

105TH CONGRESS }
2d Session

SENATE

{ REPT. 105-167
Vol. 1

**INVESTIGATION OF ILLEGAL OR
IMPROPER ACTIVITIES IN CONNECTION
WITH 1996 FEDERAL ELECTION
CAMPAIGNS**

FINAL REPORT

OF THE
**COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

TOGETHER WITH
ADDITIONAL AND MINORITY VIEWS

Volume 1 of 6



MARCH 10, 1998.—Ordered to be printed

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ELECTION CAMPAIGNS—VOLUME 1**

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PREFACE

In mid-1995, the President and his strategists decided that they needed to raise and spend many millions of dollars over and above the permissible limits of the Presidential campaign funding law if the President was going to be reelected. They devised a legal theory to support their needs and proceeded to raise and spend \$44 million in excess of the Presidential campaign spending limits.

The lengths to which the Clinton/Gore campaign and the White House-controlled Democratic National Committee were willing to go in order to raise this amount of money is essentially the story of the 1996 Presidential campaign scandal. The President and his aides demeaned the offices of the President and Vice President, took advantage of minority groups, pulled down all the barriers that would normally be in place to keep out illegal contributions, pressured policy makers, and left themselves open to strong suspicion that they were selling not only access to high-ranking officials, but policy as well. Millions of dollars were raised in illegal contributions, much of it from foreign sources. When these abuses were discovered, the result was numerous Fifth Amendment claims, flights from the country, and stonewalling from the White House and the DNC.

Over a brief period of three months of hearings, the Committee was able to fulfill its responsibility in laying out the available facts to the American people. A much clearer picture of what happened during the 1996 Presidential campaign has been developed and presented. However, many questions remain unanswered. It is now the responsibility of the Attorney General or, more appropriately, an independent counsel to take these facts and aggressively pursue any and all indications of criminal wrong-doing. Indeed, the three most important legal developments to come out of the 1996 campaign finance scandal are all attributable to the investigation conducted by the Committee on Governmental Affairs. First, Yah Lin "Charlie" Trie, an associate of the President, has been indicted for, among other things, obstruction of the Committee's investigation. Second, Maria Hsia, a prominent Democratic fundraiser, has been indicted for laundering campaign contributions that were a focus of the Committee's inquiry. Finally, the Attorney General has requested appointment of an independent counsel to determine whether Secretary of the Interior Bruce Babbitt lied to the Committee.

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PROCEDURAL BACKGROUND AND OVERVIEW

INTRODUCTION

In the wake of numerous revelations in the news media of unusual, and possibly illegal, campaign contributions to the Democratic Party during the 1996 presidential campaign, the Senate Majority Leader announced during the first week of December 1996, that the Committee on Governmental Affairs would conduct an investigation on behalf of the Senate into fundraising practices of the Democratic National Committee ("DNC") following the convocation of the 105th Congress in January 1997. The Majority Leader determined to centralize all aspects of the inquiry in the Governmental Affairs Committee (hereafter referred to simply as "the Committee"), which has the broadest oversight jurisdiction and most extensive subpoena authority of any committee of the Senate.

The investigation and its public hearings had three fundamental and interrelated purposes, consistent with the constitutional responsibilities of the Senate: informing the public, examining the operation of the law and of government officials, and developing a record to assist the Senate in considering legislation.

The first of these purposes was to create a record of what occurred during the 1996 election cycle to inform the American people. A knowledgeable electorate is the cornerstone of democracy, and the public has a right to know what went on during the 1996 campaign. The people need to be informed of the operations of their government and the effectiveness or ineffectiveness of the laws in order to make informed judgments at the polls. Because all else flows from the people in a democracy, this purpose of informing the people must be ranked as the primary purpose of the investigation. In this regard, the Committee carried on the official inquiry, while the media fulfill their similar, but unofficial role, of informing the people of the facts. The Committee succeeded in laying before the American people a great deal of information that would never have become public in the absence of the Committee's investigation. It was not always the Committee itself that released the information, but it was the Committee that was responsible for the release. For example, the White House released a great deal of information to the media before producing it for the Committee. None of that information would have been publicly disclosed without the Committee's demands for the information from the White House. Vindicating the public's right to know, more than drawing its own conclusions or achieving partisan political goals, was the paramount purpose of the special investigation, and the Committee succeeded in satisfying this first purpose.

A second purpose of the inquiry and hearings was to scrutinize the operation of the current legal and regulatory framework for

federal elections. For Congress to legislate and govern effectively, it must conduct routine oversight to learn how the government is functioning. Congress also has a responsibility to examine the operation of current laws on the government and private parties. This Committee is particularly well-suited to conduct such a broad oversight inquiry into the multifarious elements of this scandal because it has the broadest oversight jurisdiction in the Senate: “to study or investigate the efficiency and economy of operations of all branches of the Government.”¹

The investigation reviewed the operations of a large number of disparate agencies. From the Commerce Department, which employed John Huang, to the Interior Department and the role of campaign contributions on the approval of off-reservation Indian casinos, to the Energy Department, senior officials of which were caught up in Roger Tamraz’s effort to buy access and to secure a change in U.S. policy in return for political contributions to the Democratic Party, to the White House staff and its role in developing and implementing a scheme to evade the campaign expenditure limits during the President’s re-election campaign, the Committee probed into the often-ignored corners of government operations to shine light on the impact political contributions may have on the formulation and substance of government policy. The hearings informed the Committee, the Senate, and the American people of these matters and enhanced our knowledge, not always in a way that made us proud, but hopefully in a way that will improve our government.

The third purpose of the hearings is the one on which the Senate’s ability to conduct this type of investigation is founded, its constitutional role to legislate. The Senate cannot legislate without knowing what is happening. How do the laws the Congress passes work in the real world? What gaps exist in their coverage? What gaps exist in the government’s enforcement capabilities? Are there situations where legal proscriptions do not work? These are the types of questions relevant to any congressional hearing, as they are central to the role of Congress in our constitutional republic. The Committee went forward always bearing in mind that its entire authority was premised on the underlying legislative responsibilities of Congress, even though the Committee itself lacked legislative jurisdiction over many of the items at issue in these hearings. For this reason, the Committee did not hold hearings on particular legislative proposals; it never examined what works and does not work with an eye towards developing and recommending a legislative solution, which is typically the responsibility of the legislative committee with legislative jurisdiction conferred by Rule XXV of the Standing Rules of the Senate. The hearings did, however, develop a factual record on which other committees with such jurisdiction can rely in formulating legislative proposals. Thus, it is the expectation of the Committee that the facts developed by its investigation and revealed in its hearings will be of use to the Committee on Rules and Administration, when it considers legislation to reform campaign finance laws, and to the other members of the Senate. Other information developed by the Committee

¹ S. Res. 54, Section 13(d)(1), 143 *Congressional Record* S1421 (daily ed. Feb. 13, 1997).

should be relevant to other committees in the exercise of their legislative and oversight responsibilities. Finally, some of the issues investigated by the Committee touched on matters within the legislative jurisdiction of the Committee, such as potential violations of the Hatch Act.

This report should be considered an interim report to the American people and the Senate on the results of the Committee's investigation. Because the time allotted to the Committee to conduct the inquiry was severely limited, the Committee was unable to complete the inquiry, leaving a number of questions unanswered. This report may serve as a starting point for other Senate committees, the House of Representatives, and the Department of Justice to continue the investigations into the multifaceted aspects of the issues broached by the Committee's investigation.

PROCEDURAL CHRONOLOGY

When the 105th Congress convened in early January 1997, Senator Fred Thompson (R-TN) was confirmed as the chairman of the Committee. On January 7, 1997, Chairman Thompson named Hannah Sistare as staff director of the Committee and hired Michael J. Madigan, a partner in the Washington, D.C., law firm of Akin, Gump, Strauss, Hauer & Feld, to serve as chief counsel for the special investigation into campaign fundraising abuses in the 1996 elections. Senator John Glenn (D-OH) was selected as the ranking minority member of the Committee, and he named former Senate Legal Counsel Michael Davidson to serve as minority chief counsel for the special investigation.

Within a week of hiring Madigan, the Committee hired three additional lawyers to serve as senior counsel to assist in the supervision of the special investigation: Harold Damelin, former chief counsel of the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs; J. Mark Tipps, former chief of staff to Senator Bill Frist (R-TN); and Harry S. Mattice, a partner in the Chattanooga, TN, law firm of Miller & Martin. In the spring, after a resolution providing additional funds to the Committee for the purpose of conducting the special investigation had been approved, the majority also hired Donald T. Bucklin, a partner in the Washington, D.C. law firm of Squire, Sanders & Dempsey, as senior counsel and promoted Tipps from senior counsel to deputy chief counsel. While some additional staff were hired in January and February, the hiring of most of the legal, investigative, and support staff to conduct the special investigation awaited the adoption by the Senate of a funding resolution to provide the necessary resources.

On January 28, 1997, Chairman Thompson delivered his initial statement to the Senate explaining the purposes of the inquiry.² The Chairman explained that the Committee would not be engaged in "a criminal investigation," which is the constitutional responsibility of the executive. Chairman Thompson identified two central purposes appropriate for congressional committees, and these would set the parameters and tone for the investigation. First, the Committee would undertake an inquiry with a legislative purpose:

² See 143 *Congressional Record* S 716-18 (daily ed. Jan. 28, 1997).

to inquire into and lay out the facts to help inform Congress of the operation of the law and to assist the Senate in determining whether relevant laws need to be changed or repealed or new laws adopted. Second, the Committee would attempt to fulfill what President Wilson called “the informing function of Congress,” whereby the Committee would seek to find the facts and reveal them for the American people, so that they can make informed political choices.

The Chairman made it clear that the inquiry would not be a partisan affair directed at the activities of only one political party. As he informed the Senate, the Committee’s “work will include any improper activities by Republicans, Democrats, or other political partisans.” The goal was to ensure that the American people perceive the investigation and subsequent hearings “as being fair and evenhanded.” The Chairman was clear, however, that a bipartisan investigation would not be governed by the need “to create some false balance” between the political parties. The investigation would examine “activities . . . not political parties” and the Chairman was prepared to let “the chips fall where they may.”

As the Committee sought to initiate its inquiry, three central issues had to be resolved: what was the precise scope of the inquiry; what resources were to be available to the Committee; and what time period would be allotted to the Committee to conduct its inquiry. These three issues consumed a great deal of time, longer than was anticipated, and, in light of the time limit ultimately imposed on the inquiry, the delays in resolving these issues had a significant effect on the conduct of the inquiry and the hearings.

After consulting with his colleagues in the majority and reviewing the scope of similar inquiries, Chairman Thompson proposed an investigation that would examine illegal and improper campaign fund-raising and spending activities in the 1996 federal election cycle. Chairman Thompson wanted to ensure that the investigation would not be tied up by partisan politics, as had occurred when the minority was able to tie up an extension in the authorization for the Senate Special Committee to Investigate Whitewater Development Corporation and Related Matters in the 104th Congress. He therefore sought a budget that would permit the Committee to conduct a thorough inquiry without requiring that the Committee seek additional funds from the Senate while pursuing the investigation. He also insisted that no deadline be imposed on the investigation, consistent with the recommendations of former Senators George Mitchell and Bill Cohen, which they developed in light of their experience with the Senate’s 1987 investigation of the Iran-Contra affair.

On January 29, 1997, the Committee held its organizational meeting for the 105th Congress. In addition to its regular budget, Chairman Thompson proposed a budget of \$6.5 million for the special investigation, which he proposed would look into illegal and improper activities during the 1996 elections. This budget was proposed after consulting on January 28 with the majority members of the Committee.³ No deadline on the special investigation was

³The proposed \$6.5 million budget was based on an evaluation of the scope of the investigation the Committee was to pursue as well as comparisons with other major Senate investigations. For example, a review of the most analogous investigations showed that the 1973 Watergate Committee spent \$6.9 million in 1997 dollars; the 1987 Iran-Contra Committee (a joint

proposed. While the minority supported a broad scope for the investigation, it insisted on a deadline and refused to support a budget that would allow the Committee to carry on its work without coming back to the Senate for additional funding. The minority countered with a proposal that included a time-limited investigation with a broad scope and a budget of \$1.8 million, which it argued would be adequate for commencing the inquiry, but which would clearly be inadequate for completing the inquiry.

Due to the strong disagreement between the majority and minority on the Committee, the Committee vote on the funding resolution for the investigation was put over to January 30 to allow members to try to work out a compromise, which proved elusive. While the minority supported Chairman Thompson in seeking a broad scope to the inquiry to allow investigation of both illegal and improper activities, it was unwilling to pay for such an expansive inquiry or allow sufficient time to conduct one. The funding proposed by the minority was grossly inadequate to support a thorough inquiry of the facts covered by the broad scope the minority proposed.

When the Committee met on January 30, it unanimously approved a broad scope to allow the Committee to investigate illegal or improper activities in connection with 1996 federal election campaigns. By a 9–4 vote, the Committee then approved a proposed budget of \$6.5 million for an investigation without a deadline.⁴ The Committee voted to include within the broad scope of its investigation:

Illegal or improper fund-raising and spending practices in the 1996 federal election campaigns, including but not limited to:

Foreign contributions and their effect on the American political system;

Conflicts of interest involving federal officeholders and employees, as well as misuse of government offices;

Failure by federal government employees to maintain and observe legal barriers between fund-raising and official business;

The independence of the presidential campaigns from the political activities pursued for their benefit by outside individuals or groups;

The misuse of charitable and tax-exempt organizations in connection with political or fund-raising activities;

Unregulated (“soft”) money and its effect on the American political system;

Promises and/or the granting of special access in return for political contributions or favors;

Senate-House committee) spent a little over \$5 million in 1997 dollars; the 1995–96 Whitewater Committee spent \$1.8 million (not counting Banking Committee resources known to have been spent on that investigation). Other major congressional investigations consumed far more than \$6.5 million sought by Chairman Thompson (the 1975 Church Committee on the activities of the intelligence community spent \$8.66 million; the 1957 McClellan Committee on improper labor activities spent \$11.46 million; and the 1977 House Select Committee on Assassinations spent \$15.31 million (all figures are in 1997 dollars)).

⁴The three additional minority members of the Committee opposed the resolution by proxy, but proxy votes are not counted on a motion to report a measure to the Senate from the Committee. Rule 3C, Rules of the Committee on Governmental Affairs. See 143 *Congressional Record* S1195 (daily ed. Feb. 10, 1997) (reprinting the Committee Rules).

The effect of independent expenditures (whether by corporations, labor unions, or otherwise) upon our current campaign finance system, and the question as to whether such expenditures are truly independent;

Contributions to and expenditures by entities for the benefit or in the interest of public officials; and

To the extent they are similar or analogous, practices that occurred in previous federal election campaigns.⁵

As provided by the Standing Rules of the Senate, the proposed funding resolution was referred to the Committee on Rules and Administration. Due to controversy over the scope of the investigation, the amount of money being sought, and the lack of a deadline, the Rules Committee decided to consider the Committee's routine, recurring budget request with those of all other committees and then consider the budget request for the special investigation separately. On February 6, the Committee's recurring budget was to be considered by the Rules Committee, and the request for funding the special investigation was specifically put off and was not to be considered. On that date, Chairman Thompson testified in favor of the Committee's recurring budget request, but Senator Glenn opposed the request, arguing that the recurring budget for normal Committee activities not be approved until the disagreement over the funding for and scope of the special investigation was resolved. Nevertheless, the Rules Committee approved the Committee's recurring budget together with those of all other Senate committees. This recurring budget was adopted by the Senate in S. Res. 54.⁶

Major issues surrounding the investigation's scope, duration, and funding remained. While discussions among the various parties were underway to resolve these issues, the Committee initiated its investigation. In January, the small majority staff of the special investigation started to put together a list of the central figures in the scandal from news media accounts in preparation for the issuance of subpoenas. The minority was asked in January to develop its own list of potential recipients of subpoenas. On February 7, 1997, the majority staff provided copies of proposed subpoenas to the minority staff pursuant to Rule 5C of the Rules of Procedure of the Committee on Governmental Affairs.⁷ Additional subpoenas were presented to the minority on February 10, 1997. That same day, a list of all subpoenas proposed by the majority was provided to all members of the Committee.

