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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY -4 1998

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

Kim Bright-Coleman
Associate General Counsel

SUBJECT: MURs 4407 and 4544 - Motions to Quash, Motion to Modify Subpoena, Requests for Extensions of Time, Contingent Suit Authority

I. BACKGROUND

On February 10, 1998, the Commission found reason to believe that the Respondents in MURs 4407 and 4544 violated statutes and regulations over which it has jurisdiction, and opened an investigation. *See* 2 U.S.C. § 437g(a)(2); 11 C.F.R. § 111.10. On February 19, 1998, the Commission mailed subpoenas to the Respondents. On February 23, 1998, the Commission mailed subpoenas to non-respondent witnesses. On April 1, 1998, the Commission mailed an additional subpoena to the Florida Democratic Party ("FDP"), a non-respondent witness. Respondents and certain non-respondent witnesses have filed motions to quash, as described in detail below. The FDP has filed a Motion to Modify Subpoena. In addition, Respondents and some non-respondent witnesses have requested extensions of time to respond to the subpoenas.

II. MOTIONS TO QUASH

A. Respondents President Clinton, Vice President Gore, and The Primary and General Election Committees

Similar motions to quash were filed by Respondents President Clinton, Vice President Gore, the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, and the Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer (collectively "the Candidate/Committee Respondents").[1] Attachments 1-4.

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[1] These Respondents, and 15 of the non-respondent witnesses, are represented by the same counsel.

The Candidate/Committee Respondents all argue that the subpoenas must be quashed because the antecedent reason to believe findings are "not authorized by law." *E.g.*, Attachment 1 at 3. The Candidate/Committee Respondents raise four legal arguments challenging the Commission's reason to believe findings. First, these Respondents argue that the Commission has improperly examined the purpose of the communications in determining whether they constitute issue advocacy. Second, these Respondents contend that the reason to believe findings violate the presumption that political parties and their candidates "may fully coordinate campaign activities." The Candidate/Committee Respondents' third argument is that the reason to believe findings are inconsistent with the standard applied in Advisory Opinion ("AO") 1995-25. Fourth, they argue that the standard used by the Commission in its reason to believe findings is unconstitutionally vague. *E.g.*, *id.* at 3-7.

Respondents President Clinton, Vice President Gore and the Clinton/Gore '96 General Committee, Inc. ("the General Election Committee") also argue that the subpoenas should be quashed because the reason to believe finding is based upon an incorrect fact, citing the Commission's finding that it appears that the General Election Committee's expenditures as of July 15, 1997 were $62,109,491.01. Respondents President Clinton, Vice President Gore and the General Election Committee contend that had the Commission subtracted funds owed to the General Election Committee, as reported on its July 15, 1997 quarterly report, it would have concluded that the amount of the expenditures was $59,880,679.72. *E.g.*, *id.* at 2-3.

Respondents President Clinton, Vice President Gore and the General Election Committee also charge the Commission with "procedural deficiencies" in these MURs. These Respondents all argue that they were entitled to, but did not receive, notice of the complaints in these MURs and an opportunity to respond, and that the Commission's reason to believe finding is invalid. *E.g.*, *id.* at 8-9. Respondents President Clinton and Vice President Gore further argue that facts upon which the reason to believe findings are based are an insufficient basis for reason to believe findings against them. *E.g.*, *id.* at 7-8. In addition, the General Election Committee complains that references in the subpoena to the Primary Committee are inconsistent with a reason to believe finding against it, and that it did not even exist at the time of the advertisements at issue, and that the reason to believe finding against it therefore cannot stand. Attachment 4 at 8-9.

Respondents President Clinton and Vice President Gore also argue that, by virtue of their offices, the Commission cannot seek discovery from them unless it first determines that the information sought is not available from another source. These Respondents suggest that the Commission first take discovery from the Democratic National Committee ("DNC") and the Primary and General Election Committees before seeking discovery from them. *E.g.*, Attachment 1 at 2.

Finally, Respondents President Clinton and the Primary Committee complain that the Commission is seeking the same information from numerous individuals and predict that this will "create a paper logjam at the Commission." *E.g.*, *id.*

B. Respondent DNC

The DNC argues that, under the express advocacy and electioneering message standards, only the content, timing, and amount of expenditures for the advertisements are relevant. Attachment 5 at 1-4. The DNC further urges that facts related to coordination between the campaign and the DNC are irrelevant, and that the Commission may not investigate transfers of funds it made to state parties. *Id.* at 5-10.

