



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20543

THIS IS THE END OF MUR # 2205

Date Filmed 9/26/86 Camera No. --- 2

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Internal Memoranda, duplicate copies

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

(1) Classified Information

(6) Personal privacy

(2) Internal rules and practices

(7) Investigatory files

(3) Exempted by other statute

(8) Banking information

(4) Trade secrets and commercial or financial information

(9) Well information (geographic or geophysical)

(5) Internal Documents

Signed

Francis B. Higgin

date

9-18-86

REC 9-21-77

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1986

Mr. James J. Tayoun
1321 S. Broad Street
Philadelphia, PA 19147

RE: MUR 2205
Thomas M. Foglietta
Foglietta in '86
Committee
Robert Barnett

Dear Mr. Tayoun:

The Federal Election Commission has reviewed the allegations of your complaint dated June 26 and July 17, 1986 and determined that on the basis of the information provided in your complaint (and information provided by the Respondents) there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
General Counsel's Report

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perm



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 18, 1986

Gregory M. Harvey, Esquire
Morgan, Lewis and Bockius
2000 One Logan Square
Philadelphia, PA 19103

RE: MUR 2205
Thomas M. Foglietta
Foglietta in '86
Committee
Michael Foglietta, as
treasurer
Robert Barnett

Dear Mr. Harvey:

On July 2, 1986, the Commission notified your clients of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on September 12, 1986, determined that on the basis of the information in the complaint, and information you provided, there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Thomas M. Foglietta
Foglietta in '86 Committee
Michael Foglietta, as treasurer
Robert Barnett

MUR 2205

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 12, 1986, the Commission decided by a vote of 6-0 to take the following actions in MUR 2205:

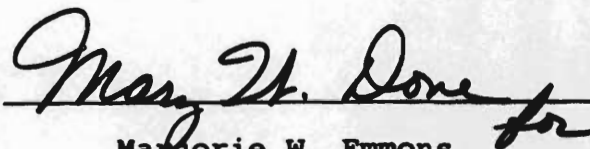
1. Find no reason to believe that the Foglietta in '86 Committee and Michael Foglietta, as treasurer, violated the following;
 - a) 2 U.S.C. § 441h;
 - b) 2 U.S.C. § 441d.
2. Find no reason to believe that Robert Barnett violated the following:
 - a) 2 U.S.C. § 441h;
 - b) 2 U.S.C. § 441d.
3. Close the file.
4. Send the letter, as recommended in the First General Counsel's Report signed September 9, 1986.

Commissioners Aikens, Elliott, Harris, Josefiak, McDonald and McGarry voted affirmatively for this decision.

Attest:

9-12-86

Date


Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:	Tues.,	9-9-86,	3:11
Circulated on 48 hour tally basis:	Wed.,	9-10-86,	4:00
Deadline for vote:	Fri.,	9-12-86,	4:00

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SENSITIVE

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

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY

86 SEP 9 3:11

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION _____

MUR #2205
DATE COMPLAINT RECEIVED
BY OGC 6-17-86
DATE OF NOTIFICATION TO
RESPONDENT 6-25-86
STAFF: Frances B. Hagan

COMPLAINANT'S NAME: James J. Tayoun

RESPONDENTS' NAMES: Thomas M. Foglietta
Foglietta in '86 Committee
Michael Foglietta, as treasurer
Robert Barnett

RELEVANT STATUTES: 2 U.S.C. § 441d
2 U.S.C. § 441h

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

Complainant James J. Tayoun alleged that Thomas M. Foglietta, the Foglietta in '86 Committee ("the Committee") and Michael Foglietta, as treasurer, and Robert Barnett, violated 2 U.S.C. §§ 441d and 441h.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441h states in part that no person who is a candidate or employee or agent of a candidate shall fraudulently misrepresent himself or a committee as speaking, writing or acting on behalf of any other candidate on a matter which is damaging to such other candidate.

Complainant Tayoun submitted copies of campaign materials mailed to voters by the Foglietta Committee. Complainant alleged that the campaign mailing made false negative statements

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concerning Tayoun and altered a facsimile of the Tayoun Committee's FEC disclosure report in a manner damaging to the Tayoun campaign. Complainant alleged that these actions constitute fraudulent misrepresentation of campaign authority (2 U.S.C. § 441h).

The Foglietta Committee ads include a copy of a Tayoun disclosure report which has been altered for the Foglietta ad. In the advertisement's facsimile of the report, the "name of the employer" box on a Fund for a Conservative Majority contribution is marked "Jesse Helms" when the actual Tayoun report leaves the box blank.

By altering the Tayoun Committee's report in its ads, and by making negative statements about Mr. Tayoun which may or may not be accurate, the Foglietta Committee and treasurer certainly attempted to damage their opponent's campaign. However, the advertising material is clearly printed as Foglietta material, containing the candidate's name, the Committee's address and the candidate's picture. Therefore, it cannot be said that the Foglietta campaign represented itself as acting for another candidate on a matter damaging to that candidate.

The Foglietta Committee stated the following in answer to this allegation in the complaint:

[These contentions,] although styled as violations of 2 U.S.C. § 441h, actually involve claims for defamation, as to which the complainant's proper redress is to seek damages in a civil action (as in fact the complainant has done...)

A sworn affidavit signed by respondent Robert Barnett stated that

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he is not Chairman of the Committee, and has never been a Committee official, but instead, that he acted as a campaign volunteer.

Based on the analysis of the evidence presented, the Office of the General Counsel recommends a finding of no reason to believe that the Committee and its treasurer or Robert Barnett violated 2 U.S.C. § 441h in this matter.

2 U.S.C. § 441d states in part that when any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate. . . , such communication, 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 committee. . . .

Complainant alleged that the Foglietta Committee mailing to voters failed to state clearly that the communication was paid for by the Foglietta Committee in violation of 2 U.S.C. § 441d. The communication in question clearly identified opposing candidate James Tayoun by name and by photograph and expressly advocated his defeat by exhorting voters to "say NO to Jimmy Tayoun once and for all. . . ." (See 11 C.F.R. § 109.1(b)(2) and (3)).

In the Foglietta ad copy provided by the complainant, the statement required to show who paid for the communication does not appear. The Foglietta response to the complaint on this issue states "The complainant's contention. . . appears to be

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based upon incomplete photocopies of the written advertisement . . . The incomplete copy omits the words 'Paid for by Foglietta in '86 Committee' and the Allied Printing Trades Council Union Label." The original provided by the Committee contains the required language ("Paid for by Foglietta in '86 Committee") at the bottom of the page on which the recipient's address label would appear. As a result, no violation of 2 U.S.C. § 44ld occurred in this case. This Office recommends a finding of no reason to believe in this matter.

RECOMMENDATIONS

1. Find no reason to believe that the Foglietta in '86 Committee and Michael Foglietta, as treasurer, violated the following:
 - a) 2 U.S.C. § 44lh;
 - b) 2 U.S.C. § 44ld.
2. Find no reason to believe that Robert Barnett violated the following:
 - a) 2 U.S.C. § 44lh;
 - b) 2 U.S.C. § 44ld.
3. Close the file in this matter.
4. Send the attached letter.

Charles N. Steele
General Counsel

Date

9/9/81

BY:

Lawrence M. Noble
Deputy General Counsel

Attachments

Response to Complaint (with Ad Copy)
Letter to Respondents (proposed)

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WASHINGTON
NEW YORK
LOS ANGELES

MORGAN, LEWIS & BOCKIUS
COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103
TELEPHONE (215) 565-5000
CABLE ADDRESS: MORLEBOCK
TELEX 93-1318

GREGORY M. HARVEY
DIAL DIRECT (215) 563-5427

August 11, 1986

Hagan
HAND DELIVERED

16 AUG 12 11:55

MIAMI
HARRISBURG
LONDON

16 AUG 12 04:12

VIA FEDERAL EXPRESS

Federal Election Commission
99 "E" Street, N.W.
Washington, D.C. 20463

Attention: Ms. Frances B. Hagan

Re: MUR 2205

Dear Ms. Hagan:

This letter and the accompanying Affidavit (including the exhibits thereto) constitutes the response of Foglietta in '86 Committee ("Foglietta Committee"), a political committee authorized by Honorable Thomas M. Foglietta, Representative in Congress from the First Congressional District of Pennsylvania, as requested by the Commission's letter dated July 25, 1986, addressed to Robert Barnett as "Chairman" of the Foglietta Committee.

The Commission's letter dated July 25 encloses the letter complaint of James J. Tayoun, with exhibits.

As explained in the enclosed Affidavit, Robert Barnett is not "Chairman" of the Foglietta Committee, and acted concerning the subject matter as a campaign volunteer. Congressman Foglietta has signed the enclosed Statement of Designation of Counsel, designating the undersigned to act as counsel on behalf of the Foglietta Committee.

The complaint of James J. Tayoun alleges that portions of a written advertisement, in tabloid format, mailed to registered Democratic voters of the First Congressional District prior to the Pennsylvania Primary Election of May 20, 1986, contained "misrepresentations" and that "said misrepresentations were in violation of 2 U.S.C. §§ 441d and 441h for failure to clearly and conspicuously identify their source of authorization and for fraudulent misrepresentation of campaign authority."

Attachment A (1)

MORGAN, LEWIS & BOCKIUS

Federal Election Commission
August 11, 1986
Page Two

The Foglietta Committee's written advertisement included the name and address of the Committee as well as the words "Paid for by Foglietta in '86 Committee" at the bottom of the portion intended for attachment of address labels, and hence complied fully with 2 U.S.C. §441d.

The complainant's contention that a violation of 2 U.S.C. § 441d occurred in respect of the written advertisement is a contention which appears to be based upon incomplete photocopies of the written advertisement itself (one such incomplete copy being attached to the complaint as received by the respondent Foglietta Committee). The incomplete copy omits the words "Paid for by Foglietta in '86 Committee" and the Allied Printing Trades Council Union label.

As appears from the enclosed Affidavit of Robert Barnett, to which an original printed copy of the written advertisement is attached as Exhibit 3, the statutory phrase "Paid for by Foglietta in '86 Committee" appears in legible type at the bottom of that portion of the written advertisement which would first come to the attention of a recipient. Accordingly, the requirements of 2 U.S.C. § 441d have been complied with by the Foglietta Committee.

The remaining contentions of the complainant, although styled as violations of 2 U.S.C. § 441h, actually involve claims for defamation, as to which the complainant's proper redress is to seek damages in a civil action (as in fact the complainant has done by commencing a Civil Action in the United States District Court for the Eastern District of Pennsylvania).

In the remaining portions of the complainant's submission to this Commission, the complainant appears to allege that certain portions of the Foglietta Committee's written advertisement are untrue. The complainant's proper remedy for alleged defamation is to commence a civil action in the appropriate state or federal court and seek damages from the Foglietta Committee and from Congressman Foglietta. Indeed, as appears from Exhibits 1 and 2 to the Robert Barnett Affidavit, complainant James J. Tayoun has in fact commenced such a Civil Action in the United States District Court for the Eastern

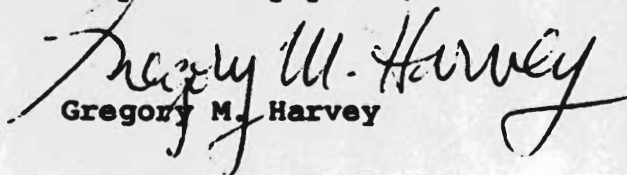
MORGAN. LEWIS & BOCKIUS

Federal Election Commission
August 11, 1986
Page Three

District of Pennsylvania at No. 86-3778, naming the Foglietta Committee, Congressman Foglietta and Mr. Barnett as defendants. The appropriate forum in which to resolve disputes concerning the truth or falsity of factual matters set forth in campaign literature, or concerning matters of opinion set forth in campaign literature, is in the courts or at the ballot box, not before this Commission.

For the reasons stated, the complaint of James J. Tayoun should be dismissed, without prejudice to the complainant's rights to pursue his claims for defamation in the appropriate forum by a civil action for damages.

Respectfully yours,


Gregory M. Harvey

GMH:pg
enclosure

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COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF PHILADELPHIA

ss.:

AFFIDAVIT

ROBERT BARNETT, being first duly sworn according to law, deposes and says that:

1. I am not the "Chairman" of Foglietta in '86 Committee and have never held any office within that Committee; accordingly, I believe that I should not be deemed a respondent for purposes of the Complaint to the Federal Election Commission verified by the Affidavit of James J. Tayoun.

2. During the months preceding the Pennsylvania Primary Election of May 20, 1986, my principal involvement in political matters was as a consultant to the campaign of Edward G. Rendell, a candidate for the Democratic nomination for Governor of Pennsylvania; during the same time period I acted as a volunteer in respect of the campaign of Honorable Thomas M. Foglietta, the incumbent Representative in Congress from the First Congressional District of Pennsylvania, who was seeking the Democratic nomination for that office.

3. I have been named as a defendant in a lawsuit docketed in the United States District Court for the Eastern District of Pennsylvania at No. 86-3778 (Exhibit 1 attached hereto) and have reviewed the Answer filed on behalf of myself, Congressman Foglietta and the Foglietta Committee, in that action;

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GENERAL

RECORD

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(Exhibit 2 attached hereto) and I hereby verify, for purposes of submission to the Federal Election Commission, that the facts set forth in that Answer and Counterclaims (Exhibit 2) are true and correct to the best of my knowledge, information and belief.

4. Attached to the Complaint by James J. Tayoun submitted to the Federal Election Commission is an Exhibit A which purports to be a copy of a certain written advertisement which was distributed to Democratic voters within the First Congressional District. The copy of Exhibit A which I received, enclosed with a letter dated July 25, 1986 from the Federal Election Commission, omits the identification of the Foglietta in '86 Committee as responsible for the written advertisement, which identification does appear under the words "Vote Democratic ... Tuesday, May 20," on the portion of the written advertisement which was used as the front of the mailing piece, containing in the upper left hand corner the words "Foglietta '86" and the address of the Committee, in the upper right-hand corner the bulk rate U.S. postage paid permit number (in lieu of a postage stamp), and in the center the place to which an address label would be attached (Exhibit 3 hereto); to the extent that the Complaint to the Federal Election Commission is based upon the omission of the identification of the Committee from the written advertisement, such Complaint is entirely false, in that the Committee identification not only appeared on the written advertisement, but also

appeared in a prominent location, to wit, at the bottom of the portion which would first come to the attention of a recipient of the written advertisement.

5. The other matters which appear to be the subject of the Complaint by James J. Tayoun to the Federal Election Commission are also the subject of the Complaint filed in the United States District Court and I incorporate by reference the facts set forth in the Answer filed on my behalf in respect thereto.

Robert Barnett
ROBERT BARNETT

Sworn and subscribed to
before me this 8th day
of August, 1986.

Diane M. Williams
Notary

DIANE M. WILLIAMS, NOTARY PUBLIC
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES FEB. 26, 1990
Member, Pennsylvania Association of Notaries

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AS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES J. TAYOUN
1321 S. Broad Street
Philadelphia, PA 19147

CIVIL ACTION

Plaintiff

v.

NO. 86-3778

THOMAS FOGLIETTA
602 South Washington Square
Philadelphia, PA 19106

and

ROBERT BARNETT
600 Arch Street
Philadelphia, PA 19106

and

FOGLIETTA IN 86 COMMITTEE
S.E. Corner 8th & Fitzwater Streets
Philadelphia, PA 19147

and

GROUP W T.V., INC.
888 7th Avenue
New York, NY 10106
d/b/a KYW-TV, 5th & Market Sts.
Philadelphia, PA

and

CAPITOL CITIES/ABC TELEVISION, INC.
ABC Television Center
1330 Avenue of the Americas
New York, NY 10019
d/b/a WPVI-TV, 4100 City Line Ave.
Philadelphia, PA

and

COLUMBIA BROADCASTING SYSTEMS, INC.
51 West 52nd Street
New York, NY 10020
d/b/a WCAU-TV, City Line & Monument Aves.
Bala Cynwyd, PA

COMPLAINT and
JURY DEMAND

Defendants.

COMPLAINT

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PRELIMINARY STATEMENT

1. This civil action is brought to recover damages stemming from illegal activities prohibited by the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961, et. seq.). This is also a civil action based on defamation, defamation for broadcast tort, fraud, and malicious interference with business or occupation.

JURISDICTION AND VENUE

2. The jurisdiction of this Court over Counts I through IV is premised upon 18 U.S.C. Section 1964(a) through (d) (Racketeer Influenced and Corrupt Organizations).

The Court has jurisdiction over the state law claims contained in Counts V through VIII under the doctrine of pendent jurisdiction.

3. Venue is proper in this district under 18 U.S.C. Section 1965. Plaintiff is a resident of and transacts business in this district. Defendant Thomas Foglietta is a resident of this district. Defendant Robert Barnett is a resident of this district. All defendants transact business in this district. The acts alleged herein took place within and without this district.

PARTIES AND RELATIONSHIPS

4. Plaintiff, James J. Tayoun, is a natural person residing at 1321 S. Broad Street, Philadelphia, Pennsylvania and was a candidate for the Democratic nomination for the United States House of Representatives for the First Congressional District of

Pennsylvania in the May 1986 Democratic Primary Election. Plaintiff is also engaged in the ownership and operation of a business in the City of Philadelphia.

5. Defendant Thomas Foglietta, ("Foglietta") is a natural person residing at 602 South Washington Square, Philadelphia, Pennsylvania 19106 and was a candidate for the Democratic nomination for the United States House of Representatives for the First Congressional District of Pennsylvania in the May 1986 Pennsylvania Democratic Primary Election.

6. Defendant, Robert Barnett, ("Barnett") is a natural person residing in Pennsylvania and maintaining a business office therein at 600 Arch Street Philadelphia, Pennsylvania 19106 and was the Campaign Chairman for the Foglietta In '86 Committee. At all material times herein, Barnett was acting on behalf of and within the scope of his apparent authority over the Foglietta In '86 Committee.

7. Defendant, Foglietta In '86 Committee, ("Foglietta Committee") is a political committee registered under Federal laws and the laws of the Commonwealth of Pennsylvania and having a principal business address of S.E. Corner of 8th & Fitzwater Streets, Philadelphia, Pennsylvania 19147 and was established to raise funds and voter support for the re-election of defendant Foglietta to the United States House of Representatives.

8. Group W T.V., Inc. ("KYW-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of KYW-TV3, 5th & Market Streets, Philadelphia.

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9. Capitol Cities/ABC Television, Inc. ("WPVI-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of WPVI-TV, 4100 City Line Avenue, Philadelphia.