On February 13, 1997, the Committee held a business meeting to discuss the 54 proposed subpoenas. At that meeting, the Committee approved the issuance of 44 subpoenas by unanimous consent. The remaining 10 subpoenas were authorized to be issued by a vote of the Committee, but their issuance was deferred until February 19.

Despite the fact that the minority had been asked in January to develop a list of individuals and groups it believed ought to be subpoenaed, no such minority list was ready by February 13. On that

⁵See S. Rep. 105-7, Report of the Committee on Governmental Affairs to Accompany S. Res. 39, p. 3.

⁶S. Res. 54 was approved by the Senate by unanimous consent on February 13, 1997. 143 *Congressional Record* S 1418 (daily ed. Feb. 13, 1997).

⁷See 143 *Congressional Record* S 1195 (daily ed. Feb. 10, 1997) (reprinting the Committee Rules).

day, the minority directed its legal staff to start the task which the majority had proposed to the minority in January.

Additional subpoenas were proposed to the minority on February 24, 1997, and the Committee staff moved ahead and began interviewing relevant persons on February 25, 1997. The next day, Michael Davidson was replaced as minority chief counsel by Alan Baron, a partner in the Washington, D.C. law firm of Foley, Hoag & Eliot.

While these steps towards initiating the investigation were being taken, serious questions remained over whether the Senate would even conduct the inquiry, despite the serious allegations that had arisen in the media. On February 27, 1997, the Senate Minority Leader announced that the minority would filibuster the resolution to fund the special investigation unless agreement were reached on the amount of funding and a cut-off date for the probe and its scope. The Minority Leader also insisted on a firm date for Senate consideration of campaign finance reform legislation as a condition of allowing the special investigation to go forward.

In an effort to move forward, on March 4, 1997, Chairman Thompson reduced the budget request for the investigation to \$5.7 million, but continued to oppose the imposition of a deadline on the investigation to avoid delaying tactics designed to stretch the investigation out to the cutoff date.

The proposed funding resolution was to come before the Rules Committee on March 6, 1997. While the Minority continued to seek a cut-off date and limited funding to allow them to control the investigation, many Republicans were concerned about the broad scope of the inquiry, which allowed the investigation to look into improper as well as illegal activities. Many Republicans feared that if that broad scope approved by the Committee were adopted, the investigation would lose its focus on the more serious illegal activities during the 1996 federal elections, and thus be sidetracked into possible activities that were improper but not illegal. Thus, as the Rules Committee moved to consider the issue, the possibility was strong that no investigation would take place.

On March 5, 1997, the Majority Leader decided to strike what he thought would be an appropriate compromise. Under the Majority Leader's plan, the scope of the inquiry would be narrowed to encompass solely illegal activities. This change would meet Republican concerns. He also proposed a deadline of December 31, 1997, a change that would meet the Democrats' concerns. Finally, he proposed a budget of \$4.35 million, an amount he thought adequate to conduct the investigation through the end of the year. Chairman John Warner (R-VA) of the Rules Committee agreed to offer the Majority Leader's proposal as a compromise.

On March 6, 1997, the Rules Committee heard testimony from Chairman Thompson and Senator Glenn on the funding resolution. Both Senators opposed the narrow scope of the proposed compromise, and Chairman Thompson argued against imposing a deadline on the inquiry. Nonetheless, Chairman Warner offered the compromise amendment developed by the Majority Leader to S. Res. 39, the funding resolution, which was approved by the Rules Committee on a party-line 9-7 vote.

On March 10, 1997, the Committee filed its report, as required by Rule XXVI.9(a) of the Standing Rules of the Senate, justifying the Committee's request for non-recurring funding to support the special investigation.⁸ The Senate took up the funding resolution that day, and debate continued into March 11. During the debate, Senators from both the majority and minority expressed concern over the narrowed scope of the inquiry. To meet these concerns, Chairman Warner and the Majority Leader offered an amendment that would have required the Committee to refer to the Rules Committee any evidence of improper activities in connection with the 1996 federal elections.⁹

Because the distinction between what was illegal and what was merely improper was vague at the time and has continued to befuddle many acute observers, including the Attorney General of the United States, some members of the Committee took the position that this proposed amendment was not a satisfactory resolution. The Majority Leader thus offered Amendment No. 23 for himself, Chairman Thompson, and Chairman Warner to amend S. Res. 39 as reported by the Rules Committee to broaden the scope of the investigation so that it would cover improper as well as illegal activities.¹⁰ Amendment No. 23 was approved by a vote of 99–0 with one senator voting “present,”¹¹ and S. Res. 39 was also approved, as amended, by the identical vote.¹²

OVERVIEW OF THE INVESTIGATION

With the approval of \$4.35 million in funding for the special investigation, the Committee was finally able to hire staff to conduct the investigation. Only nine and a half months remained for the Committee's investigation, which would now cover a broad scope. Two months into the Congress, the real work of the Committee could finally commence.

Scores of allegations of wrongdoing, either illegal or improper activities, had been brought to the Committee's attention, primarily through the news media. The Committee staff had to analyze each of these allegations, prioritize them for the investigation, investigate them, prepare for hearings, and hold hearings all in the space of nine months.

The first task was to complete the hiring of necessary staff. The majority staff eventually grew to include 23 lawyers (including the chief counsel, deputy chief counsel, and three senior counsel), two investigators, and necessary support staff. In addition, the majority staff included an investigator detailed from the General Accounting Office. The minority staff included 14 lawyers (including the chief counsel and deputy chief counsels), and necessary support staff. Both the majority and minority were able to use jointly the resources of nine special agents of the Federal Bureau of Investigation, who were detailed to the Committee. The work of these agents proved of invaluable assistance to the Committee, which could not

⁸ See S. Rep. 105–7, Report of the Committee on Governmental Affairs to Accompany S. Res. 39, Authorizing Expenditures by the Committee on Governmental Affairs.

⁹ See Amendment No. 22, as modified. 143 Congressional Record S2097 (daily ed. March 11, 1997).

¹⁰ See 143 Congressional Record S2109 (daily ed. March 11, 1997).

¹¹ *Id.* at S2114.

¹² *Id.* at S2125.

have undertaken the extensive investigation it was able to conduct without these professional investigators, many of whom spoke relevant foreign languages, notably Chinese.

Between March and the end of the year, a period of only nine and a half months, after hiring staff, the Committee conducted as thorough and complete an investigation as time permitted. During that span, the Committee issued 427 subpoenas requested by both the majority and minority either for documents or for testimony. The Committee received in response to its subpoenas over 1,500,000 pages of documents, all of which had to be reviewed and the relevance of each assessed. Committee staff took 200 depositions and conducted over 200 witness interviews. The Committee held 32 days of hearings, taking testimony from 72 witnesses. Finally, the Committee undertook to prepare this report as directed by the Senate.

THE CONDUCT OF THE INVESTIGATION

As the Committee started to hire staff, it also began in earnest to pursue the investigation into illegal and improper campaign fund-raising and spending activities during the 1996 election cycle. In addition to the first 54 subpoenas issued in February, the Committee issued nine subpoenas on March 26, 1997.

Two weeks later, on April 9, 1997, the Committee issued another 10 subpoenas, including the first six requested by the minority. In doing so, the Committee demonstrated its willingness to follow the Chairman's commitment to proceed in a bipartisan manner to investigate illegal and improper activities that may have been committed by supporters of either political party.

Also on April 9, the Committee sent its initial request for documents, video and audio tapes, e-mail, and other records to the White House. This request had been discussed in advance with the Counsel to the President and his staff to ensure prompt compliance. It contained the first 28 specific document requests the Committee would make of the White House. Unfortunately, it also led the White House to begin in earnest its efforts to obstruct and delay the investigation so as to run the Committee up against the deadline imposed by the Senate. The White House's production of records was so poor from the earliest stages of the investigation that on May 13, about one month after the first request was sent, Chairman Thompson called Erskine Bowles, Chief of Staff to the President, to express his concern over the slow pace of White House document production. Although Bowles promised improved performance, the White House's responses to the Committee's document requests remained so poor as to force the Committee to issue a subpoena to the White House on July 31 by unanimous vote. Even after it received the Committee's subpoena, however, the White House's production remained untimely and laggard, culminating in the belated production in October of relevant videotapes responsive to the Committee's April document request. The White House's obstructionism in this investigation brought discredit on the President and his staff.

The Committee issued its first 17 subpoenas for bank records to seek to trace the source of political contributions on April 15 and April 17, 1997. On May 22, 1997, the Committee voted to issue 43

additional subpoenas, including one to the American Federation of Labor-Congress of Industrial Organizations (“AFL–CIO”) and several to individuals associated with the National Policy Forum (“NPF”), a think-tank founded by the Republican National Committee (“RNC”). An additional 26 subpoenas, 23 of which were for bank records, were issued on June 3, 1997. The final subpoenas for documents and records issued by the Committee prior to the start of its public hearings were approved on June 12, when the Committee voted to issue 24 subpoenas.

The votes on May 22 to issue subpoenas marked the first participation in the investigation by Senator Bob Smith (R–NH) and Senator Robert Bennett (R–UT), who had been selected to replace Senator Ted Stevens (R–AK) and Senator William Roth (R–DE) on the Committee for the duration of the investigation.¹³

At the Committee business meeting on June 22, Chairman Thompson announced that the public hearings would begin on July 8, despite the fact that the investigation had been ongoing in earnest only for a little over three months. Nonetheless, the existence of the December 31 deadline to complete the investigation demanded the start of hearings this early, particularly in the face of the upcoming August recess.

From the time the investigation was authorized, the Committee was issuing subpoenas and receiving a large number of documents from many parties. The Committee had also started interviewing and deposing witnesses during the spring. The investigation was proceeding with a broad focus because of the large number of disparate allegations that had been raised concerning possibly illegal or improper activities during the 1996 federal elections.

To conduct a thorough and comprehensive inquiry into both illegal and improper activities, including the role of non-profit groups in influencing federal elections, Chairman Thompson indicated during the spring that the Committee’s inquiry would proceed in two phases. The first phase would focus on illegal activities engaged in by candidates and political parties. The emphasis of this first phase would be on trying to determine the amount of foreign money contributed to candidates and parties during the 1996 elections. An additional area of focus of the first phase of the inquiry would be the laundering of campaign contributions, as related to foreign contributions, which were often laundered through those who could lawfully contribute. Other areas of inquiry that would be covered by the first phase were the sale of access and policy decisions in return for political contributions. The second phase of the investigation would focus on the role of non-profit and issue advocacy groups and labor unions in the 1996 elections, particularly the issue of whether these groups illegally coordinated their expenditures with the White House, the parties, or particular candidates or otherwise engaged in improper activity.

As the investigation proceeded and the Committee sought to prepare for the start of public hearings, it encountered significant obstruction to its inquiry from several sources. Despite promises of cooperation, the White House continued to produce little information, slowly, and what the White House did produce to the Commit-

¹³ See S. Res. 89. 143 *Congressional Record* S4915 (daily ed. May 21, 1997).

tee was often released first to the news media, especially if the information was deemed embarrassing to the President. The DNC, whose 1996 campaign fundraising and spending practices had led directly to the Senate authorizing the investigation, was similarly recalcitrant in producing relevant documents in a timely manner. Both the White House and the DNC, which acknowledged acting in concert in formulating a strategy to respond to the 1996 campaign fundraising improprieties,¹⁴ appeared to have developed a shared strategy based on the Senate's decision to impose a deadline on the investigation: they would produce information slowly, make any conceivable objection to its production, and then produce only a portion of it after requiring great exertion by the Committee in an effort to delay the inquiry until it ran out of time.

Despite the delaying tactics of the White House and DNC, the Committee developed a great deal of information in a relatively short period of time. Large numbers of documents had been received from many sources, and depositions and interviews were being conducted. In addition, on June 6, 1997, three members of the majority staff, two detailed FBI agents, and one member of the minority staff undertook an investigative trip to Hong Kong, Taiwan, Macao, and Indonesia to collect information and interview witnesses.¹⁵

Of perhaps equal importance to the information the Committee was gathering, however, was the information the Committee was unable to obtain. Thirty-five witnesses with information relevant to the Committee's investigation asserted the Fifth Amendment right against self-incrimination and refused to testify and/or produce documents in response to a Committee subpoena. In late June, the Committee began considering whether to grant immunity to some of the witnesses who had invoked their Fifth Amendment right. On June 27, the Committee voted to confer immunity on four witnesses. On July 23, the Committee voted to immunize another five witnesses. Thus, the Committee voted to immunize nine witnesses, five of whom eventually testified in open session during the Committee's hearings. An additional ten potential witnesses fled the country and were beyond the Committee's ability to issue legal process. The Committee was unable to contact any of these individuals during the staff's foreign trip. While the Committee was able to interview a number of foreign witnesses during that trip, 12 potential foreign witnesses who were contacted refused requests for interviews, among whom were some of the most important, including James Riady and Ng Lap Seng.

In addition to Committee's struggle with the obstructionist tactics of the White House and the DNC, it encountered resistance from a number of non-profit organizations that received subpoenas in July, when the Committee started planning to conduct the second phase of its investigation. Many of the non-profit organizations

¹⁴The DNC even attempted to protect information by asserting the attorney-client privilege both over document production and in depositions based on discussions between the DNC witnesses and White House officials, including White House lawyers. In a June 6, 1997 order, Chairman Thompson overruled the assertion of the attorney-client privilege as to discussions between DNC officials and White House lawyers.

¹⁵The Committee sought permission to send staff to the People's Republic of China (PRC) to interview witnesses there, but the PRC refused to issue visas to Committee staff for the purpose of conducting fact-gathering within the PRC. Accordingly, no staff traveled to the PRC.

that refused to comply had reportedly played significant roles in the 1996 elections. The Committee was interested particularly in seeking to determine whether these organizations, which had primarily engaged in making allegedly independent expenditures to broadcast so-called issue advocacy advertisements, had coordinated their activities with candidates or political parties in violation of the Federal Election Campaign Act. The Committee subpoenaed a total of 31 such organizations. Of these, a number refused to produce documents to the Committee, asserting a variety of constitutional objections, most of which were without any legal foundation.

THE IMPACT OF THE DEADLINE

The inability of the Committee to procure large amounts of relevant information was largely attributed to the imposition by the Senate of the December 31, 1997, deadline. This deadline essentially invited witnesses and organizations to refuse to comply with subpoenas. The deadline also encouraged other witnesses and organizations, particularly the White House and the DNC, to produce documents and videotapes responsive to Committee subpoenas in a slow, drawn out manner in an effort to run the clock out on the Committee's investigation.

Shortly after the Committee issued its first set of document subpoenas, several recipients informed the Committee that they were invoking their Fifth Amendment right against self-incrimination and would therefore not produce responsive documents. The Fifth Amendment privilege does not, however, protect the contents of documents. It can protect the act of producing documents when that act is itself testimonial (*i.e.*, the act of production demonstrates the existence of a particular document). This "act of production" privilege under the Fifth Amendment only applies to personal documents; it does not apply to the act of producing business records, for example, that happen to be in the possession of the person subpoenaed.

In the absence of the December 31 deadline, the Committee could have sought a judicial determination as to the appropriateness of various witnesses' efforts to assert broadly their Fifth Amendment privilege against self-incrimination with respect to all the documents in their possession. Due to the December 31 deadline, however, the Committee was essentially foreclosed at the outset from pursuing the routine course of seeking a judicial determination as to the appropriateness of the large number of Fifth Amendment claims. The deadline made it unlikely the Committee would have ever received the responsive documents in a timely manner. Had the Committee sought to enforce its subpoenas against Huang, Webster Hubbell, Yah Lin "Charlie" Trie, Mark Middleton, and the other central witnesses who refused even to produce documents, it is likely that the judicial subpoena enforcement actions would not have been completed in time to receive the documents had it prevailed in the enforcement actions. Even had the documents been received prior to the expiration of the deadline, they would have been received so late as to have been virtually useless.

Had the Committee filed enforcement actions in April, responsive pleadings would have been due in May. The district judge would

then have had to review the relevant documents *in camera*, a time-consuming task. Even with an expedited decision, the Committee staff determined it was unlikely to receive a decision before July, and any decision rendered by a district judge would have been subject to an appeal, which almost certainly would have taken to close to the end of the year.

