



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4446

DATE FILMED 1/16/99 CAMERA NO. 2

CAMERAMAN EES

28043854095

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 26 1 02 PM '96

Goodwin P. Back
413 Oak Street
Etowah, TN 37331
Aug. 20, 1996

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

Sir/Madam:

There are two (2) complaints enclosed. When you notify me of the MUR number PLEASE specify which MUR number is for which complaint.

Sincerely,

Goodwin P. Back
Goodwin P. Back

78043854096

COMPLAINT

MUR 4446

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

From:
Goodwin P. Back
413 Oak Street
Etowah, TN 37331

Random House Inc. and Times Books a division of Random House 201 E. 50 St., New York, N.Y. 10022 made an illegal political contribution to William J. Clinton, Clinton/Gore '96 Primary Committee and the Democratic National Committee.

Random House/Times Books knowing that William J. Clinton was running for re-election for President of the U.S. did agree to publish and distribute a book "Between Hope and History: Meeting America's Challenges for the 21st Century." The book was scheduled to be published five (5) days before the Democratic National Convention, and will be available (on sale) there.

Mary Beth Roche of Times Books told an AP reporter that the FEC opinions were followed scrupulously. Neither the Democratic Committee or the Clinton/Gore campaign staff participated in the writing of the book or contributed resources toward writing or publication. She also stated that Clinton will receive no money from this book. While all that may be true it doesn't mean the book isn't political or a political contribution. DID the legal staff from FEC read the manuscript to base their opinions on? IF so are they sure the published book will, or is, exactly like the manuscript? IF not how can they (FEC) give an opinion?

One Clinton aid told an AP reporter the book gives his (Clinton's) vision for the nation's future but is not a campaign document. Another aid, It's a book that's coming out at the time there's a campaign going on ---But it really was not conceived of, written or published as a campaign book. The fact that the book may, or may not, have been written as a campaign book doesn't change the fact that it is a political book and it's coming out at the perfect time.

Clinton told an AP reporter, It's not an exclusive list of all I intend to do. But it makes the argument about why I think the direction we're going is right, why we're better off than we were, and what I hope we'll do. The very nature of the book makes it political and the timing makes it campaign material. The fact is he already using this as part of his campaign theme. Yes, Even before the book is published Clinton is using it as part of his campaign theme.

The statement that it's a book that's coming out at the time there's a campaign going on seems to imply that the timing just happened. IF you know anything about the printing industry you'll know that everything is scheduled. Newspapers are on a daily time schedule, magazines on a weekly or monthly time schedule and books will vary depending on the type and size of the company. But regardless of the type or size of the company a person doesn't just send in a couple of days it's published. NO, when a publisher receives a man-

Continued on page 2.

28043854097

uscript they read it to make sure it's correct and that it's something they wish to publish. YES, even when a publisher gives an author an advance they make sure it meets their standards and if not don't publish the manuscript. Major book publishing companies have manuscripts scheduled for publication for a long period of time before one is finally printed and distributed. The chance that Clinton just happened to send in his manuscript at exactly the right time so it would be published and distributed at the very best possible time is about one (1) out of Million (1,000,000). Ask any book publisher and they'll tell you what I've written.

WHY did Mary Beth Roche of Times Books make it a point that Clinton wouldn't receive money for the book? WHY did Mary Ellen Glynn, Deputy White House press secretary point out that Clinton will accept no advance or royalties, now or in the future? The fact that he won't get money for the book doesn't mean the book isn't political or campaign material. WHY did they not once but twice make it a point that the book wasn't a campaign document or a campaign book? WHY was the book kept such a tightly held Secret? WHY didn't Random House/Times Books give the book advance publicity?

The only reasonable conclusion is they believed the book would be viewed as political and campaign material. This brings us to the really important question. WHY if Clinton doesn't receive any money from the book and the book isn't a campaign document or campaign material didn't all involved wait until after the Presidential Election, Nov. 6, 1996, before even mentioning the book? IF the book is as they say and not campaign material then knowing the book might be considered political and campaign material there is no good and valid reason why they didn't wait to publish until after the election. In fact there is every reason that to keep from raising questions to wait until after the election.

There are 400,000 @ \$16.95 making the total amount \$6,780,000. This amount makes it the largest illegal political contribution and should and must be treated that way.

Goodwin P. Back

Goodwin P. Back, Complainant

Signed and sworn to before me by Goodwin P. Back, Complainant,
this 20th day of August, 1996

Lauren S. Back

Notary Public

Com. exp. 8-23-99

County of Davidson
State of Tennessee

28043854038



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

Goodwin P. Back
413 Oak Street
Etowah, TN 37331

RE: MUR 4446

Dear Mr. Back:

This letter acknowledges receipt on August 26, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4446. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script that reads "Colleen T. Sealander by mas".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

28043854099



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

Lyn Utrecht, Esq.
Oldaker, Ryan, Phillips & Utrecht
818 Connecticut Ave., NW
Suite 1100
Washington, DC 20036

Eric F. Kleinfeld
Chief Counsel
Clinton/Gore '96
PO Box 19300
Washington, DC 20036

RE: MUR 4446

Dear Ms. Utrecht and Mr. Kleinfeld:

The Federal Election Commission received a complaint which indicates that Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Clinton/Gore '96 Primary Committee, Inc., and Joan Pollitt, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

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

Sincerely,

Colleen T. Sealander by mab

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

1. Complaint
2. Procedures

28043854101



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

White House Counsel's Office
1600 Pennsylvania Ave., NW
Washington, DC 20500

RE: MUR 4446

Dear Counsel:

The Federal Election Commission received a complaint which indicates that William Jefferson Clinton, the President, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

A handwritten signature in cursive script, reading "Colleen T. Sealander by mab".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

28043854103



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

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

RE: MUR 4446

Dear Mr. Pastrick:

The Federal Election Commission received a complaint which indicates that DNC Services Corporation/Democratic National Committee and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

A handwritten signature in cursive script, reading "Colleen T. Sealander" followed by a stylized monogram or initials.

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

23043854105



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

Ellis B. Levine, Registered Agent
Random House, Inc.
201 E. 50th St.
New York, NY 10022

RE: MUR 4446

Dear Mr. Levine:

The Federal Election Commission received a complaint which indicates that Random House, Inc., may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

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

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

28043854106

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

Sincerely,

Colleen T. Sealander by mail

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

28043854107



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

President
Times Books
201 E. 50th Street
New York, NY 10022

RE: MUR 4446

Dear Sir or Madam:

The Federal Election Commission received a complaint which indicates that Times Books may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Colleen T. Sealander by mab

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

280443854109

CLINTON
GORE 96

September 6, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 9 10 28 AM '96

Lawrence M. Noble, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

Re: MUR 4446 and MUR 4447, Clinton/Gore '96 Primary Committee, Inc.
Joan Pollitt, as Treasurer

Dear Mr. Noble:

As you know, we are counsel to the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and Joan Pollitt, Treasurer. This letter is to request an extension of time to respond to the complaint in the above-captioned MUR.

Due to previously scheduled commitments which cannot be altered at this time, counsel to the Committee will be out-of-town during the time when the response is due. In order to have adequate time to review the activity complained of and to prepare a sufficient response, we are, thus, requesting this extension.

Accordingly, we are requesting an extension of fifteen days, until October 3, 1996, to respond to the complaint in this matter. If you have any questions, please feel free to contact us.

Sincerely,

Lyn Utrecht
Lyn Utrecht
General Counsel

Eric Kleinfeld
Eric Kleinfeld
Chief Counsel



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 10, 1996

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

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

RE: MUR 4446 and 4447
Clinton/Gore '96 Primary Committee, Inc.,
and Joan Pollitt, as treasurer

Dear Ms. Utrecht and Mr. Kleinfeld:

This is in response to your letter dated September 6, 1996 which we received on September 9, 1996 requesting an extension to respond to the complaint filed in the above-noted matters. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 3, 1996.