The DNC then concludes that because only content, timing and amount are relevant in these MURs, and because it understands that the Commission already has this information, the subpoena issued to it should be quashed. *Id.* at 10-11. To the extent that the Commission does not already have information related to the content, timing and amount, the DNC offers to provide that information voluntarily. *Id.*

C. Harold Ickes, *et al.*

Substantially similar motions to quash were filed by Harold Ickes; William Knapp; Peter Knight; Terrence McAuliffe; Leon Panetta; Marius Penczner; Mark Penn; Hank Sheinkopf; Douglas Shoen; Doug Sosnik; Robert Squier; Betsy Steinberg; George Stephanopoulos; the November 5 Group, Inc.; and Squier Knapp Ochs Communications, Inc. (collectively "Mr. Ickes, *et al.*").[2] Attachments 6-19, 36.

Mr. Ickes, *et al.* argue that requests for production 1-4 are overbroad because the requests call for the production of information regarding advertisements related to state or local elections. They similarly object to interrogatories 1-4 on the ground that these interrogatories seek information related to activity beyond the scope of the Federal Election Campaign Act. Mr. Ickes, *et al.* also argue that interrogatory 5 is overbroad because it does not specify the type of advertisements which are the subject of the interrogatory.[3] *E.g.*, Attachment 6 at 1-2.

In addition to arguing that the subpoenas are overbroad, Mr. Ickes, *et al.* complain that the requests for production and interrogatories are redundant, which burdens the respondents. Once again, the Commission is warned of an impending "paper logjam." *E.g., id.* at 2.

Finally, Mr. Ickes, *et al.* argue that the subpoenas should be quashed because the subpoenas refer to advertisements which are outside the Commission's jurisdiction, citing the

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2 *See* footnote 1, *supra.*

3 The Commission served subpoenas for the production of documents, but not interrogatories, on the November 5 Group, Inc., and Squier Knapp Ochs Communications, Inc. Accordingly, the motions to quash filed by these two entities did not include the objections to interrogatories set forth in the other motions to quash filed by Mr. Ickes, *et al.*

electioneering message/clearly identified candidate and express advocacy standards as prohibiting the Commission from exercising jurisdiction in these MURs.[4] *E.g., id.* at 2-3.

D. Executive Office of the President

The Executive Office of the President argues that the subpoena issued to it is unduly burdensome, and that the Commission should seek discovery from "Clinton/Gore '96" and the DNC before seeking discovery from it. Attachment 20.

III. DISCUSSION

A. The Law

The Commission is authorized by statute to issue subpoenas for the production of documents and orders requiring the submission of written answers to questions. 2 U.S.C. § 437d(a). Any person to whom a subpoena is directed may apply to the Commission to quash or modify such a subpoena within five days after the date of receipt of the subpoena. 11 C.F.R. § 111.15(a). Such an application should be accompanied by a brief statement stating the reasons why the Commission should quash or modify the subpoena. *Id.* The Commission may deny the application, quash the subpoena or modify the subpoena. 11 C.F.R. § 111.15(b).

The Commission's subpoenas and orders to answer questions are enforceable by the Federal district courts. 2 U.S.C. § 437(b). In general, an agency subpoena is enforceable if the subpoena relates to a matter within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant. *United States v. Morton Salt Co.*, 338 U.S. 632, 652 (1950). Enforcement of an administrative subpoena does not require that the issuing agency propound a theory of its possible future case. *Federal Trade Commission v. Texaco, Inc.*, 555 F.2d 862, 874 (D.C. Cir.) (en banc), *cert. denied*, 431 U.S. 974 (1977). However, because the matters over which the Commission has jurisdiction involve the regulation of activities protected by the First Amendment, some courts have quashed Commission subpoenas upon concluding that the Commission did not have subject matter jurisdiction over the activity that was the subject of the subpoena. *Federal Election Commission v. Florida for Kennedy Committee*, 681 F.2d 1281 (11th Cir. 1982); *Federal Election Commission v. Citizens for Democratic Alternatives in 1980*, 655 F.2d 397 (D.C. Cir. 1981), *cert. denied* 454 U.S. 897

[4] In the introduction to the motions to quash, Mr. Ickes, *et al.* assert that the investigation in these MURs relates to "legislative media advertisements." Mr. Ickes, *et al.* further state that "it is not disputed that the Commission . . . has jurisdiction to examine the question of whether the ads contained an electioneering message, provided that the Commission limits its examination to advertisements which contain words of express advocacy." *E.g.*, Attachment 6 at 1.