Because of this likely timeline, the Committee staff determined not to expend resources to litigate enforcement actions that would not benefit the investigation. Had the Committee chosen to pursue enforcement actions, its staff would have been expending its limited time on enforcement rather than on the investigation itself. Such a diversion of resources was not an option given the limited amount of time in which the Committee had to conduct its investigation and hold hearings. In effect, the Committee had no choice but to proceed without all the documents or testimony relevant to the investigation, or else it might have run out of time and could have conducted no investigation at all.

The inability to pursue these initial enforcement actions was due directly and solely to the deadline imposed by the Senate on the duration of the investigation. Once the initial pattern had been set whereby the Committee did not seek to enforce its lawful process, others were encouraged to flout the Committee's subpoenas. Most troubling of all were the organizations which had played significant roles and spent large sums of money during the 1996 election cycle. As was already noted, the Committee issued a subpoena to the AFL-CIO on May 22, 1997 requiring it to produce responsive documents to the Committee by the middle of June. Over two months late, on August 20, 1997, the AFL-CIO finally informed the Committee that it would not produce any documents in response to the subpoena, other than a few pages of documents that were already in the public domain. Again, the deadline prevented the Committee from seeking to enforce the subpoena.

On July 31, 1997, before the AFL-CIO expressed its contempt for the lawful processes of the Senate, an additional 24 non-profit organizations active in the 1996 federal election campaigns were subpoenaed to permit the Committee to determine whether these organizations had acted legally by making independent expenditures or illegally by coordinating their activities with candidates and political parties. With the example of the AFL-CIO and the Committee's powerlessness to proceed against the AFL-CIO set before them, a number of these 24 non-profit organizations informed the Committee in late August and early September that they would not comply with the subpoenas they had received. Among these organizations that refused to comply was the Teamsters union, whose documents were clearly relevant to the Committee's inquiry, as three of its officials have pleaded guilty to a participating in a broad criminal conspiracy that included contribution swaps between the union and the DNC.¹⁶

¹⁶The investigation into the Teamsters has broadened and media reports indicate that the second-ranking figure of the AFL-CIO, Richard Trumka, has invoked his Fifth Amendment right against self-incrimination in response to the grand jury. Trumka simply ignored a Committee subpoena seeking his deposition testimony, and the reason for that is now obvious: he wanted to delay the embarrassment to organized labor of having one of its most senior officials assert his Fifth Amendment rights.

The deadline not only prevented the Committee from enforcing its subpoenas, but also encouraged other subpoena recipients to dribble documents out over months and months in an effort to run out the clock on the Committee. The parties that perfected this routine to a high art were the White House and the DNC. The particulars of the delays practiced by these entities are set out in detail in the body of the report. Suffice it to say here that the White House continued the pattern of delay, obstruction, and evasion that it had practiced in the House Travel Office and Senate Whitewater investigations. The DNC studied from the White House playbook and apparently learned its lessons well.

It was not only these political entities that failed to produce relevant information to the Committee in a timely manner. Even though the possibility that foreign governments may have sought to influence U.S. elections was a central focus of the investigation, the FBI failed to find critical and relevant information in its own files until well after the hearings had started and, in one importance instance, not until after the hearings had ended.

The deadline had one further important effect on the investigation. Because the work of the Committee had to be completed by the end of the year, the Committee was unable to proceed in the most orderly fashion of conducting and completing its investigation and then holding hearings to lay the facts before the Senate and the American people. Instead, the Committee had to begin holding hearings while the investigation was still quite new and ongoing. Many of the basic facts of several aspects of the investigation had not yet been developed when the hearings commenced.

THE HEARINGS

Although its investigation had then been underway in earnest—with Senate-approved funding and an adequate staff—only for three and a half months, the Committee started holding public hearings in July 1997. By the time public hearings had concluded at the end of October, the Committee had held 32 days of hearings at which 72 witnesses testified.¹⁷

With jurisdiction encompassing such a broad range of wrongdoing and with such little time available, the Committee's selection of witnesses and subject matter for its public hearings required making difficult choices. The choice of subject matter for individual days and segments of hearings at this early stage of the inquiry, as outlined by Chairman Thompson in his "two-phase" approach, was dictated both by a focus on campaign finance illegalities and by a process of issue triage, whereby the Committee restricted itself to the most serious matters it was capable of properly developing in the time available.

Because much of the Committee's initial inquiry focused on the most troubling issues of foreign contribution-laundering, the first month of hearings focused largely on these matters. Much information relevant to this aspect of the inquiry remained unknown because of the large number of potential witnesses who chose to flee the country or invoke their Fifth Amendment rights. Furthermore, because it implicated sensitive U.S. intelligence and counter-intel-

¹⁷The Committee heard from 70 different witnesses; two witnesses appeared twice.

ligence activities, much of the relevant information was classified by executive branch agencies and could not be disclosed in open session. While Committee members obtained a picture of the U.S. intelligence and law enforcement communities' understanding of such issues, it proved impossible for the Committee to convey more than the mere outlines of the situation to the American people. The Committee was able, however, to bring to light evidence that foreign-source contributions to the DNC were laundered through domestic "straw donors" during the 1996 election cycle.

In addition to illegal foreign contributions and the laundering of such funds, the hearings focused on campaign fundraising that took place on government property. The Committee heard evidence, for example, of widespread fundraising in the White House. It also heard testimony regarding fundraising solicitations from government offices using government telephones, in violation of 18 U.S.C. §607. The hearings also inquired into whether the DNC, particularly its fundraising and advertising activities, were run out of the White House by federal employees.

The Committee uncovered a donation-laundering scheme involving a prominent Democratic fundraiser and the exploitation of a foreign religious institution that began at least as early as 1993 and continued through the 1996 election, the principal architects of which have reportedly been linked to the intelligence service of a foreign government.

Having discovered that part of the scheme to raise large contributions for the DNC involved the sale of access to senior government officials—thereby also offering major donors the concomitant opportunity to purchase policy concessions through an implicit quid pro quo arrangement, the Committee also turned its attention to these matters.

The Committee also held hearings to explore the legal context in which the abuses of the 1996 elections occurred. Although the Committee lacks legislative jurisdiction over campaign finance reform legislation, its hearings had established a record of the operation of current laws. The Committee sought to explicate the legal and institutional context in which the abuses and evasion of law which its investigatory hearings were highlighting occurred, and it heard from leading experts on campaign finance issues, who helped explain what had gone wrong in 1996. American people. The Committee was able, however, to bring to light evidence that foreign-source contributions to the DNC were laundered through domestic "straw donors" during the 1996 election cycle.

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On October 1, 1997, as these “policy” hearings came to a close, the Committee learned that the White House had only recently discovered a large number of video and audio tapes responsive to requests for information the Committee had made as early as April and called for in the July subpoena as well. The story of the White House video tapes, the contents thereof, and the White House’s failure to produce them in a timely manner would become a focus of the remaining month of public hearings.

As the first phase of the Committee’s hearings moved towards completion, the Committee had to determine whether to proceed with the second phase, in which it had intended to focus on the political activities of various non-profit groups. Because most of the significant non-profits groups had failed to comply with the Committee’s subpoenas, however, the Committee had little information beyond that already in the public domain. By October 1997, moreover, because of the deadline the Committee had neither the time nor the recourse to judicial proceedings that would have been necessary to acquire more information. As a result of the poor compliance or non-compliance from many of the non-profit groups it subpoenaed, the Chairman decided not to hold hearings on the role of non-profit groups, and it is accordingly inappropriate to reach conclusions about their activities in the 1996 election.¹⁸ This phase of the investigation would surely have added significantly to the Senate’s and the American public’s understanding of campaign finance illegalities and improprieties. Because of the December 31 deadline forced on the Committee, however, it was unable to undertake this task.

The Committee closed its public hearings by examining one particular *quid pro quo*, the clearest instance yet uncovered, on which it could obtain witness testimony, of a change of government policy undertaken in return for campaign contributions: the denial of a license to three Indian tribes in Wisconsin for an off-reservation casino. Secretary of the Interior Bruce Babbitt was one of the wit-

¹⁸ Although investigative hearings on the political activities of non-profit groups were not held, the activities of some of these groups were outlined during the Committee’s policy hearings in September.

nesses who testified on this matter. As a direct result of his testimony before the Committee, at the time of this writing the Justice Department is considering whether an independent counsel should be appointed to investigate Secretary Babbitt's role in this matter.

After 32 days of hearings in July, September, and October, Chairman Thompson announced on October 31, 1997, that the Committee was suspending public hearings, although continuing its investigation through the end of the year. He determined that the most important information obtained by the Committee had already been the subject of public hearings, and that given existing time constraints and the Committee's lack of judicial recourse, the remaining material should not be pursued in public hearings. The Chairman left open the possibility that new hearings would be held if warranted by new information developed during the remaining two months of the investigation. Although certain investigative threads were followed during November and December and interviews and depositions were conducted, no additional public hearings were held. The Committee continued to receive documents and videotapes in December. The DNC's delivery of 15 boxes of documents on December 22, 1997, about one week before the expiration of the Committee's authority, marked the final production of information to the Committee as officially constituted. In January 1998, after its jurisdiction had expired, the White House produced documents on Johnny Chung, which were responsive to its April 1997 document request, to the Committee. Any relevant information developed after the public hearings were ended is included in this report.

THE REPORT

S. Res. 39 required the Committee to complete its investigation by December 31, 1997, and to submit a report to the Senate by January 31, 1998. This report fulfills that directive. On March 5, 1998, the Committee held a business meeting, at which it voted 8-7 to approve this report and file it with the Senate. Voting with the majority were Chairman Thompson, Senator Collins, Senator Brownback, Senator Domenici, Senator Cochran, Senator Nickles, Senator Specter, and Senator Smith of New Hampshire. Voting in the negative were Senator Glenn, Senator Levin, Senator Liberman, Senator Akaka, Senator Durbin, Senator Torricelli, and Senator Cleland. Senator Bennett was not present for the vote but did submit additional views.

Among the subjects aired at the hearings and detailed within this report are the takeover of the DNC by the President and his staff at the White House, who operated the party apparatus as a slush-fund for the President's re-election campaign. Along with that takeover went the dismantling of any system of vetting contributions and contributors to the DNC to ensure compliance with the law. The theory was to take in as much money as possible to buy advertising and worry later about the Federal Election Commission (FEC), whose meager resources, in any event, were unequal to the task of policing wrongdoing on the massive scale engaged in by the DNC during the 1996 election cycle. In effect, gripped by an overwhelming thirst for money driven by the fear that the Republican victories in the 1994 congressional elections presaged the defeat of

President Clinton in 1996, the Democratic Party and the President stopped asking or caring about the sources of this money.

The Committee's investigation explored the DNC's and the President's enormous thirst for campaign contributions to support the President's re-election bid and outlined the abuses carried out in their pursuit, including selling access to the President and senior officials through "coffees" and White House "overnights," and blatantly trading access to senior officials in return for campaign contributions. New sources of money had to be found. In this climate, the door was opened in 1996 to contributions from unsavory figures, from foreign bank accounts, and possibly from foreign governments as well. The Committee's hearings exposed a number of these sources, particularly hitherto untapped foreign sources of money.

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SUMMARY OF FINDINGS

BACKGROUND AND CONTEXT

On November 8, 1994, Americans shifted control of both houses of Congress to the Republican Party for the first time in 40 years. For a time, the election rendered President Clinton so weak in the polls that many experts questioned his “relevance,” suggesting that he might face a primary challenge as he attempted to secure his re-election in 1996. The election results spurred great concern among the President’s supporters that he might suffer a similarly disastrous defeat in 1996.

In early 1995, the President began meeting with his closest advisors to develop a plan to ensure his re-election by “pulling out all the stops”¹ in campaign fundraising. At this time, in an atmosphere of abject political desperation, the seeds were sown which would later grow into the DNC’s variegated fundraising scandals of 1996. The President and his advisors determined that the key to their success in the 1996 elections would be to wage immediately a massive television political advertising campaign of unprecedented cost.

In the end, of course, their plan was an astonishing success: the Democratic Party raised *three times* as much money for the 1996 election as it had for the 1992 contest, and President Clinton was re-elected. The President’s success, however, came at a steep price. In the frenzied drive to raise such large amounts of campaign money, the Democratic Party dismantled its own internal vetting procedures, no longer caring, in effect, where its money came from and who was supplying it. Worse, their campaign eviscerated federal fundraising laws and reduced the White House, key Administration offices, and the Presidency itself, to fundraising tools.

This increasingly mercenary approach also led the Democratic Party to view America’s ethnic communities as exploitable “renewable resources” for political fundraising. The DNC’s recklessness in raising money from their community unfairly burdened Asian-Americans with the stigma of lawbreaking by fundraisers such as John Huang, Charlie Trie, and Maria Hsia.

For the U.S. political process as a whole, the DNC and White House’s reckless fundraising disregarded an obvious risk—the danger that powerful foreign nationals, or even governments, would attempt to buy influence through campaign contributions. The result of all this was foreseeable, including: the erosion of safeguards in U.S. election law designed to guard against political corruption, and unprecedented amounts of illegal foreign contributions making their way into Democratic coffers. The Committee uncovered strong circumstantial evidence that the Government of the People’s Re-

¹ George Stephanopoulos, “The View From Inside,” *Newsweek*, March 10, 1997, at 27.

public of China (PRC) was involved in funding, directing, or encouraging some of these foreign contributions.

President Clinton has attempted to distance himself from these scandals by trying to distinguish his own “official” re-election campaign (Clinton/Gore '96) from the abuses the DNC carried out. Based on the evidence compiled by the Committee, however, this distinction is untenable. Indeed, no one has done more to erode this very distinction than the President himself, who with his staff effectively seized control of DNC operations and ran *all* Democratic party campaign and fundraising efforts out of the White House. During the 1996 campaign, the DNC was the alter ego of the White House.

Deputy White House Chief of Staff Harold Ickes, for example, ran the DNC on a day-to-day basis and presided over weekly “money meetings” at the White House where he reviewed the DNC’s fundraising and expenditures before passing this information along to the President and the Vice-President. This White House control made the DNC’s national chairman, Don Fowler, in effect, subservient to Ickes. The Clinton/Gore and DNC advertising campaigns were also virtually inseparable, constituting a seamless web of White House-directed campaigning that employed all the same consultants, pollsters, and media producers. Ultimately, in fact, the President himself exercised total control over the DNC advertising. Having reduced the DNC into an arm of the White House, President Clinton and Vice President Gore are responsible for the actions it undertook in their names and at their direction.

Late in the 1996 presidential campaign, public reports surfaced about foreign donations to the Democratic Party and the DNC’s improper provision of White House access to well-heeled foreign nationals. The White House succeeded in preventing the bubbling scandal from derailing the President’s re-election, but these efforts could not prevent an ever more complex tale of campaign lawbreaking from coming to light, thus sparking an ongoing series of Congressional and criminal investigations that have so far involved the White House, the DNC, several government agencies, hundreds of witnesses, and several foreign countries. After the November 1996 elections, the U.S. Senate determined to investigate allegations of campaign finance wrongdoing. The resolution authorizing the investigation contained a significant flaw, however—a deadline set only nine months after the start of the investigation.

The imposition of the December 31, 1997 deadline virtually invited witnesses to engage in obstructive tactics, perhaps none more so than the DNC and the White House. This obstruction, combined with the sheer complexity of the investigation, made this deadline the single greatest obstacle faced by the Committee’s inquiry. Moreover, more than 45 witnesses either fled the country or refused to cooperate by citing their Fifth Amendment privilege against self incrimination. Despite the Committee’s request for help, President Clinton took no action whatsoever to persuade such individuals to cooperate. Nevertheless, the Committee was able to answer many important questions and to uncover evidence that strongly suggests answers to others. The following pages summarize the major findings of this inquiry.