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

Sincerely,

Erik Morrison, Paralegal
Central Enforcement Docket

304385411

WIN
★ IN ★
'96

DEMOCRATIC ★ NATIONAL ★ COMMITTEE

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

September 9, 1996

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 9 10 37 AM '96

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

Attention: Colleen T. Sealander, Esq.

Re: MURS 4446 and 4447

Dear Ms. Sealander:

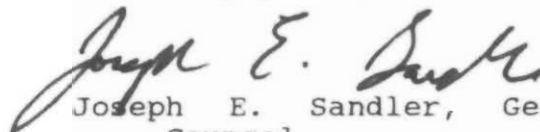
The undersigned represent respondents DNC Services Corporation/Democratic National Committee and R. Scott Pastrick, as Treasurer, in the above-referenced MURS. Statements of Designation of Counsel are enclosed.

On behalf of respondents, we respectfully request an extension of fifteen (15) days in which to file a response to the complaint. The DNC has absolutely no information concerning the recent book by the President, "Between Hope and History: Meeting America's Challenges for the 21st Century," the book which is the subject of the complaint. In order to prepare a response, it will be necessary for us to consult with persons and entities outside the DNC to gather the necessary information, in the middle of the general election campaign. We believe two weeks is the minimum additional amount of time required to obtain the needed information and prepare a response.

We received the complaint on September 3, 1996. If this request is granted, our response would be due on October 3, 1996.

Thank you very much for your time and attention to this request. If you have any questions or need further information concerning this request, please contact us at 202-863-7110.

Sincerely yours,



Joseph E. Sandler, General
Counsel

Neil P. Reiff, Deputy General
Counsel

Attorneys for Respondents

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4446

NAME OF COUNSEL: Joe Sandler, General Counsel
Neil Reiff, Deputy General Counsel

FIRM: Democratic National Committee

ADDRESS: 430 South Capitol Street, SE

Washington, DC 20003

TELEPHONE: (202) 863-7110

FAX: (202) 863-8081

SEP 9 10 38 AM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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.

9/6
Date

[Signature]
Signature

RESPONDENT'S NAME: DNC Services Corp./Democratic National Committee

ADDRESS: 430 South Capitol Street, SE

Washington, DC 20003

TELEPHONE: HOME()

BUSINESS(202) 863-7110

28043854113



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 10, 1996

Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4446 and 4447
DNC Services Corporation/Democratic National Committee,
and R. Scott Pastrick, as treasurer

Dear Messrs. Sandler and Reiff:

This is in response to your letter dated September 9, 1996 which we received on September 9, 1996 requesting an extension to respond to the complaint filed in the above-noted matters. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 3, 1996.

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

Sincerely,

A handwritten signature in black ink, reading "Erik Morrison", is written over a light blue rectangular background.

Erik Morrison, Paralegal
Central Enforcement Docket

28043854114

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 11 10 20 AM '96

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

2101 L Street NW • Washington, DC 20037-1526
Tel (202) 785-9700 • Fax (202) 887-0689

Writer's Direct Dial: 202-828-2211

September 11, 1996

VIA HAND DELIVERY

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

CONFIDENTIAL TREATMENT REQUESTED

Re: MUR 4446 and 4447 -- Random House, Inc. and Times Books

Dear Mr. Noble:

Pursuant to 11 C.F.R. § 111.6, I am filing this response on behalf of Random House, Inc. ("Random House") and Times Books in connection with the above-identified MURs¹. Original executed Designations of Counsel authorizing my appearance on behalf of Random House and Times Books are appended hereto as Exhibits A and B.

Random House and Times Books "received" copies of the instant Complaint² from the Federal Election Commission on or about September 3, 1996. In accordance with 11 C.F.R. § 111.2, this response is currently due on September 23, 1996. As the Complaint is devoid of relevant facts and my client's activities are clearly lawful under relevant Commission precedent, we see no reason to consume the full amount of time allotted by regulation for this response.

For some reason, the Commission's Central Enforcement Docket sent separate letters to Times Books concerning MUR 4446 and 4447 and only one copy of MUR 4447 to Random House. As both Complaint letters are virtually identical, a single response is being filed -- especially in light of the fact that Times Books is an unincorporated imprint of Random House.

The Complaints in MUR 4446 and 4447 are virtually identical. Hereafter they will be referred to as "the Complaint."

598 Madison Avenue • New York, New York 10022-1614
Tel (212) 832-1900 • Fax (212) 832-0341
<http://www.dsno.com>

I. The Complaint Fails To Allege Any Factual Basis Upon Which To Predicate
A Claim Of Violation Of The Federal Election Campaign Act

Pursuant to the Congressional authority granted in 2 U.S.C. § 437g, the Commission has stated clear requirements for complaints seeking to initiate enforcement actions. 11 C.F.R. § 111.4. Judged against those standards, the Complaint filed in these MURs is fatally deficient in numerous respects. Apart from stating the obvious facts that William J. Clinton is President of the United States and that Random House and Times Books are the publisher of a book authored by President Clinton, the Complaint is totally devoid of facts. The complainant's discursive presentation reveals no more than bald speculation, rhetorical questions and irrelevant innuendo. It evidences a genre more typically found on talk radio than in complaints filed with this Commission seeking to initiate a federal investigation. It makes no distinction between fact and "belief" and provides no information or sources of information giving rise to the "complainant's belief in the truth" of any of the statements made. *Id.* There is no supporting documentation provided. Indeed, there is every indication that the complainant has never even seen, let alone read the book which my client has published, as the undated Complaint was notarized 6 days before the book was published.

The Complaint thus fails to invoke properly the jurisdiction of this Commission and should be dismissed.

II. The Publication Of The Book Authored By The President Is Entirely Proper
And Consistent With Established Precedent Of This Commission

Random House is the world's largest English language publisher of general trade books. The book in question, *BETWEEN HOPE AND HISTORY: Meeting America's Challenges for the 21st Century*, was published on August 26, 1996 by Times Books, an imprint of Random House Trade Publishing Group, a division of Random House. This 178-page book is being sold commercially by Times Books in the ordinary course of its business. It is being sold through regular commercial channels. It has a jacket price (suggested retail price) of \$16.95. All of the proceeds which Random House receives from the publication and sale of the book are the exclusive property of Random House. Pursuant to the contract executed between the publisher and the author, the author receives not a penny from the publication and sale of this book.

Times Books is in the business of publishing for profit books of current interest, including those authored by political figures. In recent years it has published works by Reps. Newt Gingrich, Dick Armey and the House Republicans (*Contract With America*),

Vice President Gore (*Reinventing Government*), and former President Jimmy Carter. Random House published Dick Armey's *The Flat Tax*, Colin Powell's *My American Journey*, and Nancy Reagan's *My Turn*. Times Books has an established reputation of publishing works by and about major national and international political figures, including Ross Perot, Marlin Fitzwater, then-Governor Clinton and then-Senator Gore, and Russian President Boris Yeltsin. Commercially, the Times Books imprint focuses on people and issues "in the news," where the issues as well as the author stimulate public interest in the publications. Thus, for example, shortly after Earvin "Magic" Johnson shocked the world with his announcement that he was diagnosed positive for the HIV virus, Times Books published a book by Johnson, *What You Can Do to Avoid AIDS*.

With regard to the book authored by President Clinton, it cannot be disputed that such a work squarely fits within the profile of works published by Times Books in the ordinary course of its business as a general trade publisher. The publication of a book of this type, written by a sitting President, represents an extraordinary commercial opportunity, not only because of the tremendous sales and profit potential based on the author's prominence (and the absence of any royalty obligations), but also because of the prestige accorded the publisher of a book authored by the President of the United States. Times Books, in its sole discretion, determined the sales price, the publication date and all other aspects of the commercial sale and distribution of the book. It is not selling the book for any political purposes. It is selling the book for profit, a profit which it hopes will be substantial in light of the author's waiver of any advances or royalties.

