



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3615

DATE FILMED 6/23/93 CAMERA NO. 4

CAMERAMAN E.E.S.

93040945214

Don Brewer  
County Chairman

**Duval County**  
**Republican Executive Committee**

9550 Regency Square Boulevard, Suite 711 • Jacksonville, Florida 32225  
(H) (904) 744-2141 • (W) (904) 724-6444

September 10, 1992



MUR 3615

Mr. John W. McGarry  
Chairman  
Federal Elections Commission  
999 E. Street  
Washington, D.C. 20463

Dear Mr. McGarry:

On Wednesday evening, September 9, 1992, the Florida News Network and WJXT, Channel 4, in Jacksonville, Florida, held a televised "Town Meeting" in Jacksonville, Florida. The program was aired live at 8 p.m. to 9 p.m. at Florida News Network affiliates in Miami, Ft. Lauderdale, Orlando and Jacksonville, Florida.

The public was invited to watch the program outside the studio on their premises. WJXT provided television sets outside the station on station premises.

The Democratic Party and the Clinton Campaign placed a large tent over the television sets and enclosed the area with police tape and police officers to prevent non-Clinton supporters from viewing the program.

Approximately two hundred and fifty Clinton supporters were allowed into WJXT's viewing area while approximately seventy non-Clinton supporters were held away from the event by police lines.

WJXT also allowed Clinton financial supporters into the station to meet privately with Governor Clinton.

This is an obvious corporate in kind contribution to the Clinton Campaign and a violation of the Federal Election Laws. WJXT held a Clinton Political Rally on its premise from 7 p.m. to 10 p.m. on September 9, 1992.

Please investigate!

I, Don Brewer, Jr. swear that the above facts are true to the best of my knowledge.

Signature

9/10/92  
Date

Notary

NOTARY PUBLIC, STATE OF FLORIDA.  
MY COMMISSION EXPIRES: APRIL 20, 1993.  
BONDED THRU NOTARY PUBLIC UNDERWRITERS.

Don Brewer, Jr.

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF LEGAL COUNSEL  
92 SEP 21 AM 11:44



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 28, 1992

Don Brewer, Jr., County Chairman  
Republican Executive Committee  
Republican Party of Florida--Duval County  
9550 Regency Square Boulevard  
Suite 711  
Jacksonville, Florida 32225

RE: MUR 3615

Dear Mr. Brewer:

This letter acknowledges receipt on September 21, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by WJXT-TV-Channel 4, Clinton for President Committee, and Robert A. Farmer, as treasurer. The respondents 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 3615. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lisa E. Klein", is written over a horizontal line.

Lisa E. Klein  
Assistant General Counsel

Enclosure  
Procedures

93040945216



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 28, 1992

Robert A. Farmer, Treasurer  
Clinton for President Committee  
Post Box 615  
Little Rock, Arkansas 72203

RE: MUR 3615

Dear Mr. Farmer:

The Federal Election Commission received a complaint which indicates that the Clinton for President Committee ("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 3615. 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 the 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.

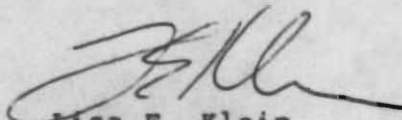
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Robert A. Farmer, Treasurer  
Clinton for President Committee  
Page 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Lisa E. Klein  
Assistant General Counsel

Enclosures

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

93040945218



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 28, 1992

Mr. Steve Wasserman, Vice-President  
WJXT-TV-Channel 4  
Box 5270  
Jacksonville, FL 32207

RE: MUR 3615

Dear Mr. Wasserman:

The Federal Election Commission received a complaint which indicates that WJXT-TV-Channel 4 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 3615. 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 WJXT-TV-Channel 4 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.

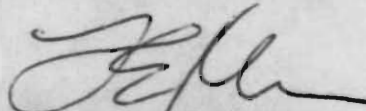
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed 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.

93040945219

Mr. Steve Wasserman, Vice President  
WJXT-TV-Channel 4  
Page 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,



Lisa E. Klein  
Assistant General Counsel

Enclosures

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

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GCC# 6845  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

OCT 9 11 11 AM '92

October 8, 1992

Ms. Veronica M. Gillespie  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3615

Dear Ms. Gillespie:

This letter is to confirm our telephone conversation in which I requested on behalf of the Clinton/Gore '92 Committee ("Committee") an extension of time to file a responsive brief in the above referenced matter.

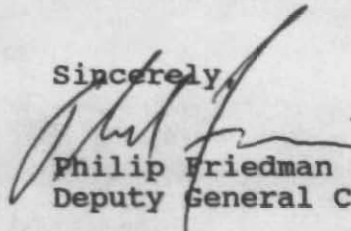
As the allegations concern events that took place in Florida several weeks ago and the individuals with the most knowledge of the events described in the complaint are currently involved in timely tasks relevant to the ongoing presidential campaign, the Committee needs additional time to inspect its records and to interview appropriate campaign personnel.

Accordingly, the Committee requests an additional 20 days over the 15 days in which the Committee is required to file a responsive brief. We respectfully request an extension of time to November 6, 1992.

Please be advised that a general Statement of Designation of Counsel for Robert A. Farmer, Treasurer, Governor Bill Clinton, and the Clinton/Gore '92 Committee has previously been filed with the Commission in which Anthony S. Harrington, Christine Varney and the undersigned are designated as counsel.

We appreciate your cooperation and understanding in granting us this extension.

Sincerely,

  
Philip Friedman  
Deputy General Counsel

cc: Tony Harrington

92 OCT -9 PM 1:53

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE GENERAL COUNSEL

930404645221



COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N.W.

P.O. BOX 7566

WASHINGTON, D.C. 20044

(202) 662-6000

TELEFAX: (202) 662-6291

TELEX: 89-593 (COVING WSH)

CABLE: COVING

ELLIOTT SCHULDER

DIRECT DIAL NUMBER

(202) 662-5462

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

OCT 15 11 46 AM '92

ACHESON HOUSE

46 HERTFORD STREET

LONDON W177TF ENGLAND

TELEPHONE 44-71-495-5655

TELEFAX: 44-71-495-3101

BRUSSELS CORRESPONDENT OFFICE

44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE 32-2-512-8890

TELEFAX 32-2-502-1598

October 15, 1992

BY HAND

Lisa E. Klein, Esq.  
Assistant General Counsel  
Federal Election Commission  
Room 129  
999 E Street, N.W.  
Washington, D.C. 20463

ATTN: Veronica M. Gillespie, Esq.

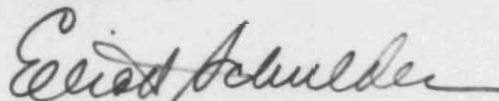
Re: MUR 3615

Dear Ms. Gillespie:

On behalf of WJXT-TV Channel 4 ("WJXT"), I am writing to request an extension of time, to and including November 6, 1992, within which to respond to the complaint in the above matter. (A copy of the Statement of Designation of Counsel is enclosed.) The Commission forwarded a copy of the complaint to WJXT by letter dated September 28, 1992, and thus, absent an extension of time, WJXT's response would be due for filing on October 16, 1992. The additional time is necessary to complete our investigation of the facts and prepare a response on behalf of WJXT.

Thank you for your assistance in this matter and please feel free to call me with any questions you may have.

Sincerely,



Elliott Schulder

Enclosure

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
92 OCT 15 PM 5:06

93040645222

STATEMENT OF DESIGNATION OF COUNSEL

NR 3615

NAME OF COUNSEL: Elliott Schulder

ADDRESS: COVINGTON & BURLING  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

TELEPHONE: (202) 562-5462

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.

10/14/92

DATE

  
Steve Wasserman

RESPONDENT'S NAME: WJXT-TV-Channel 4

ADDRESS: 1851 Southampton Road  
P.O. Box 5270  
Jacksonville, FL 32207

TELEPHONE: HOME

BUSINESS (904) 393-9807

93040945223

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
92 OCT 15 PM 5:06  
COUNSEL



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 29, 1992

Elliott Schulder, Esq.  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

RE: MUR 3615

Dear Mr. Schulder:

This is in response to your letter dated October 15, 1992, requesting an extension of 20 days until November 6, 1992, to file a response in the above-referenced matter. After considering all the circumstances presented in your letter and pursuant to our discussion on October 14, 1992, the Office of the General Counsel has granted the requested extension for 20 days. Accordingly, your response is due by the close of business on November 6, 1992.

If you have any questions, please contact me at  
(202) 219-3690.

Sincerely,

*Veronica M. Gillespie*

Veronica M. Gillespie  
Attorney

93040945224

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ELLIOTT SCHULDER

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BRUSSELS CORRESPONDENT OFFICE

44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE: 32-2-512-9090

TELEFAX: 32-2-502-1598

October 28, 1992

BY HAND

Lisa E. Klein, Esq.  
Assistant General Counsel  
Federal Election Commission  
Room 129  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3615

Dear Ms. Klein:

This is the response of television station WJXT, Channel 4 ("WJXT") to the complaint in the above matter. The complaint alleges that WJXT violated the Federal Election Campaign Act, as amended, 2 U.S.C. § 431 et seq. ("FECA"), by making an in-kind contribution to the Clinton campaign as a result of events surrounding WJXT's broadcast from its studios of a "Town Meeting" featuring Governor Clinton on September 9, 1992.

As shown below, the complaint has no basis in fact or law. The complaint's factual allegations are flatly incorrect in numerous crucial respects. WJXT's only involvement in the events at issue was incidental to its activities as broadcaster of the televised "Town Meeting" with Governor Clinton. WJXT's actions are therefore fully protected under the press exemption to the FECA.