10. Columbia Broadcasting Systems, Inc. ("WCAU-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of WCAU-TV, City Line and Monument Avenue, Bala Cynwyd.

FACTS

11. On or about May 15, 1986 and various other occasions, defendant Foglietta caused certain statements to be broadcast over defendants KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell; said statements were false.

12. Defendant Foglietta knew said statements were false or, with a reckless disregard for the truth or falsity of said statements, caused said statements to be broadcast over defendant television stations.

13. Defendant Foglietta caused said false statements to be broadcast over defendant television stations with the intent and purpose to injure the plaintiff's reputation with the public; to embarrass or to hold plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to

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the Foglietta Committee and to support his own candidacy for re-election to the United States House of Representatives.

14. On or about May 15, 1986 and various other occasions, defendant Barnett caused certain statements to be broadcast over defendant KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and reputed racists Jesse Helms and Jerry Falwell; said statements were false.

15. Defendant Barnett knew said statements were false or, with reckless disregard for the truth or falsity of said statements, caused said statements to be broadcast over defendant television stations.

16. Defendant Barnett caused said false statements to be broadcast over defendant television stations with the intent and purpose to injure the plaintiff's reputation with the public; to embarrass or to hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of defendant Foglietta for re-election to the United States House of Representatives.

17. On or about May 15, 1986 and other various occasions, defendant Foglietta In '86 Committee caused certain statements to be broadcast over defendant KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S.

House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell; said statements were false.

18. Defendant Foglietta Committee knew said statements were false or, with reckless disregard for the truth or falsity of said statements, caused said statements to be broadcasted over defendant television stations.

19. Defendant Foglietta Committee caused said false statements to be broadcasted over defendant television stations with the intent to injure the plaintiff's reputation with the public; to embarrass or to hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of defendant Foglietta for re-election to the United States House of Representatives.

20. Defendants Foglietta, Barnett and the Foglietta In '86 Committee acted in concert to cause the broadcast and dissemination to the public of the aforementioned false statements.

21. On or about May 15, 1986 and on various other occasions defendant WCAU-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett and the Foglietta In '86 Committee.

22. On or about May 15, 1986, defendant WCAU-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett and the Foglietta In '86 Committee and being broadcast by defendant WCAU-TV contained false statements regarding the plaintiff.

23. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell.

24. On or about May 15, 1986, defendant WCAU-TV had substantial reasons to question the truth of the aforementioned statements regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

25. Defendant WCAU-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

26. On or about May 15, 1986 and on various other occasions defendant WPVI-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett, and the Foglietta In '86 Committee.

27. On or about May 15, 1986, defendant WPVI-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett, and the Foglietta In '86 Committee and being broadcast by defendant WPVI-TV contained false statements regarding the plaintiff.

28. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby", and by reputed racists

Jesse Helms and Jerry Falwell.

29. On or about May 15, 1986, defendant WPVI-TV had substantial reasons to question the truth of the aforementioned statements regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

30. Defendant WPVI-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff, or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

31. On or about May 15, 1986 and on various other occasions defendant KYW-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett, and the Foglietta In '86 Committee.

32. On or about May 15, 1986, defendant KYW-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett, and the Foglietta In '86 Committee and being broadcast by defendant KYW-TV contained false statements regarding the plaintiff.

33. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby", and by reputed racists Jesse Helms and Jerry Falwell.

34. On or about May 15, 1986, defendant KYW-TV had substantial reasons to question the truth of the aforementioned state-

ments regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

35. Defendant KYW-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff, or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

36. On or about May 15, 1986 and on various other occasions defendant Foglietta caused to be printed and mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3, Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

37. Defendant Foglietta knew said statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

38. Defendant Foglietta caused said false statements and falsifications to be disseminated through the United States mails with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plain-

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tiff, James J. Tayoun, and to induce and deceive third persons to contribute to the Foglietta Committee and to support his candidacy for re-election to the United States House of Representatives.

39. On or about May 15, 1986 and on various other occasions defendant Barnett caused to be printed and mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3 Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

40. Defendant Barnett knew such statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

41. Defendant Barnett caused said false statements and falsifications to be disseminated through the United States mail with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of Foglietta for re-election to the United States House of Representatives.

42. On or about May 15, 1986 and on various other occasions defendant Foglietta In '86 Committee caused to be printed and

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mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3 Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

43. Defendant Foglietta In '86 Committee knew said statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

44. Defendant Foglietta Committee caused said false statements to be disseminated through the United States mail with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff James Tayoun; and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of Foglietta for re-election to the United States House of Representatives.

COUNT I

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

45. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 47 as if set forth at length.

46. This is a civil action brought by plaintiff James J. Tayoun, under the Organized Crime Control Act of 1970.

Racketeer Influenced and Corrupt Organizations, 18 U.S.C. Section 1961, et seq.

47. Plaintiff, James J. Tayoun is a "person" within the meaning of 18 U.S.C. Section 1961(3).

48. Defendants Thomas Foglietta and Robert Barnett are each a "person" within the meaning of 18 U.S.C. Section 1961(3) and Section 1962(c).

49. The Foglietta In '86 Committee is an "enterprise" within the meaning of 18 U.S.C. Section 1961(4) and 1962(c) which engaged in, or the activities of which affect, interstate commerce within the meaning of 18 U.S.C. Section 1962(c).

50. Defendants Foglietta and Barnett were employed by, acted on behalf of, or were otherwise associated with the enterprise referred to in paragraph 52 and conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs, through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B):

a. Mail Fraud in violation of 18 U.S.C. Section 1341 and

b. Wire Fraud in violation of 18 U.S.C. Section 1343.

51. Defendants Foglietta, Barnett, and the Foglietta Committee used an instrumentality of interstate commerce, the United States Postal Service, to disseminate and deliver fraudulent and falsified printed materials as part of an overall scheme to induce and deceive third persons to contribute money to the Foglietta Committee and to support defendant Foglietta in his re-election to the United States House of Representatives, and to

damage the reputation, business of, and campaign for the United States House of Representatives of the plaintiff.

52. The aforesaid printed materials were mailed by or at the direction of the defendants, Foglietta, Barnett, and the Foglietta Committee with knowledge of the fact that the materials contained information which was intentionally altered or falsified for the purpose of defrauding the public and directly injuring the plaintiff.

53. Such alterations and falsification of the representation of a Teyoun for Congress Committee Federal Election Commission Contribution Report was in violation of Pennsylvania Statutes 18 Pa. C.S.A. Section 4104(a) and Section 4911.

54. Defendants Foglietta, Barnett, and the Foglietta Committee used an instrumentality of interstate commerce, the defendant television stations to disseminate and deliver fraudulent information concerning the plaintiff as part of an overall scheme to induce and deceive third persons to contribute money to the Foglietta Committee and to support defendant Foglietta in his re-election to the United States House of Representatives, and to damage the reputation, business of, and campaign for the United States House of Representatives of the plaintiff.

55. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of violations of 18 U.S.C. Section 1962(a)(b) and (c) committed by the aforesaid defendants within the meaning of 18 U.S.C. Section 1964(c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of

the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegation made by the defendants, and was therefore forced to forego other business opportunities during the period following May 15, 1966.

COUNT II

**CONSPIRACY TO VIOLATE THE RACKETEER
INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

56. Plaintiff James J. Tayoun realleges and incorporates herein paragraphs 1 through 47 and 49 through 56 as if set forth at length.

57. Defendants Foglietta, Barnett, and the Foglietta Committee conspired to violate 18 U.S.C. Section 1962(c) by agreeing to conduct or participate in the affairs of the enterprise referred to in paragraph 52 through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B) and (5) as stated in paragraph 53.

58. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the violation of 18 U.S.C. Section 1962(d) committed by the aforesaid defendants within the meaning of 18 U.S.C. Section 1962 (a)(b) and (c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegation made by the defendants, and was therefore forced to forego other business opportunities during the period following May 15, 1966.

COUNT III

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

59. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 47, 50, 52 and 57 as if set forth at length.

60. Defendants, WCAU-TV, WPVI-TV and KYW-TV are each a "person" within the meaning of 18 U.S.C. Section 1961(3) and Section 1963(c).

61. The above mentioned defendant television stations were employed by, acted on behalf of, or otherwise associated with the enterprise referred to in paragraph 52 and conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B) and (5) that is, multiple acts of Wire Fraud in violation of 18 U.S.C. Section 1343.

62. Defendants, WCAU-TV, WPVI-TV and KYW-TV are all engaged in, or conduct business and other activities which affect interstate commerce within the meaning of 18 U.S.C. Section 1961 et seq.

63. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of violations of 18 U.S.C. Section 1962(a)(b) and (c) committed by the aforesaid defendant television stations within the meaning of 18 U.S.C. Section 1964(c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substan-

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tial expense to refute the false and fraudulent allegations
broadcasted by the defendants, and was forced to forego other
business opportunities during the period following May 15, 1966.

COUNT IV

**CONSPIRACY TO VIOLATE THE RACKETEER
INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

64. Plaintiff, James J. Tayoun realleges and incorporates
herein paragraphs 1 through 47, 50, 52, 57, and 63 through 66 as
if set forth at length.

65. Defendant WCAU-TV conspired with defendants Foglietta,
Barnett, and the Foglietta Committee to violate 18 U.S.C. Section
1962(c) by agreeing to conduct or participate or to assist in the
affairs of the enterprise referred to in paragraph 52, through a
pattern of racketeering activity within the meaning of 18
U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

66. Defendant WPVI-TV conspired with defendants Foglietta,
Barnett, and the Foglietta Committee to violate 18 U.S.C. Section
1962(c) by agreeing to conduct or participate or to assist in the
affairs of the enterprise referred to in paragraph 52 through a
pattern of racketeering activity within the meaning of 18
U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

67. Defendant KYW-TV conspired with defendants Foglietta,
Barnett, and the Foglietta Committee to violate 18 U.S.C. Section
1962(c) by agreeing to conduct or participate or to assist in the
affairs of the enterprise referred to in paragraph 52 through a
pattern of racketeering activity within the meaning of 18
U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

68. Plaintiff has been injured in his business and in his

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campaign for the United States House of Representatives by reason of the violations of 18 U.S.C. Section 1962(d) committed by the defendant television stations within the meaning of 18 U.S.C. Section 1962(a) (b) and (c) in that monies were lost to the plaintiff in his business and in his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegations which were broadcasted by the defendant television stations, and was forced to forego other business opportunities during the period following May 15, 1966.

COUNT V

DEFAMATION

69. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 47 as if set forth at length.

70. Said false statements made by defendants Foglietta, Barnett, and the Foglietta In '66 Committee which were broadcasted by the defendant television stations are false and defamatory.

71. Said political advertisements of defendants, Foglietta, Barnett, and the Foglietta In '66 Committee broadcasted by the defendant television stations were false and defamatory. Said defendants knew, or reasonably should have known of the false and defamatory character of their advertisements as directed to the plaintiff.

72. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant KYW-TV contained statements regarding the plaintiff which were

false and defamatory and which defendant KYW-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

73. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant WCAU-TV contained statements regarding the plaintiff which were false and defamatory and which defendant WCAU-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

74. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant WPVI-TV contained statements regarding the plaintiff which were false and defamatory and which defendant WPVI-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

75. Said false and falsified statements made by defendants Foglietta, Barnett, and the Foglietta Committee as detailed in paragraphs 39 through 47 are false and defamatory as to the plaintiff.

76. Defendants Foglietta, Barnett, the Foglietta Committee, WCAU-TV, WPVI-TV and KYW-TV are jointly and severally liable to the plaintiff for his injuries suffered as a result of the defamatory publications.

77. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the defamatory publications of the individual defendants in that monies were lost to the plaintiff in his business and in his

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campaign for Congress by the aforesaid acts of the defendants. Plaintiff was forced to incur substantial expense to refute the false and fraudulent allegations made by the defendants. Plaintiff additionally suffered extreme damage to his reputation with the public, embarrassment, and public ridicule.

COUNT VI

DEFAMATION FOR BROADCAST TORT

78. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 38 and 75 through 77 as if set forth herein.

79. The defamatory falsehoods published by the defendant television stations were published with knowledge that they were false, or with reckless disregard of whether they were false or not.

80. Defendant WCAU-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

81. Defendant WPVI-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

82. Defendant KYW-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

83. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the defamatory publications of the individual defendants that monies were lost to the plaintiff in his business.

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campaign for Congress by the aforesaid acts of defendants. Plaintiff was forced to incur substantial expense to refute the false and fraudulent allegations made by the defendants. Plaintiff additionally suffered extreme damage to his reputation with the public, embarrassment and public ridicule.

COUNT VII

FRAUD

84. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 10, 39 through 47, and 56 as if set forth at length.

85. The aforesaid acts of the defendants Foglietta, Barnett, and the Foglietta In '86 Committee in intentionally altering or falsifying the Tayoun for Congress Committee Federal Election Commission Contribution Reports constitutes a fraud perpetrated against the plaintiff in an attempt to cause injury to plaintiff's reputation with the public, embarrassment, and public ridicule and to cause substantial harm to his business and campaign for Congress.

86. The aforesaid fraudulent acts of the defendants Foglietta, Barnett, and the Foglietta Committee were intentionally committed with malice aforethought.

87. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the fraudulent publications of the aforesaid defendants in that monies were lost to the plaintiff in his business and his campaign for Congress. Plaintiff was forced to incur substantial expense to refute the fraudulent allegations made by the

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defendants and suffered extreme damage to his reputation with the public, embarrassment, and public ridicule.

88. Defendants Foglietta, Barnett, and the Foglietta Committee are jointly and severally liable to the plaintiff for his injuries.

COUNT VIII

MALICIOUS INTERFERENCE WITH BUSINESS OR OCCUPATION

89. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 47, 73 through 74, 78 and 87 through 89 as if set forth herein.

90. Defendants Foglietta, Barnett, and the Foglietta Committee committed intentional and willful acts as set forth herein, which were designed and calculated to cause damage to plaintiff in his lawful business and occupation and in his candidacy for Congress.

91. Defendants Foglietta, Barnett, and the Foglietta Committee, in committing intentional and willful acts calculated to cause damage to the business and occupation of plaintiff and to his candidacy for Congress, acted with the unlawful purpose to cause such damage and without right or justifiable cause or other privilege or exemption which could warrant, justify, license, mitigate, or excuse such conduct.

92. Plaintiff has been injured in his lawful business and occupation and in his candidacy for Congress by reason of the malicious interference of the defendants Foglietta, Barnett and the Foglietta Committee in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid

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acts of the defendants and plaintiff incurred substantial expense to refute and to otherwise counter such malicious interference.

92. Defendants, Foglietta, Barnett, and the Foglietta Committee are jointly and severally liable to the plaintiff for his injuries.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff demands that judgment be entered against each of the defendants, jointly, individually, and severally, in favor of the plaintiff.

I. For compensatory damages for damage and injury to plaintiff's business, property, candidacy for Congress and damage to his reputation in an amount as yet undetermined,

II. For damages for injury to business, property, and his candidacy for Congress trebled in accordance with 18 U.S.C. Section 1964(c) under Counts I through IV,

III. For punitive damages,

IV. For reasonable attorneys fees in accordance with 18 U.S.C. Section 1964(c) under Counts I through IV,

V. For costs of investigation in an undetermined amount, trebled in accordance with 18 U.S.C. Section 1964(c) under Counts

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I through IV.

VI. For divestment of defendant Thomas Foglietta as the Democratic Nominee for the House of Representatives for the First Congressional District of Pennsylvania in the November 1966 General Election in accordance with 18 U.S.C. Section 1964(a) under Counts I and II, and

VII. For such other relief as the Court deems just.

Respectfully submitted,

LEONARD ZACK, ESQUIRE
Attorney for Plaintiff
Suite 600
1429 Walnut Street
Philadelphia, PA 19102
(215) 563-5577

JURY DEMAND

Plaintiff hereby demands trial by a jury of 12 persons on all issues raised herein.

LEONARD ZACK, ESQUIRE
Attorney for Plaintiff

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES J. TAYOUN,

Plaintiff,

v.

THOMAS FOGLIETTA, ROBERT
BARNETT, FOGLIETTA IN '86
COMMITTEE, GROUP W T.V., INC.,
CAPITOL CITIES/ABC TELEVISION,
INC. and COLUMBIA BROADCASTING
SYSTEMS, INC.

Defendants.

CIVIL ACTION

NO. 86-3778

**ANSWER OF DEFENDANTS THOMAS FOGLIETTA,
ROBERT BARNETT and FOGLIETTA IN '86 COMMITTEE
TO COMPLAINT AND COUNTERCLAIMS AGAINST PLAINTIFF**

Defendants Thomas Foglietta, Robert Barnett and
Foglietta in '86 Committee (hereinafter sometimes referred to
as the "answering defendants"), by their attorneys undersigned,
answer the Complaint and assert Counterclaims against plaintiff
James J. Tayoun, as set forth herein.

FIRST DEFENSE

The Complaint was signed and filed in violation of
the Federal Rules of Civil Procedure, especially Rules 8 and
11, in that:

(a) the Complaint was signed by an attorney who failed
to hold a belief formed after reasonable inquiry that the
Complaint was well-grounded in fact; and

(b) the Complaint was signed by an attorney who failed
to investigate reasonably whether the Complaint stated a claim

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within the subject matter jurisdiction of this Court which was warranted by existing law or a good faith argument for the extension of existing law; and

(c) the Complaint was signed by an attorney who made no investigation whatsoever to determine whether the sixth prayer for relief, seeking "divestment of defendant Thomas Foglietta as the Democratic Nominee for the House of Representatives" was or was not a frivolous prayer for relief totally unwarranted by existing law or a good faith argument for the extension of existing law.

WHEREFORE, the answering defendants seek appropriate sanctions against the attorney who signed the Complaint, as provided by Rule 11 of the Federal Rules of Civil Procedure.

SECOND DEFENSE

The answering defendants herewith answer the Complaint in accordance with the numbered paragraphs thereof, as follows:

1-2. Denied as stated. Admitted that the Complaint purports to commence a civil action to recover damages pursuant to the Racketeer Influenced and Corrupt Organizations Act (sometimes referred to herein as "RICO"); denied any claim within the subject matter jurisdiction of this Court has been or can be stated, as set forth in the First Defense; admitted that the Complaint purports to set forth various tort claims under the law of Pennsylvania, including claims for defamation; in that plaintiff James J. Tayoun and defendant Thomas Foglietta are

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both citizens of Pennsylvania and in that the purported federal question is insubstantial, this Court lacks jurisdiction of such claims.