The contract between Times Books and President Clinton, which was fully vetted by White House Counsel and by the Office of Government Ethics before being signed, allows the President to receive only 40 free copies of the book. Any additional copies desired by the author for personal, non-Campaign use, such as gifts to family and friends, must be purchased at the standard price Random House charges all of its authors for extra copies for personal use. The complainant does not even claim to have personal knowledge or a basis for belief about the 400 copies of the book he alleges were "contributed" to the President's Campaign. The fact is that not one single copy has been given by Times Books or Random House to the President's re-election Campaign. Should the President's Campaign want to make a bulk purchase of the book, it will be available for commercial sale at the usual and normal bulk rate at which the books are sold commercially to other bulk purchasers (including the complainant should he so desire to actually read the book about which he is complaining). If the Campaign wants only a few copies, they will be available for purchase at bookstores.

With regard to the timing of the publication, that was in large measure dictated by the President's completion of the manuscript. The President worked on this project for

months. Had he finished earlier, the book would have been released earlier. Had he been unable to complete the project during his recent Wyoming vacation and before launching his pre-Convention travels, Times Books would have had no choice but to wait. Once the manuscript was completed, Times Books exclusively controlled the publication date. It is also true that, once the manuscript was finally completed, Times Books made every effort to publish on a schedule which allowed it to take commercial advantage of the heightened national attention being focused on the President during the Republican and Democratic National Conventions. As the book concerns the President's assessment of his own performance and his views about the future, it is evident that maximum sales potential for the publisher is achieved during the height of the political campaign season. Similar commercial marketing factors appear to have motivated Simon & Schuster in updating and re-releasing the 1988 Dole family work, *Unlimited Partners: Our American Story*, just prior to the Republican Convention.

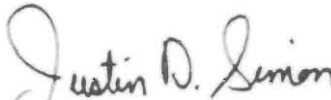
3043854118
The Complaint in this case challenges the fundamental right of Random House and Times Books to publish a book by a sitting President who is seeking re-election. Stripped of its digressive rhetorical flourishes, the publication of the book itself is the only fact alleged to violate the Federal Election Campaign Act. As The New York Times reported on August 15, 1996, "every would-be President from Bob Dole to Colin Powell has pitched a book in the last year." Todd S. Purdum, President Discloses a Project: A Book on His Vision for U.S., N.Y. Times, August 15, 1996 at D20. Indeed, on August 26, 1996, Bob Dole announced that he was publishing yet another election year book, *Trusting the People* -- which will sell for nearly the same cover price as President Clinton's book. Numerous other candidates for other federal elective offices have also published books this year. The Federal Election Commission has never sought to regulate the right of candidates to write or publishers to publish books for commercial sale, especially where, as here, the proceeds from the sale of the book go solely to the publisher and therefore cannot be used directly or indirectly to influence a federal election contest. On the contrary, in a prior case involving this very same publisher and author (Clinton and Gore, *Putting People First*) and a virtually identical no-royalty arrangement, the Commission found no basis for violation of the Federal Election Campaign Act where the publisher distributed the book "'on a commercial basis for the purpose of making a profit.'" MUR 3622 (Times Books et al.), decided June 6, 1994 (quoting FEC Advisory Opinion 1988-17). This decision is dispositive of the instant Complaint, which must therefore be dismissed. See also FEC Advisory Opinion 1995-76 (D'Amato) issued February 6, 1996 (no violation found where book was published by commercial publisher, royalties contributed to a charity, and books were given away by campaign after being purchased from the publisher at standard publisher bulk rates).

Lawrence M. Noble, General Counsel
September 11, 1996
Page 5

CONFIDENTIAL TREATMENT REQUESTED

While we do not challenge the right of any citizen to seek accountability from elected government officials, we urge the Commission to be mindful of the chilling effect on candidates and publishers when they are forced to endure protracted investigative proceedings based on the speculative musings of individuals who have neither taken the time nor expended the effort to research the facts or the applicable law and precedent before seeking governmental intrusion into a most basic element of free expression -- the Constitutional guarantee of freedom of speech and a free press. In view of the patent deficiencies in the Complaint and the factual vacuum of any basis for concern by the Commission, we urge the Commission to act swiftly in dismissing this Complaint.

Respectfully submitted,


Justin D. Simon

3043854119

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4447

NAME OF COUNSEL: Justin D. Simon

FIRM: Dickstein Shapiro Morin & Oshinsky

ADDRESS: 2101 L Street, N.W.

Washington, D.C. 20037-1526

TELEPHONE: (202) 828-2211

FAX: (202) 887-0689

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.

9/3/96
Date

Eric B. Zune
Signature

RESPONDENT'S NAME: Random House, Inc.

ADDRESS: 201 East 50th Street

New York, New York 10022

TELEPHONE: HOME ()

BUSINESS (212) 751-2600

28043854120

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4446 & MUR 4447

NAME OF COUNSEL: Justin D. Simon, Esq.

FIRM: Dickstein Shapiro Morin & Oshinsky

ADDRESS: 2101 L Street, N.W.

Washington, D.C. 20037-1526

TELEPHONE: (202) 828-2211

FAX: (202) 887-0689

for Times Books, a division of Random House, Inc.

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.

9/9/96
Date

Ellis B. Levine
Signature

Ellis B. Levine, Esq.
Vice President & General Counsel

RESPONDENT'S NAME: Random House, Inc.

ADDRESS: 201 East 50th Street

New York, New York 10022

TELEPHONE: HOME () -----

BUSINESS (212) 751-2600

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MUR 4446

AMENDMENT to
COMPLAINT

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

SEP 17 9 54 AM '96

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

From:
Goodwin P. Back
413 Oak Street
Etowah, TN 37331

Random House Inc. and Times Books a division of Random House
201 E. 50 St., New York, N.Y. 10022 made an illegal political
contribution to William J. Clinton, Clinton/Gore '96 Primary
Committee and the Democratic National Committee.

In an AP article printed 8-15-96 Mary Beth Roche of Times Books
said "Neither the Democratic Committee or the Clinton/Gore campaign
staff participated in the writing of the book or contributed resources
towards writing or publication." This statement is false, Clinton
is the Head of the Democratic Committee and the Clinton/Gore campaign.
Vice President Gore is also part of the Democratic Committee and the
Clinton/Gore campaign and on page 177 of "Between Hope and History"
Clinton credits Gore for helping with the book.

As you'll notice the Clinton Administration and Random House/
Times Books have gone to great lengths to point out that Clinton will
not receive any money from the book. In the article of 8-15-96 "The
decision not to profit from the book and the determination of White
House aides to describe it as philosophical, not political, apparently
resulted from an attempt to meet the guidelines of the Federal
Election Commission." Just because Clinton will not receive any money
from the sale of the book doesn't mean that he will not profit from
the publication and sale of the book. NO, Clinton has profited from
having the book published. Because of the book Clinton got his name
in hundreds of newspapers at least two (2) times. The article on
8-15-96 would have cost at least \$105.00 in each of the hundreds of
newspapers. The article on 8-22-96 would have cost at least \$71.00
in each of the hundreds of newspapers. EVERY time a politician gets
their name in print they profit. The fact that there are hundreds of
bookstores with his book which has his face on the cover gives him
public exposure during campaign season so he profits.

The fact that White House aides describe the book as philosoph-
ical and not political doesn't mean the book isn't political. In the
8-22-96 article "At 177 pages, the Clinton opus, "Between Hope and
History" puts between covers the "opportunity, responsibility, com-
munity" slogan Clinton will use to shape next week's Democratic
National Convention in Chicago." The book ONLY has three (3) chapters,
1. Opportunity, 2. Responsibility and 3. Community. The book SPEAKS
for itself, it's clear that the book is political.

"Under federal election law, an individual or group (such as a
PAC) may make unlimited "independent expenditures" in connection with
federal elections." "To be considered independent, the communicat-
ion may not be made with the cooperation or consent of the candidate
or his or her campaign; nor may it be made upon a request or suggest-
ion of either the candidate or the campaign." "While there is no
limit on how much anyone may spend on an independent expenditure, the

Continued on page 4.