FACTS

WJXT is a television station licensed by the Federal Communications Commission, with studios in Jacksonville, Florida. WJXT is part of the Florida News Network, whose other member stations are located throughout the State of Florida.

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OFFICE OF GENERAL COUNSEL

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Lisa E. Klein, Esq.  
October 28, 1992  
Page 2

In August 1992, the News Director of WPLG, a Miami television station that is a member of the Florida News Network, wrote to representatives of the Bush and Clinton campaigns, inviting President Bush and Governor Clinton to participate in separate "Town Meeting" programs that the Florida News Network would produce. (The letters are attached as Exhibit A.) The proposed format for each program was a one-hour question-and-answer session, with questions being posed by audience members located in the studios of four different Florida stations. Governor Clinton accepted the invitation to participate in a Town Meeting program, while President Bush initially declined. (Mr. Bush subsequently agreed to participate in a Town Meeting program, which was broadcast on October 23, 1992.)

The Town Meeting program involving Governor Clinton was scheduled for the evening of September 9, 1992. Mr. Clinton was to appear at WJXT's studios in Jacksonville where he would answer questions from members of the audience and from audience members assembled at studios in Miami, Tampa and Orlando. See Affidavit of Steve Wasserman ¶ 4, attached as Exhibit B.

Contrary to the allegations in the complaint, WJXT did not invite members of the public to view the program outside the station on station premises nor did WJXT encourage the public to be present on its property. WJXT's management did anticipate that Governor Clinton's appearance would attract both Clinton and Bush supporters outside the station. Although station management considered banning all demonstrators -- both pro- and anti-Clinton -- from station property, it ultimately decided to allow the public to enter onto station property in front of the studio building to voice their support of, or opposition to, Governor Clinton. In anticipation of crowds, WJXT hired off-duty police officers to control parking in the employee parking lot. In addition, WJXT contacted representatives of the Secret Service regarding security arrangements and understood that the Secret Service contacted the local police regarding crowd control. Based on these contacts, station management believed that the Secret Service and the local police would handle all necessary security and crowd control arrangements outside the station building. Wasserman Aff. ¶¶ 5-6. See also Affidavit of David Way ¶ 3, attached as Exhibit C.

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Lisa E. Klein, Esq.  
October 28, 1992  
Page 3

The complaint also erroneously alleges that WJXT provided television sets outside the station. In fact, the Clinton campaign rented television monitors, which were placed outside the station in the area set aside for members of the public. Wasserman Aff. ¶ 7; Way Aff. ¶ 4. Thus, there was no such thing as a "WJXT viewing area," as alleged in the complaint.

Moreover, WJXT's management did not have advance notice that the Clinton campaign planned to erect a tent in the area in front of the station building. The relevant facts are as follows: On the morning of September 9, representatives of the Clinton campaign contacted WJXT and requested permission to put up a tent in case of rain to protect the rented television monitors. Ken Kaminski of WJXT stated that he would consult with his superiors and would check with the station's weather department at about 4 p.m. to determine if a tent would be needed because of the weather. See Affidavit of Ken Kaminski ¶ 3, attached as Exhibit D. Later that day, WJXT officials observed a tent being laid out in the front area. The station manager, Steve Wasserman, went outside the building and approached several Clinton campaign representatives, who pleaded for permission to erect the tent. Mr. Wasserman told them to cease work until he considered their request. After further consideration, given the lateness of the hour and the threatening weather, Mr. Wasserman granted permission for the tent. Wasserman Aff. ¶ 8.

WJXT had no involvement in, and no awareness of, any actions allegedly undertaken by other parties to limit access to the tent to Clinton supporters. Nor was WJXT responsible for any other steps that may have been taken by the Secret Service or the police to separate the crowds of Clinton and Bush supporters, who were present on the station's premises to demonstrate in favor of, or against, Mr. Clinton. Way Aff. ¶ 5.

The complaint is also incorrect in alleging that WJXT allowed Clinton financial supporters into the station to meet privately with Mr. Clinton. At some point in the evening, some persons who apparently are Clinton supporters (WJXT does not know if they are "financial" supporters) entered the building. These individuals were not admitted to the building by WJXT personnel; in fact, WJXT officials were not even aware of their presence in the building until after the Town Meeting program had concluded. At that time, the individuals were restricted to a roped off area of the lobby.

23040945227

Lisa E. Klein, Esq.  
October 28, 1992  
Page 4

Contrary to the complaint, WJXT did not allow these individuals to "meet privately" with Governor Clinton. Instead, what happened was that as Mr. Clinton passed through the lobby on his way out of the building, he shook hands with these supporters. Wasserman Aff. ¶ 9; Way Aff. ¶ 6.

WJXT did arrange a VIP reception for Mr. Clinton immediately following the Town Meeting program, but invitations to the reception were issued on a non-partisan basis. Although the station invited more than 40 people, only about 20 to 25 showed up. The guests included the present mayor of Jacksonville, three former mayors, the state's attorney, the heads of the local chapters of organizations such as the Urban League and the National Conference of Christians and Jews. The list of invitees included such persons as Tom Petway, Chairman of the Chamber of Commerce, who is a known Republican and supporter of President Bush. Wasserman Aff. ¶ 10.

#### ARGUMENT

The FECA generally prohibits any corporation from making a contribution or expenditure in connection with any presidential election, or in connection with any primary election or political convention or caucus held to select presidential candidates. 2 U.S.C. § 441b(a). For purposes of this provision, the term "contribution or expenditure" includes any direct or indirect payment or gift of money or services, or anything of value, to any candidate or campaign committee in connection with any federal election. 2 U.S.C. § 441b(b)(2).

In its general definitions, the FECA defines "contribution" to include any gift of money or anything of value "made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The term "expenditure" is defined to include any payment or gift of money or anything of value "made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i).

The FECA, however, specifically excludes from the definition of expenditure "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate." 2 U.S.C. § 431(9)(B)(i). The Commission's regulations

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Lisa E. Klein, Esq.  
October 28, 1992  
Page 5

similarly exclude from the definitions of contribution and expenditure "[a]ny cost incurred in covering or carrying" a news story, commentary, or editorial by any broadcasting station, magazine or other periodical publication, "unless the facility is owned or controlled by any political party, political committee, or candidate." 11 C.F.R. §§ 100.7(b)(2), 100.8(b)(2).

The legislative history of the press exemption demonstrates that "Congress meant for the exemption to be a broad one." *FEC v. Phillips Publishing, Inc.*, 517 F. Supp. 1308, 1312 (D.D.C. 1981). The exemption was designed to "make it plain that it is not the intent of Congress . . . to limit or burden in any way the first amendment freedom of the press or of association. Thus, the exclusion assures the unfettered right of the . . . media to cover and comment on political campaigns." H.R. Rep. No. 93-1239, 93d Cong., 2d Sess. 4 (1974). See *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 250 (1986); *Phillips Publishing*, 517 F. Supp. at 1312.

The Commission has reinforced the policy behind the exemption by applying it in situations in which the participation of third parties is necessary or assists the media function. In Advisory Opinion 1982-44, for example, the Commission found that a television broadcaster could donate time to political parties to allow leading party figures, including candidates, to discuss public issues. The Commission concluded that the commentary element of Section 431(9) extends to third party participation when related to the discussion of issues. In Advisory Opinion 1987-8, the Commission found that the corporate sponsorship of an interview series was covered by the press exemption and thus would not violate 2 U.S.C. § 441b.

The courts that have addressed the press exemption have adopted a two-step procedure for dealing with allegations that a press entity has violated the FECA. Under this procedure, "[i]f the press entity is not owned or controlled by a political party or candidate and it is acting as a press entity, the FEC lacks subject matter jurisdiction and is barred from investigating the subject matter of the complaint." *Phillips Publishing*, 517 F. Supp. at 1313. Accord *FEC v. Machinists Non-Partisan Political League*, 655 F.2d 380, 396 & n.32 (D.C. Cir. 1981); *Reader's Digest Ass'n, Inc. v. FEC*, 509 F. Supp. 1210, 1214-15 (S.D.N.Y. 1981). The courts have

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Lisa E. Klein, Esq.  
October 28, 1992  
Page 6

concluded that this approach is necessary to accommodate the Commission's duty to investigate possible violations, "while at the same time strictly limiting the inquiry in order to minimize harm to First Amendment values." *Phillips Publishing*, 517 F. Supp. at 1312-13; *Reader's Digest*, 509 F. Supp. at 1215.

Here, it is uncontroverted that WJXT is not a political committee, does not select or receive any political contributions, or make any contributions to any candidate. See *Wasserman Aff.* ¶ 3. Moreover, it is equally clear that WJXT was acting in its capacity as a television station in broadcasting the Town Meeting program on September 9. The Town Meeting program and Governor Clinton's presence at WJXT's studios were "news stories" within the meaning of the FECA's press exemption. Accordingly, the activities of WJXT in broadcasting the Town Meeting program, and all other incidental activities undertaken by WJXT, such as allowing the public to assemble outside the station building to demonstrate for or against Mr. Clinton, were costs incurred in covering or carrying a news story and thus are fully protected by the press exemption.<sup>1/</sup>

WJXT did nothing beyond permitting the public -- including Bush supporters as well as Clinton supporters -- to gather in an open area on its property. In so doing, WJXT simply enabled the members of the public to exercise their First Amendment rights of assembly and free speech by voicing their approval or disapproval of a candidate for the presidency of the United States.

---

<sup>1/</sup> Furthermore, none of WJXT's actions described above constitutes a "contribution" or "expenditure" in the first instance, because, on their face, none of these actions was undertaken "for the purpose of influencing" a federal election within the meaning of the FECA. See *Orloski v. FEC*, 795 F.2d 156, 162-64 (D.C. Cir. 1986). WJXT's actions also do not qualify as an "expenditure" for the additional reason that they do not constitute express advocacy in support of, or in opposition to, a particular candidate. See *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. at 248-50; *Faucher v. FEC*, 928 F.2d 468, 470-71 (1st Cir. 1991). The Commission need not consider these alternative grounds, however, because it is readily apparent that WJXT's actions are fully protected by the FECA's press exemption.