(1981); *Federal Election Commission v. Machinists Non-partisan Political League*, 655 F.2d 380 (D.C. Cir. 1981), *cert. denied* 454 U.S. 897 (1981).[5]

B. Timeliness of the Motions

The subpoenas directed to Hank Sheinkopf and Marius Penczner were delivered on February 26, 1998, and the last day on which they could timely file a motion to quash or modify the subpoena was March 5, 1998. *See* 11 C.F.R. §§ 111.15(a); 111.2(b). Mr. Sheinkopf and Mr. Penczner each filed a motion to quash on March 6, 1998. The subpoena directed to Leon Panetta was delivered on February 28, 1998, and the last day on which he could timely file a motion to quash or modify the subpoena was March 6, 1998. *See id.* His Motion to Quash was filed on March 12, 1998. The subpoena directed to the Primary Committee was delivered on February 23, 1998, and the last day on which it could timely file a motion to quash or modify the subpoena was March 2, 1998. *See id.* Its Motion to Quash was filed on March 6, 1998.

Mr. Panetta's Motion to Quash sets forth that "Mr. Panetta contacted and retained counsel on March 12, 1998, therefore, this motion is timely filed." Attachment 10 at 1, n.1. Contrary to this assertion, there is nothing in the Commission's regulations which provides that an otherwise untimely filing is timely if it is filed on the date on which counsel is retained.

The Primary and General Election Committees are represented by the same counsel. The Primary Committee's Motion to Quash, which was filed on March 6, 1998, sets forth that the envelope addressed to the Primary Committee, and delivered by certified mail, contained a copy of the notice letter and subpoena directed to the General Election Committee. Attachment 3 at 2. This statement contradicted this counsel's earlier oral representation to this Office that she did not know what had been contained in the envelope addressed to the Primary Committee. This Office contacted this counsel regarding this contradiction, and counsel conceded that her statement that the Primary Committee received copies of documents for the General Election Committee is speculation on her part.

The motions filed by Hank Sheinkopf, Marius Penczner, Leon Panetta and the Primary Committee should be denied as untimely. To the extent that the Commission nevertheless

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[5] In *Machinists Non-partisan Political League* the Court of Appeals explained:

> In order to insure that the Commission's investigations comport with the fundamental first amendment interest in guarding constitutionally protected information from unlawful disclosure, we believe that when a serious and novel question of the Commission's subject matter jurisdiction is presented, an essential prerequisite for enforcing an FEC subpoena is a determination by the district court that subject matter jurisdiction exists for the investigation.

Machinists Non-partisan Political League, 655 F.2d at 396. The Court of Appeals went on to hold that where the Commission asserts that the information that is the subject of the subpoena is necessary for resolution of the jurisdictional question, the district court should enforce the subpoena only to the extent necessary to resolve the jurisdictional issue and order broader enforcement only if "jurisdiction for a full investigation appears to exist." *Id.* at 396-97.

considers these motions on the merits, they, and the other timely-filed motions, should be denied for the reasons set forth below.

C. Analysis

The subpoenas satisfy the *Morton Salt* criteria for enforcement. The subpoenas relate to the issues whether the DNC paid for a major advertising campaign which was calculated to further President Clinton's re-election efforts, and whether the President and campaign officials directed and actively participated in the development of this campaign. To the extent that these events did occur, the DNC funding would constitute in-kind contributions to President Clinton's re-election campaign or coordinated party expenditures. The Commission's jurisdiction to regulate contributions to candidates receiving public funding and matching funds (and their campaign committees), as well as expenditures made by national committees on behalf of such candidates, is beyond dispute, and does not present a "serious and novel question of the Commission's subject matter jurisdiction." *Machinists Non-partisan Political League*, 655 F.2d at 396.