28043854122

The Daily Post-Athenian

Chronicle of The Friendly City Since 1848

320 South Jackson Street • P.O. Box 340 • Athens, TN 37371-0340 • (423) 745-5664

Clinton book to be sold at convention

JACKSON, Wyo. (AP) — President Clinton is launching 100,000 copies of a tightly held but well-timed book that aides say gives his vision for the nation's future but is not a campaign document.

The book, honed by Clinton in spare moments over the last nine months from first drafts provided by a collaborator, is entitled "Between Hope and History: Meeting America's Challenges for the 21st Century."

The book will be published Aug. 21, five days before the Democratic National Convention opens in Chicago, and will be available there.

"Basically it's my philosophy about where I think America is and where it ought to go," the vacationing president said Wednesday as he cantered up to reporters on a horse named "Patches."

"It's not an exclusive list of all the things I intend to do," he said. "But it makes the argument about why I think the direction we're going is right, why we're better off than we were, and what I hope we'll do."

Clinton will accept no advances or royalties, now or in the future, nor will he assign any of the profits from the \$16.95 book to charity, said Mary Ellen Glynn, Deputy White House press secretary.

"He will receive no money from this book," said Mary Beth Roche, publicity director for the publisher, Times Books, a divi-

sion of Random House.

The decision not to profit from the book and the determination of White House aides to describe it as philosophical, not political, apparently resulted from an attempt to meet the guidelines of the Federal Election Commission.

The result is that Random House keeps all proceeds over its publishing and distribution expenses.

"The FEC opinions were followed scrupulously," Roche said. "Neither the Democratic Committee or the Clinton-Gore campaign staff participated in the writing of the book or contributed resources towards writing or publication."

Four years ago, in the run-up to the 1992 election, Clinton published "Putting People First," a tract that the White House says was clearly a campaign book.

Aides describe "Between Hope and History" as loftier, more presidential than could have been delivered by a mere candidate four years ago.

"I don't want to be too cute about it," said White House communications director Don Baer, speaking to reporters in a conference call. "It's a book that's coming out at the time that there's a campaign going on ... But it really was not conceived of, written or published as a campaign book."

The Daily Post-Athenian

Chronicle of The Friendly City Since 1848

300 E. South Jackson Street • P.O. Box 340 • Athens, TN 37371-0340 • (423) 745-5664

8-22-96

Washington news

Clinton book goes on sale this week

WASHINGTON (AP) — A tightly held secret no more, President Clinton's new book hits bookstores this week with its look at the themes the 42nd president will sound in his re-election campaign and use to frame the second term he hopes for.

At 177 pages, the Clinton opus, "Between Hope and History," puts between covers the "opportunity, responsibility, community" slogan Clinton will use to shape next week's Democratic National Convention in Chicago.

The book does not spell out a detailed agenda for a second Clinton term. But the president uses it to reaffirm support for affirmative action, saying it needs to be mended, not ended.

And he takes another shot at tobacco giants for targeting children and teen-agers. "The tobacco industry has no right to peddle cigarettes to children or encourage them directly or indirectly to smoke," he writes. "It is immoral."

The president repeats his State of the Union message that "the era of big government is over." But he also takes issue with Republicans who profess that government itself is the enemy.

"Americans don't want our government gutted," he writes. "My vision does not seek to promote government, but to perfect it, to make it a better servant of our people."

Times Books, a division of Random House, is printing an initial 400,000 copies of the book and rushing them to bookstores with a price tag of \$16.95 a copy. To comply with federal election laws, Clinton will accept no advances or royalties. The publisher will retain all profits over its production costs.

Chemical weapons were detected in war

2 column - 4" cost \$71.00

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law does require persons making independent expenditures to report them and to disclose the sources of the funds they used." "The following are prohibited from making contributions or expenditures to influence federal elections." Random House/Times Books did not act as a PAC and as Corporations violated federal election laws. Random House/Times Books published the book WITH cooperation and consent of the candidate (Clinton) a violation of federal election laws. Random House/Times Books didn't report expenditures another violation of federal election laws.

If the book isn't political WHY did Random House/Times Books rush publication and distribution? They could not have received the manuscript until July 30, 1996 and then only if it was rushed to them. On page 3 of the book "At 1:25 A.M. on Saturday, July 27, a crude pipe bomb shattered the night in Atlanta's Centennial Olympic Park, ----." Page 53, "--thanks to bipartisan efforts, a new law that, among other things, ensures that people won't automatically lose their health insurance when they change jobs or when someone in the family gets sick." Page 110, "--just before the August recess---." The book speaks for itself, the manuscript was received, read for correctness, sent to printer (R.R. Donnelley & Sons, Harrisonburg, Virginia) and printed ALL within a three (3) week period.

WHY did Random House/Times Books send book out to be printed?

Goodwin P. Back

Goodwin P. Back, Complainant

Signed and sworn to before me by Goodwin P. Back, Complainant, this 10th day of September, 1996

Virginia Harrison

Notary Public

Com. Exp. 1-13-97

23043854125



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 24, 1996

Goodwin P. Back
413 Oak Street
Etowah, TN 37331

RE: MUR 4446

Dear Mr. Back:

This letter acknowledges receipt on September 17, 1996, of the supplement to the complaint you filed on August 26, 1996. The respondent(s) will be sent a copy of the supplement. You will be notified as soon as the Federal Election Commission takes final action on your complaint.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

28043854126



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1996

Lyn Utrecht, Esq.
OLDAKER, RYAN, PHILLIPS & UTRECHT
818 Connecticut Ave, N.W., Suite 1100
Washington, D.C. 20036

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

RE: MUR 4446
Clinton/Gore '96
Joan Pollitt, as treasurer

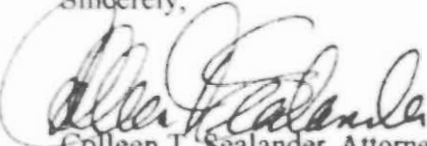
Dear Ms. Utrecht and Mr. Kleinfeld:

On August 30, 1996, you were notified that the Federal Election Commission received a complaint from Goodwin Back alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 17, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure

03043854127



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1996

White House Counsel's Office
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

RE: MUR 4446

Dear Counsel:

On August 30, 1996, you were notified that the Federal Election Commission received a complaint from Goodwin Back alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 17, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1996

Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4446

DNC Services Corporation/Democratic National Committee and R. Scott Pastrick,
as treasurer

Dear Messrs. Sandler and Reiff:

On August 30, 1996, your clients, DNC Services Corporation/Democratic National Committee and R. Scott Pastrick, as treasurer, were notified that the Federal Election Commission received a complaint from alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time your clients were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 17, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1996

Ellis B. Levine, Registered Agent
Random House, Inc.
201 E. 50th Street
New York, NY 10022

RE: MUR 4446

Dear Mr. Levine:

On August 30, 1996, you were notified that the Federal Election Commission received a complaint from Goodwin Back alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 17, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,

A handwritten signature in dark ink, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure

28043854130



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 24, 1996

President
Times Books
210 E. 50th Atreet
New York, NY 10022

RE: MUR 4446

Dear Sir or Madam:

On August 30, 1996, you were notified that the Federal Election Commission received a complaint from Goodwin Back alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. At that time you were given a copy of the complaint and informed that a response to the complaint should be submitted within 15 days of receipt of the notification.

On September 17, 1996, the Commission received additional information from the complainant pertaining to the allegations in the complaint. Enclosed is a copy of this additional information.

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

Sincerely,


Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure



FEDERAL ELECTION COMMISSION

Washington, DC 20463

August 30, 1996

Ellis B. Levine, Registered Agent
Random House, Inc.
201 E. 50th St.
New York, NY 10022

RE: MUR 4446

Dear Mr. Levine:

The Federal Election Commission received a complaint which indicates that Random House, Inc., may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4446. Please refer to this number in all future correspondence.