Lisa E. Klein, Esq.  
October 28, 1992  
Page 7

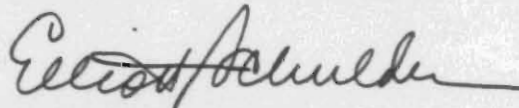
Contrary to the complaint, WJXT did not provide television monitors, nor did it provide a tent to Clinton supporters. Both the monitors and the tent were rented by the Clinton campaign. WJXT did nothing to prevent others, including the Bush campaign, from renting their own television monitors and tent. Thus, any individual grievances that may exist concerning restrictions on access to the tent are not properly directed at WJXT and can provide no basis for finding the press exemption inapplicable.

Finally, the allegations that WJXT permitted a private reception for Clinton financial supporters to be held on its premises is patently without foundation. As shown above, following the program WJXT held a reception to which leading members of the community were invited on a non-partisan basis. Although a group of Clinton supporters entered the lobby of the building without the permission of WJXT, they were restricted to the lobby, and merely greeted Mr. Clinton as he was leaving the building.

CONCLUSION

The actions of WJXT challenged here, which were wholly incidental to television coverage of a news event involving a candidate for the presidency of the United States, are fully protected by the FECA's press exception. Accordingly, the Commission should find no reason to believe that WJXT has violated any provision of the FECA and it should dismiss the complaint forthwith.

Respectfully submitted,



Gregory M. Schmidt  
Elliott Schulder

Attorneys for WJXT, Channel 4

93040945231

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3615

NAME OF COUNSEL: Elliott Schulder

ADDRESS: COVINGTON & BURLING  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

TELEPHONE: (202) 662-5462

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.

10/14/92

Date

  
Steve Wasserman

RESPONDENT'S NAME: WJXT-TV-Channel 4

ADDRESS: 1851 Southampton Road  
P.O. Box 5270  
Jacksonville, FL 32207

TELEPHONE: HOME \_\_\_\_\_

BUSINESS (904) 393-9807

93040945232

93040945233



Mr. William Mauk, Jr.  
Clinton/Gore Campaign  
c/o Waterford Building  
5200 Blue Lagoon Dr.  
Miami, Fla. 33126-2022

Dear Bill,

On behalf of the Florida News Network, I wanted to follow up our conversations of this week with a formal request to you to make Gov. Clinton available for a town meeting that the Network would produce.

We propose to have the Governor in our Miami studio with about a dozen invited questioners and anchors from our stations. We would also have invited questioners in the studios of our Jacksonville (WJXT), Tampa (WTSP) and Orlando (WFTV) stations. The format would be to ask and answer as many questions from voters around the state as we could during an hour prime time broadcast. Governor Clinton would be able to see and interact with all of the questioners.

It's our plan to offer the other Florida News Network stations (WPEC-West Palm Beach, WINK-Ft. Myers, WTXL-Tallahassee, WCJB-Gainesville,, WMBB-Panama City, WEAR-Pensacola, WWSB-Sarasota) the opportunity to broadcast this program. We could also make it available to C-Span.

As we discussed, The Florida News Network stations are affiliated with all three networks and clearing prime time becomes more difficult to choreograph as the fall season gets underway. Each of the originating stations' News Directors are confident we could clear the time if we secure an air date on or before the middle of September.

Your prompt attention to this is appreciated.

Cordially,



Bob Reichblum  
News Director

cc: Mike Cavendar, WTSP  
Chris Schmidt, WFTV  
Nancy Shafran, WJXT

# WPLG/TV 10

Mr. Dorrance Smith  
Assistant to the President for Media Affairs  
The White House  
Washington, D.C. 20500

Dear Dorrance,

On behalf of the Florida News Network, I wanted to follow up our conversations of last week with a formal request to you to make President Bush available for a town meeting that the Network would produce.

We propose to have the President in our Miami studio with about a dozen invited questioners and anchors from our stations. We would also have invited questioners in the studios of our Jacksonville (WJXT), Tampa (WTSP) and Orlando (WFTV) stations. The format would be to ask and answer as many questions from voters around the state as we could during an hour prime time broadcast. The President would be able to see and interact with all of the questioners.

It's our plan to offer the other Florida News Network stations (WPEC-West Palm Beach, WINK-Ft. Myers, WTXL-Tallahassee, WCJB-Gainesville, WMBB-Panama City, WEAR-Pensacola, WWSB-Sarasota) the opportunity to broadcast this program. We could also make it available to C-Span.

As we discussed last week, The Florida News Network stations are affiliated with all three networks and clearing prime time becomes more difficult to choreograph as the fall season gets underway. While this past Monday would have worked well, each of the originating stations' News Directors are confident we could again clear the time if we secure an air date on or before the middle of September.

Your prompt attention to this is appreciated.

Cordially,



Bob Reichblum  
News Director

cc: Jeb Bush, Bush-Quayle Campaign/Florida  
Mike Cavendar, WTSP  
Chris Schmidt, WFTV  
Nancy Shafran, WJXT

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AFFIDAVIT OF STEVE WASSERMAN

Steve Wasserman deposes and says:

1. I am Vice President and General Manager of WJXT, Channel 4 ("WJXT") in Jacksonville, Florida. I submit this affidavit in response to the complaint filed before the Federal Election Commission in MUR 3615.

2. WJXT is a television station licensed by the Federal Communications Commission. WJXT is part of the Florida News Network.

3. WJXT is not a political committee, does not collect or receive any political contributions, or make any contributions to any candidate.

4. A Town Meeting program featuring Governor Clinton was scheduled to be broadcast from WJXT's studios on the evening of September 9, 1992. Mr. Clinton was to appear at WJXT's studios to answer questions from audience members at WJXT and at studios in Miami, Tampa and Orlando.

5. Neither I nor to the best of my knowledge anyone else at WJXT invited the public to congregate outside the station's building prior to the program. However, I did expect that supporters of Governor Clinton and President Bush would be present to demonstrate for or against Mr. Clinton. Although station management considered banning all demonstrators from the station's property, we decided to allow demonstrators to have access to a lawn in front of the studio building.

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6. The station hired off-duty police officers to handle parking and contacted the Secret Service regarding security. I believed that all security matters would be handled by the Secret Service and/or the local police.

7. WJXT did not provide television monitors outside the station. I have learned that the Clinton campaign rented television monitors that were placed in the area set aside for members of the public.

8. WJXT did not have advance notice of the tent that was rented by the Clinton campaign. In the afternoon of September 9, I noticed a tent being laid out. I went outside the station building and spoke to Clinton campaign representatives. They begged me to allow them to put up the tent because rain was threatening. I told them to cease work until I could consider their request. Because it was late in the day, and because of concerns about possible rain, I granted permission for the tent.

9. At some point in the evening, some Clinton supporters (I do not know if they are financial supporters) entered the station building. To the best of my knowledge, these persons were not admitted to the building by WJXT personnel. I was not aware of their presence inside the building until after the Town Meeting program had ended. These individuals were restricted to a roped off area and prohibited from entering beyond the lobby. As Mr. Clinton


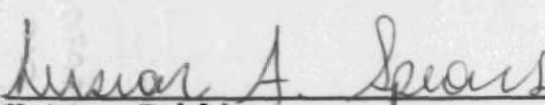
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walked through the lobby on his way out of the building,  
he shook hands with these supporters.

10. WJXT arranged a VIP reception for Governor Clinton after the program. Invitations were issued on a non-partisan basis, without regard to political affiliation. Of the 40 persons invited, only about 20 to 25 showed up. The guests included the present mayor, three former mayors, the state's attorney, the heads of the local chapters of the Urban League and the National Conference of Christians and Jews. Among the invitees was Tom Petway, Chairman of the Chamber of Commerce, who is a well-known Republican and Bush supporter.

  
Steve Wasserman

Sworn to and subscribed before me  
this 27 day of October, 1992

  
  
Notary Public

My Commission Expires:



"OFFICIAL SEAL"  
Susan A. Spears  
My Commission Expires 3/31/96  
Commission #CC 190305

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AFFIDAVIT OF DAVID WAY

David Way deposes and says:

1. I serve as Business Manager for WJXT, Channel 4 ("WJXT") in Jacksonville, Florida. I submit this affidavit in response to the complaint filed before the Federal Election Commission in MUR 3615.

2. WJXT was scheduled to host a televised Town Meeting program with Governor Bill Clinton on September 9, 1992. Steve Wasserman, the station's general manager, instructed me to handle all of the logistics for Governor Clinton's visit to WJXT.

3. Prior to September 9, I was in touch with the Secret Service and was told that the Secret Service would be responsible for security. I was told that the Secret Service contacted the local police with respect to crowd control outside the station.

4. WJXT did not provide television monitors outside the station. In addition, WJXT did not make any arrangements to have a tent brought and set up on station property. To the best of my knowledge, the television monitors and the tent were provided by the Clinton campaign staff.

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5. To the best of my knowledge, WJXT had no involvement in any actions limiting access to the tent to Clinton supporters.

6. With respect to the Clinton supporters who entered the station building, I was told by a Clinton campaign staff member that she was the one who let the supporters into the lobby area of the station building.