Moreover, the requests for answers to questions and the production of documents are not indefinite. To the contrary, the language of the interrogatories and the requests for production is particular and specific, unambiguously seeking information related to the funding, production and publication of advertisements which were funded by the DNC or state democratic parties, and which were developed and/or created by Squier Knapp Ochs Communications ("SKO") or November 5 Group, Inc. ("November 5").[6] This information is directly relevant to the issue whether the DNC funded a media campaign which was orchestrated by the President and campaign officials. Thus, the subpoenas satisfy the *Morton Salt* criteria for enforcement.

The Commission should reject the Respondent's arguments in support of quashing the subpoenas, to the extent such arguments challenge the Commission's reason to believe findings. Enforcing the Commission's subpoenas is not dependent on the Commission setting forth a focused theory of a possible future case. *Texaco*, 555 F.2d at 874. Furthermore, the Commission's regulations provide the Respondents the opportunity to present legal arguments if, at the conclusion of the investigation in these MURs, this Office recommends that the Commission find probable cause to believe that any Respondents violated statutes or regulations over which the Commission has authority. 11 C.F.R. § 111.16(c). The Commission should not favor the Respondents in these MURs by affording them the opportunity to present legal arguments at a time earlier than is allowed under the Commission's regulations.

The Commission also should reject the DNC's argument that the Commission's authority to investigate in these MURs is limited to the timing and content of the advertisements, and the amount of the DNC's disbursements for the advertisements. To the extent that the Commission's subpoenas go beyond matters related to timing, content and amount, and seek information related

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[6] As set forth in detail in the First General Counsel's Report, it appears that SKO and November 5 were interconnected firms which were responsible for the Clinton/Gore primary and general election media campaigns.

to the purpose and intent of the DNC media campaign, that inquiry is relevant because generally there can be no contribution absent a "purpose of influencing [an] election for Federal office . . . ." 2 U.S.C. § 431(8)(A)(i).

The Commission also should reject the argument that the subpoenas should be quashed because the reason to believe finding is based upon incorrect facts. The reason to believe findings are based on the Commission's conclusion that it appears that total amount spent on the advertising campaign at issue in these MURs was between $15,000,000.00 and $50,000,000.00. *See* Factual and Legal Analysis (MURs 4407/4544, Respondent: Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer) at 16. The general election limitation was $61,820,000.00. Accordingly, the reason to believe findings would be the same, regardless whether the amount of General Election Committee expenditures is $62,109,491.01 (the amount reflected in the General Election Committee's quarterly report, filed July 15, 1997) or $59,880,679.72 (the same amount, less funds reported as owed to the General Election Committee), because the amount allocated to the expenditure limit would still cause the General Election Committee to exceed the expenditure limit.

There are also no "procedural deficiencies" as is claimed by President Clinton, Vice President Gore and the General Election Committee. The notice letters and factual and legal analyses provided to them are consistent with the Commission's procedures in other cases in which a complaint leads the Commission to find reason to believe that a respondent not named in the complaint violated statutes and regulations over which it has jurisdiction. The information provided to President Clinton, Vice President Gore and the General Election Committee is the same type of information that internally generated respondents ordinarily receive, and is sufficient notice of the issues related to them. *Cf.* Memorandum to the Commission from General Counsel Lawrence M. Noble, dated August 8, 1997 re: Clinton/Gore Committees' Request for Documentation Supporting the Commission's Reason to Believe Findings [MURs 4291, *et al.*]; Certification in MURs 4291, *et al.*, dated August 15, 1997.

The Commission also should reject the argument that it should seek discovery from other parties prior to seeking discovery from the President and the Vice President. The Commission is entitled to discovery from any person. 2 U.S.C. § 437d(a). As candidates receiving matching funds and public funds, President Clinton and Vice President Gore personally agreed to provide records and information to the Commission. 2 U.S.C. §§ 9003(a); 9033(a). The United States Supreme Court recently affirmed that the President is not immune from process, and reviewed the many instances where Presidents have provided evidence, including two instances in which President Clinton provided videotape testimony for use in criminal trials. *Clinton v. Jones,* 117 S.Ct. 1636, 1649-50 (1997). The Supreme Court at the same time recognized that the President is entitled to deference and accommodation in proceedings in which he or she is a participant.