THE DNC RAISED MILLIONS OF DOLLARS IN ILLEGAL FOREIGN FUNDS

Following the 1996 election, and in the wake of the growing DNC fundraising controversy, the DNC was ultimately forced to return \$2,825,600 in illegal or improper donations.² Of this total amount, almost 80 percent was either raised or contributed by two men—John Huang and Charlie Trie. Strikingly, both men were longtime friends of President Clinton, and both were in positions to raise large campaign contributions because of their personal relationships with the President. Accordingly, the Committee began its hearings by focusing significant attention on Huang and Trie, hoping to answer two interrelated questions: what did President Clinton and his top aides know about their illegal fundraising activities, and why was nothing done to curb those activities. This particular inquiry faced significant obstacles because Trie fled to China soon after the controversy arose,³ Huang invoked the Fifth Amendment and refused to cooperate with the Committee, and the President declined the Committee's invitation to testify. Despite these obstacles, the evidence strongly suggests that, at a minimum, the White House and the DNC received clear signs of danger concerning both men and simply chose to ignore these warnings.

John Huang

Huang first met President Clinton in the early 1980's through their mutual friend, James Riady, the head of the Lippo Group, an Indonesian industrial conglomerate. By at least 1992, while employed by Lippo Bank in California, Huang began to raise illegal foreign money for the DNC through Lippo owned shell companies; these contributions were reimbursed with funds from Lippo's headquarters in Jakarta, Indonesia. His achievements as a fundraiser, coupled with his and Riady's close friendship with President Clinton, ultimately propelled Huang to the Commerce Department as a Deputy Assistant Secretary in 1993. Despite its accompanying security clearances and intelligence briefings, however, this job in the government apparently suited neither Huang nor his patron, Riady, as Huang was left with less real influence than he had enjoyed as a DNC fundraiser. By the summer of 1995, therefore, Huang sought to move to the DNC.

Two things are clear about Huang's obtaining a job as a DNC fundraiser. First, it would not have occurred but for the President's personal interest and recommendation. Second, it took place even though Huang had already engaged in illegal fundraising from foreign sources while at the Commerce Department, and despite the DNC's awareness of clear indications that Huang would continue to raise funds illegally as the DNC's Vice Chairman for Finance.

The story of Huang's move to the DNC, and the fundraising abuses that followed, began in the summer of 1995, when Lippo lobbyist C. Joseph Giroir began trying to persuade the DNC to hire Huang as a fundraiser specializing in the Asian-American community. On September 13, 1995, Giroir arranged a meeting between

²This figure is according to a June 27, 1997, DNC press release. The DNC has failed to return additional contributions of questionable legality.

³Trie voluntarily surrendered to U.S. authorities in February 1998, following his indictment on 15 counts including defrauding the FEC and obstructing the Committee's investigation.

Huang, Riady, Fowler, and DNC Finance Director Richard Sullivan, at which they discussed the potential for DNC fundraising among the Asian-American community. Riady—a foreign national then living in Indonesia and therefore in a curious position to be consulted by senior DNC officials about how the Democratic Party could raise money for President Clinton’s re-election—joined Giroir in telling Fowler that Huang would be the ideal person to organize an Asian-American fundraising effort for the DNC.

That same afternoon, Giroir, Riady, and Huang met President Clinton and Presidential aide Bruce Lindsey in the Oval Office. Giroir and Lindsey claimed to remember little about this encounter, but Lindsey admitted that they had discussed Huang’s desire to move to the DNC. After this Oval Office meeting, Lindsey told Ickes about Huang’s interest in becoming a DNC fundraiser. The President himself asked Ickes to interview Huang regarding the move to the DNC. After meeting with Huang to discuss the move, Ickes asked DNC Finance Chairman Marvin Rosen to interview him for the job.

While Fowler’s ambivalence may have caused the DNC to not pursue Huang’s services for most of that fall, Fowler’s position changed very quickly after the President intervened to indicate his *personal* interest in Huang acquiring a DNC position. At a fundraiser on November 8, the President asked Rosen how Huang’s move was progressing, and told Rosen that Huang had been “highly recommended.” The DNC interviewed Huang five days later, and Fowler hired him that same day.

From the beginning, however, some DNC officials were privately concerned that Huang might illegally raise foreign money for the party. Sullivan, for example, worried that Huang might be another Johnny Chung—an Asian-American donor and friend of Huang’s who had offered in March 1995 to pay the DNC \$50,000 if Sullivan would arrange for five of his Chinese business clients to attend a radio address with the President. Because of his misgivings about Huang, Sullivan insisted that Huang be given an extensive special training session on U.S. election law by the DNC’s general counsel, Joe Sandler. As Sullivan told Huang, this training session was designed to ensure that Huang knew laws restricting contributions from foreign nationals. Sandler, however, denied that he was ever asked to provide such training.

However, the DNC never undertook the special “training” sessions for Huang that Sullivan had recommended. Making matters worse, despite its grave concerns about Huang, the DNC agreed to compensate him with an “unprecedented” incentive bonus plan clearly designed to encourage even more aggressive fundraising. The results were all too predictable: Huang immediately began illegally raising foreign money for the Democrats.

Near the end of his tenure at the Commerce Department, Huang developed a relationship with Arief Wiriadinata—a landscape architect in Virginia who knew the Riadys because his father had worked for Lippo in Indonesia, and who, with his wife Soraya, ultimately contributed \$450,000 to the DNC. On December 15, 1995, shortly after Huang arrived at the DNC, the President hosted a White House coffee to which Wiriadinata had been invited by Huang. As captured on one of the videotapes the White House be-

latedly released to the Committee in October 1997, Wiriadinata shook hands with the President and confided to him that “James Riady sent me.”

Huang’s first fundraising event, for Asian-Americans at the Hay-Adams Hotel in Washington on February 19, 1996, also raised early warning signs that the DNC’s initial concerns about Huang were well placed. By March 1996, the DNC discovered that two donations Huang had raised at this event were illegal contributions from foreign nationals. These checks, both for \$12,500, were attributable to two individuals who live in China and run an international trading group based there. Although these donations were returned, DNC officials continued to rely on Huang. As the Committee subsequently discovered, the Hay-Adams event raised at least another \$25,000 in unlawful donations laundered through third-party “straw donors” from the Hsi Lai Temple outside Los Angeles.

Among the prominent Asian businessmen who attended the Hay-Adams event was Ted Sioeng, a foreign businessman who owns a pro-Beijing Chinese language newspaper in California and has close ties to the Chinese government. Though he sat next to the President at the head table at the Hay-Adams, Sioeng was not then a resident of the United States, could not speak English, and was ineligible to make political donations. Sioeng’s presence at the fundraiser—as well as at the head table at the Hsi Lai Temple fundraiser Huang and Maria Hsia organized for Vice President Gore two months later, and at another Huang event with the President only two weeks after that—was apparently arranged through Huang.

Throughout the remainder of 1996, Huang orchestrated numerous events from which illegal foreign money flowed to the DNC. On April 8, 1996, for example, Huang collected \$250,000 from John K. H. Lee, a South Korean businessman who had flown from Seoul to have dinner with the President—in return for a \$250,000 donation in the name of a U.S. subsidiary of his South Korean business, formed shortly before the check had been written. Huang arranged this contribution after being told that Lee was merely “thinking” about opening a U.S. subsidiary in California, and knowing that Lee was a foreign national ineligible to contribute in his own name. This \$250,000 contribution was funded by a wire transfer from Lee’s South Korean company. The DNC, however, found the donation unobjectionable—at least until the 1996 fundraising scandals first became public, at which point Lee’s was the first contribution returned.

Shortly thereafter, on May 13, 1996, Huang organized another major DNC event in Washington, D.C. Like his others, this affair was heavily attended by foreign nationals; Riady and Sioeng, in fact, each sat beside the President at the head table. During the course of the night, Huang arranged for Yogesh K. Gandhi to meet the President and present him with a bust of Mahatma Gandhi. Gandhi wanted a business associate to be photographed presenting the award to Clinton, but the White House had rebuffed his earlier attempts to arrange the meeting. In exchange for the May 13 photograph with the President, Gandhi donated \$325,000 to the DNC.

This money had, in fact, been wired from one of Gandhi's business associates in Japan.

DNC officials admitted concerns during the 1996 campaign about the number of foreign nationals who attended Huang's fundraisers. It was not until July 1996, however, after an event attended *principally* by Asian businessmen and their families, that Rosen finally directed that Huang not manage any further presidential events. Despite this concern, however, the DNC was unwilling to forego Huang's fundraising: the party deprived Huang of his ability to sell access to President Clinton, but did nothing to check the money he generated.

The Hsi Lai Temple Fundraiser

At a fundraising lunch held on April 29, 1996 at the Hsi Lai Temple in Hacienda Heights, California, and attended by Vice President Gore, Buddhist monastics illegally funneled \$65,000 to the DNC through "straw donors" at the instigation of Hsia, a long-time fundraiser for the Vice President. When press accounts of this donation-laundering appeared, Temple officials altered and destroyed evidence to protect the Temple, Hsia, and the Vice President from embarrassment.

Despite his repeated, albeit inconsistent, denials, it is reasonable to conclude that the Vice President was well aware that the Temple event was for the purpose of raising money. The event was organized by Huang and Hsia, who had longstanding relationships with Vice President Gore that revolved almost entirely around campaign fundraising. More specifically, in the weeks prior to his Temple visit, Vice President Gore was repeatedly reminded that the April 29 luncheon was a fundraiser and was even meticulously informed by Ickes of the DNC's "projected revenue" for the event. The Vice President received the last of these notifications of the April 29 lunch's "projected revenue" only 24 hours before he received his briefing notes for the Temple lunch.

The Vice President's staff also knew that the Temple event was a fundraiser. In March 1996, Deputy Chief of Staff David Strauss had helped arrange a meeting in the White House with the head of the Temple, Master Hsing Yun—a meeting which Strauss believed would "lead to a lot of \$." The White House staff repeatedly referred to the event as a "fundraiser" in internal correspondence, and assigned to it a "ticket price" of "1000–5000 [dollars per] head."

The Temple fundraiser was merely the most egregious episode in a longstanding pattern of illegal donation-laundering by Hsia and the Hsi Lai Temple that stretched back at least to 1993. In that year, Hsia and Huang apparently collaborated in laundering \$50,000 to the DNC from the Hsi Lai Temple and from Lippo Group sources overseas in connection with a meeting between Vice President Gore's chief of staff and the chairman of China Resources, a company linked in press reports to Chinese intelligence. From 1993 until the general elections of 1996, over \$140,000 in Temple money was illegally funneled to Democratic candidates at Hsia's direction.

This pattern of donation-laundering in 1993–96 derived from a broader relationship between Hsia, Huang, and Vice President Gore that began in 1988 when Hsia, Huang, and Riady organized

a trip to Taiwan for then-Senator Gore. Hsia thereafter became a significant fundraiser for the Senator. As early as 1989, her fundraising efforts for him involved both monastics from the Hsi Lai Temple and the illegal “tallying” of contributions through the Democratic Senatorial Campaign Committee (“DSCC”).

Charlie Trie

Trie first met the President in the late 1970’s when he owned and operated a Chinese restaurant in Little Rock. After Clinton’s election in 1992, Trie sold his restaurant and opened Daihatsu International Trading Company in Washington, D.C. Soon thereafter, Trie and his wife contributed large sums to the DNC, and by 1994 he had become a DNC “Managing Trustee”—a title reserved for the highest level of party contributor. From 1994 to 1996, Trie contributed or raised approximately \$645,000 for the DNC. In 1994, he contributed \$100,000 to the DNC while earning only approximately \$30,000 as president of Daihatsu. Nor could his firm Daihatsu have made up the difference: throughout this period, it never made any profit.

In reality, most of Trie’s money came from his Asian business partner, Ng Lap Seng, a hotel tycoon in Macao with reputed links to organized crime who advises the Chinese government.⁴ Ng transferred approximately \$1.4 million to Trie from 1994 to 1996, with many of these transfers arriving through the Bank of China. Sometimes Trie contributed Ng’s money directly to the DNC in his own name. In other instances, he laundered donations through other Asian-Americans. Two of these “straw donors” made donations to the DNC so that Ng could attend a White House function. Accordingly, they donated a total of \$25,000 to the DNC and were reimbursed with money from Ng’s account.

In addition to being a major fundraiser and close friend of the President, Trie visited the White House 31 times in 1994 and 1995 alone. Intriguingly, Ng, who had no ties to the President except through Trie, also visited the White House 10 times between June 1994 and October 1996. In one of the more egregious examples of its dilatory document production, however, the White House did not reveal Ng’s still-unexplained visits until just hours *after* the conclusion of the Committee’s public hearing on the activities of Trie and Ng.⁵

Trie’s fundraising efforts won him numerous White House favors, including a Presidential appointment to the Commission on U.S. Pacific Trade and Investment Policy—an act requiring a new Executive Order to expand the size of the Commission. In February 1996, assisted by a \$50,000 donation from his business partner Ernest G. Green, Trie arranged admission to a White House coffee for Wang Jun, a Chinese arms dealer and advisor to the Chinese government. Despite his connections to a major Chinese armaments firm whose plans to smuggle automatic weapons into the U.S. the Customs Service even then was investigating, Wang was not vetted by the National Security Council (“NSC”) and was admitted to the

⁴Ng refused to speak with Committee investigators who traveled to Macao.

⁵Only after end of the Trie/Ng hearing did the White House release the “WAVES” records documenting Ng’s frequent but unexplained visits to the White House. These records had been requested from the White House three months earlier.

White House only on the strength of his relationship with Trie and Green.

In March 1996, Trie wrote to the President on how to handle U.S.-China relations, which were then tense. This letter was faxed to the White House on the same day that Trie delivered almost \$500,000 to the Presidential Legal Expense Trust ("PLET"). The Committee has been unable to determine whether Trie wrote this letter on his own or on behalf of foreign interests. Trie received a reply from the President prepared by NSC staff and personally reviewed by National Security Advisor Tony Lake.

Trie also set about to help the President and First Lady defray the considerable personal legal expenses they had accrued in fending off previous scandals. To this end, Trie raised in excess of \$700,000 from a controversial Buddhist sect devoted to a woman named Ching Hai, and conveyed this money to the PLET.

The PLET, however, became suspicious about the source of Trie's funds. With White House approval, the PLET's executive director, Michael Cardozo, hired an investigative firm that determined that the money had been coerced from or laundered through members of the Ching Hai sect. Nevertheless, soon after, Trie sat next to the President at the head table of a \$5,000 per person fundraising dinner.

By June 1996, the PLET decided to return Trie's donations. Rather than publicly reporting his contributions under its regular practice, the PLET hid the fact that Trie had ever given money to it. Moreover, the White House knew and approved of this decision. Despite Ickes' and Lindsey's knowledge of Trie's suspicious fundraising, neither warned the DNC. As a result, while the PLET returned his donations, Trie's illegal contributions to the DNC continued; Trie delivered \$110,000 to the DNC in August 1996 in honor of the President's 50th birthday.

Both the DNC and the White House claimed complete surprise that Huang and Trie raised substantial amounts of foreign money. It strains credulity, however, to suggest that these men could surreptitiously raise over \$2.2 million for the DNC—much of it from foreign donors at major DNC events the President attended—without anyone suspecting the truth.

THE WHITE HOUSE AND THE PRESIDENCY ITSELF BECAME FUNDRAISING TOOLS

The White-House inspired DNC drive for new sources of campaign cash caused more than just an unprecedented influx of foreign money into the 1996 campaign. More broadly, it debased the White House and the Presidency itself by employing both in constant efforts to raise money. Extensive DNC fundraising occurred because the President and his advisors, including Dick Morris, decided that the party's massive advertising campaign would cost more than could possibly be provided by the "hard" money in the President's "official" campaign treasury. To fill the gap, they turned to unregulated "soft" money even though such monies could not by law be used to help a candidate's campaign for office. Unlike official "campaign" contributions, however, DNC "soft" money could be raised from wealthy donors in unlimited quantities. By diverting DNC funds to campaign advertising controlled by the White House,

the Democrats had the best of all possible worlds: *de facto* “hard” money from key donors in unlimited quantities.

Senior White House and DNC staff developed new ways to use the Presidency to raise campaign money. Among the favors merchandised were access to senior decision makers, perks such as “overnights” at the White House, Presidential coffees at the White House (even in the Oval Office), flights on Air Force One, seats in the President’s box at Kennedy Center, and use of the White House pool and tennis courts.

