



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MEMORANDUM

TO: THE COMMISSION  
STAFF DIRECTOR  
GENERAL COUNSEL  
ACTING CHIEF COMPLIANCE OFFICER  
CHIEF COMMUNICATIONS OFFICER

FROM: OFFICE OF THE COMMISSION SECRETARY *MWD*

DATE: July 12, 2007

SUBJECT: *Ex Parte* COMMUNICATION  
Open Meeting on Audit of Ted Poe for Congress

Transmitted herewith is an *ex parte* communication to the Commission from Donald F. McGahn II, Esquire, on behalf of Ted Poe for Congress, regarding the above-captioned matter.

Attachment

CC: Asst. Staff Director, Audit Division  
FEC Press Office  
FEC Public Disclosure

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July 12, 2007

Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: Open Meeting on Audit of Ted Poe for Congress

Dear Commissioners:

This letter follows our letter of yesterday, submitted on behalf of our client, Ted Poe for Congress (the "Campaign"). Since then, we see that the auditors are now attempting to revise Finding 3, the finding to which we have objected. Now, the auditors claim that if the Campaign had simply produced check copies for the 19% of the contributions in their sample for which they claimed to have lacked documentation, there would be no Finding 3.

But of course, whether or not the Campaign could access the check copies was wholly irrelevant under the rule concocted by the auditors – that rule eliminated the ability of a campaign agent to house the check copies, and instead required that the campaign itself house the documents. The auditors cannot escape this – one need look no further than the interim audit report and the draft final report to see the rule under which they were operating. Moreover, we made clear in our written response to the interim report that we could provide copies of whatever checks the auditors wanted – but because the auditors were operating under an erroneous reading of the regulation, they never followed-up on our offer to provide the documentation, having already convinced themselves that a violation occurred.

Regardless, my client does not recall receiving an itemized breakdown of what contributions were used in the sample, and more specifically, what contributions supposedly lacked documentation. If the auditors did provide that information, it was not clear that it related to Finding 3.

In conclusion, we respectfully request that the Commission reject the draft final audit report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'DMcGahn II', written in a cursive style.

Donald F. McGahn II  
*Counsel to Ted Poe for Congress*