It appears that the President and the Vice President may have been personally involved in the incidents which gave rise to the reason to believe findings in these MURs, and it therefore is possible that these respondents possess information that is not available elsewhere. This Office emphasizes that the Commission, at this time, has only sought the production of documents and

answers to questions from the President and Vice President, but it has not authorized the taking of their depositions. While the Commission and this Office will work closely with the President's counsel to accommodate the legitimate needs of the President and Vice President, they should not be exempted from discovery, particularly since they are Respondents in these matters and previously agreed to provide information to the Commission in exchange for public funding.

The arguments that the requests are redundant and unduly burdensome should be rejected. There is no reason why the Commission cannot seek the same information from more than one source. While the possibility of some overlap in the responses is likely, it is also likely that different movants will have different information responsive to the same requests. Furthermore, the movants have not made any showing that responding to the requests would in fact result in duplicative responses or an undue burden, other than making the dire prediction of a "paper logjam."

Significantly, even though four Respondents and 15 non-respondent witnesses are represented by the same counsel, these movants have not represented that they have investigated whether their responses would, in fact, overlap. Indeed, prior to being represented by this counsel, one witness contacted this Office and indicated that he had no records responsive to the Commission's subpoena. Upon being represented by counsel, his attorneys filed a motion to quash which, like the other motions filed by the same counsel, argued that the scope of the Commission's inquiry was unduly burdensome and redundant. Counsel's assertion of undue burden thus appears to be made without actually having ascertained or estimated the volume of responsive materials or the degree of overlap between the information available to the various respondents.

Objections related to overbreadth are also without merit. As noted above, Mr. Ickes, *et al.* object that requests for production 1-4 are overbroad because they interpret the requests to require the production of information regarding advertisements related to state or local elections. However, there appears to be little reason to believe that many of these movants who make this argument in fact possess such information, and no movant has stated that he, she or it in fact has such records. To the extent that a particular movant in fact has information that is arguably within the scope of the subpoenas, but of no interest to the Commission, or which has already been produced or is otherwise available, this Office will work with that movant to narrow the request appropriately.[7] However, absent such a showing, the Commission should not quash the subpoenas on the basis of abstract arguments which allege, but do not demonstrate, overbreadth, undue burden or redundancy, and it should not leave it to the movants to decide for themselves whether or not a particular advertisement is related to state or local elections. Similarly, the objection that the subpoenas should be quashed because they require the production of advertisements which do not contain express advocacy or an electioneering message also should

[7] The Commission already has access to records related to these MURs, including documents produced to the Audit Division, and documents provided to the Commission by the Senate Government on Governmental Affairs from its investigation into 1996 federal election activities.

be rejected, and the question whether a particular communication meets these thresholds should not be left to the movants to decide for themselves.[8]

For the foregoing reasons, the Commission should reject the motions to quash.

IV. MOTION TO MODIFY SUBPOENA

On April 13, 1998, the FDP filed a Motion to Modify Subpoena. Attachment 35. The Motion to Modify requests that the scope of interrogatory 5 be modified. Interrogatory 5 asks the party responding to the discovery to:

> State the time and date of each meeting and telephone conversation during which there was any discussion of any kind concerning the planning, organization, development and/or creation of television, radio or print advertisements. Such discussion includes but is not limited to discussion of advertisements produced in whole or in part by SKO, advertisements produced in whole or in part by November 5, advertisements paid for in whole or in part by the DNC, advertisements paid for in whole or in part by the Florida Democratic Party or any other State Democratic Party, and advertisements paid for in whole or in part by Clinton/Gore. "Meeting" means any discussion among two or more persons, including discussions that were incidental to another meeting topic, telephone conversations, and discussions by any other electronic medium. For each meeting:
>
> a. Identify the location of the meeting, and for telephone or other electronic discussions, the location of each participant.
>
> b. Identify each and every person who attended, heard or participated in any meeting. For each identified person, indicate which meeting that person attended, heard or participated in, and the date that each meeting occurred.
>
> c. Describe the substance, decisions, discussion and details of each and every meeting.
>
> d. Identify who produced the specific advertisements discussed in the meeting, including SKO, November 5, or some other entity or person.