In this stampede to use the White House for every conceivable variety of fundraiser, a number of alarmingly unsavory characters gained access to the President in return for campaign contributions. One was Chinese arms dealer Wang Jun. Roger Tamraz, a major DNC donor, was allowed to meet with the President on several occasions despite the NSC’s opposition and clear warnings that Tamraz might damage U.S. foreign policy interests in Central Asia. As noted, Ted Sioeng, a foreign national with suspiciously close ties to the Chinese government, sat at the head table with the President or Vice President at several fundraisers and lunched with Vice President Gore at the Hsi Lai Temple.

White House Coffees

Perhaps nothing illustrates this merchandising of the Presidency better than the DNC’s White House “coffees”—fundraising events at which major donors were provided access to the President in exchange for their campaign contributions.

Between January 11, 1995 and August 23, 1996, the White House hosted 103 coffees. Most lasted at least an hour, and the President attended the vast majority of them. Approximately 60 of these were DNC-sponsored coffees, 92 percent of the guests at which were major Democratic Party contributors. These guests made contributions during the 1996 election cycle of \$26.4 million, an average contribution of over \$54,000 per person, with one-third of their total donations, some \$7.7 million, given within a month of the donor’s attendance at a White House coffee. For example, the five persons attending a coffee on May 1, 1996, in the Oval Office itself each contributed \$100,000 to the DNC one week later.

White House and DNC officials have strenuously denied that the coffees were “fundraisers.” Numerous DNC documents, however, including detailed memoranda Ickes prepared for the President and Vice President, tell a different story, referring to these White House events as “political/fundraising coffees.” These documents carefully track the “projected revenue” that would be raised by each event—to the point of specifying amounts “in hand” (*i.e.*, collected to date) and the proportion of each coffee’s projected revenue that would be placed in the party’s “hard money” and “soft money” bank accounts. While not every White House coffee was a fundraising event, most clearly were.

The coffees also demonstrate the extensive amount of time the President was willing to spend with small groups of major donors, and the extraordinary influence such donors had over the White House and the President’s schedule. The June 18, 1996 coffee organized by John Huang is a case in point. The only guests who were originally to attend this coffee were three foreign nationals from

the CP Group, a Thai conglomerate. They were clients of Pauline Kanchanalak, a DNC fundraiser and lobbyist from Thailand. When DNC officials raised concerns about the propriety of such a coffee, “some people that might be potential [legal] donors, [*i.e.*,] American citizens,” were invited at the last moment. It is clear that the coffee’s essential purpose was to sell the President’s time to Kanchanalak—who, with her mother-in-law, donated \$235,000 in to the DNC the next day—to make her look good in front of her clients.⁶ Even worse, the only guests professing to have any memory of the event recall Huang openly soliciting DNC contributions, in the presence of the President. This was clearly illegal.

Telephone solicitations

In addition to attending many major fundraisers and innumerable smaller events such as coffees, the President—and, particularly, the Vice President—were willing to use the power of their offices to make direct telephone solicitations for money. Vice President Gore made approximately 45 phone solicitations from his White House office. These calls may have raised as much as \$800,000 for the DNC.

Based upon the premise that these telephone calls raised only “soft” money, the Attorney General has rejected suggestions that she recommend the appointment of an independent counsel to investigate whether these calls violated a federal criminal law prohibiting the solicitation of campaign contributions on federal property. The Committee disagrees with her view that raising “soft money” on federal property is permitted, but significantly, even under the Attorney General’s view, the solicitation of “hard” money on federal property is a crime. As DNC general counsel Joe Sandler revealed to the Committee, of the money raised by Vice President Gore’s telephone solicitations from the White House, more than \$100,000 was deposited into the DNC’s “hard money” accounts. Indeed, the Vice President continued to make telephone solicitations even after being advised by a DNC memorandum in February 1996 that it was DNC policy to place a certain proportion of the money thus raised into “hard money” accounts.⁷

The all-consuming fundraising effort

In some ways, the most troubling result of the White House’s and DNC’s ceaseless quest for campaign funding is the great amount of time the President and the Vice President themselves actually spent raising money. As Vice President Gore himself noted, “we can raise the [necessary] money . . . ONLY IF—the President and I actually do the events, the calls, the coffees, etc. . . . And we will have to lose considerable time to the campaign trail to do all of this fundraising.”

Simply put, 25 years after Congress passed election reform laws intended to insulate the President from an unseemly and potentially corrupting involvement with campaign money, President

⁶Kanchanalak has since fled to Thailand, has refused to cooperate with the Committee, and is under investigation by the Department of Justice for possible obstruction of justice in connection with evidence subpoenaed by the Committee.

⁷Indeed, the DNC improperly allocated money between “soft” and “hard” accounts without seeking the express permission of donors, as is required by federal law.

Clinton spent enormous amounts of time during the 1996 election cycle raising money. In the ten months prior to the 1996 election, President Clinton attended more than 230 fundraising events, which raised \$119,000,000. The President maintained such a pace for over a year before the election, often attending fundraisers five and six days each week. According to Presidential campaign advisor Dick Morris, President Clinton “would say ‘I haven’t slept in three days; every time I turn around they want me to be at a fundraiser . . . I cannot think, I cannot do anything. Every minute of my time is spent at these fundraisers.’” This frenzied pursuit of campaign contributions raises obvious and disturbing questions. Can any President who spends this much time raising money focus adequately upon affairs of state? Is it even possible for such a President to *distinguish* between fundraising and policymaking?

OTHER IMPROPER OR ILLEGAL FUNDRAISING ACTIVITIES

The unfortunate results of the DNC’s chase for money were not limited to its receipt of illegal foreign money and the merchandising of the White House itself. DNC pressures to change government policy developed in response to the wishes of major party donors.

The Roger Tamraz affair

Lebanese-American businessman Roger Tamraz tenaciously pursued his agenda with the U.S. Government. “If they kicked me from the door,” Tamraz told the Committee, “I will come through the window.” Unfortunately, his eagerness to promote his business schemes and enlist the government’s support against the vehement protests of U.S. national security experts found itself an ally in the cash-hungry DNC. The story of Tamraz demonstrates, perhaps better than any other episode of the Democratic fundraising scandals, that nothing was sacred in the President’s desperate search for campaign funds: no corner of the U.S. Government—not even the Central Intelligence Agency (“CIA”) or the NSC—was off limits.

An international businessman with significant involvement in the oil business, Tamraz was wanted by French police and faces an Interpol arrest warrant for embezzlement in Lebanon. Tamraz was willing to invest great energy, and significant sums of money, to secure U.S. backing for his oil pipeline project in the Caucasus. Rebuffed by officials at the NSC who regarded his schemes as untenable and harmful to U.S. foreign policy interests, he began making huge contributions to the DNC. As Tamraz had intended—and as he admitted to the Committee in his remarkably candid testimony—these contributions enabled him to enlist senior party officials like Fowler in helping Tamraz gain the access to senior U.S. officials that a high-level inter-agency working group had determined to deny him. His contributions—both directly to the DNC and to various state Democratic campaigns at Fowler’s personal direction—also won Tamraz the DNC chairman’s intercession in a series of *highly* inappropriate contacts with CIA officials. In at least two conversations with a CIA clandestine operative named “Bob,”⁸

⁸At the request of the CIA, the full name of this clandestine officer (which is classified) had been withheld. In this report, he will be described simply by his first name, “Bob.”

to whom he had been referred by Tamraz and who had already been “lobbying” the NSC on Tamraz’s behalf, Fowler asked the CIA officer to help him “clear Tamraz’s name.” Fowler even telephoned NSC staffer Sheila Heslin to inform her that “Bob” would soon be sending her information about Tamraz. (Despite taking notes of his discussions with Tamraz about Bob, despite talking with “Bob” on at least two occasions, and discussing the CIA officer with NSC staffers Nancy Soderberg and Heslin, Fowler continued to deny *any* memory of his CIA contacts). After Tamraz was “disinvited” from an October 1995 event with Vice President Gore by the NSC, his DNC allies arranged for him to attend a dinner with the Vice President at the home of Senator Edward Kennedy. Despite the NSC’s determined efforts to deny him access to President Clinton, Tamraz’s DNC contributions bought him no fewer than *six* private meetings with the President.

Tamraz took the opportunity to discuss his pipeline with President Clinton at a White House dinner on March 27, 1996. The President assured Tamraz that someone would “follow-up” with him, and detailed Presidential advisor Thomas F. “Mack” McLarty to look into the matter the next day. Tamraz next met the President at a White House coffee on April 1, 1996, at which, Tamraz discussed his pipeline ideas with McLarty. McLarty asked Energy Department employee Kyle Simpson whether some reason could be found to support Tamraz’s pipeline. When Simpson conveyed McLarty’s instructions to his colleague John Carter, he told Carter that Tamraz had donated \$200,000 to the DNC and was considering giving an additional \$400,000.

The nadir of the Tamraz episode occurred with Carter’s subsequent call to NSC staff member Heslin, who chaired the inter-agency working group that had sought to deny Tamraz access to senior government officials and who had determined that the U.S. should not support his pipeline. Carter told Heslin that if she reconsidered her opposition to Tamraz, it “would mean a lot of money for the DNC” because “he’s already given \$200,000, and if he got [what he wanted] he would give the DNC another \$400,000.” Heslin refused, despite Carter’s claim that “the President really wanted” this and threats that McLarty might exact reprisals against her.

The Indian Casino decision

The DNC also targeted the Interior Department’s Bureau of Indian Affairs (“BIA”) to influence a decision whether three bands of Wisconsin Indian tribes would be allowed to open a casino in Hudson, Wisconsin. A wealthy group of neighboring tribes in Minnesota, who operated a nearby casino that would face competition if the Hudson application were approved, opposed the proposal. Significantly, the opposing tribes had given large sums of money to the DNC, while the applicants had not.

After the BIA’s Minneapolis office approved the applicant tribes’ plan in late 1994, the opposing tribes hired Patrick O’Connor, a prominent lobbyist and former DNC treasurer, who spoke personally with President Clinton about this matter. Four days later, O’Connor, accompanied by other lobbyists and opposition tribal leaders, met with Fowler. As one participant recalled it, Fowler “got the message: it’s politics and the Democrats are against [the

new casino] and the people for it are Republicans.” Fowler promised that he would contact Ickes and have him talk with Secretary of Interior Bruce Babbitt, which he did a few days later.

After making several calls herself to the Interior Department, Ickes’ assistant Jennifer O’Connor, in June 1995 asked a White House intern to get an update on the Hudson casino. Heather Sibbison, special assistant to Secretary Babbitt, told the intern “it was 95% certain that the application would be turned down.” Just two days later, however, a career BIA employee, wrote a 17-page analysis recommending *approval* of the Hudson application. Nevertheless, the assurances that Secretary Babbitt’s staff conveyed to Ickes’ office were correct: despite the BIA’s recommendation that it be approved, a draft letter *rejecting* the application was prepared on June 29, 1995, and the Interior Department formally denied the application on July 14.

The opposing tribes apparently had little doubt as to how to show their gratitude for the Interior Department’s decision to protect them from gaming competition. According to FEC records, in the four months following the Department’s denial of the Hudson application, the opposition tribes contributed \$53,000 to the DNC and the DSCC; they donated an additional \$230,000 to the DNC and the DSCC during 1996, and gave more than \$50,000 in additional money to the Minnesota Democratic Party.

Another suspicious aspect of the Hudson episode involves the inconsistent positions taken by Secretary Babbitt when asked about the matter. According to Paul Eckstein, a longtime friend of Secretary Babbitt who had been retained by the applicant tribes, when Eckstein tried to persuade Secretary Babbitt to delay making a decision on the Hudson matter, Secretary Babbitt replied that Ickes had directed him to issue a decision that very day. Later in their conversation, Eckstein told the Committee, Secretary Babbitt turned the subject to political contributions, declaring to Eckstein: “Do you have any idea how much these Indians, Indians with gaming contracts . . . have given to Democrats? . . . [H]alf a million dollars.”

When asked about these comments by Senator John McCain, who then chaired the Senate Committee on Indian Affairs, Secretary Babbitt denied that he had ever told Eckstein anything about Ickes seeking a prompt decision on the Hudson matter. Nevertheless, several months later, in response to this Committee’s inquiry, Secretary Babbitt changed his story, admitting that he probably *did* make such a remark to Eckstein about Ickes’ request. Secretary Babbitt still claims to have “no recollection” of making the comment Eckstein recalls about the opposing tribes’ political contributions.⁹

The Hudson casino matter is, if anything, more sordid than the Tamraz story, as political donations to the DNC apparently *succeeded* in purchasing government policy concessions. In light of the opposing tribes’ DNC contributions, the DNC’s lobbying effort against the casino, the involvement of Ickes’ staff in drawing Secretary Babbitt’s attention to this issue, and Secretary Babbitt’s re-

⁹The Attorney General has requested the appointment of an independent counsel to investigate Secretary Babbitt’s contradictory statements.

markable comments to Eckstein, the Hudson casino matter raises serious questions about the propriety—and the legality—of the Interior Department’s decision. And the DNC also took advantage of two Oklahoma tribes that sought the return of their former lands, and made contributions in the belief that their prospects for favorable action would be enhanced.

FOREIGN EFFORTS TO INFLUENCE THE U.S. ELECTIONS

The DNC’s eagerness to raise unprecedented sums for President Clinton’s re-election, its recklessness in ceasing to check the origin of such funds, and its entrusting its fundraising efforts among Asian-Americans to lawbreakers such as Huang, Trie, and Hsia led to numerous abuses. Among them, the DNC’s heedless pursuit of contributions allowed wealthy and well-connected foreign nationals to arrange almost unlimited access to the President and other top U.S. policymakers. Time after time, figures such as Johnny Chung, who used access to the President to advance his private business interests, Ted Sioeng, Ng Lap Seng, Wang Jun, and Eric Hotung met privately or in small groups with the President, Vice President, or other senior Administration officials. Since this controversy began, concerns have been expressed that the flood of foreign money to the DNC during the 1995–96 election cycle and the access it purchased might have permitted interested foreign parties to influence the U.S. political process. Thus, the Committee made it a priority of its investigation to determine whether this had occurred.

PRC efforts

The Committee’s attempt to examine this issue was difficult. Many knowledgeable witnesses invoked the Fifth Amendment and refused to cooperate with the inquiry. Others fled the country, or were foreign nationals who remained abroad and refused to cooperate. Finally, much of the information relevant to this subject is classified and cannot be publicly disclosed.

Despite these limitations, at the outset of the Committee’s hearings, based on information gathered from law enforcement and intelligence agencies and open sources, Chairman Thompson reported that the PRC government had undertaken efforts to influence the U.S. electoral process during the 1995–96 election cycle. Owing to the sensitive nature of the subject, it has not been possible until now to elaborate publicly upon this matter in any detail. The full version of the Committee’s public findings are detailed elsewhere in this report.¹⁰ In brief, while the Committee cannot determine conclusively whether the PRC government funded, directed, or encouraged certain illegal contributions made in connection with the 1996 election cycle, there is strong circumstantial evidence that the PRC was involved. The basis for this conclusion is in summary:

- *Ties between the PRC and prominent figures in the campaign finance investigation:* The Committee has received information that several individuals who provided donations from foreign sources (principally in the greater China area) to the DNC and other

¹⁰See the section of this report on “The China Connection.” In addition, the Committee has prepared a separate, more detailed, and classified version of that chapter that will be maintained in secure environs.

causes have ties to the PRC. The Committee has learned that Maria Hsia has been an agent of the Chinese government, that she has acted knowingly in support of it, and that she has attempted to conceal her relationship with the Chinese government. The Committee has also learned that Ted Sioeng has worked, and perhaps still works, on behalf of the Chinese government. The Committee has further learned from recently-acquired information that James and Mochtar Riady have had a long-term relationship with a Chinese intelligence agency. Finally, an unverified single piece of information shared with the Committee indicates that John Huang himself may possibly have had a direct financial relationship with the PRC government.

- *Evidence of a “China Plan” and Other, Possibly Related Efforts:* Against this backdrop, the Committee has received other information that high-level PRC government officials devised plans to increase China’s influence over the U.S. political process and to be implemented by diplomatic posts in the U.S. Some of Beijing’s efforts appear relatively innocuous, involving learning more about Members of Congress, redoubling PRC lobbying efforts in the U.S., establishing closer contacts with the U.S. Congress, and funding from Beijing. But the Committee has learned that Beijing expected more than simply increased lobbying from its diplomatic posts in the U.S. Indeed, as the Committee examined the issue in greater detail, it found a broad array of Chinese efforts designed to influence U.S. policies and elections through, among other means, financing election campaigns.