3. Denied as stated. Denied that venue is properly laid in this District under 18 U.S.C. § 1965. Admitted that plaintiff transacts business in this District, that defendants Thomas Foglietta and Robert Barnett are residents of this District, and that the other defendants transact business in this District.

4. Admitted that plaintiff James J. Tayoun (sometimes referred to herein as "plaintiff Tayoun") is a person who is a citizen of Pennsylvania and was a candidate for the Democratic nomination for the office of Representative in Congress from the First Congressional District of Pennsylvania in the Democratic primary election on May 20, 1986, and that plaintiff conducts business within the City of Philadelphia; answering defendants are without knowledge concerning the actual residence of plaintiff Tayoun.

5. Denied as stated. Admitted that defendant Thomas Foglietta is a person residing within the First Congressional District of Pennsylvania, is the incumbent Representative in Congress from that District, and received the Democratic nomination for that office in the May 20, 1986 Democratic primary election.

6. Denied as stated. Admitted that Robert Barnett ("Barnett") is a person residing in Pennsylvania. Denied that

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Barnett is or was the "Campaign Chairman" at any time pertinent of the Foglietta in '86 Committee and averred to the contrary that Barnett was a campaign volunteer in respect of the Foglietta in '86 Committee, being engaged as a consultant during the pertinent time period by another political committee. Denied that Barnett, at the times pertinent to the Complaint, was acting on behalf of or within the scope of his apparent authority over the Foglietta in '86 Committee.

7. Denied as stated. Admitted that Foglietta in 86 Committee is a political committee duly registered under federal law with the Clerk of the House of Representatives and was established to support the candidacy of defendant Foglietta for nomination and re-election as Representative in Congress.

8-10. Denied as stated. Admitted that three corporations operate television broadcasting stations having the call letters KYW-TV, WPVI-TV and WCAU-TV (sometimes referred to herein as "KYW-TV," "WPVI-TV," and "WCAU-TV"); denied that plaintiff's Complaint correctly identifies those corporate entities.

11. Denied as stated. Admitted that defendants Foglietta and the Foglietta in '86 Committee caused certain television advertisements to be broadcast by television stations KYW-TV, WPVI-TV and WCAU-TV. Denied that the descriptions thereof set forth in the Complaint, including paragraph 11 thereof, are accurate; answering defendants also deny that the television advertisements referred to Senator Jesse Helms and Reverend Jerry

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Falwell as "reputed racists."

12-13. Denied.

14. Denied as stated. Admitted that defendant Barnett participated as a volunteer in the preparation of the television advertisements; paragraph 11 of this Second Defense is incorporated herein by reference.

15-16. Denied.

17. Denied as stated. For further answer the averments of paragraph 11 of this Second Defense are incorporated herein.

18. Denied.

19. Denied as stated. Admitted that television advertisements were broadcast to support the candidacy of defendant Foglietta for nomination and re-election as Representative in Congress; the remaining allegations of paragraph 19 are denied.

20. Denied.

21. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

22. Answering defendants are without knowledge of communications from "plaintiff's agents" to defendant WCAU-TV.

23-25. Denied.

26. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

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27. Answering defendants are without knowledge of communications by "plaintiff's agents" to defendant WPVI-TV.

28-30. Denied.

31. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

32. Answering defendants are without knowledge of communications by "plaintiff's agents" to defendant KYW-TV.

33-35. Denied.

36. Denied as stated. Admitted that a certain campaign advertisement was mailed to registered Democratic voters within the First Congressional District and that defendant Foglietta in '86 Committee paid the costs of the printing and mailing thereof; admitted that defendant Foglietta was generally familiar with the substance of that written advertisement, but denied that defendant Foglietta had detailed knowledge of the contents thereof; admitted that defendant Barnett had general knowledge of the contents of that written advertisement but denied that defendant Barnett had detailed knowledge thereof; for further answer, the words "Jesse Helms" referred to in this paragraph were added by the printer without specific instructions from any of the answering defendants and without their actual knowledge thereof, until the advertisement had actually been published.

37. Denied.

38. Denied as stated. Admitted that the written advertisement was disseminated for the purpose of supporting defendant

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Foglietta's candidacy for nomination and re-election; the remaining allegations of paragraph 38 are denied.

39. Denied as stated. For further answer, the averments of paragraph 36 of this Second Defense are incorporated herein.

40. Denied.

41. Denied as stated. For further answer, the averments of paragraph 38 of this Second Defense are incorporated herein.

42. Denied as stated. For further answer, the averments of paragraph 36 of the Second Defense are incorporated herein.

43. Denied.

44. Denied as stated. For further answer, the averments of paragraph 38 of this Second Defense are incorporated herein.

45. The answering defendants incorporate by reference the corresponding paragraphs 41 through 44 of this Second Defense; answering defendants assume that the reference to paragraph 47 as being incorporated by reference in paragraph 45 is a typographical error.

46. Denied as stated. Admitted that plaintiff Tayoun purports to bring this action under RICO; denied that a claim under RICO is stated.

47-48. Admitted that plaintiff Tayoun and defendants Foglietta and Barnett are "persons"; denied that they are persons within the meaning of the cited sections of RICO. A (35)

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49-55. Denied.

56. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

57-58. Denied.

59. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

60. Admitted that WCAU-TV, WPVI-TV and KYW-TV are television broadcasting stations operated by certain corporations, as set forth in other paragraphs of the Complaint and this Second Defense; denied that such television broadcasting stations are each a "person" within the meaning of RICO.

61. Denied.

62. Admitted that WCAU-TV, WPVI-TV and KYW-TV are engaged in interstate commerce; denied that they are so engaged within the meaning of RICO.

63. Denied.

64. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

65-68. Denied.

69. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

70-74. Denied.

75. Denied. For further answer, the averments of paragraphs 39 through 47 of this Second Defense are incorporated herein by reference.

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76-77. Denied.

78. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

79. Denied.

80. Denied as stated. Denied that WCAU-TV acted recklessly. Answering defendants are without knowledge of whether defendant WCAU-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that WCAU-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 80 are denied.

81. Denied as stated. Denied that WPVI-TV acted recklessly. Answering defendants are without knowledge of whether defendant WPVI-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that WPVI-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 81 are denied.

82. Denied as stated. Denied that KYW-TV acted recklessly. Answering defendants are without knowledge of whether defendant KYW-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that KYW-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 82 are denied.

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83. Denied.

84. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

85-88. Denied.

89. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

90-93. Denied.

THIRD DEFENSE

Answering defendants set forth affirmative defenses in respect of the various purported claims arising under the law of Pennsylvania, as follows:

The alleged defamatory statements constitute protected speech which is privileged under the First and Fourteenth Amendments to the Constitution of the United States and under the Constitution and Laws of the Commonwealth of Pennsylvania, in that:

(a) The alleged false statements constitute a protected expression of opinion which is absolutely privileged;

(b) The alleged false statements published by the answering defendants, were published on a proper occasion, from a proper motive, and are based upon a reasonable and proper cause to believe the statements were true or substantially true;

(c) Plaintiff was at all times material to the Complaint a public figure actively and prominently engaged in various political activities, including the political campaign for the

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nomination of the Democratic Party for the primary election in the race for First Congressional District of Pennsylvania, and the alleged offensive statements are therefore protected by well-established privileges concerning matters of public interest and political commentary; and

(d) The alleged defamatory statements complained of are fair and accurate, are substantiated by, among other things, filings of record with the Federal Election Commission, and were based upon a reasonable and proper cause to believe the statements set forth therein to be true.

FOURTH DEFENSE

Plaintiff's effort to state claims under RICO in respect of the factual occurrences described in the Complaint fails to state any claim within the subject matter jurisdiction of this Court.

FIFTH DEFENSE

Plaintiff's exclusive remedy in respect of the nomination of defendant Foglietta as the Democratic candidate for the office of Representative in Congress was to contest that nomination pursuant to the procedures established in the Pennsylvania Election Code of June 6, 1937, P.L. 1333, as amended, which exclusive remedy plaintiff Tayoun failed to pursue.

SIXTH DEFENSE

Plaintiff suffered no injury to business or property, within the meaning of RICO, by reason of answering defendants'

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conduct; no remedy is available to plaintiff under RICO or under the law of Pennsylvania for his having received fewer votes than defendant Foglietta in the primary election.

COUNTERCLAIMS

First Counterclaim

1. The averments of the First Defense set forth in this Answer are incorporated herein by reference.

2. The wrongful conduct of plaintiff's attorney has required answering defendants to incur legal fees and disbursements in the defense of this action, for which answering defendants are entitled to reimbursement under Rule 11, both from plaintiff's attorney and from plaintiff individually.

Second Counterclaim

3. Jurisdiction in this Court of the Second and Third Counterclaims is asserted under principles of pendent jurisdiction, in the alternative to answering defendants' claims that no federal question jurisdiction exists in respect of the subject matter of the plaintiff's Complaint; if federal question jurisdiction based on RICO does exist and plaintiff's state law claims are pendent thereto, then answering defendants' Counterclaims are also pendent thereto in that such claims are factually intertwined with the occurrences described in the Complaint.

4. Plaintiff Tayoun conspired with other persons to cause one Stanley E. Branche, known to be an associate of organized crime figures, to file a specious form of Nomination

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Petition, later determined to be an illegal Nomination Petition, portions of which were forged, which specious Nomination Petition purported to cause the name of Stanley E. Branche to be printed upon the voting machine ballot labels and absentee ballots for the Democratic nomination for Representative in Congress from the First Congressional District.

5. The purposes and intentions of plaintiff Tayoun, in his causing Stanley E. Branche to file the specious Nomination Petition, as aforesaid, was to advance the candidacy of plaintiff Tayoun by diverting votes which plaintiff Tayoun anticipated might otherwise be cast in favor of defendant Foglietta and to confuse voters of the First Congressional District.

6. In order to avoid the injury to his own candidacy which defendant Foglietta correctly perceived was intended by plaintiff Tayoun's actions set forth in paragraphs 4 and 5 hereof, defendant Foglietta and defendant Foglietta in '86 Committee were required to employ lawyers and an expert handwriting examiner (in respect of the forged portions of the specious Nomination Petition) and incur substantial expense in prosecuting objections to that specious Nomination Petition.

7. Plaintiff Tayoun, on information and belief, arranged for counsel to represent Stanley E. Branche in the defense of his spurious Nomination Petition, thus increasing the expense incurred by defendants Foglietta and Foglietta in '86 Committee.

A (41)

8. On information and belief, following the decision of the trial court of competent jurisdiction (The Commonwealth Court of Pennsylvania) that the specious Nomination Petition was invalid, plaintiff Tayoun arranged for counsel to purport to prosecute an appeal on behalf of Stanley E. Branche; in addition, plaintiff Tayoun and others in conspiracy with plaintiff Tayoun, on information and belief, took actions intended to affect the outcome of the appeal, which actions were improper and unprivileged.

Third Counterclaim

9. On information and belief, plaintiff Tayoun, acting both through Stanley E. Branche and through others, the specific identities of which are not yet known to answering defendants, published during the months of March, April, and May 1986, defamatory rumors concerning defendant Foglietta and defendant Barnett; promptly upon the discovery of the specific content of said defamatory rumors, answering defendants will move for permission to amend this Counterclaim to set forth that content.

WHEREFORE, answering defendants Thomas Foglietta, Foglietta in '86 Committee and Robert Barnett respectfully request, in the alternative to a dismissal of the entire Complaint for lack of subject matter jurisdiction, that judgment be entered in their favor and against plaintiff's attorney and plaintiff, jointly and severally, on plaintiff's Complaint, and that judgment be entered in their favor for their reasonable counsel fees and

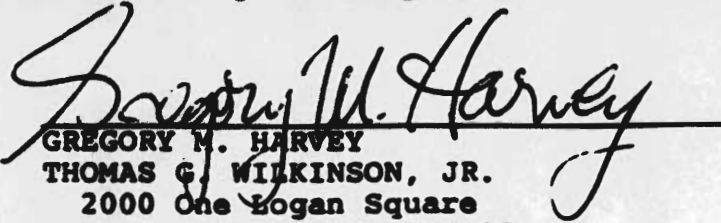
A (42)

86040513721
expenses incurred in the defense of this action pursuant to the First Defense and First Counterclaim herein, and that judgment be entered in favor of defendants Thomas Foglietta and Foglietta in '86 Committee and against plaintiff for their reasonable attorney's fees and expenses in the litigation involving the specious Nomination Petition of Stanley E. Branche, pursuant to the Second Counterclaim herein, and that judgment be entered in their favor and against plaintiff for such damages, believed to be in excess of the federal arbitration limit of \$75,000.00 as provided by Local Rule 8, for defamation, pursuant to the Third Counterclaim, all with interest and costs according to law, and with such further relief as is just and proper.

Dated: August 7, 1986

Of Counsel:

MORGAN, LEWIS & BOCKIUS


GREGORY M. HARVEY
THOMAS G. WILKINSON, JR.
2000 One Logan Square
Philadelphia, PA 19103
(215) 963-5427, -5440
Attorneys for Defendants
Thomas Foglietta,
Robert Barnett and
Foglietta in '86 Committee

A(43)

CERTIFICATE OF SERVICE

The undersigned, a member of the Bar of this Court, hereby certifies that a copy of the foregoing Answer of Defendants Thomas Foglietta, Robert Barnett and Foglietta in 86 Committee to Complaint and Counterclaims Against Plaintiff has been made this day by first class mail to the counsel of record for the parties, as follows:

Leonard Zack, Esquire
Suite 600
1429 Walnut Street
Philadelphia, PA 19102
Attorney for Plaintiff

Alan M. Lieberman, Esquire
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103
Attorney for Defendants Group W T.V., Inc.
and Columbia Broadcasting Systems, Inc.

Elihu A. Greenhouse, Esquire
2500 Two Mellon Bank Center
Philadelphia, PA 19102
Attorney for Defendant Capitol
Cities/ABC Television, Inc.

Dated: August 7, 1986


GREGORY M. HARVEY

A (44)

86040613722

86040613723

**Two years ago the people
of Kensington, Port Richmond,
Fishtown and South Philadelphia
said NO to Jimmy Tayoun when
he ran for congress.**

**Now Jimmy Tayoun is running
again.**

**Here are the reasons to say NO to
Jimmy Tayoun once and for all . . .**

A (45)

8 6 0 4 0 5 1 3 7 2 4

Port Richmond. A quiet neighborhood fighting to keep its way of life.

Row homes. People who take pride in where they live. Old fashioned values. Hard working, middle class Philadelphians who pay their taxes and live by the rules. They are the people who live in Port Richmond.

86040613725



A (46)

The Camden Iron and Metal Company. They want to change Port Richmond.

In of 1985, the Camden Iron and Metal Company decided they wanted to build a scrapyard in Port Richmond. But there were many unanswered questions.

The residents of the neighborhood overwhelmingly opposed the project. They held town meetings. They called elected officials. They wrote letters. They quietly protested.

They didn't want their neighborhood destroyed by businessmen who didn't care about people — just profits. It looked like the people of Port Richmond might win and stop Camden Iron and Metal from building.

Jimmy Tayoun sided with the Port Richmond residents.



The Philadelphia Inquirer/PHOTO BY M. PORTAD

A(47)

8 Tayoun's congressional campaign is being funded by Jesse Helms and
9 Jerry Falwell. And their policies — the end of revenue sharing, cuts in
10 social security and Medicare — are not the kinds of policies that will
11 help Philadelphia or the people of the 1st Congressional district.

3 But that doesn't seem to bother Jimmy Tayoun. And neither does
1 accepting money from the gun lobby. They've been fighting against the
5 Philadelphia Police Department so that criminals can buy guns
0 without a background check.

5
8

Page 1 of 5

RECEIPTS AND DISBURSEMENTS

DUPLICATE

Page 1 of 2 for
Name 1 of 2 for
Page 2 of 2 for
LINE NUMBER 1111
(See separate instructions for each
category of the Detailed
Summary Page)

ITEMIZED RECEIPTS

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committees.

NAME OF COMMITTEE (in Full)
PAYOLIN FOR CONGRESS Committee

A. Full Name, Mailing Address and ZIP Code
Fund For A Conservative Majority
302 FIFTH ST. N.E
WASHINGTON, DC 20002

Receipt For:
☐ Cash (specify):
☒ Primary
☐ General

Name of Employer
JESSE HELMS

Occupation
PAC

Approximate Year-to-Date—\$
Name of Employer

Date (month, day, year)
1/29/96

Amount of Cash Received this Period
\$ 959.70

A(49)

On May 20th, let's say NO to Jimmy Tayoun once and for all.

After three years of running for Congress, Jimmy Tayoun has offered no plan for jobs, no plan for tax reform, for reducing the deficit or for arms control. Tayoun doesn't even talk about those things. The only reason Tayoun gives in running for Congress is his own personal ambition. As the Daily News just wrote, "You get the feeling Tayoun would be little more than a political mechanic ... not a Congressman as most of us would imagine one."

It's clear that the only thing Jimmy Tayoun cares about is Jimmy Tayoun. We need more than that from our Congressman.



A (50)

8 6 0 4 0 5 1 3 7 2 9

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As a Congressman, Foglietta has earned a perfect grade from senior citizens and people concerned with the environment. He has fought Reagan's attempts to cut social security and Medicare and has been the leading voice to keep the Philadelphia Navy Yard open.

As the Daily News said in its recent endorsement of Tom Foglietta:
"Foglietta is a solid, dependable lawmaker who grows in influence with each term. Tom Foglietta has represented the people of the 1st Congressional district well. Foglietta knows what to do and has been doing it for six years. That's the difference and a good reason to return him to Congress."

We agree. It's time for Tom Foglietta.

New York City started an anti-smoking campaign in the subway system last week. It's the first anti-smoking campaign by the city government since the 1970s. The campaign is aimed at reducing the number of smokers in the city. The city is offering free nicotine patches to smokers who quit. The city is also offering free counseling to smokers who want to quit. The city is also offering free nicotine replacement therapy to smokers who quit. The city is also offering free nicotine replacement therapy to smokers who quit. The city is also offering free nicotine replacement therapy to smokers who quit.



**Funds for Senior Citizens
Preserved by Fogel**

The Foglietta Resort

**Cong. Foglietta
Sponsors Product
Tampering Bill**

Nuclear Freeze

Foglietta Acquires \$25 Million For Elderly Food Program



Foglietta: Coast Guard Command in Phila. Approved; Naval Base Gets \$17 Million for Works

$$A(51)$$

Tom Foglietta . . .

Honest, Keeping the Pride.