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[8] This Office notes that, with the exception of interrogatory 5, these requests contain limitations which would seem to make it unlikely that documents and information unrelated to these MURs are within the scope of the requests. For example, document request number 1 is limited to advertisements "developed and created by SKO which were paid for in whole or in part by the DNC." The respondents have not asserted that, in fact, SKO developed and the DNC funded any advertisements related to state or local races. This Office recommends modification of interrogatory 5. *See infra.*

e. Identify each person or entity that paid in whole or in part for any advertisements that were discussed, including but not limited to the DNC, the Florida State Democratic Party, other State Democratic Committees and Clinton/Gore, and the amount paid by each person or entity.

A similar interrogatory 5 was propounded to Erskine Bowles, President Clinton, Vice President Gore, Harold Ickes, William Knapp, Peter Knight, Terry McAuliffe, Jo Miglino, Dick Morris, Leon Panetta, Marius Penczner, Mark Penn, Doug Schoen, Marsha Scott, Hank Sheinkopf, Doug Sosnik, Robert Squier, Betsy Steinberg, George Stephanopoulos and Jamie Sterling.

The FDP objects to the scope of the interrogatory, arguing that it calls for information beyond the scope of the Commission's authority. In particular, the FDP objects to responding to the interrogatory to the extent that it calls for the production of advertisements related to state and local races. Attachment 35 at 2-3. The FDP indicates that it is preparing a response to this interrogatory to the extent that it seeks information relating to the advertisements produced by SKO and November 5, and the activities of the DNC and Clinton/Gore with respect thereto. *Id.* at 3.

This Office agrees that the investigation in these MURs should be limited to advertisements produced in whole or in part by SKO, advertisements produced in whole or in part by November 5, advertisements paid for in whole or in part by the DNC, and advertisements paid for in whole or in part by the Primary or General Election Committees. Thus, this Office recommends that the Commission modify all the subpoenas to limit the scope of interrogatory 5.

V. REQUESTS FOR EXTENSIONS OF TIME

The Respondents and most of the non-respondent witnesses who filed motions to quash have also requested extensions of time in which to respond to the subpoenas, citing the burden imposed by the subpoenas and the pendency of the motions to quash. Attachments 21-34, 37. Respondents President Clinton, Vice President Gore and the Primary and General Election Committees also request an extension of time to respond to the factual and legal analyses. Attachments 21-23. Most of the movants request the opportunity to negotiate extensions of time after the Commission has ruled on the motions to quash.

As set forth above in the analysis of the motions to quash, the movants assert that the subpoenas impose undue burdens upon them, but it appears that they have not actually evaluated what burdens in fact exist. Indeed, it appears that at least one movant has no documents responsive to the subpoenas, but he nevertheless seeks an extension of time to respond to the subpoenas. Absent even a rough estimate by the respondents of the actual burden imposed by the subpoenas, the Commission has no basis to evaluate the motions for an extension of time or to set an appropriate length of time for any extension which it might grant.

As a practical matter, there has been no attempt to enforce the subpoenas while the motions to quash were pending, and it is unlikely that the movants will be able to respond immediately. Accordingly, this Office recommends that the Commission grant the motions for extensions of time in part, directing the movants to respond to the subpoenas, and, where applicable, the factual and legal analyses, within 20 days of its decision on the motions to quash, without prejudice to any movant seeking a further extension based on a showing of cause. This Office will remind the movants that such a request for further time should be supported by a showing which provides an estimate of the documents or other responsive information in the possession, custody or control of the movant, and sets forth any other relevant information supporting the request. *See* 11 C.F.R. § 111.15(a).

VI. CONTINGENT SUIT AUTHORITY

On September 9, 1997, the Commission approved a policy for the "Major '96" cases whereby contingent suit authority is approved for subpoenas at the time when the subpoenas are approved. In such cases, the Office of General Counsel will send an informational notice to the Commission that subpoena enforcement is necessary. The First General Counsel's Report in MURs 4407 and 4544 did not contain a recommendation for contingent suit authority to enforce subpoenas. MURs 4407 and 4544 are major cases from the 1996 election cycle and may involve respondents and witnesses who refuse to comply with the Commission's subpoenas. Therefore, the Office of General Counsel recommends that the Commission grant the Office of General Counsel contingent authority to file suit to enforce the subpoenas in MURs 4407 and 4544 against any respondent who fails to comply with them.

