered. Moreover, the timing of the advertisements, from August 1995 -- more than a year before the general election -- to July 1996, is clearly consistent with a legislative advocacy campaign, rather than an election campaign. See CAN, 894 F. Supp. at 958 (holding advertisements not to be express advocacy even though advertisements were just prior to the general election).

[8]Such a limitation would undoubtedly raise grave constitutional issues. See also, Noble Letter, attached hereto.

Messages.

Even if the Commission refuses to accept the recent court decisions setting forth the Buckley express advocacy standard as the appropriate standard, the DNC television advertisements at issue do not meet the broader, more suspect standard of electioneering. As discussed above, the Commission's requirement for an electioneering standard was set forth in AO 1985-14. Fed. Election Campaign Finance Guide (CCH) ¶5819. In AO 1985-14, the Commission defines an electioneering message as including statements "designed to urge the public to elect a certain candidate or party." Id. (citing United States v. United Auto Workers, 352 U.S. 567, 587 (1957)). Even the Commission has determined that the mere mention of an individual candidate by name is by itself insufficient to constitute electioneering. AO 1985-14, Fed. Election Campaign Finance Guide (CCH) ¶5819. See also GOPAC, 917 F. Supp. at 862-863 (finding that GOPAC letter that mentioned Speaker Wright by name and attacked generally the Democratic Congress was not electioneering). AO 1985-14 also provides "Vote Democratic" as an example of an electioneering messages. Fed. Election Campaign Finance Guide (CCH) ¶5819.

The DNC advertisements do not mention or refer to any election. There is no request for viewers to vote for or support any candidate or political party. Similarly, there is no reference to voting against or defeating any candidate or political party. The phrase "Vote Democratic" does not appear in any ad.

Moreover, like the ads in both AO 1985-14 and 1995-25, these advertisements merely provide information on current congressional legislative proposals. As with those AOs, Federal candidates are mentioned only as officeholders and to the extent of their officeholder duties, such as involvement in legislative activities. The references to the President involve solely his role as an officeholder and with regard to his specific legislative proposals and initiatives. Similarly, the references to Majority Leader Dole and Speaker Gingrich relate solely to their roles as officeholders and the leaders of their respective legislative bodies. Thus, the DNC advertisements meet none of the criteria for electioneering. The messages of those legislative advocacy ads fall clearly short of the standard elucidated by the Commission in its AOs and for that reason cannot be subject to the limitations of 2 U.S.C. § 441a(b) or (d).

4. The DNC Advertisements Consist Of Legislative Advocacy Which Is Outside the Commission's Jurisdiction.

Funds spent to propagate one's views on issues without expressly calling for the election or defeat of a clearly identified candidate are not covered by FECA. Buckley, 424 U.S. at 43. The communications at issue do not contain express advocacy nor do they contain an electioneering message as defined by either the courts or by the Commission. Therefore, these communications are not subject to FEC limitations and prohibitions. All of the advertisements at issue fall in the category of "legislative advocacy"-- a category of party communications clearly outside the jurisdiction and control of the Commission. See Buckley, 424 U.S. at 39-43 (holding

that restrictions on discussion of public issues limit political expression at the core of our electoral process and of First Amendment freedoms).

The texts of the DNC advertisements clearly demonstrate that each of the ads deal with legislative proposals offered or supported by President Clinton which contrast with the legislative proposals of the Republican Congress. The message of these advertisements is one of educating the public on the President's position on legislative proposals, initiatives and issues.

As strictly "legislative advertisements" or "generic party advertising," these ads cannot not be counted as 2 U.S.C. § 441a(d) expenditures as the Dole complaint alleges. These advertisements do not count toward the Act's expenditure limitations for a national party and should be outside the limitations of FECA under First Amendment analysis. See CAN, 894 F. Supp. at 955 ("[T]he ability to present controversial viewpoints on election issues has long been recognized as a fundamental First Amendment right."); Buckley, 424 U.S. at 14 ("Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution.").

To apply the 2 U.S.C. § 441a(d) expenditure limitation here would be to restrain the very activity, legislative advocacy, that Buckley and its progeny sought to protect. In fact, the application of 2 U.S.C. § 441a(d) to these ads would extend the Commission into activity completely outside of its jurisdiction, as determined by the plain language of the Act, as well as by the intent of the Act's authors.[9] Accordingly, the Commission should not apply 2 U.S.C. § 441a(b) or (d) to these legislative advocacy ads.

IV. CONCLUSION

The Dole Committee's purely political complaint in this matter should be immediately dismissed by the Commission for several compelling reasons. First, the complaint's factual and legal basis is so inadequate, insufficient and devoid of information that no violation of the Act is described. Second, the DNC's ad campaign falls squarely within and is materially indistinguishable from the facts of two prior Commission Advisory Opinions. Finally, the DNC ads are plainly lacking in express advocacy or electioneering and are instead, legislative in nature, falling entirely outside the limitations raised by Complainant.

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[9]Because of the serious First Amendment issues raised in any attempt to regulate legislative advocacy communications, the Committee will vigorously challenge any intrusion into activity protected by the First Amendment.

For the reasons stated above, the Committee respectfully requests that the Commission find no reason to believe that any violation of the Act has occurred, dismiss the complaint and close this matter.

Respectfully submitted,

Lyn Utrecht
General Counsel

Eric Kleinfeld
Chief Counsel

LEVEL 2 - 2 OF 2 STORIES

The Washington Post

June 27, 1996, Thursday, Final Edition

SECTION: OP-ED; Pg. A28; LETTERS TO THE EDITOR

LENGTH: 202 words

HEADLINE: Not What I Said

BODY:

In excerpting Bob Woodward's book "The Choice," The Post attributes to me a statement which I did not make and which does not appear in the book. Specifically, I would never say that "no presidential candidate should be deeply involved in his party's advertising." The law presumes that a candidate may be involved in his party's advertising, though the ramifications of that involvement on spending and contribution limits may raise difficult legal and factual questions.

In addition, the excerpt quotes me as saying that "we have forgotten the lessons of Watergate," but omits the book's disclaimer that I was not

referring to any specific factual situation in this presidential election. My real concern is that some courts are giving short shrift to the long-recognized compelling government interests that gave rise to the campaign finance laws.

The continuing debate about the campaign finance laws deals with issues central to our democracy. If the debate is be meaningful and constructive, it is important that we are accurate and avoid oversimplification in the quest for easily understandable analysis.

LAWRENCE M. NOBLE

General Counsel

Federal Election Commission

Washington

LANGUAGE: ENGLISH

LOAD-DATE: June 27, 1996