Vote Tuesday
Lever 112

Re-elect Congressman
TOM FOGLIETTA



13731
86040

FOGLIETTA '86

SOUTHEAST CORNER
8th & FITZWATER STREET
PHILADELPHIA, PA 19147

BULK RATE
U.S. POSTAGE
PAID
Permit No. 650
PHILA., PA

A (5a)

Vote Democratic ... Tuesday, May 20

→ Filed for by Foglietta in '86 Committee 93

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FEC

HAND DELIVERED
36 AUG 12 P 2:49

MIAMI
HARRISBURG
LONDON

Hagan

MORGAN, LEWIS & BOCKIUS

COUNSELORS AT LAW

2000 ONE LOGAN SQUARE

PHILADELPHIA, PENNSYLVANIA 19103

TELEPHONE (215) 543-6000

CABLE ADDRESS: MORGLEBOCK

TELEX 62-1246

WASHINGTON
NEW YORK
LOS ANGELES

GREGORY M. HARVEY
DIAL DIRECT (215) 543-6427

August 12, 1986

VIA ZAP MAIL

Federal Election Commission
99 "E" Street, N.W.
Washington, D.C. 20463

Attention: Ms. Frances B. Hagan

Re: MUR 2205

Dear Ms. Hagan:

Enclosed is a copy of Statement of Designation of Counsel, signed by the Honorable Thomas M. Foglietta, inadvertently omitted from yesterday's submission sent to you via Federal Express. The original of the enclosed Statement of Designation of Counsel is being sent to you today by First Class Mail.

Respectfully yours,

Gregory M. Harvey
Gregory M. Harvey

GMH:pg
enclosure

36 AUG 13 AIO: 31

RECEIVED
GENERAL COUNSEL

86040513732

A (53)

STATEMENT OF DESIGNATION OF COUNSEL

NR 2205

NAME OF COUNSEL: Gregory M. Harvey

ADDRESS: Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103

TELEPHONE: (215) 963-5427

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.

7-29-86
Date

Thomas M. Foglietta
Signature

RESPONDENT'S NAME: Thomas M. Foglietta

ADDRESS: (office) 600 Arch Street

Philadelphia, PA 19106

(home) 708 Clymer Street

Philadelphia, PA 19147

HOME PHONE: (215) 922-2627

BUSINESS PHONE: (215) 925-6840

Foglietta in '86 Committee
P.O. Box 40126
Philadelphia, PA 19106

A 54

86040613733



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. James J. Tayoun
1321 S. Broad Street
Philadelphia, PA 19147

RE: MUR 2205
Thomas M. Foglietta
Foglietta in '86
Committee
Robert Barnett

Dear Mr. Tayoun:

The Federal Election Commission has reviewed the allegations of your complaint dated June 26 and July 17, 1986 and determined that on the basis of the information provided in your complaint (and information provided by the Respondents) there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed. Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Should additional information come to your attention which you believe establishes a violation of the Act, you may file a complaint pursuant to the requirements set forth in 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4.

Sincerely,

Charles N. Steele
General Counsel

By: Lawrence M. Noble
Deputy General Counsel

Enclosure
General Counsel's Report

Attachment B

86040613734

RECEIVED AT THE FEC
CCC#1226
06 AUG 15 49:09
MIAMI
HARRISBURG
LONDON

MORGAN, LEWIS & BOCKIUS
COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103
TELEPHONE (215) 563-2000
CABLE ADDRESS: MORLEBOCK
TELEX 83-1310

WASHINGTON
NEW YORK
LOS ANGELES

GREGORY M. HARVEY
DIAL DIRECT (215) 963-8487

August 12, 1986

VIA ZAP MAIL

Federal Election Commission
99 "E" Street, N.W.
Washington, D.C. 20463

Attention: Ms. Frances B. Hagan

Re: MUR 2205

Dear Ms. Hagan:

Enclosed is a copy of Statement of Designation of Counsel, signed by the Honorable Thomas M. Foglietta, inadvertently omitted from yesterday's submission sent to you via Federal Express. The original of the enclosed Statement of Designation of Counsel is being sent to you today by First Class Mail.

Respectfully yours,

Gregory M. Harvey
Gregory M. Harvey

GMH:pg
enclosure

36 AUG 15 A10:20

RECEIVED
GENERAL COUNSEL

86040513735

STATEMENT OF DESIGNATION OF COUNSEL

NUR 2205

NAME OF COUNSEL: Gregory M. Harvey

ADDRESS: Morgan, Lewis & Bockius

2000 One Logan Square

Philadelphia, PA 19103

TELEPHONE: (215) 963-5427

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.

7-29-86
Date

Thomas M. Foglietta
Signature

RESPONDENT'S NAME: Thomas M. Foglietta

ADDRESS: (office) 600 Arch Street

Philadelphia, PA 19106

(home) 708 Clymer Street

Philadelphia, PA 19147

HOME PHONE: (215) 922-2627

BUSINESS PHONE: (215) 925-6840

Foglietta in '86 Committee
P.O. Box 40126
Philadelphia, PA 19106

86040613736

WASHINGTON
NEW YORK
LOS ANGELES

GREGORY M. HARVEY
DIAL DIRECT (215) 963-5427

MORGAN, LEWIS & BOCKIUS
COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103
TELEPHONE: (215) 963-5000
CABLE ADDRESS: MORLEBOCK
TELEX: 63-1315

August 11, 1986

RECEIVED AT THE FEC
HAND DELIVERED
86 AUG 12 AM: 8:55
MIAMI
HARRISBURG
LONDON
RECEIVED
OFFICE OF THE
GENERAL COUNSEL
36 AUG 12 PM: 12

VIA FEDERAL EXPRESS

Federal Election Commission
99 "E" Street, N.W.
Washington, D.C. 20463

Attention: Ms. Frances B. Hagan

Re: MUR 2205

Dear Ms. Hagan:

This letter and the accompanying Affidavit (including the exhibits thereto) constitutes the response of Foglietta in '86 Committee ("Foglietta Committee"), a political committee authorized by Honorable Thomas M. Foglietta, Representative in Congress from the First Congressional District of Pennsylvania, as requested by the Commission's letter dated July 25, 1986, addressed to Robert Barnett as "Chairman" of the Foglietta Committee.

The Commission's letter dated July 25 encloses the letter complaint of James J. Tayoun, with exhibits.

As explained in the enclosed Affidavit, Robert Barnett is not "Chairman" of the Foglietta Committee, and acted concerning the subject matter as a campaign volunteer. Congressman Foglietta has signed the enclosed Statement of Designation of Counsel, designating the undersigned to act as counsel on behalf of the Foglietta Committee.

The complaint of James J. Tayoun alleges that portions of a written advertisement, in tabloid format, mailed to registered Democratic voters of the First Congressional District prior to the Pennsylvania Primary Election of May 20, 1986, contained "misrepresentations" and that "said misrepresentations were in violation of 2 U.S.C. §§ 441d and 441h for failure to clearly and conspicuously identify their source of authorization and for fraudulent misrepresentation of campaign authority."

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MORGAN. LEWIS & BOCKIUS

Federal Election Commission
August 11, 1986
Page Two

The Foglietta Committee's written advertisement included the name and address of the Committee as well as the words "Paid for by Foglietta in '86 Committee" at the bottom of the portion intended for attachment of address labels, and hence complied fully with 2 U.S.C. §441d.

The complainant's contention that a violation of 2 U.S.C. § 441d occurred in respect of the written advertisement is a contention which appears to be based upon incomplete photocopies of the written advertisement itself (one such incomplete copy being attached to the complaint as received by the respondent Foglietta Committee). The incomplete copy omits the words "Paid for by Foglietta in '86 Committee" and the Allied Printing Trades Council Union label.

As appears from the enclosed Affidavit of Robert Barnett, to which an original printed copy of the written advertisement is attached as Exhibit 3, the statutory phrase "Paid for by Foglietta in '86 Committee" appears in legible type at the bottom of that portion of the written advertisement which would first come to the attention of a recipient. Accordingly, the requirements of 2 U.S.C. § 441d have been complied with by the Foglietta Committee.

The remaining contentions of the complainant, although styled as violations of 2 U.S.C. § 441h, actually involve claims for defamation, as to which the complainant's proper redress is to seek damages in a civil action (as in fact the complainant has done by commencing a Civil Action in the United States District Court for the Eastern District of Pennsylvania).

In the remaining portions of the complainant's submission to this Commission, the complainant appears to allege that certain portions of the Foglietta Committee's written advertisement are untrue. The complainant's proper remedy for alleged defamation is to commence a civil action in the appropriate state or federal court and seek damages from the Foglietta Committee and from Congressman Foglietta. Indeed, as appears from Exhibits 1 and 2 to the Robert Barnett Affidavit, complainant James J. Tayoun has in fact commenced such a Civil Action in the United States District Court for the Eastern

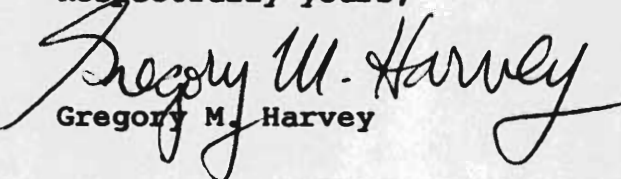
MORGAN, LEWIS & BOCKIUS

Federal Election Commission
August 11, 1986
Page Three

District of Pennsylvania at No. 86-3778, naming the Foglietta Committee, Congressman Foglietta and Mr. Barnett as defendants. The appropriate forum in which to resolve disputes concerning the truth or falsity of factual matters set forth in campaign literature, or concerning matters of opinion set forth in campaign literature, is in the courts or at the ballot box, not before this Commission.

For the reasons stated, the complaint of James J. Tayoun should be dismissed, without prejudice to the complainant's rights to pursue his claims for defamation in the appropriate forum by a civil action for damages.

Respectfully yours,


Gregory M. Harvey

GMH:pg
enclosure

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CC# 1191

RECEIVED
Office of the
GENERAL COUNSEL

36 AUG 12 PM 4:13

COMMONWEALTH OF PENNSYLVANIA;
COUNTY OF PHILADELPHIA

ss.:
;

AFFIDAVIT

ROBERT BARNETT, being first duly sworn according to law, deposes and says that:

1. I am not the "Chairman" of Foglietta in '86 Committee and have never held any office within that Committee; accordingly, I believe that I should not be deemed a respondent for purposes of the Complaint to the Federal Election Commission verified by the Affidavit of James J. Tayoun.

2. During the months preceding the Pennsylvania Primary Election of May 20, 1986, my principal involvement in political matters was as a consultant to the campaign of Edward G. Rendell, a candidate for the Democratic nomination for Governor of Pennsylvania; during the same time period I acted as a volunteer in respect of the campaign of Honorable Thomas M. Foglietta, the incumbent Representative in Congress from the First Congressional District of Pennsylvania, who was seeking the Democratic nomination for that office.

3. I have been named as a defendant in a lawsuit docketed in the United States District Court for the Eastern District of Pennsylvania at No. 86-3778 (Exhibit 1 attached hereto) and have reviewed the Answer filed on behalf of myself, Congressman Foglietta and the Foglietta Committee, in that action;

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(Exhibit 2 attached hereto) and I hereby verify, for purposes of submission to the Federal Election Commission, that the facts set forth in that Answer and Counterclaims (Exhibit 2) are true and correct to the best of my knowledge, information and belief.

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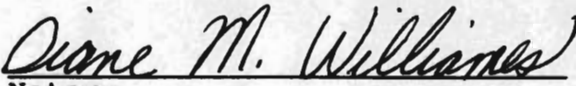
4. Attached to the Complaint by James J. Tayoun submitted to the Federal Election Commission is an Exhibit A which purports to be a copy of a certain written advertisement which was distributed to Democratic voters within the First Congressional District. The copy of Exhibit A which I received, enclosed with a letter dated July 25, 1986 from the Federal Election Commission, omits the identification of the Foglietta in '86 Committee as responsible for the written advertisement, which identification does appear under the words "Vote Democratic ... Tuesday, May 20," on the portion of the written advertisement which was used as the front of the mailing piece, containing in the upper left hand corner the words "Foglietta '86" and the address of the Committee, in the upper right-hand corner the bulk rate U.S. postage paid permit number (in lieu of a postage stamp), and in the center the place to which an address label would be attached (Exhibit 3 hereto); to the extent that the Complaint to the Federal Election Commission is based upon the omission of the identification of the Committee from the written advertisement, such Complaint is entirely false, in that the Committee identification not only appeared on the written advertisement, but also

appeared in a prominent location, to wit, at the bottom of the portion which would first come to the attention of a recipient of the written advertisement.

5. The other matters which appear to be the subject of the Complaint by James J. Tayoun to the Federal Election Commission are also the subject of the Complaint filed in the United States District Court and I incorporate by reference the facts set forth in the Answer filed on my behalf in respect thereto.


ROBERT BARNETT

Sworn and subscribed to
before me this 8th day
of August, 1986.


Notary

DIANE M. WILLIAMS, NOTARY PUBLIC
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES FEB. 28, 1990
Member, Pennsylvania Association of Notaries

AS

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JAMES J. TAYOUN
1321 S. Broad Street
Philadelphia, PA 19147**

CIVIL ACTION

Plaintiff

v.

**THOMAS FOGLIETTA
602 South Washington Square
Philadelphia, PA 19106
and
ROBERT BARNETT
600 Arch Street
Philadelphia, PA 19106
and
FOGLIETTA IN 86 COMMITTEE
S.E. Corner 8th & Fitzwater Streets
Philadelphia, PA 19147
and**

**GROUP W T.V., INC.
888 7th Avenue
New York, NY 10106
d/b/a KYW-TV, 5th & Market Sts.
Philadelphia, PA**

**and
CAPITOL CITIES/ABC TELEVISION, INC.
ABC Television Center
1330 Avenue of the Americas
New York, NY 10019
d/b/a WPVI-TV, 4100 City Line Ave.
Philadelphia, PA**

**and
COLUMBIA BROADCASTING SYSTEMS, INC.
51 West 52nd Street
New York, NY 10020
d/b/a WCAU-TV, City Line & Monument Aves.
Bala Cynwyd, PA**

Defendants.

NO. 86-378

**COMPLAINT and
JURY DEMAND**

COMPLAINT

86040513743

PRELIMINARY STATEMENT

1. This civil action is brought to recover damages stemming from illegal activities prohibited by the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. Section 1961, et. seq.). This is also a civil action based on defamation, defamation for broadcast tort, fraud, and malicious interference with business or occupation.

JURISDICTION AND VENUE

2. The jurisdiction of this Court over Counts I through IV is premised upon 18 U.S.C. Section 1964(a) through (d) (Racketeer Influenced and Corrupt Organizations).

The Court has jurisdiction over the state law claims contained in Counts V through VIII under the doctrine of pendent jurisdiction.

3. Venue is proper in this district under 18 U.S.C. Section 1965. Plaintiff is a resident of and transacts business in this district. Defendant Thomas Foglietta is a resident of this district. Defendant Robert Barnett is a resident of this district. All defendants transact business in this district. The acts alleged herein took place within and without this district.

PARTIES AND RELATIONSHIPS

4. Plaintiff, James J. Tayoun, is a natural person residing at 1321 S. Broad Street, Philadelphia, Pennsylvania and was a candidate for the Democratic nomination for the United States House of Representatives for the First Congressional District of

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Pennsylvania in the May 1986 Democratic Primary Election. Plaintiff is also engaged in the ownership and operation of a business in the City of Philadelphia.

5. Defendant Thomas Foglietta, ("Foglietta") is a natural person residing at 602 South Washington Square, Philadelphia, Pennsylvania 19106 and was a candidate for the Democratic nomination for the United States House of Representatives for the First Congressional District of Pennsylvania in the May 1986 Pennsylvania Democratic Primary Election.

6. Defendant, Robert Barnett, ("Barnett") is a natural person residing in Pennsylvania and maintaining a business office therein at 600 Arch Street Philadelphia, Pennsylvania 19106 and was the Campaign Chairman for the Foglietta In '86 Committee. At all material times herein, Barnett was acting on behalf of and within the scope of his apparent authority over the Foglietta In '86 Committee.

7. Defendant, Foglietta In '86 Committee, ("Foglietta Committee") is a political committee registered under Federal laws and the laws of the Commonwealth of Pennsylvania and having a principal business address of S.E. Corner of 8th & Fitzwater Streets, Philadelphia, Pennsylvania 19147 and was established to raise funds and voter support for the re-election of defendant Foglietta to the United States House of Representatives.

8. Group W T.V., Inc. ("KYW-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of KYW-TV3, 5th & Market Streets, Philadelphia.

8 5 0 4 0 3 1 3 7 4 6

9. Capitol Cities/ABC Television, Inc. ("WPVI-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of WPVI-TV, 4100 City Line Avenue, Philadelphia.

10. Columbia Broadcasting Systems, Inc. ("WCAU-TV") is a New York corporation operating under the laws of New York and having a principal Pennsylvania address of WCAU-TV, City Line and Monument Avenue, Bala Cynwyd.

FACTS

11. On or about May 15, 1986 and various other occasions, defendant Foglietta caused certain statements to be broadcast over defendants KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell; said statements were false.

12. Defendant Foglietta knew said statements were false or, with a reckless disregard for the truth or falsity of said statements, caused said statements to be broadcast over defendant television stations.

13. Defendant Foglietta caused said false statements to be broadcast over defendant television stations with the intent and purpose to injure the plaintiff's reputation with the public; to embarrass or to hold plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to

the Foglietta Committee and to support his own candidacy for re-election to the United States House of Representatives.

14. On or about May 15, 1986 and various other occasions, defendant Barnett caused certain statements to be broadcast over defendant KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and reputed racists Jesse Helms and Jerry Falwell; said statements were false.

15. Defendant Barnett knew said statements were false or, with reckless disregard for the truth or falsity of said statements, caused said statements to be broadcast over defendant television stations.

16. Defendant Barnett caused said false statements to be broadcast over defendant television stations with the intent and purpose to injure the plaintiff's reputation with the public; to embarrass or to hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of defendant Foglietta for re-election to the United States House of Representatives.

17. On or about May 15, 1986 and other various occasions, defendant Foglietta In '86 Committee caused certain statements to be broadcast over defendant KYW-TV, WPVI-TV and WCAU-TV television stations. Said statements alleged, among other things, that plaintiff James Tayoun's campaign for U.S.

House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell; said statements were false.

18. Defendant Foglietta Committee knew said statements were false or, with reckless disregard for the truth or falsity of said statements, caused said statements to be broadcasted over defendant television stations.