David Way  
David Way

Sworn to and subscribed before me  
this 27 day of October, 1992

Susan A. Spears  
Notary Public

My Commission Expires:



"OFFICIAL SEAL"  
Susan A. Spears  
My Commission Expires 3/31/96  
Commission #CC 190305

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AFFIDAVIT OF KEN KAMINSKI

Ken Kaminski deposes and says:

1. I am Director of Broadcast Operations for WJXT, Channel 4 ("WJXT") in Jacksonville, Florida. I submit this affidavit in response to the complaint filed before the Federal Election Commission in MUR 3615.

2. On September 9, 1992, Governor Bill Clinton came to WJXT's building for a Town Meeting program that was broadcast throughout Florida.

3. In the morning of September 9, I received a telephone call from a Clinton campaign representative asking if they could put up a tent on the station's front lawn in case of rain to protect television monitors they had rented from a local business. I told the representative that I would speak to my supervisors about the tent and that we would check the weather forecast at 4 p.m. to see if a tent was needed because of the weather. I had no further communication with the Clinton campaign concerning the tent.

Ken Kaminski  
Ken Kaminski

Sworn to and subscribed before me  
this 27 day of October, 1992

Susan A. Spears  
Notary Public

My Commission Expires:



"OFFICIAL SEAL"  
Susan A. Spears  
My Commission Expires 3/31/96  
Commission #CC 190305

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RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
92 NOV - 6 PM 4: 56

November 6, 1992

Hand Deliver

Ms. Veronica M. Gillespie  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 3615

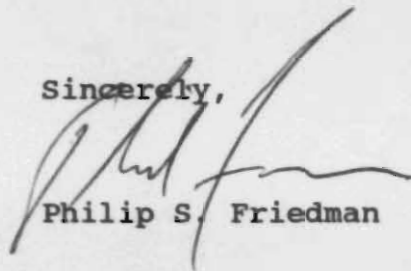
Dear Ms. Gillespie:

Enclosed please find the original and three (3) copies of the Response of the Clinton/Gore '92 Committee to the complaint filed against it in the above referenced action.

Please be advised that a general Statement of Designation of Counsel for Robert A. Farmer, Treasurer, Governor Bill Clinton, and the Clinton/Gore '92 Committee, Inc. has been filed with the Commission under separate cover in which Anthony S. Harrington, Christine Varney and the undersigned have been designated as counsel.

If you have any questions or concerns, please give me a call at (202) 296-8600.

Sincerely,



Philip S. Friedman

cc: Tony Harrington

Enclosure

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UNITED STATES OF AMERICA  
BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF THE FLORIDA NEWS  
NETWORK, WJXT, THE CLINTON/GORE '92  
COMMITTEE AND ROBERT A FARMER,  
TREASURER

MUR 3615

RESPONSE OF THE CLINTON/GORE '92 COMMITTEE, INC.  
AND ROBERT A. FARMER, TREASURER

On September 10, 1992, Don Brewer, County Chairman for the Duval County Republican Executive Committee, filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by the Florida News Network and WJXT, Channel 4 in Jacksonville, Florida (collectively "WJXT"). The complainant alleges that the Clinton/Gore '92 Committee ("Committee") received an unreported in-kind contribution from the WJXT in connection with WJXT's television broadcast of a Clinton "Town Meeting" on September 9, 1992.

Although the Committee and Robert A. Farmer, as treasurer were not named in the complaint (collectively, the "Respondents"), the Commission notified the Respondents that the complainant's allegations suggest that the Respondents may have violated the Act. This memorandum sets forth the factual and legal basis upon which the Commission should find no reason to believe a violation of the Act has occurred by the Committee, or Robert A. Farmer, as treasurer.

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### DISCUSSION

On September 9, 1992, Governor Clinton participated in a Town Meeting program broadcast on WJXT, a television station in Jacksonville Florida. The Town Meeting format required Governor Clinton to appear in the WJXT studio in Jacksonville. From this studio, Governor Clinton answered questions from audience members gathered in Jacksonville, as well as separate television studios participating with WJXT in Miami, Tampa and Orlando.

Anticipating that Governor Clinton's appearance at WJXT's studios would attract both Clinton and Bush supporters, WJXT permitted access to the lawn outside the studio by members of the public, regardless of their political affiliation. The Clinton campaign, anticipating a large public crowd hopeful of gaining admission to the limited space in the WJXT studios, desired to give those persons who congregated outside the studio the opportunity to view the Town Meeting on television. Consequently, the Clinton campaign rented several television sets and placed them on the lawn adjoining the WJXT building. With rain threatening, the Clinton campaign also decided to erect a tent, at its own expense, to protect the television sets as well as the crowd from the rain.

Based on these facts, the complainant has erroneously alleged WJXT made an impermissible in-kind contribution to the Committee by holding a Clinton political rally on its premises in connection with its broadcast of the September 9 Town Meeting.

Under the Act and Commission regulations, any cost incurred in covering or carrying a news story, commentary or editorial by any broadcasting station is not a contribution or expenditure, so long as the broadcast facilities are not owned or controlled by any political party, political committee or candidate. 2 U.S.C. § 431(9)(B)(i); 11 CFR 100.7(b)(2); 11 CFR 100.8(b)(2).

The Commission has long recognized that the news story, commentary and editorial exemption is intended to provide television stations the "unfettered right" to cover and comment on political campaigns. See Advisory Opinion 1982-44. See also FEC v. Phillips Publishing, Inc., 517 F. Supp. 1308, 1312 (D.D.C. 1981) ("Congress meant for the legislative exemption to be a broad one."). Moreover, the Commission is of the view that this exemption is not limited to the broadcaster alone. Rather, the exemption is also "intended to allow third persons access to the media to discuss issues." Advisory Opinion 1982-44.

Neither Governor Clinton, nor the Democratic Party own or control WJXT. Rather, WJXT provided its studio facilities to air a "Town Meeting" in which Governor Clinton responded to questions on issues from reporters and viewers.<sup>1</sup> In connection with the Town Meeting broadcast, WJXT permitted the Governor's travelling party, local officials and community leaders (both Democratic and Republican) and a few special guests to accompany Governor Clinton into the studio.

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<sup>1</sup>We have been informed that President Bush participated in a similar "Town Meeting," on the Florida News Network in Miami.



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As the "Town Meeting" was legitimately within the news story, editorial or commentary exemption, there could not have been any in-kind contribution to the Committee by WJXT in connection with its broadcast of the Town Meeting. See also Advisory Opinion 1978-76 (news story exemption applies where station exercises its responsibility to serve the public interest, convenience and necessity, in broadcasting public service announcement of Congressman).

The complainant also alleges that WJXT improperly provided television sets to the Clinton campaign and improperly allowed the Democratic Party to erect a tent on WJXT property for the purpose of giving Clinton supporters the opportunity to view the "Town Meeting" on the lawn outside the WJXT studio. The allegation has no merit.

Cognizant of the strong public interest in seeing Governor Clinton's "Town Meeting," the Committee requested that WJXT permit the lawn area outside its studios to be used as a public viewing area for those denied access to the studio. WJXT agreed to this request.<sup>2</sup>

Notwithstanding the wide latitude permitted WJXT to assume "any cost" associated with the news event, the Committee itself

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<sup>2</sup>Even under a most expansive interpretation of the FECA, it would be absurd to conclude that a corporation's permission to allow the public to gather on its publicly accessible grounds (e.g. lawns, parking lots, etc.) to see Governor Clinton make a well publicized visit to the corporation's facility would cause the corporation to make an impermissible in-kind contribution to the Committee. In the context of Governor Clinton's visit to a news broadcasting facility, however, such a finding would be patently ridiculous.



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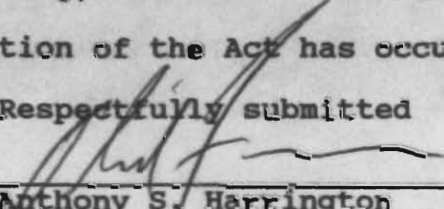
paid for the costs of setting up the tent<sup>3</sup>, as well as the television sets on the lawn outside the WJXT studio. See Affidavit of Tim Phillips (Clinton/Gore '92 Florida State Director) (attached hereto as Exhibit A). These televisions enabled those assembled on the lawn the opportunity to view the live broadcast of the actual "Town Meeting."

As WJXT incurred no costs in connection with the Town Meeting broadcast that had either the purpose or the effect of influencing the election, there was no in-kind contribution from WJXT to the Committee.

CONCLUSION

On the basis of the foregoing, the Commission should find no reason to believe that a violation of the Act has occurred.

Respectfully submitted

  
\_\_\_\_\_  
Anthony S. Harrington  
Christine Varney  
Philip Friedman

Counsel for Clinton/Gore '92  
Committee, Inc. and Robert A.  
Farmer, treasurer

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<sup>3</sup>The Committee did not originally intend to provide a tent. With the threat of rain throughout the day, the Committee decided to rent a tent.

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF THE FLORIDA NEWS  
NETWORK, WJXT, THE CLINTON/GORE '92  
COMMITTEE AND ROBERT A FARMER,  
TREASURER

MUR 3615

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RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
WASHINGTON, D.C.

AFFIDAVIT OF TIM PHILLIPS

TIM PHILLIPS, being duly sworn, states as follows:

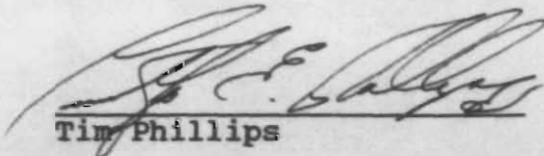
1. I am the Florida State Director for the Clinton/Gore '92 Committee, Inc. In this position I have overall responsibility for the Committee's dealings with vendors in the State of Florida. I am familiar with the facts and circumstances surrounding WJXT's television broadcast of a Clinton "Town Meeting" on September 9, 1992.