- *Evidence of Implementation:* The Committee has identified specific steps taken in furtherance of these plans. Although some of the efforts were typical, appropriate steps foreign governments take to communicate their views on United States policy, others appear illegal under U.S. law. Among these efforts were the devising of a seeding strategy of developing viable candidates sympathetic to the PRC for future federal elections; the creation of a “Central Leading Group for U.S. Congressional Affairs” to coordinate China’s lobbying efforts in this country; and PRC officials discussing financing American elections through covert means.

In addition, the Committee notes that this report is being issued at a time in which there have been, and are likely to continue to be, significant developments in the ongoing investigation being conducted by the DOJ/FBI task force. If the Committee receives significant new information that it can disclose to the public, it may issue a supplemental report.

John Huang

Because of his central role in raising so much of the foreign money returned to date by the DNC, and because of his long relationship to the Lippo Group, the Committee examined in detail John Huang’s fund-raising activities and his service at the Department of Commerce. Huang began involving himself in U.S. politics in 1988 while an official at LippoBank, working with James Riady, Hsia, and others to found the Pacific Leadership Council (“PLC”), an Asian-American interest group and political fund-raising organ, which organized a trip to Taiwan (and the Fo Kuang Shan temple there) for then-Senator Gore. Huang’s colleagues at LippoBank—

where he served as President and Director—never understood his corporate duties and described him as a “mystery man.”

After the election of 1992, with Riady’s encouragement, the White House placed Huang on its list of “high priority” candidates for political appointment. In a letter to Deputy Director of Presidential Personnel John Emerson, Democratic activist Maeley Tom recommended Huang for a government position, describing him as:

the political power that advises the Riady family on issues and where to make contributions. [The Riadys] invested heavily in the Clinton campaign. John is the Riady family’s top priority for placement because he is like one of their own.

Huang was hired in 1993 as Deputy Assistant Secretary for International Economic Policy at the Department of Commerce.

The work Huang actually performed in his new job, however, was apparently as perplexing to his colleagues at the Commerce Department as it had been to his associates at LippoBank. During the 18 months that Huang worked at the Department, in fact, he left virtually no mark; many of his colleagues found themselves wholly at a loss to explain what he did.

Despite his superiors’ attempt to “wall off” Huang from matters relating to China, Huang received regular classified briefings that included the greater China area. Without his superiors’ knowledge, Huang received 37 intelligence briefings, viewing 10 to 15 intelligence reports at each session—a total of 370 to 500 items of “raw intelligence” during his tenure. Also unbeknownst to his superiors, Huang made multiple visits and telephone calls to the Chinese Embassy while at Commerce. And despite Huang’s status as only a mid-level official at Commerce, he made at least 67 visits to the White House, often meeting with top officials and receiving briefings on trade policy.

Equally mysterious were the over 400 contacts Huang had with Lippo officials while he worked at Commerce: 237 phone calls to LippoBank and affiliated entities in the United States, 29 calls and fax transmissions to Lippo’s Indonesian headquarters, and an additional 107 calls to such countries as China, Indonesia, Taiwan, and Hong Kong. Huang may have made more such calls from the Washington office of Stephens, Inc.—an investment banking firm based in Little Rock, partly owned by the Riady family, which had extended loans to help finance President Clinton’s 1992 campaign—located across the street from the Commerce Department. Huang secretly used this Stephens office two or three times a week to make calls, pick up or deliver faxes, and send packages. Jeffrey Garten, Huang’s superior at Commerce, and John Dickerson, the CIA liaison to Commerce who provided Huang’s numerous classified briefings, were unaware of Huang’s continuing contacts with Lippo.

The full scope and import of Huang’s activities while at Commerce may never be known: he has invoked the Fifth Amendment and refused to cooperate with the Committee, Riady has left the country, and many of his former LippoBank colleagues have returned to Indonesia. The volume of Huang’s contacts with Lippo and the Chinese embassy, however, is cause for concern. The Com-

mittee has found no direct evidence that Huang passed classified information, but he had the opportunity to do so and his activities have not otherwise been adequately explained.

THE ABUSE OF SOFT MONEY

As part of its inquiry, the Committee had intended to investigate the role of nonprofit groups in the 1995–96 federal election cycle, particularly whether such nonprofit organizations were genuinely nonpartisan and acted independently of political parties or candidates, as required by federal law. In addition, the Committee planned to investigate whether political action committees evaded statutory limits on political contributions, and whether nonprofit organizations coordinated so-called “issue advocacy” advertising with political candidates to be considered in-kind campaign contributions limited and regulated under federal election law.

To this end, the Committee subpoenaed 32 nonprofit organizations, not including the principal party committees and presidential campaigns. Although a number of these organizations did begin prompt compliance with the Committee’s subpoenas, most of them, led by the AFL–CIO, refused to produce *any* documents or witnesses. Indeed, some groups simply cited the AFL–CIO’s non-compliance as justification for their own non-compliance. Though the AFL–CIO ostensibly based its refusal upon various legal and “constitutional” grounds, its clear purpose was to obstruct and impede the Committee’s investigation—as indeed the imposition of the December 31, 1997 deadline virtually invited it to do by preventing the Committee from relying upon judicial contempt procedures, the usual means to assure compliance with subpoenas.

In light of the poor cooperation received from most of these organizations, the Committee believes that it is generally inappropriate to draw conclusions about the role of non-profit groups in the 1995–96 election cycle. For the most part, the information available was insufficient to permit meaningful analysis: few documents were produced, witnesses were unavailable to explain the meaning and context of what documents did arrive, and key individuals with knowledge of the matters in question refused to testify before the Committee.

Despite these obstacles, however, the Committee received information that the AFL–CIO coordinated its political activities with both the DNC and the Clinton/Gore campaign. Testimony from White House and DNC officials made clear that White House aides and the AFL–CIO carefully reviewed each other’s advertisements and coordinated their timing and placement.

With regard to conservative organizations, the Committee’s investigation uncovered no evidence that Triad Management Services engaged in such coordination with the Republican Party, although Triad may have coordinated with individual candidates. The Committee also determined that while the Republican National Committee (“RNC”) donated funds to certain non-profit groups, this was in no way illegal or improper: no evidence existed that the recipients spent this money to influence federal elections at the RNC’s request or direction.

Finally, the Committee held extensive hearings on the National Policy Forum (“NPF”), a think-tank established by the RNC. The

Committee was particularly concerned by allegations that the RNC knew that a loan it made to the NPF—and upon which the NPF later defaulted amid much acrimony—had been guaranteed by foreign money through Hong Kong businessman Ambrose Young. Additionally, the Committee attempted to determine whether the loan guarantee proceeds were improperly funneled into federal election campaigns in 1994. Ultimately, however, the Committee determined that it is neither illegal nor improper for nonprofit organizations to receive money from foreign sources, provided that no such funds enter federal campaigns. No foreign money involved in NPF's loan guarantee was so used: none of these funds were diverted to Republican “hard money” accounts, and their expenditure was not coordinated with political candidates; rather, the NPF used the money to repay a valid, pre-existing debt.¹¹

¹¹ Nor, it should be added, did the Committee find any reason to conclude that testimony on this matter by RNC Chairman Haley Barbour was anything less than truthful. Witnesses who testified to the contrary all made inconsistent statements themselves, and Barbour's version of events is corroborated by contemporary documents.

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THE THIRST FOR MONEY

The 1994 election results were a major setback for Democrats. For the first time in 40 years, Republicans controlled both houses of Congress. The Democrats' loss of Congress, along with the President's concern that he might face a primary challenge, fueled an urgent need for political money. The President and his top advisors decided to raise money early for his re-election campaign. To accomplish their goal, the President and his top advisors took control of the DNC and designed a plan to engage in a historically aggressive fund-raising effort, utilizing the DNC as a vehicle for getting around federal election laws. The DNC ran television advertisements, created under the direct supervision of the President, which were specifically designed to promote the President's re-election. To fund this early advertising for the President's benefit, the DNC had to raise more than three times what it raised during the 1991–92 election cycle—and nearly three times what was raised during the 1993–94 cycle.

The panoply of DNC fund-raising irregularities in the 1996 election derived, directly or indirectly, from the unprecedented need for money to finance this ambitious advertising strategy.

THE PRESIDENT'S PRECARIOUS POLITICAL POSITION IN LATE 1994

In the wake of the 1994 congressional elections, the President was politically vulnerable. The President himself recognized as much when he was reduced to defending his "relevance" in the political process during an extraordinary prime-time news conference, which was covered by only one network.¹ The President's close political confidantes were also keenly aware of his weakened political state.

Terence R. McAuliffe, the DNC's National Finance Chairman from March 1994 to January 31, 1995, and later National Finance Chairman for Clinton-Gore '96, testified that "for the Democrats, it was not a very optimistic time."² McAuliffe was in a unique position to assess the mood of both the Democratic Party and its incumbent President. As DNC Finance Chairman, McAuliffe testified that he "had a better feeling for the mood of the donors . . . than anybody else in the country."³

During his deposition, McAuliffe offered a candid assessment of the President's political position in December 1994:

I had just finished up as Finance Chairman of—told the President I was leaving the party, and we had just lost the House and the Senate for the first time in a long time. So

¹See Todd S. Purdum, "Undertones of Relevance," *The New York Times*, April 20, 1995, p. A18.

²Deposition of Terence R. McAuliffe, June 6, 1997, p. 13.

³*Id.* at pp. 13–14.

there was a general mood out there that the President was in serious trouble. A lot of people wondered if the President was even going to run again. I can tell you the political mood at the time clearly was that he had no chance of winning again, clearly would not win re-election and would have a very tough time with a primary. And there was a lot of talk that people would run against him in a primary. It was a very tough political time.⁴

McAuliffe's concern was shared by Harold Ickes, the Deputy Chief of Staff to the President from January 1994 until after the 1996 election:

Q: Now, as we move forward—as you move forward from, say, November [1994] through early 1995, did you have a major concern about the ability of the President to be re-elected for a second term because of what happened in the November elections?

A: If you're a Democrat, you're always concerned about primaries, and having played a fairly significant role in the Kennedy-Carter primary of 1980, I appreciated what a divisive primary in connection with a sitting President could do that, even if you were to win the primaries, i.e., win the nomination—"win the primaries" is sort of shorthand for that—y[ou] could be damaged enough to lose the general election. So the answer is yes, I was concerned at that time because I think it was—it's fair to say that there were people within the party—using the party writ broad now—the Democratic Party family who were questioning whether the President could win re-election in a general election, and there was certainly some loose talk around about some people mounting a primary against him. So the answer is—the short answer, after a long answer, is I was concerned.⁵

This was the bleak outlook for the President as he contemplated his re-election campaign.

AN EARLY EMPHASIS ON MONEY TO STAVE OFF PRIMARY CHALLENGERS

Two days after Christmas 1994, the President and McAuliffe ate breakfast in the President's personal study on the second floor of the White House.⁶ The breakfast lasted about two hours.⁷ The general discussion concerned what the President and McAuliffe needed to do to get "ready for the '96 election."⁸

When asked whether he and the President discussed the possibility of a primary challenge to the President, McAuliffe answered:

You know, I can't recall if he talked about a primary challenge, but, I mean, just pick up the newspapers, I mean, I don't think we would have had to have talked

⁴*Id.* at pp. 11–12.

⁵Deposition of Harold Ickes, June 26, 1997, pp. 21–22; *see also infra*, notes 28–29 and accompanying text.

⁶Deposition of Terence R. McAuliffe, June 6, 1997, pp. 10–11.

⁷*Id.* at p. 14.

⁸*Id.* at p. 12.

about it. I mean, it was evident that the President was in a very precarious political situation. I think his poll numbers, he was in the low thirties.⁹

Nevertheless, McAuliffe, who by his own admission is “not negative by nature,” was “optimistic and thought [the President] should be re-elected.”¹⁰ McAuliffe testified that he was “willing to lead that fight.”¹¹

Of course, the President would require money to wage that fight, a topic which he discussed with McAuliffe. In his deposition, McAuliffe tried to downplay the discussion of fund-raising at the breakfast, stating that “the fund-raising discussion probably took 32 seconds.”¹² When they first sat down for breakfast, the President and McAuliffe talked about the mood of the donors. McAuliffe described them as “depressed” and “demoralized.”¹³ Nonetheless, McAuliffe volunteered to “put this operation together,” telling the President, “Let’s not talk about fund-raising here, sir, I’ll handle all that for you.”¹⁴ McAuliffe continued:

Mr. President, you have broad support out there in the donor community, which is what I represented as the Finance Chair of the party. I’m going to be able to put this operation together for you. The support of the people will be there for you. Don’t worry about it. I’ll handle it.

And he—I think it took a tremendous burden off his shoulders. I think he was worried. I think he was probably worried that I wouldn’t be his Finance Chairman. I mean, they worry about—see, what you worried about at the time is a lot of the donors and political supporters would leak off and go to other candidates. That was a big concern.

Q: And when you say other candidates, you mean other Democratic candidates?

A: Yeah. You know, that potentially—you know, there was talk out there that Bradley was looking at it, that Gephardt was looking at it, that Jesse Jackson might look at it. You know, the names you normally hear, you hear them again today.

Q: Did you commit to raise a specific amount of money for the President in that meeting?

A: I said I’d take care of the money, it would be no problem: Don’t you worry about it, sir, I’ll take care of it. I don’t think I knew at the time what the limits were.¹⁵

According to McAuliffe, most of the remaining two hours were devoted to discussing “issues,” such as “where this country was going.”¹⁶

At the end of the breakfast, the topic of fund-raising arose again. The discussion centered on what the President needed to do to help

⁹*Id.* at p. 13.

¹⁰*Id.* at pp. 12, 13.

¹¹*Id.* at p. 13.

¹²*Id.*

¹³*Id.* at p. 14.

¹⁴*Id.*

¹⁵*Id.* at pp. 15–16.

¹⁶*Id.* at p. 14.

raise funds. The conversation helped set the stage for, among other things, the White House coffees:

Q: Did you discuss with the President what his involvement would be in the fund-raising operation?

A: The only thing I discussed with him, I think at the end of the meeting he said, What do I need to do? And I said, Mr. President, you know, I need to get some time with you to meet with some of the key supporters who are demoralized out there so that you can get them re-energized and ready for the '96 election.¹⁷

McAuliffe left the meeting knowing that he would be the Finance Chairman for the President's re-election effort. As McAuliffe put it, the President "never said, Terry, will you be my Finance Chairman? It was clear that I was going to be the guy."¹⁸

McAuliffe did go on to lead Clinton/Gore's fund-raising effort; however, Clinton/Gore was limited by law to raising funds in certain increments (no more than \$1,000 from an individual),¹⁹ and there was an overall spending limit. By the end of the summer of 1995, the re-election campaign had raised "a good chunk" of all the funds it could legally raise.²⁰ No doubt, a strong motivating factor in quickly raising this money was the need to discourage potential primary challengers. Indeed, no additional funds could be raised for the general election due to federal restrictions.²¹ In any event, all of the re-election campaign's funds were expected to be raised by the end of 1995.²²

DICK MORRIS' EARLY ADVERTISING BLITZ—THE NEED FOR MORE MONEY

Still, a formidable re-election treasury, by itself, would not resuscitate the President's moribund political position. After the devastating 1994 mid-term Congressional elections, the President reached out to his old friend and former political consultant, Dick Morris, for political advice. Morris, one of the President's closest political consultants,²³ explained to the President that, even to con-

¹⁷ *Id.* at p. 16; *see also* the section of this report on White House coffees.

¹⁸ Deposition of Terence R. McAuliffe, June 6, 1997, p. 11.

¹⁹ 2 U.S.C. § 441(a)(6).

²⁰ Deposition of Terence R. McAuliffe, June 6, 1997, p. 50.

²¹ 26 U.S.C. §§ 9003(b)(2) & 9012(b).

²² Deposition of Terence R. McAuliffe, June 6, 1997, pp. 50–51.