19. Defendant Foglietta Committee caused said false statements to be broadcasted over defendant television stations with the intent to injure the plaintiff's reputation with the public; to embarrass or to hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of defendant Foglietta for re-election to the United States House of Representatives.

20. Defendants Foglietta, Barnett and the Foglietta In '86 Committee acted in concert to cause the broadcast and dissemination to the public of the aforementioned false statements.

21. On or about May 15, 1986 and on various other occasions defendant WCAU-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett and the Foglietta In '86 Committee.

22. On or about May 15, 1986, defendant WCAU-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett and the Foglietta In '86 Committee and being broadcast by defendant WCAU-TV contained false statements regarding the plaintiff.

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23. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby," and by reputed racists Jesse Helms and Jerry Falwell.

24. On or about May 15, 1986, defendant WCAU-TV had substantial reasons to question the truth of the aforementioned statements regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

25. Defendant WCAU-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

26. On or about May 15, 1986 and on various other occasions defendant WPVI-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett, and the Foglietta In '86 Committee.

27. On or about May 15, 1986, defendant WPVI-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett, and the Foglietta In '86 Committee and being broadcast by defendant WPVI-TV contained false statements regarding the plaintiff.

28. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby", and by reputed racists

Jesse Helms and Jerry Falwell.

29. On or about May 15, 1986, defendant WPVI-TV had substantial reasons to question the truth of the aforementioned statements regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

30. Defendant WPVI-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff, or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

31. On or about May 15, 1986 and on various other occasions defendant KYW-TV broadcasted certain campaign advertisements of defendants Foglietta, Barnett, and the Foglietta In '86 Committee.

32. On or about May 15, 1986, defendant KYW-TV was informed by plaintiff's agents that the campaign advertisements being commissioned by defendants Foglietta, Barnett, and the Foglietta In '86 Committee and being broadcast by defendant KYW-TV contained false statements regarding the plaintiff.

33. Said false statements were to the effect that plaintiff, James Tayoun's campaign for U.S. House of Representatives was being bankrolled by "the gun lobby", and by reputed racists Jesse Helms and Jerry Falwell.

34. On or about May 15, 1986, defendant KYW-TV had substantial reasons to question the truth of the aforementioned state-

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ments regarding the plaintiff contained in defendants Foglietta, Barnett, and the Foglietta In '86 Committee's campaign advertisements.

35. Defendant KYW-TV broadcasted said campaign advertisements with actual knowledge of the falsity of the aforementioned statements contained therein regarding the plaintiff, or with a reckless disregard for the truth or falsity of the statements as there were substantial questions as to the truth or falsity of the statements regarding the plaintiff contained therein.

36. On or about May 15, 1986 and on various other occasions defendant Foglietta caused to be printed and mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3, Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

37. Defendant Foglietta knew said statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

38. Defendant Foglietta caused said false statements and falsifications to be disseminated through the United States mails with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plain-

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tiff, James J. Tayoun, and to induce and deceive third persons to contribute to the Foglietta Committee and to support his candidacy for re-election to the United States House of Representatives.

39. On or about May 15, 1986 and on various other occasions defendant Barnett caused to be printed and mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3 Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

40. Defendant Barnett knew such statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

41. Defendant Barnett caused said false statements and falsifications to be disseminated through the United States mail with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff, and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of Foglietta for re-election to the United States House of Representatives.

42. On or about May 15, 1986 and on various other occasions defendant Foglietta In '86 Committee caused to be printed and

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mailed through the United States Postal Service to residents of Pennsylvania's First Congressional District, a campaign advertisement containing false statements regarding the plaintiff James J. Tayoun including, but not limited to, false statements on the sources of plaintiff's campaign funds and a falsified representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report, FEC Form 3 Schedule A; namely the falsified insertion of the name "Jesse Helms" under Section A of LINE NUMBER 11c.

43. Defendant Foglietta In '86 Committee knew said statements were false or falsified or made such statements with a reckless disregard for the truth or falsity of said statements.

44. Defendant Foglietta Committee caused said false statements to be disseminated through the United States mail with the intent to injure plaintiff's reputation with the public; embarrass or hold the plaintiff up to public ridicule, to deter third persons from voting for, or associating with, the plaintiff James Tayoun; and to induce and deceive third persons to contribute to the Foglietta Committee and to support the candidacy of Foglietta for re-election to the United States House of Representatives.

COUNT 1

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

45. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 47 as if set forth at length.

46. This is a civil action brought by plaintiff James J. Tayoun, under the Organized Crime Control Act of 1970,

Racketeer Influenced and Corrupt Organizations, 18 U.S.C. Section 1961, at 222.

47. Plaintiff, James J. Tayoun is a "person" within the meaning of 18 U.S.C. Section 1961(3).

48. Defendants Thomas Foglietta and Robert Barnett are each a "person" within the meaning of 18 U.S.C. Section 1961(3) and Section 1962(c).

49. The Foglietta In '86 Committee is an "enterprise" within the meaning of 18 U.S.C. Section 1961(4) and 1962(c) which engaged in, or the activities of which affect, interstate commerce within the meaning of 18 U.S.C. Section 1962(c).

50. Defendants Foglietta and Barnett were employed by, acted on behalf of, or were otherwise associated with the enterprise referred to in paragraph 52 and conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs, through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B):

a. Mail Fraud in violation of 18 U.S.C. Section 1341 and

b. Wire Fraud in violation of 18 U.S.C. Section 1343.

51. Defendants Foglietta, Barnett, and the Foglietta Committee used an instrumentality of interstate commerce, the United States Postal Service, to disseminate and deliver fraudulent and falsified printed materials as part of an overall scheme to induce and deceive third persons to contribute money to the Foglietta Committee and to support defendant Foglietta in his re-election to the United States House of Representatives, and to

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damage the reputation, business of, and campaign for the United States House of Representatives of the plaintiff.

52. The aforesaid printed materials were mailed by or at the direction of the defendants, Foglietta, Barnett, and the Foglietta Committee with knowledge of the fact that the materials contained information which was intentionally altered or falsified for the purpose of defrauding the public and directly injuring the plaintiff.

53. Such alterations and falsification of the representation of a Tayoun for Congress Committee Federal Election Commission Contribution Report was in violation of Pennsylvania Statutes 18 Pa. C.S.A. Section 4104(a) and Section 4911.

54. Defendants Foglietta, Barnett, and the Foglietta Committee used an instrumentality of interstate commerce, the defendant television stations to disseminate and deliver fraudulent information concerning the plaintiff as part of an overall scheme to induce and deceive third persons to contribute money to the Foglietta Committee and to support defendant Foglietta in his re-election to the United States House of Representatives, and to damage the reputation, business of, and campaign for the United States House of Representatives of the plaintiff.

55. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of violations of 18 U.S.C. Section 1962(a)(b) and (c) committed by the aforesaid defendants within the meaning of 18 U.S.C. Section 1964(c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of

the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegation made by the defendants, and was therefore forced to forego other business opportunities during the period following May 15, 1986.

COUNT II

CONSPIRACY TO VIOLATE THE RACKETEER
INFLUENCED AND CORRUPT ORGANIZATIONS ACT

56. Plaintiff James J. Tayoun realleges and incorporates herein paragraphs 1 through 47 and 49 through 58 as if set forth at length.

57. Defendants Foglietta, Barnett, and the Foglietta Committee conspired to violate 18 U.S.C. Section 1962(c) by agreeing to conduct or participate in the affairs of the enterprise referred to in paragraph 52 through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B) and (5) as stated in paragraph 53.

58. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the violation of 18 U.S.C. Section 1962(d) committed by the aforesaid defendants within the meaning of 18 U.S.C. Section 1962 (a)(b) and (c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegation made by the defendants, and was therefore forced to forego other business opportunities during the period following May 15, 1986.

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COUNT III

RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

59. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 47, 50, 52 and 57 as if set forth at length.

60. Defendants, WCAU-TV, WPVI-TV and KYW-TV are each a "person" within the meaning of 18 U.S.C. Section 1961(3) and Section 1962(c).

61. The above mentioned defendant television stations were employed by, acted on behalf of, or otherwise associated with the enterprise referred to in paragraph 52 and conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961(1)(B) and (5) that is, multiple acts of Wire Fraud in violation of 18 U.S.C. Section 1343.

62. Defendants, WCAU-TV, WPVI-TV and KYW-TV are all engaged in, or conduct business and other activities which affect interstate commerce within the meaning of 18 U.S.C. Section 1961 et seq.

63. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of violations of 18 U.S.C. Section 1962(a)(b) and (c) committed by the aforesaid defendant television stations within the meaning of 18 U.S.C. Section 1964(c) in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substan-

tial expense to refute the false and fraudulent allegations broadcasted by the defendants, and was forced to forego other business opportunities during the period following May 15, 1986.

COUNT IV

**CONSPIRACY TO VIOLATE THE RACKETEER
INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

64. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 47, 50, 52, 57, and 63 through 66 as if set forth at length.

65. Defendant WGAU-TV conspired with defendants Foglietta, Barnett, and the Foglietta Committee to violate 18 U.S.C. Section 1962(c) by agreeing to conduct or participate or to assist in the affairs of the enterprise referred to in paragraph 52, through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

66. Defendant WPVI-TV conspired with defendants Foglietta, Barnett, and the Foglietta Committee to violate 18 U.S.C. Section 1962(c) by agreeing to conduct or participate or to assist in the affairs of the enterprise referred to in paragraph 52 through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

67. Defendant KYW-TV conspired with defendants Foglietta, Barnett, and the Foglietta Committee to violate 18 U.S.C. Section 1962(c) by agreeing to conduct or participate or to assist in the affairs of the enterprise referred to in paragraph 52 through a pattern of racketeering activity within the meaning of 18 U.S.C. Section 1961 (1)(B) and (5) as stated in paragraph 64.

68. Plaintiff has been injured in his business and in his

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campaign for the United States House of Representatives by reason of the violations of 18 U.S.C. Section 1962(d) committed by the defendant television stations within the meaning of 18 U.S.C. Section 1962(a) (b) and (c) in that monies were lost to the plaintiff in his business and in his campaign for Congress by the aforesaid acts of the defendants and plaintiff incurred substantial expense to refute the false and fraudulent allegations which were broadcasted by the defendant television stations, and was forced to forego other business opportunities during the period following May 13, 1986.

COUNT V

DEFAMATION

69. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 47 as if set forth at length.

70. Said false statements made by defendants Foglietta, Barnett, and the Foglietta In '86 Committee which were broadcasted by the defendant television stations are false and defamatory.

71. Said political advertisements of defendants, Foglietta, Barnett, and the Foglietta In '86 Committee broadcasted by the defendant television stations were false and defamatory. Said defendants knew, or reasonably should have known of the false and defamatory character of their advertisements as directed to the plaintiff.

72. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant KYW-TV contained statements regarding the plaintiff which were

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false and defamatory and which defendant KYW-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

73. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant WCAU-TV contained statements regarding the plaintiff which were false and defamatory and which defendant WCAU-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

74. Said political advertisements of defendants Foglietta, Barnett, and the Foglietta Committee broadcasted by defendant WPVI-TV contained statements regarding the plaintiff which were false and defamatory and which defendant WPVI-TV broadcasted knowing them to be false or with reckless disregard for the truth or falsity thereof.

75. Said false and falsified statements made by defendants Foglietta, Barnett, and the Foglietta Committee as detailed in paragraphs 39 through 47 are false and defamatory as to the plaintiff.

76. Defendants Foglietta, Barnett, the Foglietta Committee, WCAU-TV, WPVI-TV and KYW-TV are jointly and severally liable to the plaintiff for his injuries suffered as a result of the defamatory publications.

77. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the defamatory publications of the individual defendants in that monies were lost to the plaintiff in his business and in his

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campaign for Congress by the aforesaid acts of the defendants. Plaintiff was forced to incur substantial expense to refute the false and fraudulent allegations made by the defendants. Plaintiff additionally suffered extreme damage to his reputation with the public, embarrassment, and public ridicule.

COUNT VI

DEFAMATION FOR BROADCAST TORT

78. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 36 and 75 through 77 as if set forth herein.

79. The defamatory falsehoods published by the defendant television stations were published with knowledge that they were false, or with reckless disregard of whether they were false or not.

80. Defendant WCAU-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

81. Defendant WPVI-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

82. Defendant KYW-TV failed to examine the veracity of the aforementioned commercials or was otherwise reckless in its examination of the veracity of such commercials.

83. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the defamatory publications of the individual defendants in that monies were lost to the plaintiff in his business and his

campaign for Congress by the aforesaid acts of defendants. Plaintiff was forced to incur substantial expense to refute the false and fraudulent allegations made by the defendants. Plaintiff additionally suffered extreme damage to his reputation with the public, embarrassment and public ridicule.

COUNT VII

FRAUD

84. Plaintiff, James J. Tayoun, realleges and incorporates herein paragraphs 1 through 10, 39 through 47, and 56 as if set forth at length.

85. The aforesaid acts of the defendants Foglietta, Barnett, and the Foglietta In '86 Committee in intentionally altering or falsifying the Tayoun for Congress Committee Federal Election Commission Contribution Reports constitutes a fraud perpetrated against the plaintiff in an attempt to cause injury to plaintiff's reputation with the public, embarrassment, and public ridicule and to cause substantial harm to his business and campaign for Congress.

86. The aforesaid fraudulent acts of the defendants Foglietta, Barnett, and the Foglietta Committee were intentionally committed with malice aforethought.

87. Plaintiff has been injured in his business and in his campaign for the United States House of Representatives by reason of the fraudulent publications of the aforesaid defendants in that monies were lost to the plaintiff in his business and his campaign for Congress. Plaintiff was forced to incur substantial expense to refute the fraudulent allegations made by the

defendants and suffered extreme damage to his reputation with the public, embarrassment, and public ridicule.

88. Defendants Foglietta, Barnett, and the Foglietta Committee are jointly and severally liable to the plaintiff for his injuries.

COUNT VIII

MALICIOUS INTERFERENCE WITH BUSINESS OR OCCUPATION

89. Plaintiff, James J. Tayoun realleges and incorporates herein paragraphs 1 through 47, 73 through 74, 78 and 87 through 89 as if set forth herein.

90. Defendants Foglietta, Barnett, and the Foglietta Committee committed intentional and willful acts as set forth herein, which were designed and calculated to cause damage to plaintiff in his lawful business and occupation and in his candidacy for Congress.

91. Defendants Foglietta, Barnett, and the Foglietta Committee, in committing intentional and willful acts calculated to cause damage to the business and occupation of plaintiff and to his candidacy for Congress, acted with the unlawful purpose to cause such damage and without right or justifiable cause or other privilege or exemption which could warrant, justify, license, mitigate, or excuse such conduct.

92. Plaintiff has been injured in his lawful business and occupation and in his candidacy for Congress by reason of the malicious interference of the defendants Foglietta, Barnett and the Foglietta Committee in that monies were lost to the plaintiff in his business and his campaign for Congress by the aforesaid

acts of the defendants and plaintiff incurred substantial expense to refute and to otherwise counter such malicious interference.

93. Defendants, Foglietta, Barnett, and the Foglietta Committee are jointly and severally liable to the plaintiff for his injuries.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff demands that judgment be entered against each of the defendants, jointly, individually, and severally, in favor of the plaintiff.

I. For compensatory damages for damage and injury to plaintiff's business, property, candidacy for Congress and damage to his reputation in an amount as yet undetermined,

II. For damages for injury to business, property, and his candidacy for Congress trebled in accordance with 18 U.S.C. Section 1964(c) under Counts I through IV,

III. For punitive damages,

IV. For reasonable attorneys fees in accordance with 18 U.S.C. Section 1964(c) under Counts I through IV,

V. For costs of investigation in an undetermined amount, trebled in accordance with 18 U.S.C. Section 1964(c) under Counts

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I through IV.

VI. For divestment of defendant Thomas Foglietta as the Democratic Nominee for the House of Representatives for the First Congressional District of Pennsylvania in the November 1986 General Election in accordance with 18 U.S.C. Section 1964(a) under Counts I and II, and

VII. For such other relief as the Court deems just.

Respectfully submitted,

LEONARD ZACK, ESQUIRE
Attorney for Plaintiff
Suite 800
1429 Walnut Street
Philadelphia, PA 19102
(215) 563-5577

JURY DEMAND

Plaintiff hereby demands trial by a jury of 12 persons on all issues raised herein.

LEONARD ZACK, ESQUIRE
Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES J. TAYOUN, : CIVIL ACTION
Plaintiff, : NO. 86-3778
v. :
THOMAS FOGLIETTA, ROBERT :
BARNETT, FOGLIETTA IN '86 :
COMMITTEE, GROUP W T.V., INC., :
CAPITOL CITIES/ABC TELEVISION, :
INC. and COLUMBIA BROADCASTING :
SYSTEMS, INC. :
Defendants. :

**ANSWER OF DEFENDANTS THOMAS FOGLIETTA,
ROBERT BARNETT and FOGLIETTA IN '86 COMMITTEE
TO COMPLAINT AND COUNTERCLAIMS AGAINST PLAINTIFF**

Defendants Thomas Foglietta, Robert Barnett and
Foglietta in '86 Committee (hereinafter sometimes referred to
as the "answering defendants"), by their attorneys undersigned,
answer the Complaint and assert Counterclaims against plaintiff
James J. Tayoun, as set forth herein.

FIRST DEFENSE

The Complaint was signed and filed in violation of
the Federal Rules of Civil Procedure, especially Rules 8 and
11, in that:

(a) the Complaint was signed by an attorney who failed
to hold a belief formed after reasonable inquiry that the
Complaint was well-grounded in fact; and

(b) the Complaint was signed by an attorney who failed
to investigate reasonably whether the Complaint stated a claim

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within the subject matter jurisdiction of this Court which was warranted by existing law or a good faith argument for the extension of existing law; and

(c) the Complaint was signed by an attorney who made no investigation whatsoever to determine whether the sixth prayer for relief, seeking "divestment of defendant Thomas Foglietta as the Democratic Nominee for the House of Representatives" was or was not a frivolous prayer for relief totally unwarranted by existing law or a good faith argument for the extension of existing law.

WHEREFORE, the answering defendants seek appropriate sanctions against the attorney who signed the Complaint, as provided by Rule 11 of the Federal Rules of Civil Procedure.