2. Prior to the broadcast of the Town Meeting, the Committee received the permission of WJXT to set up television sets for public viewing of the "Town Meeting" on the lawn outside the WJXT studios. The Committee paid for the rental and set up of these television sets.

3. When rain threatened to soak the public viewing area, the Committee paid for the set up of a large tent on the lawn outside the WJXT studio.

I declare under the penalty of perjury that the foregoing is true and correct.

Date: November 12, 1992

  
Tim Phillips

RECEIVED  
F.E.C.  
SECRETARIAT

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

**SENSITIVE**

MUR #s 3483, 3605, 3615, 3624,  
3660, 3706, 3709, 3710  
STAFF MEMBER: Lawrence L. Calvert, Jr.

COMPLAINANTS:

MUR 3483: Gerald B. Wetlaufer  
MUR 3605: Rodney G. Gregory, as General Counsel to  
Friends of Corinne Brown  
MUR 3615: Don Brewer Jr., as Chairman of the Duval  
County Republican Executive Committee  
MUR 3624: Walter H. Shapiro  
MUR 3660: Dr. Philip W. Ogilvie  
MURs 3706, 3709, and 3710: William D. White

RESPONDENTS:

MUR 3483: George Bush  
Bush-Quayle '92 Primary Committee  
and J. Stanley Huckaby, as treasurer  
KXIC Radio  
U. S. Small Business Administration

MUR 3605: Andrew E. Johnson  
Committee to Elect Andy Johnson  
and Andrew E. Johnson, as treasurer  
WVOJ Radio

MUR 3615: Clinton/Gore '92 Committee and  
Robert A. Farmer, as treasurer  
WJXT-TV

MUR 3624: Bush-Quayle '92 Primary Committee  
and J. Stanley Huckaby, as treasurer  
Bush-Quayle '92 General Committee  
and J. Stanley Huckaby, as treasurer  
WBT Radio

MUR 3660: Flower & Garden Magazine

MUR 3706: Lynn Yeakel  
Lynn Yeakel for U. S. Senate Committee and  
Sidney Rosenblatt, as treasurer  
Arlen Specter  
Citizens for Arlen Specter and  
Stephen J. Harmelin, as treasurer  
WDUQ Radio  
Kevin Gavin

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MUR 3709: Lynn Yeakel  
Lynn Yeakel for U. S. Senate Committee and  
Sidney Rosenblatt, as treasurer  
WPXI-TV  
Lawrence Convention Center  
Monro Muffler/Brake  
Welch Foods, Inc.  
Richardson-Vicks, Inc.  
MAACO  
Quality Furniture Co.  
Edgar Snyder and Associates  
Red Lobster Restaurants  
International Paper Co.  
Turnpike Toyota  
West Penn Power Co.  
Cinema World, Inc.  
Medic Alert  
General Mills, Inc.  
Willi's Ski Shop  
Willoughby Communications

MUR 3710: Arlen Specter  
Citizens for Arlen Specter  
and Stephen J. Harmelin, as treasurer  
WPXI-TV

RELEVANT STATUTES: 2 U.S.C. § 431(8)(A)  
2 U.S.C. § 431(9)(B)(i)  
2 U.S.C. § 431(11)  
2 U.S.C. § 441a(a)(1)  
2 U.S.C. § 441b  
2 U.S.C. § 441b(a)  
2 U.S.C. § 441d  
2 U.S.C. § 441d(a)(1)  
26 U.S.C. § 9003(d)  
11 C.F.R. § 100.7(a)(1)(iii)(A)  
11 C.F.R. § 100.7(b)(2)  
11 C.F.R. § 100.8(b)(2)  
11 C.F.R. § 114.4(e)  
11 C.F.R. § 114.9(d)  
47 C.F.R. § 73.1940(b)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTERS

These matters arise from various complaints filed in 1992 concerning several 1992 elections. Each complaint alleges that a news story or broadcast constituted a prohibited in-kind

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contribution from a media corporation to candidates or committees in violation of 2 U.S.C. § 441b. Accordingly, the complaints are treated in one report. Details about the generation of each particular matter and the material facts of each case will be provided in the next section.

## II. FACTUAL AND LEGAL ANALYSIS

### A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no corporation, except through a separate segregated fund, may make a contribution or expenditure in connection with any Federal election. 2 U.S.C. § 441b. However, the Act and the Commission's regulations exclude, under certain conditions, costs associated with the production or dissemination of news stories, commentaries or editorials from the definitions of "contribution" and "expenditure". 2 U.S.C. § 431(9)(B)(i); 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2).

In Readers' Digest Ass'n. v. FEC, 509 F. Supp. 1210, 1214 (S.D.N.Y. 1981), the court, interpreting the Act, stated that the media exemption applies when the distribution of news or commentary falls within the media entity's "legitimate press function," and when the entity is not owned or controlled by any political party, political committee, or candidate. The Commission has interpreted the media exemption broadly, consistent with Congress' admonition that the Act was not intended "to limit or burden in any way the first amendment freedom of the press." H. R. Rep. No. 943, 93d Cong., 1st Sess., at 4 (1974). For instance, although Section 431(9)(B)(i) speaks only of "news

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stor[ies], commentar[ies], or editorial[s]", the Commission's regulations have extended the protection to "costs incurred in covering or carrying" exempt material. 11 C.F.R.

§§ 100.7(b)(2) and 100.8(b)(2). See also, e.g., Advisory Opinion 1982-44 (cable television network's donation of time to national party committees for broadcasts in which candidates and other party leaders discussed issues and solicited contributions was protected by media exemption).

Section 431(9)(B)(i) identifies only "broadcasting station[s], newspaper[s], magazine[s], or other periodical publication[s]" as press entities entitled to the exemption. To determine whether a medium of communication fits one of these descriptions, the Commission has applied the definitions of "broadcaster," "newspaper", and "magazine or other periodical publication" in its Explanation and Justification of 11 C.F.R. § 114.4(e). See, e.g., MURs 2277 and 2557. Although that regulation deals with the sponsorship of candidate debates by news organizations, the definitions in the Explanation and Justification were explicitly drafted with the media exemption in mind. See Explanation and Justification of 11 C.F.R. § 114.4(e), 44 Fed. Reg. 76,734 (1979).

According to the Explanation and Justification, "the term 'broadcaster' is meant to include broadcasting facilities licensed by the Federal Communications Commission [("FCC")], as well as networks." 44 Fed. Reg. at 76,735. Magazines and "other periodical publications" are "publication[s] in bound pamphlet form appearing at regular intervals (usually either weekly,

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bi-weekly, monthly or quarterly) and containing articles of news, information, opinion and entertainment, whether of general or specialized interest. Only magazines and periodicals which ordinarily derive their revenues from subscriptions and advertising" are to be exempt. 44 Fed. Reg. at 76,735.

In addition to the "legitimate press function" test, the Commission must also determine whether the press entity is owned or controlled by any political party, political committee or candidate. This test is a straightforward inquiry into whether the complaint, response or other data available to the Commission suggest that a media entity is so owned or controlled. See, e.g., MUR 3645. If it is, it qualifies for the exemption only in certain narrowly defined situations described in the regulations. See 11 C.F.R. §§ 100.7(b)(2)(i) and (ii) and 100.8(b)(2)(i) and (ii).<sup>1</sup>

Paid advertising expressly advocating a candidate's election or defeat would not qualify for the media exemption and would be subject to the requirements of 2 U.S.C. § 44ld. That section provides disclaimer requirements "whenever any person makes an

1. Under the cited provisions, if a media entity is owned or controlled by a party, committee or candidate the media exemption extends only to the costs of news stories "(i) which represent . . . bona fide news account[s] communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which [are] part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area . . . ." These provisions are not applicable to any of the MURs discussed in this report. However, it is important to note that, contrary to the assertion of complainant William D. White in MURs 3706, 3709 and 3710, the "reasonably equal coverage" requirement is triggered only by a finding that a media entity is owned or controlled by a party, committee or candidate.

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expenditure" for "general public political advertising" containing express advocacy. Obviously, Congress did not intend through the media exemption to exempt paid advertising containing express advocacy from the definition of "expenditure"; otherwise, Section 441d would be a nullity. By contrast, paid non-political advertising sponsorship of a broadcast or publication protected by the exemption is permitted, provided that the sponsor exercises no control over the exempt content. See Advisory Opinion 1987-8 (corporate sponsorship of magazine and television interview series with presidential candidates was not prohibited).

**B. The Cases**

**1. MUR 3483**

This matter was generated by a complaint received from Gerald B. Wetlaufer of Iowa City, Iowa against KXIC Radio of Iowa City; then-President George Bush; the Bush-Quayle '92 Primary Committee, Inc. and J. Stanley Huckaby, as treasurer; and the U. S. Small Business Administration (SBA). The complaint alleges that taped radio public service announcements produced by SBA and broadcast by KXIC contained the statement "President Bush knows our challenges", leading into a voice-over message from the President promoting SBA export assistance programs. The complaint appears to allege that because President Bush was a candidate for re-election at the time the public service announcement was broadcast, the announcement expressly advocated his candidacy and was a thing of value to his campaign. Consequently, the complaint theorizes that the production and airing of the public service announcement constituted a prohibited in-kind contribution from

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the SBA and KXIC to the Bush campaign. Attachment A-1.

As a threshold matter, this Office is of the opinion that the Commission lacks jurisdiction over the SBA in this case. Although 2 U.S.C. § 441a(a)(1) provides that "no person" shall make contributions in excess of certain limits, 2 U.S.C. § 431(11) provides that "the term 'Person' . . . does not include the Federal Government or any authority of the Federal Government." The SBA is, of course, a federal agency. Moreover, for reasons that will be shown, even if the SBA were subject to the Commission's jurisdiction this Office would still recommend that the Commission find no reason to believe the SBA violated any provision of the Act.