²³ After Morris graduated from Columbia College, he became involved in New York politics and worked for the Citizen's Budget Commission as a research analyst. Deposition of Richard Morris, August 20, 1997, p. 6. His first political consulting company was the Public Affairs Research Organization, which provided issue consulting for New York Democrats. *Id.* at pp. 6–7. In 1977, he began a new political consulting firm, Dresner, Morris, which later changed names to Dresner, Morris, Tortorello, and has remained a full time political consultant since that time. *Id.* at p. 7.

In 1977, when President Clinton was the Attorney General of Arkansas, he first engaged Morris to perform a variety of political consulting tasks, including polling, advertisement design, and speech-writing. *Id.* at p. 8. Morris also assisted President Clinton with his failed 1980 re-election campaign for Governor of Arkansas and his successful 1982 bid for Governor. *Id.* at p. 13. Morris consistently performed consulting work for Governor Clinton from 1982 through January 1991. *Id.* at p. 14. In 1991, Morris terminated his consulting services for Governor Clinton and testified as follows:

I had become more of a Republican at that point, and I had handled his 1990 campaign as the only Democrat that I was working for. And I told—I grandfathered him in, in a sense, because I had a long relationship with him, and he asked me to handle his 1990 campaign.

sider a chance at re-election in 1996, he must begin in 1995 an advertising campaign unprecedented in scope, timing, and cost. The President ultimately seized upon Morris's plan, thereby creating a tremendous need for huge amounts of money to finance this media crusade.²⁴

In the spring of 1995, Morris explained to the President that he needed to advertise early to improve his approval ratings and give him a chance to win re-election.²⁵ The President agreed to some initial advertisements to determine if Morris' views were correct. The first "flight" of advertising released in July 1995 was paid for by the Clinton/Gore '96 re-election committee (hereinafter referred to as "Clinton/Gore").²⁶ The results of the July media "showed very significant movement" for the President, which Morris used to convince the President to undertake the unprecedented advertising campaign Morris had proposed.²⁷

As noted, Ickes, the White House deputy chief of staff in charge of the President's re-election campaign, was concerned that the President could face a primary contest.²⁸ Ickes believed that the President needed to save Clinton/Gore funds (which Morris wanted to spend on advertising) in the event that they were needed for a primary fight.²⁹ For precisely this reason, Ickes opposed Morris' early advertising campaign. When Ickes was asked whether he and Morris disagreed about spending money on advertising in 1995—rather than closer to the election in 1996—Ickes testified:

There was a debate about that running over a period of months, and different people had different positions. My own position was that, depending upon what money you were talking about—there are different kinds of money, as I'm sure you know by now—that if it were going to be Clinton-Gore campaign money, that I was very reluctant to see that money spent that early.³⁰

Morris, however, was convinced that without a massive advertising campaign prior to the primaries, the President would be so weak in the polls that he definitely would face a primary fight.³¹

Although Morris was initially unaware of the financial condition of Clinton/Gore and the DNC at the time he was pressing for significant advertising expenditures, he learned that the Clinton/Gore Primary Committee was limited to spending approximately \$30

Id. at p. 14. Morris did not conduct any professional consulting services for Governor Clinton throughout his 1992 Presidential campaign. *Id.* at p. 15.

²⁴ Though familiar with the media blitz that gave rise to the White House's thirst for money, Morris had extremely limited knowledge of the DNC's and Clinton/Gore's fund-raising activity. He testified as follows: "I had no involvement nor have I ever had with fund-raising for him [the President]." *Id.* at p. 8. Morris also denied any knowledge of John Huang, Charlie Trie or James Riady other than what he had read in newspaper articles beginning in late 1996. *Id.* at pp. 8–9.

²⁵ *Id.* at pp. 97–98, 271–72.

²⁶ *Id.* at pp. 130–31. These expenditures occurred prior to any discussions concerning "the possibility of funding ads or running specific ads or the text of ads that would be run under the DNC label." *Id.* at p. 131.

²⁷ *Id.* at p. 132.

²⁸ *Id.* at p. 126; see also *supra*, text accompanying note 5 (quoting from Ickes' deposition before the Committee).

²⁹ Morris deposition, p. 126.

³⁰ Deposition of Harold Ickes, June 26, 1997, p. 31.

³¹ Morris deposition, p. 127.

million.³² Morris shared Ickes' concern that the media campaign likely would exceed the \$30 million limit placed on the Clinton-Gore Primary Committee.³³ Confronted with these funding limitations, Morris searched for alternative methods to finance the President's re-election campaign.

Morris suggested that the President reject federal matching funds so as to increase the amount of contributions that could be legally accepted by Clinton/Gore (and provide the desperately needed additional funds for advertising).³⁴ Morris presented this concept to the President and his top advisors in the March 2 and 16, and April 27, 1995 weekly agendas.³⁵ In July 1995, Erskine Bowles, then Ickes' counterpart as White House deputy chief of staff, told Morris that the President had decided not to reject federal matching funds.³⁶ Bowles told Morris to come up with a "plan B," *i.e.*, a method for accomplishing his advertising objectives within the limits of the federal matching funds expenditures.³⁷ Initially, Morris did not know how he would fund the advertising plan because the Clinton/Gore funds would have to be used for other campaign expenditures.³⁸

HATCHING A SCHEME TO EVADE FEDERAL ELECTION LAWS

Ultimately, the White House found a "Plan B": running the advertisements through the DNC under the guise of issue advertising. Unlike Clinton/Gore, the DNC could raise unlimited amounts of non-federal, "soft" money, although such money can only be spent for "party-building" activities, such as voter registration and "get out the vote" efforts.³⁹ During the 1996 federal election cycle, these restrictions on the use of "soft" money were ignored; the DNC became a shadow re-election campaign, allowing the President to spend more than the federal limits to which he had agreed in accepting partial public financing for his campaign. In short, the President used the DNC for an end-run around restrictive federal

³²*Id.* at pp. 129–30.

³³*See id.* at p. 132.

³⁴*Id.* at pp. 97–100, 262–63. A presidential candidate who accepts federal matching funds agrees in return to limit campaign expenditures in primaries and in the general election. 2 U.S.C. § 441a(b)(1).

³⁵Morris deposition, pp. 262–63; *see* March 2 and 16, and April 27, 1995 agendas (Exs. 1, 2 and 3). Morris produced portions of written agendas for the weekly strategy meetings beginning in February or March of 1995. *See* Morris deposition, p. 256. The meetings were chaired by Morris, and were regularly attended by the President, the Vice President, Chief of Staff Leon Panetta, Ickes, Bowles, and other top White House, Clinton/Gore, and DNC officials. Dick Morris, *Behind the Oval Office*, p. 26 (1997) (hereinafter "*Behind the Oval Office*"). The weekly agendas were summaries of the advice Morris gave the President during those meetings. Morris deposition, p. 258.

³⁶*Id.* at p. 133.

³⁷*Id.*

³⁸*Id.*

³⁹Justice Breyer, writing for the Supreme Court, described the limited uses of "soft money":

We recognize that FECA permits individuals to contribute more money (\$20,000) to a party than to a candidate (\$1,000) or to other political committees (\$5,000). 2 U.S.C. § 441a(a). We also recognize that FECA permits unregulated "soft money" contributions to a party for certain activities, such as electing candidates for state office, *see* § 431(8)(A)(i), or for voter registration and "get out the vote" drives, *see* § 431(8)(B)(xii). But the opportunity for corruption posed by these greater contributions is, at best, attenuated. Unregulated "soft money" contributions may not be used to influence a federal campaign, except when used in the limited, party-building activities specifically designated in the statute. *See* § 431(8)(B).

Colorado Republican Fed. Campaign Comm. v. FEC, ___ U.S. ___, 116 S. Ct. 2309, 2316 (1996).

campaign laws. Both Morris and Ickes claimed credit for this idea in their testimony before this Committee.

Morris testified that he first “became aware of the existence of issue advocacy advertising” in the spring or summer of 1995.⁴⁰ Joseph Sandler, the DNC general counsel, and Lyn Utrecht, counsel for Clinton/Gore, provided Morris with his understanding of issue advocacy advertising.⁴¹ He testified that “all the impressions that [he had] as to what you could or couldn’t do and still qualify for . . . issue advocacy advertising comes from their legal opinion.”⁴² Morris explained his understanding of the legal guidelines concerning issue advocacy advertising as follows:

issue advocacy advertising had to relate to . . . a legislative issue that was pending before Congress, that was actively in play and in discussion before Congress. It had to express a point of view on that issue which was held by the President, the administration in general . . . and the leadership of the Democratic Party; that it had to be an issue position in which the Republican Party leadership took a generally different point of view, period. The advertisement had to be related to the substantive disagreements between the two camps and had to urge a substantive point of view in connection—calling for the adoption of the Presidential/Democratic views on those issues . . . [t]he advertisements . . . could not overly [sic] urge the re-election of the President or the defeat of any particular Republican candidate . . . that there were constraints on the extent to which the President’s picture could be used in the advertisements or the picture of possible Republican opponents . . . that there were restrictions on the proximity to primary dates that such advertisements could be run in different states . . . that there was a cut-off date of Memorial Day ’96 after which all advertising . . . had to come from the campaign.⁴³

Morris did not perform any independent research to determine the accuracy of Sandler’s and Utrecht’s advice.⁴⁴ Indeed, Morris relied heavily upon Sandler’s advice regarding both DNC and Clinton/Gore advertisements, as evidenced by Sandler’s presence during all media planning meetings.⁴⁵

Morris provided the following examples of how he used DNC funded issue advocacy advertising to further his advertising plan. From January through April 1996, Morris testified that advertisements concerning family and medical leave had to be done by Clin-

⁴⁰ Morris deposition, p. 134.

⁴¹ *Id.* at pp. 140–41. Morris did not recall who first informed him of issue advocacy advertising, but he believed it was Utrecht, Sandler or Bill Knapp, a consultant with the firm Squier Knapp & Ochs. *Id.* at p. 134.

⁴² *Id.* at p. 140.

⁴³ *Id.* at pp. 142–43.

⁴⁴ *Id.* at p. 145.

⁴⁵ *Id.* at p. 160. Morris argued that his understanding of one instance where the RNC may have used issue advocacy advertising created a “precedent” for the DNC to run his massive media campaign. *Id.* at p. 298. His knowledge of RNC issue advocacy advertising was limited to second-hand information that, in 1983, “the Republican Party ran extensive ads on its success in combating inflation” unrelated to President Reagan’s re-election. *Id.* at p. 296.

ton/Gore because the issue currently was not before Congress.⁴⁶ Advertisements on Medicare, however, could be paid for by either the DNC (through issue advocacy advertising) or Clinton/Gore because “it was in play before the Congress.”⁴⁷ Moreover, from August through December of 1995, all advertising funds came from the DNC because the advertisements allegedly pertained to the “budget fight” pending before Congress.⁴⁸ During the period of the Republican primaries (approximately January through April of 1996), however, the funds for advertising were split between the DNC and Clinton/Gore depending upon the issue.⁴⁹ Indeed, once Morris understood the concept of issue advocacy advertising, he regretted “having spent the \$2.4 million of campaign money on the crime ads” Clinton/Gore ran in the spring of 1995.⁵⁰ Morris admitted, however, that irrespective of the method of payment for these different advertisements, their ultimate goal was the President’s re-election.⁵¹

Ickes, however, also wished to claim credit for using DNC “issue” advertising to circumvent federal election laws. He testified that he conceived of financing Morris’ advertising campaign with “soft” money to run so-called “issue ads” on which unlimited money could be spent.⁵² Ickes volunteered that, “Basically, it was my idea.”⁵³

Regardless of whether Ickes or Morris deserves the “credit” for hatching a scheme to violate the laws, there is no doubt that this early spending of “soft” money was driven by the President’s re-election. In testifying about the purpose of the early “soft” money advertising, Ickes offered another glimpse into a nervous President’s thought process—a President bent on avoiding a repeat of the 1994 election debacle, deterring prospective primary challengers, and winning re-election:

The idea was to try to—to use paid media, in addition to what the President was saying publicly, to used paid media to reinforce what he was saying publicly, and I think that the theory was that through well-placed, well-designed paid media, that you could get more—you could educate the public more on what the President had done and what he was trying to do in an unfiltered way so that you could have direct contact with potential voters as opposed to having it filtered through the media. I think a lesson had been learned—well. . . .

Q: And was part of the goal of this idea to successfully avoid a primary in ’96, a primary challenge?

A: I don’t think there was a concern at that point, but it depends what point you’re talking about. Where are we in terms of time frame?

Q: In the ’95, say from February through August, time period.

⁴⁶*Id.* at p. 158.

⁴⁷*Id.* at pp. 158–59.

⁴⁸*Id.* at pp. 152, 154.

⁴⁹*Id.* at p. 153.

⁵⁰*Id.* at pp. 134–35.

⁵¹*Id.* at p. 293.

⁵²*See* Deposition of Harold Ickes, June 26, 1997, p. 31.

⁵³*Id.*

A: The focus was more—was less on avoiding a primary, much more on the general election.

Q: The 1996 general election?

A: Yes. *The use of—the use of paid media was focused much more on the '96 general election*, but the basic focus was the President was concerned in '94, he had not been able to reach, get through, or break through, to use a campaign term, with the public about the issues that he had been prosecuting in his agenda in '93 and '94. *He was very concerned about that*, and I think early on the basic thought was that the use of paid money could help break through and you'd have direct communication with voters on particular issues, whether it be crime, welfare reform, or what have you.⁵⁴

To a President wishing to avoid repetition of the 1994 debacle, the strategy of using unregulated DNC “soft” money to ensure that his re-election message resonated with the voting public must have been welcome.

THE SEPTEMBER 10, 1995 WHITE HOUSE MEETING: UNVEILING THE SCHEME

The scheme for spending DNC “soft” money to run early advertising in support of the President’s re-election under the control of the White House was unveiled to the DNC’s National Chairman at a significant meeting at the White House. The meeting took place on Sunday, September 10, 1995, at 9:00 PM.⁵⁵ Those present included: the President, the Vice President, White House Chief of Staff Leon Panetta, Ickes, DNC National Chairman Don Fowler, and one of the President’s pollsters.⁵⁶ In addition, the First Lady may have been present.⁵⁷ DNC General Chairman Christopher Dodd was supposed to participate by telephone, but did not, as he could not be located.⁵⁸

Ickes ran the meeting.⁵⁹ The first topic of conversation concerned the need to communicate the President’s accomplishments through an advertising campaign.⁶⁰ The White House’s plan was for the DNC to buy this advertising. The advertising “was to be funded by the party, but it would focus on the President’s program for the party and what he had done.”⁶¹ According to Fowler, “there was a general consensus that this was a good idea.”⁶²

The meeting then focused on whether there was enough money to pay for the proposed advertisements. As Fowler put it, “The discussion was mostly could we raise enough money to do it, and the initial plan was 10 weeks at a million dollars a week or thereabouts, and the discussion was we could raise it.”⁶³ Everybody in

⁵⁴ *Id.* at pp. 36–37 (emphasis added).

⁵⁵ Deposition of Donald L. Fowler, May 21, 1997, pp. 290–92.

⁵⁶ *Id.* at p. 292.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at p. 293.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.* at p. 294.

⁶³ *Id.*

the room discussed whether that amount of money could be raised.⁶⁴

Although no “serious doubts” were expressed in the meeting about the ability to raise the money, “a number of people said it was going to take a lot of work and stuff like that.”⁶⁵ Apparently, the meeting’s participants also discussed the need for the President and Vice President to devote more time and effort to fund-raising if the plan was to be fulfilled.⁶⁶ The meeting concluded sometime around 10:30 or 11:00 in the evening.⁶⁷ The strategy was set in motion.

IN HIS OWN WORDS: THE PRESIDENT’S KNOWING SUBVERSION OF FEDERAL ELECTION LAW

Clearly, the President and his aides devised a strategy to subvert the spending limits imposed by federal law on presidential candidates who agree to accept public financing. “Soft” money was used for the express purpose of promoting the President’s re-election. As documented elsewhere in this report, the money was raised and spent under the supervision of White House officials.⁶⁸ The money was spent on ads that were produced by the firm handling the re-election campaign’s ads, ads that the President himself edited and revised.