SECOND DEFENSE

The answering defendants herewith answer the Complaint in accordance with the numbered paragraphs thereof, as follows:

1-2. Denied as stated. Admitted that the Complaint purports to commence a civil action to recover damages pursuant to the Racketeer Influenced and Corrupt Organizations Act (sometimes referred to herein as "RICO"); denied any claim within the subject matter jurisdiction of this Court has been or can be stated, as set forth in the First Defense; admitted that the Complaint purports to set forth various tort claims under the law of Pennsylvania, including claims for defamation; in that plaintiff James J. Tayoun and defendant Thomas Foglietta are

both citizens of Pennsylvania and in that the purported federal question is insubstantial, this Court lacks jurisdiction of such claims.

3. Denied as stated. Denied that venue is properly laid in this District under 18 U.S.C. § 1965. Admitted that plaintiff transacts business in this District, that defendants Thomas Foglietta and Robert Barnett are residents of this District, and that the other defendants transact business in this District.

4. Admitted that plaintiff James J. Tayoun (sometimes referred to herein as "plaintiff Tayoun") is a person who is a citizen of Pennsylvania and was a candidate for the Democratic nomination for the office of Representative in Congress from the First Congressional District of Pennsylvania in the Democratic primary election on May 20, 1986, and that plaintiff conducts business within the City of Philadelphia; answering defendants are without knowledge concerning the actual residence of plaintiff Tayoun.

5. Denied as stated. Admitted that defendant Thomas Foglietta is a person residing within the First Congressional District of Pennsylvania, is the incumbent Representative in Congress from that District, and received the Democratic nomination for that office in the May 20, 1986 Democratic primary election.

6. Denied as stated. Admitted that Robert Barnett ("Barnett") is a person residing in Pennsylvania. Denied that

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Barnett is or was the "Campaign Chairman" at any time pertinent of the Foglietta in '86 Committee and averred to the contrary that Barnett was a campaign volunteer in respect of the Foglietta in '86 Committee, being engaged as a consultant during the pertinent time period by another political committee. Denied that Barnett, at the times pertinent to the Complaint, was acting on behalf of or within the scope of his apparent authority over the Foglietta in '86 Committee.

7. Denied as stated. Admitted that Foglietta in 86 Committee is a political committee duly registered under federal law with the Clerk of the House of Representatives and was established to support the candidacy of defendant Foglietta for nomination and re-election as Representative in Congress.

8-10. Denied as stated. Admitted that three corporations operate television broadcasting stations having the call letters KYW-TV, WPVI-TV and WCAU-TV (sometimes referred to herein as "KYW-TV," "WPVI-TV," and "WCAU-TV"); denied that plaintiff's Complaint correctly identifies those corporate entities.

11. Denied as stated. Admitted that defendants Foglietta and the Foglietta in '86 Committee caused certain television advertisements to be broadcast by television stations KYW-TV, WPVI-TV and WCAU-TV. Denied that the descriptions thereof set forth in the Complaint, including paragraph 11 thereof, are accurate; answering defendants also deny that the television advertisements referred to Senator Jesse Helms and Reverend Jerry

Falwell as "reputed racists."

12-13. Denied.

14. Denied as stated. Admitted that defendant Barnett participated as a volunteer in the preparation of the television advertisements; paragraph 11 of this Second Defense is incorporated herein by reference.

15-16. Denied.

17. Denied as stated. For further answer the averments of paragraph 11 of this Second Defense are incorporated herein.

18. Denied.

19. Denied as stated. Admitted that television advertisements were broadcast to support the candidacy of defendant Foglietta for nomination and re-election as Representative in Congress; the remaining allegations of paragraph 19 are denied.

20. Denied.

21. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

22. Answering defendants are without knowledge of communications from "plaintiff's agents" to defendant WCAU-TV.

23-25. Denied.

26. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

27. Answering defendants are without knowledge of communications by "plaintiff's agents" to defendant WPVI-TV.

28-30. Denied.

31. Denied as stated. Admitted only as to defendants Foglietta and Foglietta in '86 Committee. Denied as to defendant Barnett.

32. Answering defendants are without knowledge of communications by "plaintiff's agents" to defendant KYW-TV.

33-35. Denied.

36. Denied as stated. Admitted that a certain campaign advertisement was mailed to registered Democratic voters within the First Congressional District and that defendant Foglietta in '86 Committee paid the costs of the printing and mailing thereof; admitted that defendant Foglietta was generally familiar with the substance of that written advertisement, but denied that defendant Foglietta had detailed knowledge of the contents thereof; admitted that defendant Barnett had general knowledge of the contents of that written advertisement but denied that defendant Barnett had detailed knowledge thereof; for further answer, the words "Jesse Helms" referred to in this paragraph were added by the printer without specific instructions from any of the answering defendants and without their actual knowledge thereof, until the advertisement had actually been published.

37. Denied.

38. Denied as stated. Admitted that the written advertisement was disseminated for the purpose of supporting defendant

Foglietta's candidacy for nomination and re-election; the remaining allegations of paragraph 38 are denied.

39. Denied as stated. For further answer, the averments of paragraph 36 of this Second Defense are incorporated herein.

40. Denied.

41. Denied as stated. For further answer, the averments of paragraph 38 of this Second Defense are incorporated herein.

42. Denied as stated. For further answer, the averments of paragraph 36 of the Second Defense are incorporated herein.

43. Denied.

44. Denied as stated. For further answer, the averments of paragraph 38 of this Second Defense are incorporated herein.

45. The answering defendants incorporate by reference the corresponding paragraphs 41 through 44 of this Second Defense; answering defendants assume that the reference to paragraph 47 as being incorporated by reference in paragraph 45 is a typographical error.

46. Denied as stated. Admitted that plaintiff Tayoun purports to bring this action under RICO; denied that a claim under RICO is stated.

47-48. Admitted that plaintiff Tayoun and defendants Foglietta and Barnett are "persons"; denied that they are persons within the meaning of the cited sections of RICO.

49-55. Denied.

56. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

57-58. Denied.

59. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

60. Admitted that WCAU-TV, WPVI-TV and KYW-TV are television broadcasting stations operated by certain corporations, as set forth in other paragraphs of the Complaint and this Second Defense; denied that such television broadcasting stations are each a "person" within the meaning of RICO.

61. Denied.

62. Admitted that WCAU-TV, WPVI-TV and KYW-TV are engaged in interstate commerce; denied that they are so engaged within the meaning of RICO.

63. Denied.

64. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

65-68. Denied.

69. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

70-74. Denied.

75. Denied. For further answer, the averments of paragraphs 39 through 47 of this Second Defense are incorporated herein by reference.

76-77. Denied.

78. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

79. Denied.

80. Denied as stated. Denied that WCAU-TV acted recklessly. Answering defendants are without knowledge of whether defendant WCAU-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that WCAU-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 80 are denied.

81. Denied as stated. Denied that WPVI-TV acted recklessly. Answering defendants are without knowledge of whether defendant WPVI-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that WPVI-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 81 are denied.

82. Denied as stated. Denied that KYW-TV acted recklessly. Answering defendants are without knowledge of whether defendant KYW-TV acted "to examine the veracity of the aforementioned commercials" and avers to the contrary that KYW-TV had no obligation to examine the veracity of the aforementioned commercials. The remaining allegations of paragraph 82 are denied.

83. Denied.

84. Answering defendants incorporate the corresponding paragraphs of this Second Defense.

85-88. Denied.

89. Answering defendants incorporate by reference the corresponding paragraphs of this Second Defense.

90-93. Denied.

THIRD DEFENSE

Answering defendants set forth affirmative defenses in respect of the various purported claims arising under the law of Pennsylvania, as follows:

The alleged defamatory statements constitute protected speech which is privileged under the First and Fourteenth Amendments to the Constitution of the United States and under the Constitution and Laws of the Commonwealth of Pennsylvania, in that:

(a) The alleged false statements constitute a protected expression of opinion which is absolutely privileged;

(b) The alleged false statements published by the answering defendants, were published on a proper occasion, from a proper motive, and are based upon a reasonable and proper cause to believe the statements were true or substantially true;

(c) Plaintiff was at all times material to the Complaint a public figure actively and prominently engaged in various political activities, including the political campaign for the

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nomination of the Democratic Party for the primary election in the race for First Congressional District of Pennsylvania, and the alleged offensive statements are therefore protected by well-established privileges concerning matters of public interest and political commentary; and

(d) The alleged defamatory statements complained of are fair and accurate, are substantiated by, among other things, filings of record with the Federal Election Commission, and were based upon a reasonable and proper cause to believe the statements set forth therein to be true.

FOURTH DEFENSE

Plaintiff's effort to state claims under RICO in respect of the factual occurrences described in the Complaint fails to state any claim within the subject matter jurisdiction of this Court.

FIFTH DEFENSE

Plaintiff's exclusive remedy in respect of the nomination of defendant Foglietta as the Democratic candidate for the office of Representative in Congress was to contest that nomination pursuant to the procedures established in the Pennsylvania Election Code of June 6, 1937, P.L. 1333, as amended, which exclusive remedy plaintiff Tayoun failed to pursue.

SIXTH DEFENSE

Plaintiff suffered no injury to business or property, within the meaning of RICO, by reason of answering defendants'

conduct; no remedy is available to plaintiff under RICO or under the law of Pennsylvania for his having received fewer votes than defendant Foglietta in the primary election.

COUNTERCLAIMS

First Counterclaim

1. The averments of the First Defense set forth in this Answer are incorporated herein by reference.

2. The wrongful conduct of plaintiff's attorney has required answering defendants to incur legal fees and disbursements in the defense of this action, for which answering defendants are entitled to reimbursement under Rule 11, both from plaintiff's attorney and from plaintiff individually.

Second Counterclaim

3. Jurisdiction in this Court of the Second and Third Counterclaims is asserted under principles of pendent jurisdiction, in the alternative to answering defendants' claims that no federal question jurisdiction exists in respect of the subject matter of the plaintiff's Complaint; if federal question jurisdiction based on RICO does exist and plaintiff's state law claims are pendent thereto, then answering defendants' Counterclaims are also pendent thereto in that such claims are factually intertwined with the occurrences described in the Complaint.

4. Plaintiff Tayoun conspired with other persons to cause one Stanley E. Branche, known to be an associate of organized crime figures, to file a specious form of Nomination

Petition, later determined to be an illegal Nomination Petition, portions of which were forged, which specious Nomination Petition purported to cause the name of Stanley E. Branche to be printed upon the voting machine ballot labels and absentee ballots for the Democratic nomination for Representative in Congress from the First Congressional District.

5. The purposes and intentions of plaintiff Tayoun, in his causing Stanley E. Branche to file the specious Nomination Petition, as aforesaid, was to advance the candidacy of plaintiff Tayoun by diverting votes which plaintiff Tayoun anticipated might otherwise be cast in favor of defendant Foglietta and to confuse voters of the First Congressional District.

6. In order to avoid the injury to his own candidacy which defendant Foglietta correctly perceived was intended by plaintiff Tayoun's actions set forth in paragraphs 4 and 5 hereof, defendant Foglietta and defendant Foglietta in '86 Committee were required to employ lawyers and an expert handwriting examiner (in respect of the forged portions of the specious Nomination Petition) and incur substantial expense in prosecuting objections to that specious Nomination Petition.

7. Plaintiff Tayoun, on information and belief, arranged for counsel to represent Stanley E. Branche in the defense of his spurious Nomination Petition, thus increasing the expense incurred by defendants Foglietta and Foglietta in '86 Committee.

8. On information and belief, following the decision of the trial court of competent jurisdiction (The Commonwealth Court of Pennsylvania) that the specious Nomination Petition was invalid, plaintiff Tayoun arranged for counsel to purport to prosecute an appeal on behalf of Stanley E. Branche; in addition, plaintiff Tayoun and others in conspiracy with plaintiff Tayoun, on information and belief, took actions intended to affect the outcome of the appeal, which actions were improper and unprivileged.

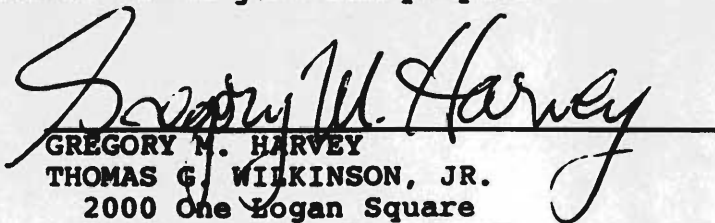
Third Counterclaim

9. On information and belief, plaintiff Tayoun, acting both through Stanley E. Branche and through others, the specific identities of which are not yet known to answering defendants, published during the months of March, April, and May 1986, defamatory rumors concerning defendant Foglietta and defendant Barnett; promptly upon the discovery of the specific content of said defamatory rumors, answering defendants will move for permission to amend this Counterclaim to set forth that content.

WHEREFORE, answering defendants Thomas Foglietta, Foglietta in '86 Committee and Robert Barnett respectfully request, in the alternative to a dismissal of the entire Complaint for lack of subject matter jurisdiction, that judgment be entered in their favor and against plaintiff's attorney and plaintiff, jointly and severally, on plaintiff's Complaint, and that judgment be entered in their favor for their reasonable counsel fees and

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expenses incurred in the defense of this action pursuant to the First Defense and First Counterclaim herein, and that judgment be entered in favor of defendants Thomas Foglietta and Foglietta in '86 Committee and against plaintiff for their reasonable attorney's fees and expenses in the litigation involving the specious Nomination Petition of Stanley E. Branche, pursuant to the Second Counterclaim herein, and that judgment be entered in their favor and against plaintiff for such damages, believed to be in excess of the federal arbitration limit of \$75,000.00 as provided by Local Rule 8, for defamation, pursuant to the Third Counterclaim, all with interest and costs according to law, and with such further relief as is just and proper.

Dated: August 7, 1986


GREGORY M. HARVEY
THOMAS G. WILKINSON, JR.
2000 One Logan Square
Philadelphia, PA 19103
(215) 963-5427, -5440

Of Counsel:

MORGAN, LEWIS & BOCKIUS

Attorneys for Defendants
Thomas Foglietta,
Robert Barnett and
Foglietta in '86 Committee

CERTIFICATE OF SERVICE

The undersigned, a member of the Bar of this Court, hereby certifies that a copy of the foregoing Answer of Defendants Thomas Foglietta, Robert Barnett and Foglietta in 86 Committee to Complaint and Counterclaims Against Plaintiff has been made this day by first class mail to the counsel of record for the parties, as follows:

Leonard Zack, Esquire
Suite 600
1429 Walnut Street
Philadelphia, PA 19102
Attorney for Plaintiff

Alan M. Lieberman, Esquire
Schnader, Harrison, Segal & Lewis
Suite 3600
1600 Market Street
Philadelphia, PA 19103
Attorney for Defendants Group W T.V., Inc.
and Columbia Broadcasting Systems, Inc.

Elihu A. Greenhouse, Esquire
2500 Two Mellon Bank Center
Philadelphia, PA 19102
Attorney for Defendant Capitol
Cities/ABC Television, Inc.

Dated: August 7, 1986


GREGORY M. HARVEY

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1986

Mr. James J. Tayoun
1321 South Broad Street
Philadelphia, PA 19147

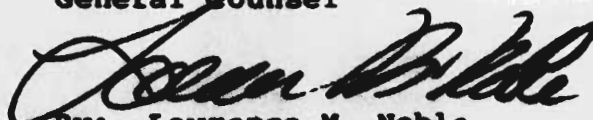
Dear Mr. Tayoun:

This letter will acknowledge receipt of a complaint filed by you which we received on July 17, 1986, which alleges possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Congressman Thomas M. Foglietta; Michael Foglietta, Treasurer, Foglietta In '86 Committee; and Robert Barnett, Chairman, Foglietta In '86 Committee. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedures for handling complaints. We have numbered this matter under review MUR 2205. Please refer to this number in all future correspondence. If you have any questions, please contact Lorraine F. Ramos at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosure

cc: Leonard Zack

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plm



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1986

Michael Foglietta, Treasurer
Foglietta In '86 Committee
P.O. Box 40126
Philadelphia, PA 19106

Re: MUR 2205

Dear Mr. Foglietta:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you, as treasurer, and your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2205. 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 you and your committee in this matter. Your response 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.

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.

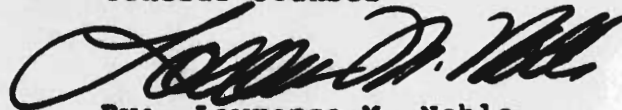
This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed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

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If you have any questions, please contact Frances B. Hagan, the staff person assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

cc: Honorable Thomas M. Foglietta

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1986

Robert Barnett, Chairman
Foglietta In '86 Committee
P.O. Box 40126
Philadelphia, PA 19106

Re: MUR 2205

Dear Mr. Barnett:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you, as Chairman, and your committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2205. 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 you and your committee in this matter. Your response 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.

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.

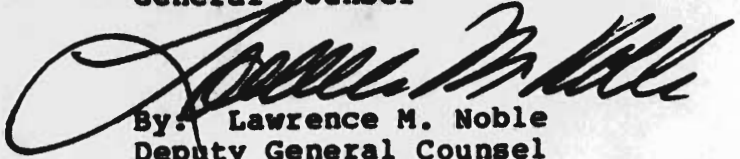
This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed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

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If you have any questions, please contact Frances B. Hagan, the staff person assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1986

The Honorable Thomas M. Foglietta
U.S. House of Representatives
Washington, D.C. 20515

Re: MUR 2205

Dear Mr. Foglietta:

This letter is to notify you that the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2205. 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 you in this matter. Your response 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.

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.

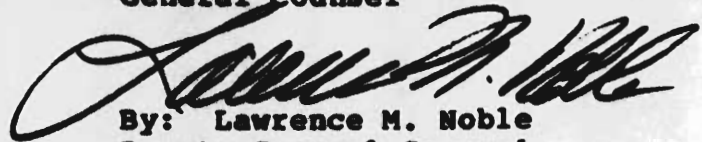
This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed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

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If you have any questions, please contact Frances B. Hagan, the staff person assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Complaint
Procedures
Designation of Counsel Statement

cc: Foglietta In '86 Committee

86040313788

LEONARD ZACK
MOIRA L. HAHN
MICHAEL J. HARRINGTON
SHERYL J. DIMEDIO

OF COUNSEL
JOSEPH L. FOX

Law Office
Leonard Zack
Suite 600 • 1829 Walnut Street
Philadelphia, PA. 19102
(215) 563-5577

July 14, 1986

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

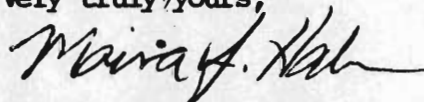
RE: Complaint by James J. Tayoun

Dear Mr. Noble:

Enclosed please find complainant James J. Tayoun's sworn affidavit, which was inadvertently omitted from his June 25, 1986 complaint. I trust that, with this addition, the complaint now meets all Federal Election Commission prerequisites.