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

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

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

Sincerely,

Colleen T. Sealander by mail

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

18043854133



FEDERAL ELECTION COMMISSION
Washington, DC 20463

September 27, 1996

Justin D. Simon, Esq.
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, NW
Washington, DC 20037-1526

RE: MUR 4446

Dear Mr. Simon:

Pursuant to our telephone conversation, please find enclosed a copy of the notification letter we sent to the Registered Agent for Random House, Inc. in MUR 4446. As you can see, it was sent at the same time as the letter to Times Books and to the same address as used in Random House's notification for MUR 4446. Thus, its apparent non-receipt is puzzling.

In any event, you now have a copy. Please feel free to let me know if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen T. Sealander".

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure

8043854134



President Clinton did, in fact, author the book which is the subject of this complaint and which was published after an arm's length negotiation with the publisher, Times Books, a division of Random House. The book was published on August 26, 1996 and is being sold through regular commercial means, including retail bookstores, with a suggested retail price of \$16.95.

The Committee had no role in the preparation, publication, or distribution of the book. Committee staff was not involved in the book's marketing and sale. Additionally, neither the Committee nor the President have received or will receive any royalties or any other proceeds from sales of the book. The entirety of the profit from sales will go to the publisher. Finally, the Committee has not, to date, purchased any copies of the book, or received any complimentary copies, though future purchases are being contemplated.

DISCUSSION

A. **Complainant's Allegations Are Legally Insufficient As A Matter Of Law And Completely Devoid Of Any Factual Support, Compelling Its Immediate Dismissal.**

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). Complainant fails to meet this requirement, because he fails to provide any facts which might constitute a violation of the Act or any FEC regulations.

These complaints are so devoid of facts that only two are alleged -- (1) that President Clinton authored a book and (2) that the book is a "campaign document." As to the first, the Committee is in full agreement; President Clinton did, indeed, author this book. However, the latter alleged "fact" is merely a conclusion drawn by complaint without any support or evidence. The complaints provide absolutely no facts establishing or even supporting the allegation that this book is a campaign document, but, instead, merely poses a series of speculative questions as to the publication of the book.¹

Complainant does not even allege to have read the book himself, and no where is it alleged that statements in the book constitute express advocacy or even an electioneering message. The absence of such an allegation leaves the complaint devoid of any allegation of a

¹While complainant has attached nothing to his complaints, he did file an "amended complaint" with two newspaper articles attached, both of which are favorable to the Committee's legal arguments. The amended complaint is merely a recitation of complainant's criticism of news coverage of the President's book which reports on efforts to comply with the Act and regulations.

violation of the Act.² Even if the complaints' speculative questions were answered, there would be no violation of the Act.

Accordingly, and contrary to the requirement of 11 C.F.R. §111.4(d)(3), these complaints fail to provide a clear and concise recitation of facts which constitute a violation of the Act. Merely questioning whether a violation occurred, without providing more specific facts regarding an actual occurrence of a violation, is insufficient to constitute a valid FEC complaint under the regulations, and this matter should be dismissed.

B. Prior FEC Precedent Was Relied Upon In The Publication Of This Book And Compel Dismissal Of This Complaint.

Even if the Commission determines that these inadequate complaints are sufficient to further consider this matter, they must still be dismissed on the grounds that the Committee relied upon past Commission precedent, including Advisory Opinion ("AO") 1995-46, Fed. Election Campaign Financing Guide, (CCH) ¶6181 (Feb. 6, 1996) and that the material facts herein are identical to those in that precedent. Specifically, these matters are materially indistinguishable from that AO, as well as from MUR 3622, in which the Commission found no reason to believe that any violation of the Act or Commission regulations occurred.³

1. A candidate-related book will not be found to be for the purpose of influencing an election, when the publishing arrangement is made on an arm's length commercial basis.

In MUR 3622, the Commission reviewed the 1992 publication of Putting People First, authored by then-candidate Bill Clinton, under a four-part analysis developed in a line of prior Advisory Opinions. Recognizing that commercial activity involving the sale of candidate-related material is not necessarily for the purpose of influencing an election, the Commission looked to the following factors:

- (1) whether the sales involve fundraising activity or solicitations for political contributions;

²While the two complaints do not even refer to any provisions of the Act or regulations, the "amended complaint" contains a reference to the "independent expenditure" provisions. Unquestioningly, an independent expenditure analysis is inapplicable to the allegations.

³In AO 1995-46, the Commission concluded that no impermissible corporate contribution was made by the publisher of Senator Alfonse D'Amato's book to the Senator's campaign, after an arm's length negotiation of the publishing agreement, even where the campaign purchased copies of the book at a bulk rate.

- (2) whether the activity is engaged in by the vendor for genuinely commercial purposes;
- (3) whether the items are sold at the vendor's usual and normal charge; and
- (4) whether the purchases are made by individuals for their personal use in political expression.

First General Counsel's Report, pp. 6-7.

The Commission analyzed the above factors at length with respect to the 1992 publication and, in doing so, stated:

In fact, there is nothing in the record to suggest that the sale of the book was anything other than common commercial activity. First, there is absolutely no evidence that the sales of the book involved any fundraising activity or solicitations for contributions on behalf of the Clinton/Gore Committee. To the contrary, all of the profits went to Times Book [sic]. The record also clearly indicates that Times Book engaged in the publication of the book for genuinely commercial purposes and promoted the book in the ordinary course of its business -- to boost sales and profits. Times Book's sales of the book to its "usual wholesale and retail accounts," followed by further distribution and sale in bookstores nationwide and overseas, demonstrates that the books were distributed through customary and commercial channels. Further, Times Book's explanation of its retail pricing and its use of the publisher's standard retail discount schedule suggest that the books were sold to the public and to the Clinton/Gore Committee at their respective fair market value. The book, like the tape, was presumptively purchased by individuals because of their personal interest in the election. In summary, Times Book capitalized on both its expertise in producing "instant books" and on the public's interest in the campaign to publish a book that became a best-seller and generated a large profit. (Emphasis added).

First General Counsel's Report, pp. 28-29. The Commission concluded that an arrangement made on an arm's length commercial basis for the genuine commercial purpose of earning a profit would not be considered to be for the purpose of influencing an election, found no reason to believe that any violation occurred and closed the file. First General Counsel's Report, p. 29.

2. The President's book was published by the Times Books for genuinely commercial purposes, without involvement by the Committee.

The same Commission analysis and conclusion described above is true of the book complained of in this matter -- there is nothing in the record to suggest that the sale of this book was anything other than commercial activity. This is a book published for a genuinely commercial purpose, to generate a profit for the publisher. None of the proceeds from the sales have been received by the Committee, as contributions or otherwise. The Committee is not using the book in connection with any fundraising activities. All of the profits generated by book sales go to the publisher.

The entire arrangement was an arm's length transaction directly between the author and the publisher, and the Committee had no role or involvement in this transaction. As with MUR 3622, not only did the Committee have no input with the marketing, pricing, or distribution of the book, but neither the Committee nor the candidate receive any royalties from the sales of the book.

No allegation has been raised, and there is clearly no reason to believe that the retail price of the book, \$16.95, is not consistent with the vendor's usual and normal charges for books where authors do not receive royalties or other compensation. Similarly, there is nothing in the record to indicate that the individuals who have purchased the book have done so for any reason other than for their personal use in political expression.

Where, as here, the circumstances are identical to those in MUR 3622, and the factors set forth by the Commission itself have clearly been satisfied, there is no reason to believe that any violation of the Act or regulations has occurred. The publication of this book was conducted through the normal course of the publishing business, and no evidence has been submitted which indicates anything to the contrary.

3. Candidates are not precluded from expressing their ideas through books, particularly where the publisher's motive is to earn maximum profits.

This particular publisher has a long record of publishing books similar to the one at issue, as the Commission is well aware.⁴ Additionally, other candidates and publishers have arranged for the publication of similar candidate-related books⁵. One of the President's opponent's, Bob

⁴Books published by Times Books or Random House have included Contract With America, by Newt Gingrich, Dick Armey, and the House Republicans, My American Journey, by Colin Powell, and Ross Perot: The Man Behind the Myth, by Ken Gross.

⁵Past books by other publishers have included United We Stand /How We Can Take Back Our Country/A Plan for the 21st Century, by Ross Perot, published by Hyperion Press.

