



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MAY 1 - 2000

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Jim Smart  
P.O. Box 1513  
Wewoka, OK 74884

RE: MUR 4818

Dear Mr. Smart:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached Subpoena which requires you to appear and give sworn testimony on June 7, 2000 at 11:00 a.m. in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only. In addition, you are required to produce documents listed on the Subpoena within 20 days of your receipt of this Subpoena.

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


You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us of the name and address of your attorney prior to the date of the deposition.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid \$40.00 plus mileage. Subsequent to the deposition, you will be sent a check for the witness fee and mileage.

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Within two days of your receipt of this notification, please confirm your scheduled appearance with me at (800) 424-9530. If you have any questions, please contact me or Margaret Toalson, the other attorney assigned to this case, at (800) 424-9530 or (202) 694-1650.

Sincerely,

  
Xavier K. McDonnell  
Attorney

Enclosure  
Subpoena

0500 0044 0044

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 4818

**SUBPOENA**

TO: Jim Smart  
PO Box 1513  
Wewoka, Oklahoma 74884

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to various transactions related to Walt Roberts' art sales and his 1998 Congressional campaign. Notice is hereby given that the deposition is to be taken on June 7, 2000, at the United States Attorney's Office, 1200 West Okmulgee Street, Muskogee, Oklahoma, 74401, beginning at 11:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(3), you are hereby subpoenaed to produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within twenty days of receipt.

**For the Commission,**

**ATTEST:**

**Attachments:**  
**Instructions**  
**Definitions**  
**Document Request**

### **INSTRUCTIONS**

In answering this Subpoena to Produce Documents furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each response is to be given separately and independently, and is to repeat verbatim the document request to which it is responding. Unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

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

Unless otherwise indicated, the following document requests shall refer to the time period from January 1, 1998 to the present.

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

### **DEFINITIONS**

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

"You" or "your" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers; employees, whether paid or unpaid; supervisors; volunteers; agents or persons otherwise working on behalf of or at the request of the named respondent; co-workers; subordinates; staff or attorneys thereof.

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

"Document" shall mean the original and all non-identical copies, including drafts, of all papers, records and magnetic or electronic media of every type in your possession, custody, or control, or known by you to exist. The term document includes but is not limited to books,

letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. If a document request calls for a document that is maintained on or in a magnetic, optical or electronic medium (for example, but not limited to computer tape, diskette, or CD-ROM), provide both "hard" (i.e., paper) and "soft" (i.e., in the magnetic or electronic medium) copies, including drafts, and identify the name (e.g., WordPerfect, Microsoft Word for Windows, Pro Write, etc.) and version numbers by which the document(s) will be most easily retrieved.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document, the author of the document, and all recipients of the document (including all persons, other than the primary recipient(s) of the document, who received copies, such as "cc" and "bcc" recipients).

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

### **DOCUMENT REQUESTS**

1. Identify and produce all documents related to the art auction or event held by Walt Roberts on or around September 11, 1998, including but not limited to invitations, memoranda, contracts, agreements, invoices, bank statements, checks, check stubs, check registers.
2. Identify and produce all documents related to your purchase of sculpture(s), artwork or any property of any kind, from Walt Roberts or Walt Roberts Auction House, during 1998, including not limited to correspondence, memos, agreements, contracts, receipts, invoices, checks, check stubs, check registers, bank statements, calendars, diaries.
3. Identify and produce all documents related to Walt Roberts' 1998 Congressional campaign, including but not limited to correspondence, memos, agreements, contracts, receipts, invoices, calendars, diaries, (you may exclude documents related to publicly disclosed contributions made by you).
4. Identify and produce all documents related to any contribution you made to the Walt Roberts' 1998 Congressional campaign, including but not limited to correspondence, memos, agreements, contracts, receipts, invoices any bank statements, checks, check stubs and check registers.