KXIC asserts it broadcast the announcement "to meet its responsibilities as a licensee of the Federal Communications Commission to present programming that addresses issues of concern to the community," and argues that the broadcast of public service announcements like the one at issue here is per se within the legitimate press function of a radio station. Attachment A-3 at 2.

In Advisory Opinion 1978-76, the requester, a member of Congress, had produced a film on the services his office made available to constituents. A television station in the member's home district proposed to broadcast the film free of charge as a public service announcement. The Commission determined that the media exemption was "available when, in the exercise of its responsibility [as an FCC licensee] to serve the public interest, convenience and necessity, the station carries a . . . public

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service announcement to inform constituents of facilities and services provided" by the member's office.

The SBA announcement appears to meet the test articulated in AO 1978-76. KXIC asserts it broadcast the announcement in furtherance of its obligation as an FCC licensee, and, by providing a toll-free telephone number listeners could call to order SBA publications, the announcement informed listeners of services provided by the Federal government.<sup>2</sup> Attachment A-3 at 5. Additionally, KXIC's general manager, Steven Winkey, declared that KXIC's parent, Iowa City Broadcasting Co., is neither owned nor controlled by a party, committee or candidate. Id. at 4. Because the announcement appears to be within the press exemption, it does not appear to contribute a contribution to the Bush-Quayle '92 Primary Committee.

Therefore, this Office recommends that the Commission find no reason to believe that KXIC Radio, the U. S. Small Business Administration, George Bush, or the Bush-Quayle '92 Primary Committee and J. Stanley Huckaby, as treasurer, violated any provision of the Act with respect to MUR 3483 and close the file.

## 2. MUR 3605

This matter was generated by a complaint received from

2. Cf. former 47 C.F.R. § 73.1810(d)(4), the FCC's former definition of a "public service announcement", which provided that announcements for which the broadcaster made no charge and which promoted the activities and services of Federal agencies, among other entities, qualified as public service announcements. Although the FCC has removed the regulation from the Code of Federal Regulations, see 49 Fed. Reg. 33,658 (August 24, 1984), it has continued to refer to the definition. See In the Matter of Policies and Rules Concerning Children's Television Programming, 5 FCC Rcd. 7199, 7204-05 n. 10 (1990).

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Rodney G. Gregory, as general counsel to Friends of Corinne Brown, against Andrew E. Johnson, the Committee to Elect Andy Johnson and Andrew E. Johnson, as treasurer, and WVOJ Radio of Jacksonville, Florida.<sup>3</sup> The complaint alleged that Johnson continued to host a call-in radio program on WVOJ after becoming a candidate for Congress, and that this arrangement may have constituted a prohibited in-kind contribution from WVOJ to the Johnson campaign. Attachment B-1. WVOJ's response indicates that both before and after becoming a candidate for Congress, Johnson paid WVOJ for two hours of live broadcast time every weekday afternoon and a two hour replay at night. See Attachment B-2 at 1. The station asserts that after Johnson became a Congressional candidate, the time was paid for by his campaign committee. Id. at 3. The committee's disclosure reports appear to corroborate the assertion.

As discussed supra at 5-6, paid political advertising falls outside the scope of the news media exemption. Furthermore, because it appears that WVOJ charged Johnson the usual and normal charge for air time consistent with 11 C.F.R.

§ 100.7(a)(1)(iii)(A), this Office recommends the Commission find no reason to believe that WVOJ violated 2 U.S.C. § 441b, and close

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3. Friends of Corinne Brown was the principal campaign committee of Corinne Brown, who, like Johnson, was a candidate for the Democratic nomination for U. S. Representative from the Third Congressional District of Florida. In the September 1, 1992 Florida Democratic primary, Brown and Johnson received 43 percent and 31 percent of the vote, respectively, qualifying them for the October 1, 1992, run-off election. In the run-off, Brown was nominated, receiving 64 percent of the vote to Johnson's 36 percent. Brown was elected to the U. S. House of Representatives in the November 3, 1992 general election.



the file with respect to WVOJ.<sup>4</sup>

However, WVOJ's response raises the question of whether Johnson's call-in show carried a legally sufficient disclaimer. The response indicates that after Johnson became a candidate, the show was identified as a "Paid Political Broadcast." Attachment B-2 at 2. 2 U.S.C. § 441d(a)(1) provides that political advertising, "if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee." A disclaimer identifying Johnson's show as a "Paid Political Broadcast" without identifying who paid for it would not meet Section 441d(a)(1)'s requirements. Accordingly, this Office recommends that the Commission find reason to believe that the Committee to Elect Andy Johnson and Andrew E. Johnson, as treasurer, violated 2 U.S.C. § 441d(a)(1).

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4. 11 C.F.R. § 100.7(a)(1)(iii)(A) provides that the provision of services to a political committee at less than the usual and normal charge for such services will constitute an in-kind contribution to the committee. Both the contract between WVOJ and Johnson and the FCC's regulations governing the sale of broadcast time to candidates provide that if air time is used by candidates personally within 45 days of a primary or run-off election, the station may charge the "lowest unit charge of the station for the same class and amount of time for the same period;" prior to 45 days before an election, the station may charge not more than "the charges made for comparable use of such station time by other users." Attachment B-2 at 3; 47 C.F.R. § 73.1940(b) (reprinted at 11 C.F.R. Supp. A., p. 265 (1992 ed.)). Moreover, the rates on the contract appear generally consistent with the advertising rates quoted for WVOJ in the Gale Directory of Publications and Broadcast Media 1993, taking into consideration the time of broadcast and the station's wattage. Therefore, it appears that WVOJ charged Johnson the "usual and normal" charge for air time.



3. MUR 3615

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This matter was generated by a complaint received from Don Brewer, Jr., chairman of the Duval County (Florida) Republican Executive Committee, against WJXT-TV in Jacksonville, Florida and the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer. The complaint alleges that WJXT broadcast a live call-in interview program featuring Democratic presidential nominee Bill Clinton on September 9, 1992.<sup>5</sup> According to the complaint, WJXT invited the public and placed television sets on its premises outside its studio building so that members of the public could watch the program. It then allegedly allowed the Clinton campaign to erect a tent over the television sets and exclude persons who were not Clinton supporters from the tent. The Clinton committee purportedly "enclosed the area with police tape and police officers to prevent non-Clinton supporters from viewing the program. Approximately two hundred and fifty Clinton supporters were allowed into [the] viewing area while approximately seventy non-Clinton supporters were held away from the event by police lines." Attachment C-1. Moreover, the complaint alleges that "WJXT . . . allowed Clinton financial supporters into the station to meet privately with Governor Clinton." Id. The cumulative effect of these events, the complaint alleges, was a prohibited corporate in-kind contribution from WJXT to the Clinton campaign.

Both responses dispute the complaint's version of the facts.

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5. The broadcast was apparently carried statewide over the "Florida News Network," which consists of WJXT and several other television stations.

While Clinton apparently did appear on WJXT's September 9 broadcast, both responses indicate that the television sets were brought onto WJXT's property by the Clinton campaign, not WJXT. Attachment C-2 at 3; Attachment C-3 at 3. However, WJXT management apparently did not object to the sets' presence; management had already decided to permit the general public to gather on its property while Clinton was inside the studio building, attachment C-2 at 2, and it appears that this decision may have come in response to a request from the Clinton committee. Attachment C-3 at 5. Station management explicitly gave the Clinton campaign permission to put up the tent, but not until the tent was partially erected. Attachment C-2 at 3. Neither response directly disputes the complaint's contention that persons opposed to Clinton's candidacy were excluded from the tent. However, WJXT asserts that crowd control at the site was handled by local police (including some off-duty officers with whom it contracted to direct traffic in its parking lot) and the U. S. Secret Service, and that any actions by those agencies or by Clinton supporters to exclude Clinton opponents from the premises were taken without station management's knowledge or approval. Id. at 2. Finally, WJXT denies that it hosted a "private meeting" between Clinton and "financial supporters"; instead, it asserts it hosted a small reception after the program for Clinton and local

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dignitaries. Id. at 3-4.<sup>6</sup>

The broadcast itself appears to fall within the "media exemption." A call-in interview with a major party nominee for President is a legitimate news story, and it makes no difference that the station is producing, as well as covering, the news story. Cf. MUR 2567 (debates produced by broadcasters are news stories within meaning of exemption). WJXT is an FCC licensee, and there is no indication that it is owned or controlled by a party, candidate, or committee. Moreover, there appears to be no factual basis for any implication in the complaint that the event after the broadcast was a Clinton fundraiser.

This Office does not concur with WJXT or the Clinton-Gore Committee's contention that any costs incurred by WJXT with regard to the tent, including the opportunity costs of allowing the Clinton Committee to use WJXT property to install TV sets and a tent were "costs incurred in covering or carrying" Clinton's appearance on the broadcast and therefore exempt pursuant to 11 C.F.R. §§ 100.7(b)(2) and 100.8(b)(2). Contrary to WJXT's assertions, the station's ability to carry the broadcast was in no way altered by its decision to allow demonstrators on station property. In fact, granting permission to the Clinton Committee to set up TV sets and to erect a tent to shelter the TVs and Clinton supporters is entirely unrelated to the station's

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6. WJXT does acknowledge that some Clinton supporters entered the station building and "were restricted to a roped off area" in the lobby, although the station claims WJXT personnel did not let them into the building. The station also acknowledges that Mr. Clinton shook hands with these supporters as he walked through the lobby on his way out. See C-2 at 12-13.

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broadcast function and should not be viewed as a "cost incurred in covering or carrying a new story."