VII. RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Deny the motions to quash submitted by President Clinton, Vice President Gore, the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, the Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer, the Democratic National Committee, Harold Ickes, William Knapp, Peter Knight, Terrence McAuliffe, Leon Panetta, Marius Penczner, Mark Penn, Hank Sheinkopf, Douglas Shoen, Doug Sosnik, Robert Squier, Betsy Steinberg, George Stephanopoulos, the November 5 Group, Inc., Squier Knapp Ochs Communications, Inc. and the Executive Office of the President;

2. Grant the Motion to Modify filed by the Florida Democratic Party, and modify interrogatory number 5 propounded to the Florida Democratic Party, Erskine Bowles, President Clinton, Vice President Gore, Harold Ickes, William Knapp, Peter Knight, Terry McAuliffe, Jo Miglino, Dick Morris, Leon Panetta, Marius Penczner, Mark Penn, Doug Schoen, Marsha Scott, Hank Sheinkopf, Doug Sosnik, Robert Squier, Betsy Steinberg, George Stephanopoulos and Jamie Sterling, to apply only to advertisements produced in whole or in part by SKO, advertisements produced in whole or in part by November 5, advertisements paid for in whole or

in part by the DNC, and advertisements paid for in whole or in part by the Primary or General Election Committees;

3. Grant in part the requests for extensions submitted by President Clinton, Vice President Gore, the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, the Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer, the Democratic National Committee, Harold Ickes, William Knapp, Peter Knight, Terrence McAuliffe, Leon Panetta, Marius Penczner, Mark Penn, Hank Sheinkopf, Douglas Shoen, Doug Sosnik, Robert Squier, Betsy Steinberg, George Stephanopoulos, the November 5 Group, Inc. and Squier Knapp Ochs Communications, Inc., and direct the movants to respond to the subpoenas within 20 days of its decision on the motions to quash;

4. Approve the appropriate letters; and

5. Grant the Office of General Counsel contingent suit authority to file suit to enforce subpoenas in MURs 4407 and 4544 against any respondent or witness who fails to comply with them.

Attachments:

1. Motion to Quash filed by President Clinton
2. Motion to Quash filed by Vice President Gore
3. Motion to Quash filed by the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer
4. Motion to Quash filed by the Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer
5. Motion to Quash filed by the Democratic National Committee
6. Motion to Quash filed by Harold Ickes
7. Motion to Quash filed by William Knapp
8. Motion to Quash filed by Peter Knight
9. Motion to Quash filed by Terrence McAuliffe
10. Motion to Quash filed by Leon Panetta
11. Motion to Quash filed by Marius Penczner
12. Motion to Quash filed by Mark Penn
13. Motion to Quash filed by Hank Sheinkopf
14. Motion to Quash filed by Douglas Shoen
15. Motion to Quash filed by Doug Sosnik
16. Motion to Quash filed by Robert Squier
17. Motion to Quash filed by Betsy Steinberg
18. Motion to Quash filed by the November 5 Group, Inc.
19. Motion to Quash filed by Squier Knapp Ochs Communications, Inc.
20. Motion to Quash filed by the Executive Office of the President
21. Request for Extension of Time filed by President Clinton
22. Request for Extension of Time filed by Vice President Gore

23. Request for Extension of Time filed by the Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, and the Clinton/Gore '96 General Committee, Inc., and Joan Pollitt, as treasurer
24. Request for Extension of Time filed by Harold Ickes
25. Request for Extension of Time filed by Squier Knapp Ochs Communications, Inc., Robert Squier, William Knapp and Betsy Steinberg
26. Request for Extension of Time filed by Peter Knight
27. Request for Extension of Time filed by Terrence McAuliffe
28. Request for Extension of Time filed by Leon Panetta
29. Request for Extension of Time filed by Marius Penczner
30. Request for Extension of Time filed by Mark Penn
31. Request for Extension of Time filed by Hank Sheinkopf
32. Request for Extension of Time filed by Douglas Shoen
33. Request for Extension of Time filed by Doug Sosnik
34. Request for Extension of Time filed by November 5 Group, Inc.
35. Motion to Modify Subpoena filed by the Florida Democratic Party
36. Motion to Quash filed by George Stephanopoulos
37. Request for Extension of Time filed by George Stephanopoulos

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