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Dole, had a book, entitled Unlimited Partners: Our American Story, published just prior to this year's Republican National Convention by Simon and Schuster, and he and Vice Presidential candidate Jack Kemp just recently published another book, Trusting the People.⁶ The publishers' reasoning is clear -- they believe increased profits can be generated through the public's heightened interest in the period before the election, as opposed to afterwards.

In fact, the profit-making motive is the determining factor in differentiating the publication of a book, as here, from campaign activity. Complainant's speculative questions completely disregard the profit-making motive of the publisher. Typically, publishers in the normal business of publishing books of non-fiction will publish books on current events or "hot" topics or people "in the news." The timing is normally driven by the publisher's desire to earn maximum profits, i.e., when public awareness of the presidential race has been sharpened by media coverage, the national nominating conventions and other political events.

While these types of books may expose the ideas and proposals of candidates to the public, that alone does not make the books campaign activity, contrary to complainant's suggestion. Something more than the free expression of ideas is required before the Commission can conclude that publication equates with campaign activity. The complaint is premised on the assumption that nothing more is required, a position which the Commission has never endorsed in its previous analysis of candidate-related books.

In fact, complainant's allegations, in light of the dearth of support therefor, suggest that no candidate should have the right of expression outside of his or her campaign. Such a position is not only untenable for practical reasons, it is wholly inconsistent with First Amendment principles, as the Commission surely recognizes. Certainly the long line of book publications and the Commission's analysis of them make clear that a right of expression outside of the campaign exists. In fact, whether the candidate seeking office is currently an officeholder, a member of a corporate board, a school teacher or in any other profession, the ability to speak outside of one's campaign still remains, consistent with the requirements of the Act and regulations. To argue, for example, that the President may not publicize his ideas for governing is to strip him of the ability to govern at all during the period of his candidacy.

Ross Perot: In His Own Words, published by Warner Books, Ross Perot Speaks Out, published by Prima, Looking Forward, by George Bush, published by Doubleday, George Bush: His World War II Years, published by Brassey's, and Power, Pasta & Politics, by Alfonse D'Amato, published by Hyperion Press.

⁶See attached New York Times front page picture of Bob Dole touting his book at a Dole/Kemp campaign rally in Ohio on September 24, 1996. The accompanying article refers to this book as containing a description of the Dole/Kemp tax plan, the key component of their campaign platform.

In summary, nothing in the Act or regulations has been violated by the activity described by complainant. To the contrary, the facts set forth by complainant describe activity fully in compliance with the Act and regulations. The genuine commercial activity surrounding the publication of this book simply has not given rise to any possible contribution or expenditure.

CONCLUSION

Accordingly, because the facts herein are not materially different from the publication of the book considered by the Commission in MUR 3622, and because the complainant has failed to provide even one iota of evidence to support his conclusory allegations, the record compels that the complaint be dismissed and this matter closed. The Committee respectfully requests that the Commission find no reason to believe that the Committee violated any provision of the Act or regulations.

Respectfully submitted,



Lyn Utrecht
General Counsel



Eric Kleinfeld
Chief Counsel

1996 The New York Times

NEW YORK, WEDNESDAY, SEPTEMBER 25, 1996

\$1 beyond the greater New York metropolitan area



Stephen Crowley/The New York Times

At a rally in Shelby, Ohio, Bob Dole toured the book he wrote with his running mate, Jack Kemp.

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U.S. Economy Is Off Track, Dole Declares

THE NEW YORK TIMES NATIONAL WEDNESDAY, SEPTEMBER 25, 1996

By KATHARINE Q. SEELYE

DETROIT, Sept. 24 — In an hour-long address today, Bob Dole stepped up his attacks on President Clinton and signaled that he was returning full-bore to his economic message.

"In every state I visit, every talk show, at every rally I address, I will be saying to the American people that you know how to spend your money better than the Government," the Republican Presidential nominee said to more than 500 people at the Economic Club of Detroit. "I will be saying that this economy is not good enough, and not on the right track."

Mr. Dole suggested that President Clinton's inclination toward "activists meddling in expansive Government," as revealed in his failed health-care plan, resulted not from his being "a finger-in-the-wind politician who is waiting for the polls," but from a deep-seated, liberal pre-disposition to tax and spend.

Citing Mr. Clinton's 1993 tax increase and his "pork-barrel" stimulus package, Mr. Dole declared: "These are the actions of an old-style, dyed-in-the-wool, big-spending liberal committed to a government that spends and spends and taxes and taxes."

And, he warned, "These are the actions of someone who, once the spotlight of the campaign has turned off, will take every opportunity to increase the size of Government even as he decreases the size of your wallet."

As an example of a tax increase that Mr. Dole said lurked in a second Clinton term, he said that Bruce Babbitt, Mr. Clinton's Interior Secretary, just last week proposed a tax on outdoor equipment, including binoculars and bird seed.

"Remember last week, Secretary of the Interior Bruce Babbitt was roaming around out West?" Mr. Dole said. "And he thought of another tax. And he ran it up the flagpole, endorsing a Federal sales tax on outdoor equipment."

But Mr. Babbitt did not propose this tax. It evolved over the last several years from state environmental and parks officials who said that because their state governments were too strapped for cash to maintain wildlife and conservation

projects, they wanted a user fee on outdoor equipment. Hunters have paid such fees on guns and ammunition since the 1930's to help restore wildlife.

Naomi Edelson, the wildlife diversity director for the International Association of Fish and Wildlife Agencies, which heads a bipartisan coalition of 1,200 organizations that support the fee, said she informed the Dole campaign a week ago that Mr. Dole's characterization of Mr. Babbitt's role was not accurate. She said Dole aides asked for more information, which she faxed to them.

"It's not a Clinton Administration proposal," she said in a telephone interview today from Washington. "We know Babbitt has never seen the full proposal. He didn't endorse this list of products. It has nothing to do with the Clinton Administration."

Mr. Dole said that while the Clinton campaign has said the fee is not official White House policy, Mr. Babbitt's "real mistake was to let the tax-cat out of the bag before Election Day."

But whatever the source of the proposal, Mr. Dole drew chuckles from his Detroit audience today as he ridiculed it as an example of the Administration's tendency toward excessive taxation.

"If they get their way," Mr. Dole warned, in a waltz into unscripted terrain, "you won't even be able to escape the I.R.S. when you're hiking. They'll suddenly be walking along with you, somebody from the I.R.S., saying, 'You having a good time? Have you paid your taxes? Have you fed the birds? Have you looked in your binoculars? If you haven't, you don't have to pay the tax. You don't feed those birds, you're all right.'"

After spending most of his time lambasting Mr. Clinton and his policies, Mr. Dole outlined his own economic proposal — including a 15 percent cut in Federal income taxes, a \$500-per-child tax credit and a halving of the capital gains tax rate from 28 percent to 14 percent — as a sound way to restore economic growth.

Touting his book, "Trusting the People," which describes how he would simultaneously cut taxes and

balance the budget, Mr. Dole said: "The bottom line: Under our plan, a family of four making \$30,000 will save \$1,261 on their Federal tax bill."

Joe Lockhart, a spokesman for the Clinton campaign, said that despite Mr. Dole's "negative attacks, the economy is on the right track." Mr. Dole's plan would lead to cuts in Medicare and Medicaid, education and the environment, "even deeper than last year's Dole-Gingrich budget," Mr. Lockhart said.

Meanwhile, a battle over endorsements was escalating between the Clinton and Dole campaigns.

The Dole campaign ran an advertisement on Monday in USA Today boasting that more than 100 economists and four Nobel laureates had endorsed the Dole economic plan.

Today, the Clinton campaign countered by pointing to a statement by the Economic Policy Institute, a liberal think tank in Washington, denouncing the Dole plan as "not credible" and saying it would lower future living standards. It was signed by 546 economists, including seven Nobel Prize winners.

The Dole campaign also released a list of 195 executives from high-tech companies in Silicon Valley who endorsed Mr. Dole's plan.



