



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA FAX (916-442-7759) AND FIRST CLASS MAIL

May 11, 2001

Allison R. Hayward, Esquire
Bell, McAndrews, Hiltachk & Davidian
455 Capitol Mall, Suite 801
Sacramento, CA 95814

RE: MUR 4919
Charles Ball for Congress
Justin Briggs, as treasurer
Charles Ball

Dear Ms. Hayward:

This is in response to your letter dated May 10, 2001, seeking to postpone for 30 days Mr. Ball's deposition, currently scheduled for May 16, 2001. Although you ask for an extension, you do not represent whether, if we grant such an extension, Mr. Ball will appear. As of yesterday, you indicated that Mr. Ball had not yet decided whether he will appear.

In light of your May 10 letter, I will provide a brief history of occurrences relating to your clients' computers. On August 29, 2000, the Commission issued Subpoenas to your above-listed clients seeking the production of numerous documents related to Mr. Ball's 1998 campaign, including documents stored on computer. Over the next several months, this Office made numerous requests for information stored on the campaign's computers. Finally, in early January, 2001, one computer was located. Your client brought the computer to a firm which recovered certain deleted documents and copied them to a CD-ROM. That CD-ROM, infected with a virus, was provided to the Commission on January 11, 2001. Neither you nor your client ever searched the computer for documents responsive to the Subpoena that were not deleted. On January 25, 2001, you provided that computer (Dell Comp. No. 5y73F) ("PC #1") to the Commission. PC#1 was inoperable. Upon inspection, we discovered that the RAM had been removed. Once this Office installed RAM, we discovered documents responsive to the Subpoena. Pursuant to the agreement set forth in our letter of January 11, 2001, this Office immediately provided you with paper copies of those documents, along with a detailed description of them. See Letter to Allison Hayward, dated February 1, 2001. Later that day, Mr. Ball discovered identical documents on his home computer. (Mr. Ball had previously represented that he had searched that computer, but had not discovered the responsive documents). On February 5, 2001, you agreed to provide that computer (Toshiba Equium No. 380-15377) ("PC#2"). We indicated that we would return the two computers as soon as possible.

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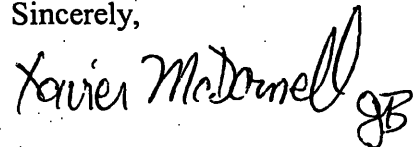
Since you provided the computers to the Commission, you have made several inquiries about when they will be returned. In each instance, you represented that the owners of the computers, i.e., the school to which Mr. Ball donated Computer #1, and Mr. Ball, who owns Computer #2, wanted them returned for their personal use. You never indicated that you or your clients intended to search the computers for responsive documents.

During the first week of April, you agreed to the deposition dates for Mr. Plesha (May 9) and Mr. Ball (May 16). When agreeing to such dates, you never indicated that the computers must be returned prior to the depositions. Rather, we discussed how, pursuant to our earlier agreement, this Office would provide you with paper copies of all documents that we had located on the computers, which would include all computer-generated documents emanating from your clients that might be used during the depositions. During our phone conversation yesterday, and in your letter of May 10, you for the first time informed this Office that you cannot permit your client to testify until "these materials" are returned.

As you know, conducting a thorough computer search is cumbersome and time-consuming. I informed you several times by phone that it was taking longer than we originally anticipated. You now have a complete set of all of the computer-generated documents produced by your clients that will be used at Mr. Ball's deposition (the remaining documents were sent yesterday via FEDEX). If the Commission discovers any additional documents on the computers, they will be provided to you immediately, and with sufficient time for you to review them prior to the deposition. We understand that you need additional time to perform legal research. If you inform this Office in writing no later than Tuesday, May 15, 2001, that Mr. Ball will appear for deposition, this Office will agree to postpone it until June 6, 2001.

To discuss this matter further, please call me at (202) 694-1650. In my absence on Friday May 11, you may ask for Assistant General Counsel Jonathan Bernstein.

Sincerely,

A handwritten signature in dark ink, appearing to read "Xavier McDonnell" with a stylized monogram "JB" at the end.

Xavier K. McDonnell
Attorney