Please do not hesitate to contact me if you have further questions regarding this matter.

Very truly yours,



LEONARD ZACK, ESQUIRE
BY: Moira L. Hahn, Esquire

MLH/lal
enc.

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M/R 2-20-86

NY OFFICE
177 PRINCE STREET
FIFTH FLOOR
NEW YORK, NY 10012

NY OFFICE
506 LEON AVENUE
DELRAN, NJ 08075

JUL 17 3:49

GENERAL COUNSEL

86040513789

COMMONWEALTH OF PENNSYLVANIA

: SS

COUNTY OF PHILADELPHIA

JAMES J. TAYOUN

BEING DULY SWORN according to

law, deposes and says that he is ~~XXXX~~ Complainant
herein and that the facts set forth in the ~~Complaint filed on my behalf~~
are true and correct to the best of his knowledge, informa-
tion and belief.

James J. Tayoun

SWORN TO AND SUBSCRIBED:

BEFORE ME THIS 11th DAY:

OF July A.D., 1986

Barbara A. Williams

NOTARY PUBLIC
BARBARA A. WILLIAMS, NOTARY PUBLIC
PHILADELPHIA, PHILADELPHIA COUNTY
MY COMMISSION EXPIRES NOV. 16, 1987
Member, Pennsylvania Association of Notaries

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 2, 1986

Foglietta In '86 Committee
Southeast Corner
8th & Fitzwater Streets
Philadelphia, PA 19147

Gentlemen:

On June 27, 1986 the Federal Election Commission received a letter alleging that you may have violated sections of the Federal Election Campaign Act, as amended. As indicated from the copy of the enclosed letter addressed to the complainant, those allegations do not meet certain specific requirements for the proper filing of a complaint. Thus, no action will be taken on this matter unless the allegations are refiled meeting the requirements for a properly filed complaint. If the matter is refiled, you will be notified at that time.

This matter will remain confidential for 15 days to allow for the correction of the defects. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

If you have any questions, please call Lorraine Ramos, Docket Chief, at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel

Lawrence M. Noble
By: Lawrence M. Noble
Deputy General Counsel

Enclosures

Copy of Improper Complaint
Copy of letter to the Improper Complainant

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 2, 1986

Honorable Thomas M. Foglietta
10402 Green Federal Building
Philadelphia, PA 19106

Dear Honorable Sir:

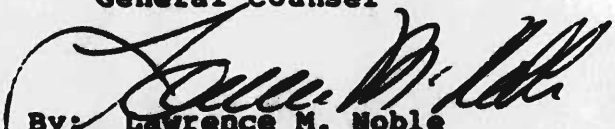
On June 27, 1986 the Federal Election Commission received a letter alleging that you may have violated sections of the Federal Election Campaign Act, as amended. As indicated from the copy of the enclosed letter addressed to the complainant, those allegations do not meet certain specific requirements for the proper filing of a complaint. Thus, no action will be taken on this matter unless the allegations are refiled meeting the requirements for a properly filed complaint. If the matter is refiled, you will be notified at that time.

This matter will remain confidential for 15 days to allow for the correction of the defects. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

If you have any questions, please call Lorraine Ramos, Docket Chief, at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosures

Copy of Improper Complaint

Copy of letter to the Improper Complainant

86040513792



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 2, 1986

Robert Barnett, Chairman
Foglietta In '86 Committee
10402 Green Federal Building
Philadelphia, PA 19106

Dear Sir:

On June 27, 1986 the Federal Election Commission received a letter alleging that you may have violated sections of the Federal Election Campaign Act, as amended. As indicated from the copy of the enclosed letter addressed to the complainant, those allegations do not meet certain specific requirements for the proper filing of a complaint. Thus, no action will be taken on this matter unless the allegations are refiled meeting the requirements for a properly filed complaint. If the matter is refiled, you will be notified at that time.

This matter will remain confidential for 15 days to allow for the correction of the defects. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

If you have any questions, please call Lorraine Ramos, Docket Chief, at (202) 376-3110.

Sincerely,

Charles N. Steele
General Counsel


By: Lawrence M. Noble
Deputy General Counsel

Enclosures

Copy of Improper Complaint
Copy of letter to the Improper Complainant

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LEONARD ZACK
JACQUELINE SMYERS

Law Office
Leonard Zack
Suite 600 • 1429 Walnut Street
Philadelphia, PA. 19102
(215) 563-5577

June 25, 1986

Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Attention: Lawrence M. Noble,
Deputy General Counsel

Dear Sir:

In response to your letter of June 16, 1986, this is a formal Complaint pursuant to 2 U.S.C. Section 437g for violations of the Federal Election Campaign Act of 1971. The complainant is James J. Tayoun, 1321 South Broad Street, Philadelphia, Pennsylvania 19147, (215) 755-6870. The respondents are:

- a) Foglietta In '86 Committee
Southeast Corner, 8th & Fitzwater Streets
Philadelphia, PA 19147
- b) Robert Barnett, Chairman
Foglietta In '86 Committee
10402 Green Federal Building
Philadelphia, PA 19106
- c) Honorable Thomas M. Foglietta
10402 Green Federal Building
Philadelphia, PA 19106

Sources of information upon which this Complaint is based are staff and friends of the Tayoun for Congress Committee, who viewed fraudulent television advertisements and/or received fraudulent printed campaign materials from and by the Foglietta In '86 Committee. All such persons are residents of, or employed within, the First U.S. Congressional District in Philadelphia, Pennsylvania.

This Complaint arises out of the 1986 Democratic primary election for the First Congressional District, U.S. House of

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

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Federal Election Commission
June 25, 1986
page two

Representatives, in Philadelphia, Pennsylvania. The Foglietta In '86 Committee, on behalf of incumbent candidate Foglietta, intentionally, knowingly and willfully conspired to, and did, commit "dirty tricks" in violation of 2 U.S.C. Section 441d and 2 U.S.C. Section 441h. The acts complained of are:

1. During or about the first fortnight of May, 1986, respondents distributed to voters through the U.S. Postal Service, campaign literature (attached and incorporated herein as Exhibit A) which depicted a portion of the FEC Form 3, Schedule A, filed by the Tayoun for Congress Committee for the period ending March 3, 1986. Respondents caused to be added to the form depicted, in the block captioned "name of employer", the name "Jesse Helms". This name was not on the document as filed by the Tayoun committee, but was added by respondents in fraudulent misrepresentation of campaign authority and without a clear and conspicuous statement that it was authorized by Foglietta, et al and not authorized by Tayoun. (See Exhibit B & C).

2. In the same direct mailing, respondents represented that candidate Tayoun's campaign was being funded by Jerry Falwell. This is not true.

2A. In the same direct mailing, and in a separate brochure distributed to voters, by hand during the same first fortnight of May, 1986, respondents represented that the Tayoun campaign had accepted funding "during the last 2 years" from the "gun lobby", which was "...fighting against the Philadelphia Police Dept. so that criminals can buy guns without a background check." This is not true.

The above misrepresentations, appearing on the same page of the Foglietta committee's communication, create the necessary implication that they are based on the pictured FEC Form 3 report of the Tayoun committee. Therefore, the said misrepresentations were in violation of 2 U.S.C. Sections 441d and 441h for failure

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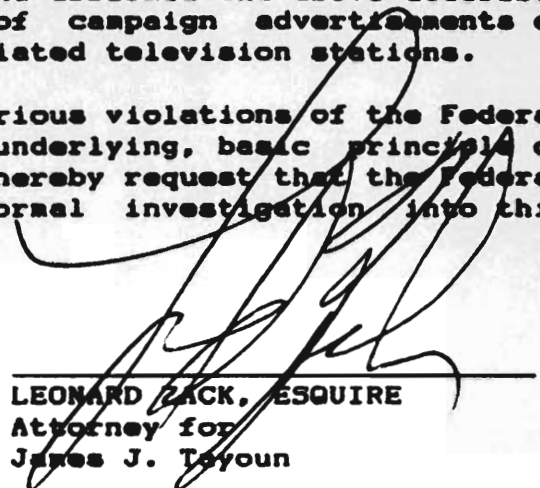
Federal Election Commission
June 25, 1986
page three

to clearly and conspicuously identify their source of authorization and for fraudulent misrepresentation of campaign authority.

3. In the same direct mailing, respondents misrepresented that Jimmy Tayoun had been "...bought off with \$12,500.00" and was "...still fighting against the residents" of the Port Richmond neighborhood over construction there of a scrapyard by Camden Iron & Metal Co. This is not true.

4. Respondents restated and affirmed the above-described misrepresentations in a series of campaign advertisements on Philadelphia's three network-affiliated television stations.

On the basis of these serious violations of the Federal Election Campaign Act, and of the underlying, basic principle of fair and open campaigning, I hereby request that the Federal Election Commission institute a formal investigation into this matter.



LEONARD ZACK, ESQUIRE
Attorney for
James J. Tayoun

**Two years ago the people
of Kensington, Port Richmond,
Fishtown and South Philadelphia
said NO to Jimmy Tayoun when
he ran for congress.**

**Now Jimmy Tayoun is running
again.**

**Here are the reasons to say NO to
Jimmy Tayoun once and for all . . .**

Port Richmond. A quiet neighborhood fighting to keep its way of life.

Row homes. People who take pride in where they live. Old fashioned values. Hard working, middle class Philadelphians who pay their taxes and live by the rules. They are the people who live in Port Richmond.



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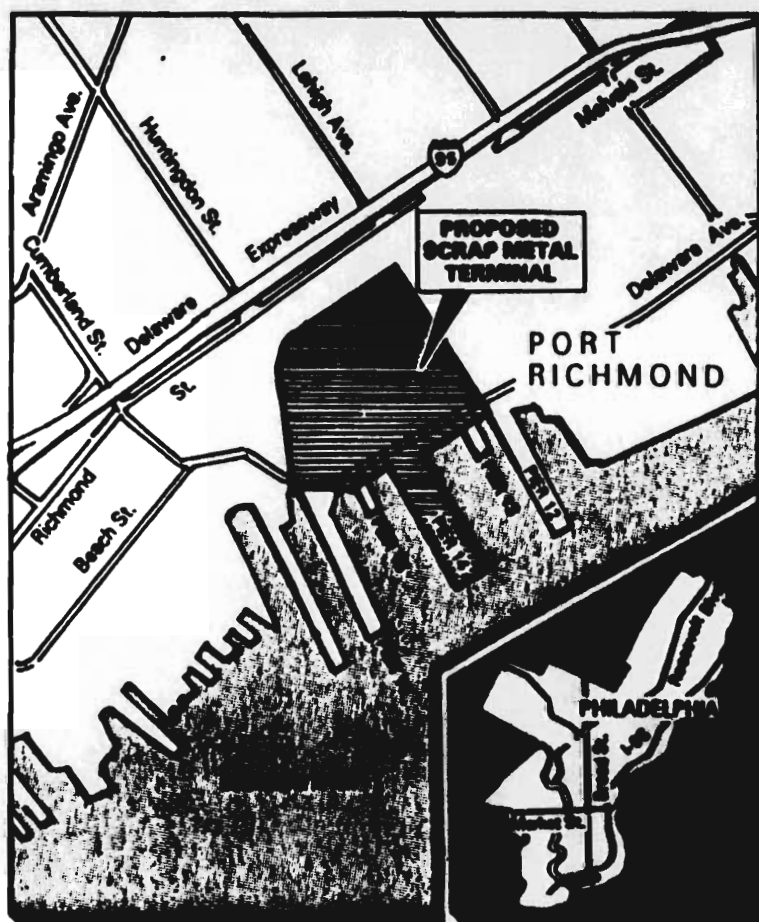
The Camden Iron and Metal Company. They want to change Port Richmond.

In of 1985, the Camden Iron and Metal Company decided they wanted to build a scrapyard in Port Richmond. But there were many unanswered questions.

The residents of the neighborhood overwhelmingly opposed the project. They held town meetings. They called elected officials. They wrote letters. They quietly protested.

They didn't want their neighborhood destroyed by businessmen who didn't care about people — just profits. It looked like the people of Port Richmond might win and stop Camden Iron and Metal from building.

Jimmy Tayoun sided with the Port Richmond residents.



The Philadelphia Inquirer/FRANK M. PONTANI

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But the story isn't over. Because there are two sides to every issue. And Jimmy Tayoun is on both.

Camden Iron and Metal wasn't taking no for an answer. What did they do? They put Jimmy Tayoun on their payroll. The same Jimmy Tayoun who had opposed the project was now bought — for thousands of dollars — by the Camden Iron and Metal Company.

What did Tayoun do? That's right. Tayoun took the money and is now fighting the Port Richmond residents over the project. A project Tayoun once opposed, he's now all for — because he was bought off with \$12,500.

Tayoun's response — no response. What could he say? Today, Tayoun is still fighting against the residents. But Jimmy Tayoun won't tell you that.

The Community Vs. Camden Iron And Metal

Letters To The Editor

The *STAR* welcomes readers' letters. They must be of community interest and should be kept short. You must include your name, address and telephone number to ensure additional information is needed. This information will be withheld from publication upon your request. We reserve the right to condense.

Ad Hoc Committee Opposes Tayoun And Terminal

Dear Editor:

On Tuesday, October 8, 1980, hundreds of Port Richmond area residents gathered to show their opposition to the proposed location of Camden Iron & Metal & Iron Co (CIMCO) located along the waterfront between Commodore Street through Allegheny Avenue. The rally was held to show the community's displeasure with former Commissioner James Tayoun, who is now on the payroll of CIMCO as a consultant. Members of the community objected to the location of the terminal.

Area residents also spoke up how I-95 devastated the area along Richmond Street because it took twice as long to build and forced many of our residents to relocate. Residents also testified that this is an insult to Philadelphia to bring in a junkyard along the waterfront. A junkyard would devastate their properties. "What our people wanted for all of their lives would now be degraded as a junkyard community," quoted one resident. Residents testified that they put up with years of traffic 24 hours a day.

Letters to the Editor...

Tayoun And Terminal

Dear Mr. Leary: The incident at Newington and Thompson Streets on Tuesday night, October 8, 1980 was totally caused by the influence of G. Fred Dillman and his failure to promote action to find a better location for the Port Richmond area.

to develop them. Camden Iron and Metal Inc. (CIMCO) is currently taking the best for the Port Richmond area. Residents testified that they put up with years of traffic 24 hours a day.

Tayoun Rally Turns Sour

by Mike Layton

On Tuesday, October 8th, former City Councilman Jimmy Tayoun invited the community to a rally at the A.B. Club in support of Camden Iron and Metal. They're the company who wants to put a metal processing plant in Port Richmond.

It wasn't Mr. Tayoun's night. When the A.D. turned the rally was far, wouldn't let him to. When he arrived at the A.D. Tayoun was not greeted by a hundred residents who applied for jobs at the plant; instead he was pelted by a angry crowd, who shouted, "Judas," "No Junkyard," and "You're sold it." He left once after he noticed when he heard it impossible to address the rally because of the shouting of "Judas," "No Junkyard," and "You're sold it." The residents were advised by Mr. Tayoun.

Three Groups Protest Community... The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal. The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal.

Tayoun Replies To Ad Hoc Committee

To the Editors: The Ad Hoc Committee opposed to the return of Camden Iron and Metal to its home of nearly 65 years in Port Richmond eventually disrupted a rally which I had hoped to hold.

The most obvious federal EPA regulations. Camden will be taking 60 people from this Port Richmond.

Richmond Community Say NO To Support Call For AALR Project

The Richmond community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal. The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal.

Local Groups Oppose Transportation And Shipping Of Toxic Wastes To The Area

Local groups are opposing the transportation and shipping of toxic wastes to the area. Residents are protesting the location of the terminal. The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal.

Port Richmond wary of planned scrapyard

PORT RICHMOND, Penn. 10 days after the city of Port Richmond, Pa., voted to accept a proposed scrapyard, residents are wary of the project. The scrapyard is located along the waterfront between Commodore Street through Allegheny Avenue. The rally was held to show the community's displeasure with former Commissioner James Tayoun, who is now on the payroll of CIMCO as a consultant.

Three Community Groups Protest Proposed Scrapyard In Community

Three community groups are protesting the proposed scrapyard in the community. Residents are protesting the location of the terminal. The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal.

Residents are protesting the location of the terminal. The community is not happy with the proposed location of the terminal. Residents are protesting the location of the terminal.

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05138

8674



But that doesn't bother Jimmy Tayoun either. Because Tayoun doesn't care who he takes money from or what he has to do in return.

Page 1 of 5

ITEMIZED RECEIPTS

PAGE 1 OF 2

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full) **AYALIN FOR CONGRESS COMMITTEE**

Fund For A Conservative Majority
302 FIFTH ST. N.E.
WASHINGTON, DC 20002

Receipt For:

☒ Cash (Specify):
☐ Primary
☐ General

Date Received: **1/29/06**

Amount of Each Receipt this Period: **\$ 959.70**

Name of Employer: **JESSE HELMS**

Occupation: **PAC**

Reporting Year-to-Date—\$

Name of Employer:

Date Received:

Amount of Each Receipt this Period:

On May 20th, let's say NO to Jimmy Tayoun once and for all.

After three years of running for Congress, Jimmy Tayoun has offered no plan for jobs, no plan for tax reform, for reducing the deficit or for arms control. Tayoun doesn't even talk about those things. The only reason Tayoun gives in running for Congress is his own personal ambition. As the Daily News just wrote, "You get the feeling Tayoun would be little more than a political mechanic ... not a Congressman as most of us would imagine one."

It's clear that the only thing Jimmy Tayoun cares about is Jimmy Tayoun. We need more than that from our Congressman.



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We need Tom Foglietta.

If there ever was a Congressman who stood up for Philadelphia and for her people, its Tom Foglietta.

As a Congressman, Foglietta has earned a perfect grade from senior citizens and people concerned with the environment. He has fought Reagan's attempts to cut social security and Medicare and has been the leading voice to keep the Philadelphia Navy Yard open.

As the Daily News said in its recent endorsement of Tom Foglietta: "Foglietta is a solid, dependable lawmaker who grows in influence with each term. Tom Foglietta has represented the people of the 1st Congressional district well. Foglietta knows what to do and has been doing it for six years. That's the difference and a good reason to return him to Congress."

We agree. It's time for Tom Foglietta.