DEMOCRATIC NATIONAL COMMITTEE

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

OCT 3 11 52 AM '96

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

October 3, 1996

By Hand

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

Re: MURS 4446 and 4447

Dear Mr. Noble:

The undersigned, as designated counsel for Respondents DNC Services Corporation/Democratic National Committee ("DNC") and R. Scott Pastrick, as Treasurer, hereby respond to the complaint filed in the above-captioned MURS.

The complaints, in essence, allege that publication by Random House/Times Books of a book authored by President Clinton, entitled Between Hope and History: Meeting America's Challenges for the 21st Century, somehow constituted an "illegal political contribution."

The complaints do not allege, anywhere, that the DNC had anything to do with the writing or publication of this book. In fact, the DNC had nothing whatsoever to do with the writing or publication of the book. Except for acknowledgements of this fact, the only mention of the Democratic Party anywhere in the complaints is the statement--in an "amendment" to the complaint in MUR 4447--that "[President] Clinton is the head of the Democratic Committee. . . ." That statement is, of course, false.

There are simply no factual allegations set forth anywhere in the complaints which, even if proven true, would show any violation of the Federal Election Campaign Act of 1971 (the "Act") or the Commission's regulations by the DNC. Accordingly, the complaints do not meet the requirements of 11 C.F.R. § 111.4(d)(3) and should be dismissed.

In any event, the complaints fail to state any facts which would demonstrate any violation of the Act or Commission regulations by anyone. In Advisory Opinion 1989-21, 2 CCH Fed. Elec. Camp. Fin. Guide ¶ 5972, the Commission stated that it--

recognizes that entrepreneurial activity involving candidate-related merchandise is commonplace. Under the Act, such vendor activity would not necessarily constitute an "expenditure" or "contribution" by the purchasers. The Commission would consider such factors as whether the sales did not involve any fundraising activity or solicitations for political contributions, the activity was engaged in by the vendor for genuinely commercial purposes, the items were sold at the vendor's usual and normal charge and the purchases were made by individuals for their personal use in political expression.

Id. at p. 11,580.

In MUR 3622, the Commission applied these factors in determining whether any contribution or expenditure resulted from the publication of a previous book authored by the President, entitled Putting People First. First, the Commission found that sales of the book involved no fundraising activity. Second, the Commission found that the publisher, which was Times Books, "engaged in the publication of the book for genuinely commercial purposes and promoted the book in the ordinary course of its business." General Counsel's Report, p. 28. Third, the Commission found that the books were sold to the public at fair market value. Finally, the Commission found that the books were purchased "by individuals because of their personal interest in the election." Id. at 29. Based on this analysis, the Commission found no contribution or expenditure and no violation of the Act.

The instant complaints simply do not set forth any facts that would show that, under these same criteria, there was any possible expenditure or contribution resulting from publication of Between Hope and History. First, the complaints do not allege that the sale of the books involves fundraising activity or solicitations for contributions. In fact, the complainant has submitted articles confirming that the book was not used for any such purpose.

Second, the complaints adduce no evidence to suggest that Times Books published the book other than for genuine commercial purposes. The complaints imply, without any supporting evidence, that publication of the book was timed to coincide with the Democratic National Convention in order to benefit the President's campaign. It only makes sense, however, that a publisher desiring to maximize sales of a book by a leading political figure would try to publish the book at a time when the public's interest in politics is the greatest, which is around the time of the national conventions and during the presidential general election campaign. In this regard, it should be noted that a book authored by the Republican nominee for President, Senator Bob Dole, and his wife, entitled Unlimited Partners: Our American Story, was published by Simon and Schuster just prior to the 1996 Republican National

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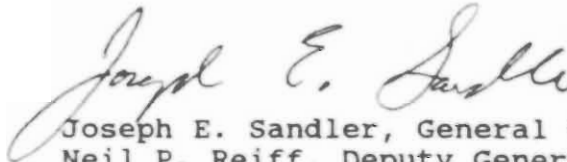
Convention.

Third, as the complaints themselves point out, the book is being sold to the public for \$16.95 per copy. There are no facts set out in the complaints that would suggest this price is other than the book's fair market value, i.e., the usual and normal price charged at retail for such a book in a case where, as here, the author is to receive no royalty or other compensation.

Finally, there are no facts set forth anywhere in the complaints suggesting that the book has been, or is being, purchased by individuals for any reason other than their personal interest in the book's subject matter and their own personal use.

Thus, the complaints utterly fail to show any facts that would indicate that any contribution or expenditure has been made to or on behalf of the DNC. And the complaints fail to show that, under the criteria adopted by the Commission, publication of Between Hope and History resulted in any contribution or expenditure within the meaning or scope of the Act. Accordingly, the Commission should find no reason to believe that respondents have violated the Act or the Commission's regulations, and should dismiss the complaints.

Respectfully submitted,



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

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

28043854146

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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ENFORCEMENT PRIORITY

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION.

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

This is the first Enforcement Priority Report that reflects the impact of the 1996 election cycle cases on the Commission's enforcement workload. We have identified cases that are stale which are recommended for dismissal at this time. This is the highest number of cases identified as stale in a single report, and the highest number of stale cases recommended for closure at one time, since the inception of EPS in 1993.

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II. CASES RECOMMENDED FOR CLOSURE.

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

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

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters.³ Attachment I to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. **Stale Cases**

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. In recognition of this fact, EPS provides us with the

³ These cases are:

RAD 97L-10 (Citizens for Randy Borow); RAD 97L-16 (Republican State Central Committee of South Dakota); Pre-MUR 347 (Producers Lloyds Insurance Company); Pre-MUR 348 (Peoples National Bank of Commerce); Pre-MUR 349 (Trump Plaza); Pre-MUR 350 (Citibank, N.A.); Pre-MUR 355 (Feingold Senate Committee); MUR 4494 (Georgianna Lincoln);

MUR 4586 (Friends of Zach Wamp); MUR 4590 (Oklahoma Education Association); MUR 4600 (San Diego Police Officers Assoc.); MUR 4612 (Teresa Doggett for Congress); MUR 4615 (Catholic Democrats for Christian Values); MUR 4616 (American Legislative Exchange Council); MUR 4620 (Eastern Connecticut Chamber of Commerce); MUR 4622 (Telles for Mayor); MUR 4628 (Gutknecht for Congress); MUR 4629 (Janice Schakowsky); MUR 4636 (IBEW Local 505); MUR 4637 (Dettman for Congress); MUR 4639 (Larsen for Congress); MUR 4641 (Becker for Congress); MUR 4644 (Detroit City Council); MUR 4651 (Mike Ryan); MUR 4653 (Pritzker for Congress); MUR 4656 (H. Carroll for Congress); and MUR 4657 (Buchanan for President).

means to identify those cases which, though earning a higher rating when received, remained unassigned for a significant period due to a lack of staff resources for effective investigation. The utility of commencing an investigation declines as these cases age, until they reach a point when activation of a case would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We are recommending the closure of cases based on staleness.⁶