Under the Act, corporations are prohibited from making any contribution or expenditure in connection with the election of a Federal candidate, and candidates and political committees are prohibited from knowingly accepting any such contributions or expenditures. 2 U.S.C. § 441b(a). For purposes of Section 441b, "contribution or expenditure" is defined to include "any direct or indirect payment, distribution, loan advance, deposit or gift or money, or any services, or anything of value to any candidate, campaign committee, or political committee or organization in connection with a federal election." 2 U.S.C. § 441b(b)(2). In this case, the use of WJXT's property by the Clinton campaign clearly constitutes an in-kind contribution prohibited under Section 441b.<sup>7</sup>

WJXT advances two arguments for concluding that, even without the protection of the news media exemption, it made no contribution or expenditure in this case. First, the station argues that none of its actions were taken for the purpose of influencing a federal election as would be required by 2 U.S.C. § 431(8) under Orloski v. FEC, 795 F.2d 156 (D.C. Cir. 1986). That case involved an address at a picnic by an incumbent officeholder in his capacity as a Member of Congress; here Clinton

7. While the Corporations Division of the Office of the Secretary of State of Florida lists no corporation under the name "WJXT," the Gales Directory of Publications and Broadcast Media 1992 lists WJXT as owned by Post-Newsweek Stations, Inc. of Washington, D.C.

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spoke to Florida voters not in his capacity as Governor of Arkansas but in his capacity as a Presidential candidate.<sup>8</sup> The station also argues that its actions do not constitute expenditures on the grounds that they lack "express advocacy." WJXT attempts to rely on the Supreme Court's holding "that an expenditure must constitute 'express advocacy' in order to be subject to the prohibition of Section 441b. FEC v. Massachusetts Citizens for Life, 479 U.S. 246, 249 (1986). Respondent's argument carries no weight here since this case does not involve independent expenditures but rather in-kind contributions for which the "express advocacy" limitation does not apply.

Accordingly, it appears that WJXT made, and the Clinton campaign knowingly received, a prohibited contribution. Therefore, this Office recommends that the Commission find reason to believe that WJXT-TV violated 2 U.S.C. § 441b(a) and that the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, knowingly violated 2 U.S.C. § 441b(a) and violated 26 U.S.C. § 9003.

#### 4. MUR 3624

This matter was generated by a complaint received from Walter H. Shapiro of Charlotte, North Carolina, against WBT Radio of Charlotte, the Bush-Quayle '92 Primary Committee, the Bush-Quayle '92 General Committee, and J. Stanley Huckaby, as treasurer of both committees. The complaint alleges that by

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8. WJXT actually invited both major party candidates to appear for Town Meeting programs. The Bush campaign initially declined the offer and then subsequently agreed to participate in a program broadcast on October 23, 1992. See Attachment C-2 at 2.

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broadcasting the nationally syndicated Rush Limbaugh radio program, WBT effectively broadcast three hours a day of unpaid advertising for the Bush-Quayle campaign and thereby made a prohibited in-kind contribution. Attachment D-1. On November 30, 1992, Shapiro amended his complaint, alleging that Limbaugh was in a business relationship with Roger Ailes, a consultant to former President Bush's 1988 campaign, and that Bush and then-Vice President Quayle appeared on the Limbaugh program while other candidates for President and Vice President did not. Attachment D-2.

WBT is licensed by the FCC, and is owned not by any party, candidate or committee but by Jefferson-Pilot Communications Co., a North Carolina media corporation. In a sworn affidavit in response to the complaint, Richard Jackson Whitt, WBT's general manager, stated that the Limbaugh program is a nationally syndicated "call-in" talk show broadcast for three hours every weekday. On the typical show, Limbaugh "states his opinion on some subject and then invites callers, who may express opposing or supporting views. . . . Politics may or may not be discussed on any given day." Attachment D-4 at 5-6. Limbaugh's program therefore appears to be commentary by a third party not employed by WBT; such third-party commentary is squarely within the "legitimate press function" of a broadcaster. Advisory Opinion 1982-44. WBT's broadcast of the Rush Limbaugh program thus appears to be protected by the media exemption, and there appears to have been no prohibited in-kind corporate contribution for

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either Bush-Quayle committee to accept.<sup>9</sup> Accordingly, this Office recommends that the Commission find no reason to believe that WBT Radio, the Bush-Quayle '92 Primary Committee, the Bush-Quayle '92 General Committee, and J. Stanley Huckaby, as treasurer of both committees violated any provision of the Act with respect to MUR 3624, and close the file.

5. MUR 3660

This matter was generated by a complaint received from Dr. Philip W. Ogilvie of Washington, D. C. against Flower & Garden magazine. The complaint alleges that Flower & Garden's use of Barbara Bush's picture on the cover of its November 1992 issue was an illegal in-kind contribution to the presidential campaign of Mrs. Bush's husband. Attachment E-1.

As the response of KC Publishing, Inc., the parent of Flower & Garden, points out, Barbara Bush was a public figure whose interest in gardening was newsworthy for a general-interest publication devoted to that topic; the cover picture accompanied an interview with Mrs. Bush printed inside the magazine. Attachment E-2. Moreover, Flower & Garden would appear to be a "bona fide" magazine. From a xerographic copy of the magazine's cover, it would appear that Flower & Garden is in bound pamphlet form. It is published every other month, and apparently has a

9. Shapiro's amendment to the complaint, which must be read broadly even to find an allegation of conduct that would violate the Act, may be an attempt to allege that through a web of unsubstantiated relationships between the committees, Ailes, and Limbaugh, the costs associated with the program constituted in-kind contributions. No factual support is offered for such an allegation.

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regular subscription price of \$12.95 per year, a subscription and newsstand circulation of more than 570,000, and regular advertising rates. 1 Gale Directory of Publications & Broadcast Media 1993 1165. Further, it appears to contain articles of interest to the general gardening public. Therefore, Flower & Garden's interview with Barbara Bush appears to have been within its legitimate press function.

KC Publishing's response does not explicitly address the issue of ownership or control, but no available data suggest that KC Publishing is a party, committee or candidate. FEC indices reveal no campaign activity by KC Publishing or publisher John C. Prebich in the 1992 election cycle. Accordingly this Office recommends that the Commission find no reason to believe that KC Publishing, Inc., violated 2 U.S.C. § 441b, and close the file on MUR 3660.

6. MURs 3706, 3709, and 3710

These matters were all generated by complaints filed by William D. White of Pittsburgh, Pennsylvania.<sup>10</sup> In MUR 3706, White filed a complaint against Lynn Yeakel; the Lynn Yeakel for U.S. Senate Committee and Sidney Rosenblatt, as treasurer; Senator Arlen Specter; Citizens for Arlen Specter and Stephen J. Harmelin,

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10. White claims to have been an independent candidate for United States Senator from Pennsylvania in the November 3, 1992 general election. See, e.g., Attachment F-1 at 2. However, White failed to file a Statement of Candidacy with the Commission for the 1992 election, and counsel for one of the respondents in these matters stated upon information and belief that White failed to qualify for the Pennsylvania ballot. Attachment F-2 at 2.



as treasurer;<sup>11</sup> WDUQ Radio of Pittsburgh; and Kevin Gavin, WDUQ's news director. The complaint alleges that WDUQ provided free air time to the Yeakel campaign, and that this constituted an illegal in-kind contribution. It also implies that Gavin, who is WDUQ's news director, personally contributed services to the Yeakel campaign by interviewing Yeakel during the broadcast produced with WDUQ's grant of free air time. Additionally, White alleges that WDUQ's coverage of Yeakel and Specter's participation in the League of Women Voters' "Citizens' Jury" program constituted an illegal in-kind contribution from WDUQ to both campaigns.

Attachment F-1.

WDUQ's general manager, Judy Jankowski, averred in a sworn affidavit that the station made "free and essentially unrestricted time" available to all candidates for the U. S. Senate from Pennsylvania, including White. Attachment F-4 at 2. WDUQ's donation of air time was similar to that approved by the Commission in Advisory Opinion 1982-44, and to the donation of free newspaper space held to be within the media exemption in MUR 486 (cited in AO 1982-44). WDUQ's coverage of the League of Women Voters' "Citizens' Jury" appears to have been spot news coverage. Moreover, WDUQ is an FCC licensee; therefore, the broadcasts at issue appear to have been within WDUQ's legitimate press function. Additionally, WDUQ appears to be owned not by a party, committee or candidate, but by Duquesne University.

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11. Senator Specter was the Republican nominee for U. S. Senator from Pennsylvania in the 1992 general election, and Yeakel was the Democratic nominee. Senator Specter was re-elected, receiving 51 percent of the vote to Yeakel's 49 percent.

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Attachment F-4 at 1. Accordingly, this Office recommends that the Commission find no reason to believe that WDUQ Radio or Kevin Gavin violated any provision of the Act with respect to MUR 3706. Because there appears to have been no prohibited contribution to accept, this Office further recommends that the Commission find no reason to believe that Lynn Yeakel, the Yeakel for Senate Committee or Sidney Rosenblatt, as treasurer, Senator Arlen Specter, or Citizens for Arlen Specter or Stephen J. Harmelin, as treasurer violated any provision of the Act with respect to MUR 3706 and close the file.

In MUR 3709, White filed a complaint against Yeakel, the Yeakel committee, and WPXI-TV of Pittsburgh. The complaint alleged that WPXI's hour-long broadcast of a "call-in" interview featuring Yeakel constituted an illegal in-kind contribution from WPXI to the Yeakel campaign. Attachment G-1. On December 2, 1992, White amended his complaint to name each of the program's advertisers as respondents, and, on January 8, 1993, White again amended his complaint to name as a respondent Willoughby Communications, an advertising agency that acted as purchasing agent for one of the advertisers.<sup>12</sup> The amendments alleged that

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12. The advertiser respondents in MUR 3709 are:

Lawrence Convention Center  
Monro Muffler/Brake  
Welch Foods, Inc.  
Richardson-Vicks, Inc.  
MAACO  
Quality Furniture Co.  
Edgar Snyder and Associates  
Red Lobster Restaurants  
International Paper Co.  
Turnpike Toyota

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the advertisers' sponsorship of the program constituted illegal in-kind contributions to the Yeakel campaign. Attachments G-2 and G-3.