Phil Rep. Foglietta—A Resonant Voice For Labor

Keeping the Plane Rates Down
By Tom Foglietta
The House of Representatives has passed a bill to keep the plane rates down. This is a very important bill for the people of Philadelphia and the entire country. It will help to keep the cost of flying down, which is a great benefit to everyone.



Funds for Senior Citizens Preserved by Foglietta
Congressman Tom Foglietta has successfully fought to preserve funds for senior citizens. He has been a strong advocate for the elderly and has ensured that their benefits are not cut.

The Foglietta Report
A report on the progress of the Foglietta administration. It highlights the many achievements of the Congressman and his commitment to the people of Philadelphia.

Cong. Foglietta Sponsors Product Tampering Bill
Congressman Tom Foglietta has introduced a bill to prevent product tampering. This is a crucial step to protect consumers and ensure the safety of the food and drugs they use.

Nuclear Freeze
By Tom Foglietta
The House of Representatives has passed a bill to freeze nuclear weapons. This is a significant step towards reducing the risk of nuclear war and ensuring global peace.

Village Officials
A report on the activities of village officials. It discusses the challenges they face and the steps they are taking to improve their communities.

Foglietta Acquires \$25 Million For Elderly Food Program
Congressman Tom Foglietta has secured \$25 million for an elderly food program. This will provide much-needed assistance to the elderly who are struggling with food insecurity.

Foglietta's First Town Meeting
Congressman Tom Foglietta held his first town meeting. He listened to the concerns of the people and promised to address them in the coming year.

LOCAL POLITICS
A section dedicated to local politics. It covers the latest news and developments in the Philadelphia area.

THE FOGLIETTA REPORT
By Tom Foglietta
A report on the progress of the Foglietta administration. It highlights the many achievements of the Congressman and his commitment to the people of Philadelphia.

Naval Base Project Added To Budget
The House of Representatives has added the Naval Base project to the budget. This is a great victory for the people of Philadelphia and the Navy.

Foglietta's Coast Guard Command in Phila. Approved
Congressman Tom Foglietta's request for a Coast Guard command in Philadelphia has been approved. This will greatly benefit the maritime community and the city.

Naval Base Gets \$17 Million for Works
The Naval Base has received \$17 million for various projects. This will help to improve the base and the surrounding area.

Foglietta's Coast Guard Command in Phila. Approved
Congressman Tom Foglietta's request for a Coast Guard command in Philadelphia has been approved. This will greatly benefit the maritime community and the city.

Tom Foglietta . . .

Honest,
Keeping
the Pride.



Vote Tuesday
Lever 112

Re-elect Congressman
TOM FOGLIETTA

FOGLIETTA '86

SOUTHEAST CORNER
8th & FITZWATER STREET
PHILADELPHIA, PA 19147

BULK RATE
U.S. POSTAGE
PAID
Permit No. 650
PHILA., PA

CA RT SORT ** CR18
MATTHEW J JESIOLOWSKI
3050 SALMON ST
PHILADELPHIA PA 19134

Vote Democratic ... Tuesday, May 20

(Summary Page)

ALBION AREA

ALBION AREA

1. Name of Committee (in Full)

TAYLOR FOR CONGRESS

2. FEC Identification Number

118001

Address (Number and Street)

1824 So. 6th St

3. Is this Report an Amendment?

☐ YES☒ NO

City, State and Zip Code

PHILA. PA 19148

Check if address is different than previously reported.

4. TYPE OF REPORT

☒ April 15 Quarterly Report☐ Twelfth day report preceding

(Type of Election)

☐ July 15 Quarterly Report

election on _____ in the State of _____

☐ October 15 Quarterly Report☐ Thirtieth day report following the General Election on☐ January 31 Year End Report

_____ in the State of _____

☐ July 31 Mid Year Report (Non-election Year Only)☐ Termination Report

This report contains activity for -

☒ Primary Election☐ General Election☐ Special Election☐ Runoff Election

5. Covering Period

SUMMARY

2/19/86

through 3/31/86

COLUMN A
This PeriodCOLUMN B
Calendar Year-to-Date

6. Net Contributions (other than loans)

(a) Total Contributions (other than loans) (From Line 11 (a))

17909.70

17909.70

(b) Total Contribution Refunds (from Line 20 (d))

-0-

-0-

(c) Net Contributions (other than loans) (subtract Line 6 (b) from 6 (a))

17909.70

17909.70

7. Net Operating Expenditures

(a) Total Operating Expenditures (from Line 17)

42,163.62

42,163.62

(b) Total Offsets to Operating Expenditures (from Line 14)

-0-

-0-

(c) Net Operating Expenditures (subtract Line 7 (b) from 7 (a))

42,163.62

42,163.62

8. Cash on Hand at Close of Reporting Period (from Line 27)

15,746.08

15,746.08

9. Debts and Obligations Owed TO The Committee
(Itemize all on Schedule C or Schedule D)

-0-

10. Debts and Obligations Owed BY The Committee
(Itemize all on Schedule C or Schedule D)

49,000.00

49,000.00

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-623-4068

CATHERINE M. WILLIAMS

Type or Print Name of Treasurer

Catherine M. Williams

SIGNATURE OF TREASURER

4/11/86

Date

NOTE: Submission of false erroneous or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

FEC FORM 3 (3/80)

SCHEDULE A

ITEMIZED RECEIPTS

Page 1 of 2
 LINE NUMBER 712
 (Use separate schedule(s) for each category of the Detailed Summary Page)

(POLITICAL Committee Contributions - (EAL-KIND))

Any information copied from such Reports or Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

LAYOUN FOR CONGRESS Committee

A. Full Name, Mailing Address and ZIP Code

FUND FOR A CONSERVATIVE Majority
302 FIFTH ST. N.E.
WASHINGTON, DC 20002

Receipt For: ☒ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

1/29/06

Amount of Each Receipt this Period

\$959.70

B. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

C. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

D. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

E. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

F. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

G. Full Name, Mailing Address and ZIP Code

Receipt For: ☐ Primary ☐ General
☐ Other (specify):

Name of Employer

Occupation

Aggregate Year-to-Date-\$

Date (month, day, year)

Amount of Each Receipt This Period

SUBTOTAL of Receipts This Page (optional)

\$959.70

TOTAL This Period (last page this line number only)

\$17809.70

Tayoun complains of doctored report in Foglietta ad

By Paul Hunsbom
Staff Writer

Congressional candidate James J. Tayoun complained yesterday to the Federal Election Commission about an advertisement for his opponent, Rep. Thomas M. Foglietta, that reproduced a doctored version of Tayoun's federal campaign finance report.

The Foglietta advertisement urged Tayoun to conservative Republican Sen. James Helms and Representative Jerry Falwell and reproduced part of Tayoun's contribution report. The reproduced report showed a \$250,000 contribution from the Fund for a Conservative Majority, and showed the fund's employer as "James Helms."

But Helms is not affiliated with the fund for a Conservative Majority,

and the actual report filed by Tayoun that showed the contribution did not list Helms. Instead, it left the "employer" space blank.

Robert Barnett, a campaign strategist for Foglietta, said he had instructed the printer of the Foglietta mailing to write Helms' name in the advertisement, and he said it was placed in the reproduced Tayoun campaign report because "it was the only place to put it." Barnett called it a "printing error."

The Fund for a Conservative Majority, which contributes to conservative candidates of both parties, is not affiliated with Helms or Mr. Falwell, the fund's political director, Glenn Wingers, said yesterday.

"It's just not true," said Wingers. "We're distressed by it."

She said that the fund had made contributions to Helms', 1964 Senate

campaign but that "we're certainly not an entity of his."

Tayoun is challenging Foglietta for the Democratic nomination in the First Congressional District, which represents South Philadelphia and portions of Center City, North Philadelphia, West Philadelphia and Kensington.

The Foglietta campaign advertisement says, "Tayoun is now accepting campaign contributions from Jerry Falwell, James Helms and the gun lobby." Foglietta has made similar allegations in his television advertising, saying Tayoun's campaign is "bankrolled by right-wing hooks James Helms, the gun lobby and Jerry Falwell."

But Helms, Mr. Falwell and the National Rifle Association have not contributed to Tayoun's campaign, according to Tayoun's financial re-

ports.

Barnett defended the campaign claim by saying the Fund for a Conservative Majority and Helms, Mr. Falwell and the gun lobby "support the same philosophies. . . . It's a reasonable grouping. They raise money for the same candidates, they support the same candidates."

"I don't see anything wrong with it."

Tayoun yesterday accused Foglietta of "doing everything he could do to smear me. He doesn't have a personal record on which to run, so his entire campaign is based on lies and distortions of my record."

Barnett said Tayoun had made false claims in his own campaign, and "if he's worried we stretched the truth, it's not something that's new to him the last three months."

Tayoun's campaign sent a copy of

the Foglietta advertisement to the counsel of the election committee yesterday, along with a formal complaint, campaign spokesman John Sharp said.

The allegation of unethical campaigning came as Tayoun, Foglietta and other local candidates made their final preparations for Tuesday's voting. Voters this weekend will be inundated with last-minute mailings from candidates, besieged by political commercials on television and radio, visited by campaigners at home and at shopping malls, and followed by campaign motorcades on the highways.

Candidates for Congress and the state legislature will struggle for the voters' attention with candidates for governor, Senate and lieutenant governor in an election that experts say is likely to draw far less than half of

the state's registered voters to the polls.

The state Supreme Court yesterday got into the election business in a small way.

The court upheld a lower court ruling that Democrat Stanley Branche had failed to collect enough valid nominating signatures to be a candidate in the First District, where Tayoun, Foglietta and Bernard Sclera, a Lyndon LaRouche supporter, are fighting for the Democratic nomination.

Branche's name will remain on the ballots in the district, but the voting-machine levers next to his name will be locked or removed, City Commissioners chairwoman Margaret Tagliore said. City workers began the laborious process of locking or removing the levers on the affected 1,200 machines Thursday afternoon.

Montco GOP
angry with
Scranton



Edgar asks TV stations
to drop Bailey's latest

EXHIBIT C



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 2, 1986

Leonard Zack, Esq.
1429 Walnut Street
Suite 600
Philadelphia, PA 19102

Dear Mr. Zack:

This will acknowledge receipt of your letter which we received on June 25, 1986, inquiring about a possible violation of the Federal Election Campaign Act of 1971, as amended ("the Act").

The 1976 amendments to the Act and Commission regulations require that a complaint meet certain specific requirements. Since your letter does not meet these requirements, the commission can take no action at this time to investigate this matter.

However, if you desire the Commission to look into the matter discussed in your letter, to determine if the FECA has been violated, a formal complaint as described in 2 U.S.C. § 437g(a) (1) must be filed. Requirements of this section of the law and Commission regulations at 11 C.F.R. § 111.4 which are a prerequisite to Commission action are detailed below:

- (1) A complaint must be in writing. (2 U.S.C. § 437g(a) (1)).
- (2) Its contents must be sworn to and signed in the presence of a notary public and shall be notarized. (2 U.S.C. § 437g(a) (1)).
- (3) A formal complaint must contain the full name and address of the person making the complaint. This information will be made known to any and all respondents upon the notification of the complaint.
- (4) A formal complaint should clearly identify as a respondent each person or entity who is alleged to have committed a violation. (11 C.F.R. § 111.4).

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- 86040513809
- (5) A formal complaint should identify the source of information upon which the complaint is based. (11 C.F.R. § 111.4).
 - (6) A formal complaint should contain a clear and concise recitation of the facts describing the violation of a statute or law over which the Commission has jurisdiction. (11 C.F.R. § 111.4).
 - (7) A formal complaint should be accompanied by supporting documentation if known and available to the person making the complaint. (11 C.F.R. § 111.4).

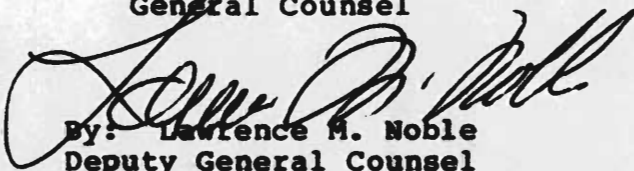
Finally, please include your phone number, as well as the full names and addresses of all respondents.

Enclosed are excerpts of the Commission regulations, and your attention is directed to 11 C.F.R. 111.4 through 111.10 that deal with preliminary enforcement procedures. I trust these materials will be helpful to you should you wish to file a legally sufficient complaint with the Commission. The file regarding this correspondence will remain confidential for a fifteen day time period during which you may file an amended complaint as specified above. Please forward to us any additional information or correspondence that you may have regarding this matter.

If we can be of any further assistance, please do not hesitate to call me at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel



By: Lawrence M. Noble
Deputy General Counsel

Enclosures
Excerpts
Procedures

cc: Respondents

than 20 days after the Commission receives a complete written request.

(b) *Procedures applicable to initial proposal of rules or regulations, and advisory opinions.* Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 438(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

(c) *Persons entitled to rely upon opinions; scope of protection for good faith reliance.*

(1) Any advisory opinion rendered by the Commission under subsection (a) of this section may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(d) *Requests made public; submission of written comments by interested public.* The Commission shall make public any requests made under subsection (a) of this section for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public.

§ 437g. Enforcement

(a) *Administrative and judicial practice and procedure.*

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such

complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4) (A) (i) Except as provided in clause (ii), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about

to commit, a violation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B) (i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26, the Commission shall make public such determination.

(5) (A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$5,000 or an amount

equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section, or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6) (A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4)(A), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that a person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(7) In any action brought under paragraph (5) or (6), subpoenas for witnesses who are required to attend a United States district court may run into any other district.

(8) (A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the

judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(10) Repealed.¹

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12) (A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than \$2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than \$5,000.

(b) Notice to persons not filing reports prior to institution of enforcement action; publication of identity of persons and unfilled reports. Before taking any action under subsection (a) of this section against any person who has failed to file a report required under section 434(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 434(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 438(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

(c) Reports by Attorney General of apparent violations. Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding

¹ Repealed Judicial Review. Section 402(I)(A) of Pub. L. No. 90-428, effective November 11, 1968, repealed subparagraph (4)(10). The repealed provision had required that actions brought under this subsection be advanced on the docket of the court in which filed and put ahead of all other actions.

the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d) Penalties; defenses; mitigation of offenses.

(1) (A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating \$2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of \$25,000 or 300 percent of any contribution or expenditure involved in such violation.

(B) In the case of a knowing and willful violation of section 441b(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating \$250 or more during a calendar year. Such violation of section 441b(b)(3) may incorporate a violation of section 441c(b), 441f or 441g of this title.

(C) In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of \$1,000 or more is involved.

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of this title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

- (B) the conciliation agreement is in effect; and
- (C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

§ 437h. Judicial review

(a) *Actions including declaratory judgments, for construction of constitutional questions; eligible plaintiffs; certification of such questions to courts of appeals sitting en banc.* The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) *Appeal to Supreme Court; time for appeal.* Notwithstanding any other provision of law, any decision on a matter certified under subsection (a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 30 days after the decision of the court of appeals.

NOTE: *Expedited Judicial Review.* Section 402(1)(B) of Pub. L. No. 98-620, effective November 11, 1984, repealed former subsection (c) of 2 U.S.C. § 437h. The deleted provision had required that the Federal appellate courts, including the United States Supreme Court, advance any matter under this section on their dockets and expedite it to the greatest extent possible. Sections 402(28) (E) and (F) also repealed similar expedited review language in 26 U.S.C. §§ 9010 and 9011.

§ 438. Administrative provisions

(a) *Duties of Commission.* The Commission shall—

- (1) prescribe forms necessary to implement this Act;
- (2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;
- (3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act.

**DESCRIPTION OF PRELIMINARY PROCEDURES
FOR PROCESSING COMPLAINTS FILED WITH THE
FEDERAL ELECTION COMMISSION**

Complaints filed with the Federal Election Commission shall be referred to the Enforcement Division of the Office of General Counsel, where they are assigned a MUR (Matter Under Review) number and assigned to a staff member. Within 5 days of receipt of a complaint, the Commission shall notify, in writing, the respondent listed in the complaint that the complaint has been filed and shall include with such notification a copy of the complaint. Simultaneously, the complainant shall be notified that the complaint has been received and will be acted upon. The respondent(s) shall then have 15 days to demonstrate, in writing, that no action should be taken against him/her in response to the complaint.

At the end of the 15 days, the Office of General Counsel shall report to the Commission making a recommendation(s) based upon a preliminary legal and factual analysis of the complaint and any submission made by the respondent(s). A copy of respondent's submission shall be attached to the Office of General Counsel's report and forwarded to the Commission. This initial report shall recommend either: (a). that the Commission find reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and that the Commission will conduct an investigation of the matter; or (b). that the Commission finds no reason to believe that the complaint sets forth a possible violation of the Federal Election Campaign Act (FECA) and, accordingly, that the Commission close the file on the matter.

If, by any affirmative vote of four (4) Commissioners, the Commission decides that it has reason to believe that a person has committed or is about to commit a violation of the Federal Election Campaign Act (FECA), the Office of General Counsel shall open an investigation into the matter. During the investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for deposition, and to order answers to interrogatives. The respondent(s) may be contacted more than once by the Commission during its investigation.

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If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of General Counsel staff may begin the conciliation process prior to a finding of probable cause to believe a violation has been committed. Conciliation is an informal method of conference and persuasion to endeavor to correct or prevent a violation of the Federal Election Campaign Act (FECA). Most often, the result of conciliation is an agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

[If the investigation warrants], and no conciliation agreement is entered into prior to a probable cause to believe finding, the General Counsel must notify the respondent(s) of this intent to proceed to a vote on probable cause to believe that a violation of the Federal Election Campaign Act (FECA) has been committed or is about to be committed. Included with the notification to the respondent(s) shall be a brief setting forth the position of the General Counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, the respondent(s) may submit a brief posing the position of the respondent(s) and replying to the brief of the General Counsel. Both briefs will then be filed with the Commission Secretary and will be considered by the Commission. Thereafter, if the Commission determines by an affirmative vote of four (4) Commissioners, that there is probable cause to believe that a violation of the FECA has been committed or is about to be committed conciliation must be undertaken for a period of at least 30 days but not more than 90 days. If the Commission is unable to correct or prevent any violation of the FECA through conciliation the Office of General Counsel may recommend that the Commission file a civil suit against the respondent(s) to enforce the Federal Election Campaign Act (FECA). Thereafter, the Commission may, upon an affirmative vote of four (4) Commissioners, institute civil action for relief in the District Court of the United States.

See 2 U.S.C. § 437g, 11 C.F.R. Part 111

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FEDERAL ELECTION COMMISSION

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WASHINGTON, D.C. 20463

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