⁶ These cases are: MUR 4283 (*Chenoweth for Congress*); MUR 4341 (*Juan Soliz for Congress*); MUR 4402 (*U.S. Representative Helen Chenoweth*); MUR 4435 (*Lincoln for Congress*); MUR 4439 (*UAW*); MUR 4442 (*Lipinski for Congress*); MUR 4444 (*Roberts for Congress*); MUR 4445 (*Randy Tate for Congress*); MUR 4446 (*Clinton/Gore '96 Primary*); MUR 4447 (*Random House, Inc.*); MUR 4449 (*Clinton Administration*); MUR 4453 (*Mike Ward for Congress*); MUR 4454 (*Ralph Nader*); MUR 4459 (*Clinton/Gore '96*); MUR 4474 (*Salvi for Senate*); MUR 4477 (*BBDO-New York*); MUR 4481 (*Diamond Bar Caucus*); MUR 4485 (*Perot '92 Petition Committee*); MUR 4486 (*Bunda for Congress*); MUR 4495 (*Pennsylvania PACE for Federal Elections*); MUR 4496 (*Norwood for Congress*); MUR 4497 (*Pease for Congress*); MUR 4510 (*Stabenow for Congress*); MUR 4511 (*Bob Coffin for Congress*); MUR 4514 (*Friends for Franks*); MUR 4515 (*Clinton Investigative Commission*); MUR 4521 (*IVMAL 630 AMI*); MUR 4525 (*Senator Larry Pressler*); MUR 4527 (*Brennan for Senate*); MUR 4536 (*Signature Properties, Inc.*); MUR 4540 (*Tim Johnson for SD*); MUR 4542 (*Dan Frisa for Congress*); MUR 4552 (*Charles W. Norwood*); MUR 4554 (*John Byron for Congress*); MUR 4556 (*Jim Wiggins for Congress*); MUR 4561 (*Jay Hoffman for Congress*); MUR 4564 (*National Republican Congressional Committee*); MUR 4567 (*DNC Services Corp.*); MUR 4569 (*McGovern Committee*); RAD 96L-11 (*New York Republican County Committee*); Pre-MUR 343 (*NRSC*); and Pre-MUR 312 (*Joseph Demio*). The Demio case involves fundraising related to former Congresswoman Mary Rose Oaker's 1992 congressional campaign. It was held as a courtesy to the Department of Justice pending resolution of a parallel criminal matter in the District Court for the District of Columbia. Mr. Demio recently entered into a plea agreement with the Department of Justice (on which we were not consulted) in which he agreed, among other things, to waive the statute of limitations regarding civil violations of the FECA. Considering the age of the case and activity, the fact that DOJ has not formally referred this matter to us, and the Commission's continuing resource constraints, dismissal is the appropriate disposition of this matter.

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective November 17, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

III. RECOMMENDATIONS.

A. Decline to open a MUR, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

RAD 96L-11

Pre-MUR 312

Pre-MUR 349

Pre-MUR 343

Pre-MUR 350

RAD 97L-10

Pre-MUR 347

Pre-MUR 355

RAD 97L-16

Pre-MUR 348

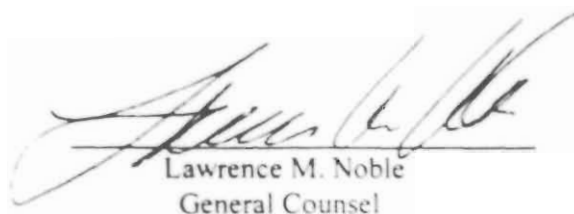
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B. Take no action, close the file effective November 17, 1997, and approve the appropriate letters in the following matters:

MUR 4283	MUR 4495	
MUR 4341	MUR 4496	MUR 4569
MUR 4402	MUR 4497	MUR 4586
MUR 4435	MUR 4510	MUR 4590
MUR 4439	MUR 4511	MUR 4600
MUR 4442	MUR 4514	MUR 4612
MUR 4444	MUR 4515	MUR 4615
MUR 4445		MUR 4616
MUR 4446	MUR 4521	MUR 4620
MUR 4447	MUR 4525	MUR 4622
MUR 4449	MUR 4527	MUR 4628
MUR 4453	MUR 4536	MUR 4629
MUR 4454	MUR 4540	MUR 4636
MUR 4459	MUR 4542	MUR 4637
MUR 4474	MUR 4552	MUR 4639
MUR 4477	MUR 4554	MUR 4641
MUR 4481	MUR 4556	MUR 4644
MUR 4485	MUR 4561	MUR 4651
MUR 4486		MUR 4653
	MUR 4564	MUR 4656
MUR 4494	MUR 4567	MUR 4657

Date

7/97


Lawrence M. Noble
General Counsel

08043854151

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) Agenda Document No. X97-77
Enforcement Priority)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on December 2, 1997, do hereby certify that the Commission took the following actions with respect to Agenda Document No. X97-77:

1. Decided by a vote of 5-0 to

A. Decline to open a MUR, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

1. RAD 96L-11	7. Pre-MUR 347
	8. Pre-MUR 348
3. RAD 97L-10	9. Pre-MUR 349
4. RAD 97L-16	10. Pre-MUR 350
5. Pre-MUR 312	11. Pre-MUR 355
6. Pre-MUR 343	

B. Take no action, close the file effective December 15, 1997, and approve the appropriate letters in the following matters:

1. MUR 4283	6. MUR 4442
2. MUR 4341	7. MUR 4444
3. MUR 4402	8. MUR 4445
4. MUR 4435	9. MUR 4446
5. MUR 4439	10. MUR 4447

(continued)

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Federal Election Commission
Certification: Agenda Document
No. X97-77
December 2, 1997

Page 2

11.	MUR 4449	36.	MUR 4556
12.	MUR 4453	37.	MUR 4561
13.	MUR 4454	38.	MUR 4564
14.	MUR 4459	39.	MUR 4567
15.	MUR 4474	40.	MUR 4569
16.	MUR 4477	41.	MUR 4586
17.	MUR 4481	42.	MUR 4590
18.	MUR 4485	43.	MUR 4600
19.	MUR 4486	44.	MUR 4612
20.	MUR 4494	45.	MUR 4615
21.	MUR 4495	46.	MUR 4616
22.	MUR 4496	47.	MUR 4620
23.	MUR 4497	48.	MUR 4622
24.	MUR 4510	49.	MUR 4628
25.	MUR 4511	50.	MUR 4629
26.	MUR 4514	51.	MUR 4636
27.	MUR 4515	52.	MUR 4637
28.	MUR 4521	53.	MUR 4639
29.	MUR 4525	54.	MUR 4641
30.	MUR 4527	55.	MUR 4644
31.	MUR 4536	56.	MUR 4651
32.	MUR 4540	57.	MUR 4653
33.	MUR 4542	58.	MUR 4656
34.	MUR 4552	59.	MUR 4657
35.	MUR 4554		

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

Attest:

12-4-97
Date

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

28043854153



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Goodwin P. Back
413 Oak Street
Etowah, TN 37331

RE: MUR 4446

Dear Mr. Back:

On August 26, 1996, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on December 15, 1997. This matter will become part of the public record within 30 days.

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

Sincerely,

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

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

28043854154



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Lyn Utrecht, Esquire
OLDAKER, RYAN, PHILLIPS & UTRECHT
818 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036

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

RE: MUR 4446
Clinton/Gore '96 Primary Committee, Inc.
Joan Pollitt, as treasurer

Dear Ms. Utrecht and Mr. Kleinfeld:

On August 30, 1996, the Federal Election Commission notified your clients, Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

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

Lyn Utrecht, Esquire
Eric F. Kleinfeld, Esquire
Page 2

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

Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

28043854156



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Cheryl Mills, Esquire
Associate Counsel to the President
White House Counsel's Office
1600 Pennsylvania Avenue., N.W.
Washington, D.C. 20500

RE: MUR 4446
The President

Dear Ms. Mills:

On August 30, 1996, the Federal Election Commission notified The Honorable William Jefferson Clinton of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against The Honorable William Jefferson Clinton. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

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

8043854157

Cheryl Mills, Esquire
Page 2

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

Sincerely,



F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

28043854158



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Joseph E. Sandler, General Counsel
Neil P. Reiff, Deputy General Counsel
Democratic National Committee
430 South Capitol Street, S.E.
Washington, D.C. 20003

RE: MUR 4446
DNC Services Corporation/Democratic National Committee
Carol Pensky, as treasurer

Dear Messrs. Sandler and Reiff:

Joe & Neil

On August 30, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

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

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

Sincerely,

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

8043854159



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 15, 1997

Justin D. Simon, Esquire
DICKSTEIN, SHAPIRO, MORIN & OSHINSKY
2102 L Street, N.W.
Washington, D.C. 20037-1526

RE: MUR 4446
Random House, Inc. and Times Books

Dear Mr. Simon:

On August 30, 1996, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action against your clients. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in the matter on December 15, 1997.

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

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

Sincerely,

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

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

18043854160



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4446

DATE FILMED 11/16/99 CAMERA NO. 2

CAMERAMAN SES

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