WPXI responds that the program about which White complains was a "regularly scheduled news program." Attachment G-4 at 1. Confirming this assertion, all of the advertiser respondents contend that they bought time on WPXI news programming generally, and had no knowledge (much less intent) that they were buying time on a broadcast featuring Yeakel. For instance, respondent Monro Muffler/Brake asserted that "one spot was ordered to run every other week from July 11 through October 3, 1992 in the WPXI Saturday morning 'news block' between 8 a.m. and 12 p.m." Attachment G-6. The specific placement of advertisements within that time period was apparently left up to WPXI.

Regularly scheduled news programs are protected by the media exemption. Moreover, WPXI is an FCC licensee and does not appear to be owned or controlled by a party, committee or candidate. Accordingly, it appears to be within the media exemption, and this Office recommends that the Commission find no reason to believe that WPXI-TV violated any provision of the Act with respect to MUR 3709.

As discussed supra at 6, non-political advertising on or sponsorship of material which qualifies for the media exemption is

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(Footnote 12 continued from previous page)

West Penn Power Co.  
Cinema World, Inc.  
Medic Alert  
General Mills, Inc.  
Willi's Ski Shop

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not prohibited by 2 U.S.C. § 441b, provided that the advertiser exercises no editorial control over the content of the exempt material. Because none of the advertiser respondents appeared to exercise editorial control over the content of WPXI's interview with Yeakel, this Office recommends that the Commission find no reason to believe that any of the advertiser respondents or Willoughby Communications violated any provision of the Act. Finally, because there appears to have been no prohibited in-kind contribution, this Office recommends that the Commission find no reason to believe that Lynn Yeakel or the Lynn Yeakel for Senate Committee, or Sidney Rosenblatt, as treasurer, violated any provision of the Act with respect to MUR 3709 and close the file.

In MUR 3710, White filed a complaint against Senator Specter, the Specter committee, and WPXI. The allegations were substantially the same as those involving Yeakel, the Yeakel committee, and WPXI in MUR 3709. Attachment H-1. However, unlike in MUR 3709, White did not name individual advertisers on the program as respondents. The allegations and responses in MUR 3710 are sufficiently similar to those in MUR 3709 for the same analysis to apply. Accordingly, this Office recommends that the Commission find no reason to believe that any respondents violated any provision of the Act with respect to MUR 3710 and close the file.

### III. RECOMMENDATIONS

#### A. With respect to MUR 3483:

1. Find no reason to believe that KXIC Radio, the U. S. Small Business Administration, George Bush, or the Bush-Quayle '92 Primary Committee or J. Stanley Huckaby, as treasurer, violated any provision of the Act.

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2. Approve the appropriate letters.

3. Close the file.

B. With respect to MUR 3605:

1. Find no reason to believe that WVOJ Radio violated 2 U.S.C. § 441b, and close the file with respect to WVOJ radio.

2. Find reason to believe that the Committee to Elect Andy Johnson and Andrew E. Johnson, as treasurer, violated 2 U.S.C. § 441d(a)(1).

3. Approve the attached Factual and Legal Analysis.

4. Approve the appropriate letters.

C. With respect to MUR 3615:

1. Find reason to believe that WJXT-TV violated 2 U.S.C. § 441b(a).

2. Find reason to believe that the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, knowingly violated 2 U.S.C. § 441b(a) and violated 26 U.S.C. § 9003.

3. Approve the attached Factual and Legal Analyses.

4. Approve the appropriate letters.

D. With respect to MUR 3624:

1. Find no reason to believe that WBT Radio, the Bush-Quayle '92 Primary Committee, the Bush-Quayle '92 General Committee, or J. Stanley Huckaby as treasurer of both committees, violated any provision of the Act.

2. Approve the appropriate letters.

3. Close the file.

E. With respect to MUR 3660:

1. Find no reason to believe that KC Publishing, Inc., violated 2 U.S.C. § 441b.

2. Approve the appropriate letters.

3. Close the file.

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F. With respect to MUR 3706:

1. Find no reason to believe that WDUQ Radio, Kevin Gavin, Lynn Yeakel, the Lynn Yeakel for U. S. Senate Committee or Sidney Rosenblatt, as treasurer, Arlen Specter, or Citizens for Arlen Specter or Stephen J. Harmelin, as treasurer, violated any provision of the Act.
2. Approve the appropriate letters.
3. Close the file.

G. With respect to MUR 3709:

1. Find no reason to believe that Lynn Yeakel, the Lynn Yeakel for U. S. Senate Committee or Sidney Rosenblatt, as treasurer, WPXI-TV, Lawrence Convention Center, Monro Muffler/Brake, Welch Foods, Inc., Richardson-Vicks, Inc., MAACO, Quality Furniture Co., Edgar Snyder and Associates, Red Lobster Restaurants, International Paper Co., Turnpike Toyota, West Penn Power Co., Cinema World, Inc., Medic Alert, General Mills, Inc., Willi's Ski Shop, or Willoughby Communications violated any provision of the Act.
2. Approve the appropriate letters.
3. Close the file.

H. With respect to MUR 3710:

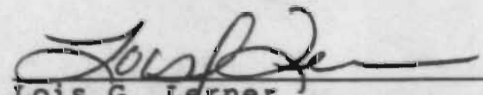
1. Find no reason to believe that Arlen Specter, Citizens for Arlen Specter or Stephen J. Harmelin, as treasurer, or WPXI-TV violated any provision of the Act.
2. Approve the appropriate letters.
3. Close the file.

Lawrence M. Noble  
General Counsel

Date

5/17/93

BY:

  
Lois G. Lerner  
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 3615  
Clinton/Gore '92 Committee and )  
Robert A. Farmer, as treasurer; )  
WJXT-TV. )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 25, 1993, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3615:

1. Find reason to believe that WJXT-TV violated 2 U.S.C. § 441b(a).
2. Find reason to believe that the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, violated 2 U.S.C. § 441b(a) and violated 26 U.S.C. § 9003.
3. Approve the Factual and Legal Analyses recommended in the General Counsel's report dated May 17, 1993.
4. Take no further action with respect to these violations and close the file in this matter.

(continued)

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Federal Election Commission  
Certification for MUR 3615  
May 25, 1993

Page 2

5. Direct the Office of General Counsel to send appropriate letters, and that the letters to the respondents contain admonishment language.

Commissioners Aikens, Elliott, McGarry, Potter, and Thomas voted affirmatively for the decision; Commissioner McDonald was not present at the time of the vote.

Attest:

5-27-92  
Date

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

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUNE 9, 1993

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

Don Brewer, Jr., County Chairman  
Republican Executive Committee  
Republican Party of Florida--Duval County  
9550 Regency Square Boulevard Suite 711  
Jacksonville, FL 32225

RE: MUR 3615

Dear Mr. Brewer:

This is in reference to the complaint you filed with the Federal Election Commission on September 21, 1992, concerning WJXT-TV and the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer.

Based on that complaint, on May 25, 1993, the Commission found that there was reason to believe WJXT-TV and the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended, and also found that there was reason to believe that the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, violated 26 U.S.C. § 9003 of Chapters 95 and 96 of Title 26, U.S. Code. However, after considering the circumstances of this matter, the Commission determined to take no further action against WJXT-TV and the Clinton-Gore '92 Committee and Robert A. Farmer, as treasurer, and closed the file in this matter on May 25, 1993.

This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Eric S. Brown  
Paralegal Specialist

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUNE 9, 1993

Philip S. Friedman, Esq.  
Deputy General Counsel  
Ross & Hardies  
888 16th Street, N.W.  
Washington, DC 20006

RE: MUR 3615  
Clinton-Gore '92  
Committee and  
Robert A. Farmer, as treasurer

Dear Mr. Friedman:

On May 25, 1993, the Federal Election Commission found reason to believe that Clinton-Gore '92 Committee, Inc. ("the Committee") and Robert A. Farmer, as treasurer, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended, and 26 U.S.C. § 9003 of Chapters 95 and 96 of Title 26, U.S. Code. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the use of WJXT's property by the Clinton campaign to set up TVs and erect a tent to shelter the TVs and Clinton supporters appears to be a violation of 2 U.S.C. § 441b(a) and 26 U.S.C. § 9003. You should take immediate steps to insure that this activity does not occur in the future.

The confidentiality provisions at 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

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Philip S. Friedman, Esq.  
Page 2

before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Eric S. Brown, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

  
Scott E. Thomas  
Chairman

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

JUNE 9, 1993

Elliott Schudler  
Covington & Burlington  
1201 Pennsylvania Avenue., N.W.  
P.O. Box 7566  
Washington, DC 20044

RE: MUR 3615  
WJXT-TV

Dear Mr. Schudler:

On May 25, 1993, the Federal Election Commission found reason to believe that your client, WJXT-TV, violated 2 U.S.C. § 441b(a), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the use of WJXT's property for the Clinton campaign to set up TVs and erect a tent to shelter the TVs and Clinton supporters appears to be a violation of 2 U.S.C. § 441b(a). Your client should take immediate steps to insure that this activity does not occur in the future.

The confidentiality provisions at 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 before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Eric S. Brown, the staff member assigned to this matter, at (202) 219-3400.

Sincerely,

Scott E. Thomas  
Chairman

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3615

DATE FILMED 6/23/93 CAMERA NO. 4

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