The President knew that he was using DNC “soft” money to support his re-election campaign. He told a group of major contributors to the DNC:

[W]e even gave up one or two of our fundraisers at the end of the year to try to get more money to the Democratic Party rather than my campaigns. My original strategy had been to raise all the money for my campaign this year, so I could spend all my money next year being president, running for president, and raising money for the Senate and House Committee and for the Democratic Party.

And then we realized that we could run these ads through the Democratic Party, which meant that we could raise money in twenty and fifty and hundred thousand dollar lots, and we didn’t have to do it all in thousand dollars. And run down—you know what I can spend which is limited by law. So that’s what we’ve done. But I have to tell you I’m very grateful to you. The contributions you have made in this have made a huge difference.⁶⁹

THE “BOTTOM LINE”: PRESSURE ON THE DNC TO SATISFY THE CAMPAIGN’S NEED FOR MONEY

The President’s massive media plan, combined with the DNC’s operating costs, required Democrats to raise an unprecedented amount of money.⁷⁰ Morris testified that the media team constantly

⁶⁴ *Id.*

⁶⁵ *Id.* at pp. 294–95.

⁶⁶ *Id.* at p. 295.

⁶⁷ *Id.* at pp. 295–96.

⁶⁸ See the section of this report on the White House’s control of the DNC.

⁶⁹ Transcribed Statement of President Bill Clinton, White House Communications Agency Videotape, Dec. 7, 1995 (Hay-Adams Dinner).

⁷⁰ Morris stated in his book that “[n]o president had ever advertised even remotely this far in advance of an election. . . . Ten million dollars was about equal to what most president or

needed additional money to fund fully the planned weekly media purchases. For example, the media team would plan \$1.2 million in paid advertising for a week, but the DNC would have only \$1 million available.⁷¹ Consequently, Morris appealed to the President to hold additional fund-raising events on at least ten occasions, and to the Vice President on two or three occasions.⁷² When Morris learned from Doug Sosnik⁷³ that the President was not giving fund-raisers enough priority on his schedule, he made open appeals at the weekly strategy meetings “for more time to be spent on scheduling fund-raisers.”⁷⁴

In November and December 1995, the DNC “spent a vast amount of money” on advertising to boost the President’s poll numbers during the government shutdown.⁷⁵ Ickes or Bowles informed Morris that the extended advertising that fall had “functionally cleaned out the DNC money,” and that there were insufficient funds to advertise in January.⁷⁶ In the agenda for the December 7, 1995 White House political strategy meeting, Morris informed the participants: “Need to do phone calls and fund raising to turn around media as soon in January as possible—or as soon after deal is cut as possible.”⁷⁷ Morris testified that, in the agenda, he was requesting the DNC to “redouble” its fund-raising efforts because it was critical that the advertising campaign on the President’s behalf continue.⁷⁸ Morris’ concern over the lack of funding for advertising is emphasized in the agenda for the February 22, 1996 White House political strategy meeting, which warned participants that the “[f]ailure to advertise is, once again catching up with us.”⁷⁹ In the agenda for the March 6, 1996 meeting, Morris wrote that “DNC fund raising is not now equipped to cope with the money needs. . . . We have had trouble getting this week’s DNC money together. . . . Fund raising at DNC level must be improved.”⁸⁰

Morris testified that the Vice President “tended to favor the advertising that we were doing and . . . worked fairly hard at trying to raise the money.”⁸¹ In his book, however, Morris wrote that the President “complained bitterly” at having to raise the money required to run the advertisements.⁸² The fund-raising became so consuming that the President told Morris:

“I can’t think. I can’t act. I can’t do anything but go to fund-raisers and shake hands. You want me to issue executive orders; I can’t focus on a thing but the next fund-

candidates for the presidency spent on media ads for the entire primary season, from Iowa through the convention—yet here we were spending it on issue ads more than a year before the election began.” See *Behind the Oval Office*, p. 150.

⁷¹ Morris deposition, p. 241.

⁷² *Id.* at pp. 241, 244. Either Marvin Rosen, Democratic Finance Chairman, or Terry McAuliffe once even asked Morris to meet with a potential donor. *Id.* at p. 249.

⁷³ Sosnik was the White House political affairs director.

⁷⁴ *Id.* at pp. 241–42.

⁷⁵ *Id.* at p. 324.

⁷⁶ *Id.* at pp. 324–25.

⁷⁷ See December 7, 1995 agenda, p. 2 (Ex. 4).

⁷⁸ See Morris deposition, p. 324.

⁷⁹ February 22, 1996 agenda, p. 3 (Ex. 5).

⁸⁰ March 6, 1996 agenda (Ex. 6); see Morris deposition, p. 347.

⁸¹ *Id.* at p. 245.

⁸² See *Behind the Oval Office*, p. 150. Morris testified that all the statements in his book, *Behind the Oval Office*, were true; “everything in the book is, as far as I know, true.” See Morris deposition, pp. 28, 36–37.

raiser. Hillary can't, Al can't—we're all getting sick and crazy because of it."⁸³

The DNC also felt unprecedented pressure to raise money. As discussed at some length later in this report, Ickes took control of the DNC's Finance Division, and held weekly "Wednesday Money Meetings" beginning in 1995 to control the DNC's fund-raising and budgeting.⁸⁴ In these meetings, Ickes' emphasis on money was clear. DNC National Finance Director Richard Sullivan remembered well Ickes' concern with fund-raising. In discussing the regular money meetings, Sullivan recalled Ickes' questioning of DNC Chief Financial Officer Brad Marshall—and even employed some of Ickes' well-known profanity: "All Harold cared about was the bottom line . . . Harold just cared about the bottom line as they applied to Brad [Marshall]'s numbers of spending projections. He just cared about what, you know, [']Goddamn it, just tell me what's in the bank, Brad.[']"⁸⁵ Ickes himself agreed that he had a "bottom line" focus on the DNC: "My focus . . . was the bottom line, as they like to say in the finance business."⁸⁶

Ickes wrote memoranda summarizing what went on at these "money meetings," and these memoranda prove the White House's intense involvement in all aspects of DNC fund-raising, and provide some glimpse into the pressure the DNC was under to raise funds.⁸⁷

In fact, the amount raised by the DNC during the 1996 election cycle vastly exceeded that raised in earlier years. McAuliffe characterized his 1994 DNC fund-raising effort as a much "smaller operation" when compared to the DNC's fund-raising during the 1996 election cycle.⁸⁸ The numbers support McAuliffe's description. In 1994, the DNC raised approximately \$37 million.⁸⁹ By December 1995, a DNC draft budget for 1996 reflected a revenue projection of \$110 million.⁹⁰ Revenue from major donors *alone* in that draft budget was expected to total \$80 million—more than twice the *entire* amount raised by the DNC during 1994.⁹¹

But even that ambitious draft budget was not enough. In a February 9, 1996, memorandum from Ickes to the President and the Vice President, Ickes reported that Marvin Rosen, the DNC's Finance Chairman, was "confident that \$125 million can be raised during the first 10 months of 1996."⁹² By July 5, 1996, Ickes could report in another memorandum to the President and Vice Presi-

⁸³ *Behind the Oval Office*, p. 151. A recent study of the President's rigorous fund-raising schedule confirms that the President was severely taxed by these fund-raising demands. See Glenn F. Bunting, "A Hard and Fast Ride on Donation Trail," *Los Angeles Times*, December 21, 1997, A1. The President's zeal for fund-raising placed a "strain . . . on both the presidency and the operation of the White House." *Id.*

⁸⁴ See Deposition of Harold Ickes, June 26, 1997, p. 55; see also the section of this report on White House control of the DNC.

⁸⁵ Deposition of Richard Sullivan, June 4, 1997, p. 90.

⁸⁶ Deposition of Harold Ickes, June 26, 1997, p. 62.

⁸⁷ See the section of this report on White House control of the DNC.

⁸⁸ Deposition of Terence R. McAuliffe, June 6, 1997, pp. 20–21.

⁸⁹ *Id.* See also Deposition of Richard Sullivan, June 5, 1997, p. 147 (estimating amount raised by the DNC in 1994 at \$38 million).

⁹⁰ Democratic National Committee Proposed 1996 Budget, December 21, 1995, p. 9 (Ex. 7). When DNC National Chairman Don Fowler first told Sullivan to plan to raise \$120 million, Sullivan told Fowler that he (Sullivan) "was expecting a request for a plan of 90 to 100, and I thought 100 was kind of best case." Deposition of Richard Sullivan, June 5, 1997, p. 154.

⁹¹ See Ex. 7 at p. 9.

⁹² Memorandum to The President and The Vice President from Harold Ickes, February 9, 1996, p. 1 (Ex. 8).

dent that the DNC's fund-raising was "on target," and that the DNC was projecting revenue of \$136.6 million by the end of October 1996.⁹³

The pressure to raise such enormous amounts of money was pervasive. DNC National Finance Director Richard Sullivan characterized the DNC in 1996 as engaged in "an historic effort in terms of the aggressiveness of the fund-raising."⁹⁴ Sullivan told the Committee that the DNC "raised an enormous amount of money," adding that, in the 1995-96 period, the DNC "almost tripled the amount raised in the 1991-92 election cycle."⁹⁵ DNC National Chairman Don Fowler stated that there were "pressing needs during the campaign to raise large sums of money. . . ."⁹⁶

CONCLUSION

The many scandals that will be chronicled elsewhere in this report flow, directly or indirectly, from this "historic effort in terms of the aggressiveness of the fund-raising."⁹⁷ The coordinated issue advertising campaign proposed by Dick Morris, managed by the President, and funded by the DNC to promote the President's re-election, set the stage for the scandals that became the Committee's investigatory focus. To promote the President's re-election, Morris devised the issue advertising scheme. To pay for this project became the consuming passion of the President, his staff, and the DNC. Due to the DNC's need to feed the advertising beast, it dismantled its process for vetting contributions to ensure their legality. From the thirst for advertising dollars developed the DNC's search to tap new veins for money, such as emerging political groups. From the need for funds to pay for issue advertising arose the willingness to sell access to senior government officials and to use government property to raise funds. The White House and the Presidency were reduced to tools for fund-raising. In sum, Morris wrote the script. It was now up to the President and his cast of supporting actors to implement it. Tales from its implementation follow.

⁹³ Memorandum to The President and The Vice President from Harold Ickes, July 5, 1996, p. 2 (Ex. 9).

⁹⁴ Deposition of Richard Sullivan, June 25, 1997, p. 120.

⁹⁵ Testimony of Richard Sullivan, July 9, 1997, p. 8.

⁹⁶ Testimony of Donald L. Fowler, Sept. 9, 1997, p. 6.

⁹⁷ See Deposition of Richard Sullivan, June 25, 1997, p. 120.

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THE WHITE HOUSE CONTROLLED THE DNC AND IMPROPERLY
COORDINATED THE ACTIVITIES OF THE DNC AND CLINTON/GORE '96

“That was the other campaign that had problems with that, not mine.”—President Clinton, November 8, 1996¹

In the wake of the President’s re-election, questions were raised about allegations of improper fund-raising. The President’s response was to shift blame away from himself (and his re-election campaign) and to the DNC. This response was disingenuous. During the 1996 election cycle, the White House, in its thirst for money, took control of the DNC.

First, the White House took control of the DNC’s finances, micro-managing how the DNC raised and spent money. Harold Ickes, Deputy Chief of Staff to the President, simply seized the reins of financial power at the DNC. The DNC could not spend any money without prior White House approval. Ickes also exerted direct control over the DNC’s Finance Division, the division charged with fund-raising. DNC National Chairman Don Fowler was unsuccessful in contesting Ickes’ assumption of power and asserting control over the DNC.

The White House’s financial control of the DNC was designed to fund the advertising strategy developed by Dick Morris. Yet White House control was not limited to financial control of the DNC; using the DNC as an adjunct to the re-election campaign led to unprecedented coordination between the DNC, Clinton/Gore '96, and the White House over the content, placement, and production of advertisements. This unprecedented coordination violated the letter and spirit of existing federal campaign laws.

In short, the White House took control of the DNC, particularly its fund-raising apparatus, to squeeze as much money out of the DNC as it could. The purpose of this money was to fuel the White House’s massive advertising campaign, which itself was the result of unprecedented illegal coordination. By the end of the campaign, any distinctions remaining between the White House, the DNC, and Clinton/Gore had been obliterated.

ICKES TAKES CHARGE OF THE DNC AS THE PRESIDENT’S “DESIGNEE”

Despite his being a federal employee, Harold Ickes simply took control of the DNC and ran it from 1995 through the 1996 election. In particular, he micro-managed the DNC’s budget, deciding how much DNC money would be spent and on what projects. Moreover, he exercised independent control of the DNC’s Finance Division, which controls fund-raising. Ickes did so with the approval of the President; indeed, Ickes was the President’s “designee” for handling

¹News Conference of President Bill Clinton, November 8, 1996, CNN Special Event, Transcript # 96110801V06.

DNC issues. Ickes' control led to friction with the DNC's nominal head, Fowler.

Fowler's involvement with the DNC began in 1971,² and as time passed and he remained involved, he developed "an interest in being Chairman of the National Committee."³ After the Democrats' devastating defeat in the 1994 elections, Fowler was given the chance. At that time, Ickes called Fowler and asked him if he would be interested in serving as the DNC's National Chairman.⁴ The position being offered to Fowler was unusual; he was to be part of a "bifurcated" chairmanship, the brain child of Harold Ickes.⁵ Senator Christopher Dodd (D-CT) would serve as the DNC's "General Chairman," and be a spokesman for the party. Fowler, as "National Chairman," would be responsible for managing the day-to-day operations of the DNC.⁶ Fowler was initially uncertain about serving in this arrangement, but after several subsequent entreaties from Ickes and at least one meeting with the President, Fowler agreed.⁷ He began his tenure as National Chairman on January 21, 1995.⁸

Fowler quickly learned the limits of his power as "National Chairman." He realized immediately that he and Ickes "had differences of opinion about how things should be run" at the DNC.⁹ They disagreed on an entire range of significant issues from "budget matters" to "the operational thrust of the party."¹⁰ Fowler testified that the disagreements "generally [were] about budget matters."¹¹ According to Fowler, these disagreements arose as early as the spring or summer of 1995, and persisted until the very end of his service as National Chairman in January 1997.¹²

Fowler vividly remembered once such instance of his disagreeing with Ickes concerning the DNC's fund-raising, an incident in which Fowler was more cautious than Ickes. In the summer of 1995, the *Chicago Sun-Times* reported that the DNC was selling access to the President and to the White House.¹³ In response to this report, Fowler proposed that the DNC limit the contributions it would accept to \$2,000 per person.¹⁴ Ickes, however, disagreed with Fowler's proposal, and Fowler's recommendation was never implemented by the DNC, despite his nominal control over the organization.¹⁵ In

²Deposition of Donald L. Fowler, May 21, 1997, p. 12.

³*Id.* at p. 26.

⁴*Id.* at p. 27.

⁵Deposition of Harold Ickes, June 26, 1997, p. 26.

⁶See generally Fowler deposition, pp. 26–27; Testimony of Donald L. Fowler, Sept. 9, 1997, pp. 9–10.

⁷Fowler deposition, pp. 27–32.

⁸*Id.* at p. 12.

⁹*Id.* at p. 38.

¹⁰*Id.* at pp. 38–39; Fowler testimony, p. 20.

¹¹Fowler deposition, p. 38.

¹²*Id.* at pp. 38–39. Although Fowler's deposition testimony about his disagreements and problems with Ickes was strongly worded and candid, Fowler tried to hedge his testimony during public hearings. For example, he preferred not to associate himself with his deposition testimony that he and Ickes had differences of opinion that started soon after Fowler arrived and continued until Fowler left. Instead, Fowler testified that he and Ickes had a relationship of "dynamic tension." Fowler testimony, p. 20. In fact, Fowler even quibbled with some of the terms he used in his own deposition. See Fowler testimony, pp. 13–15 (disputing that the Finance Division "ignored" his directives, though such was his deposition testimony, and asserting that he "might quibble a little bit with the use of that term on my part").

¹³Lynn Sweet, "The President's Price List," *Chicago Sun-Times*, June 30, 1995, p. 1; see

Fowler deposition, pp. 344–45;

¹⁴Fowler deposition, p. 343; Fowler testimony, p. 7.

¹⁵Fowler deposition, p. 346.

this instance, Ickes demonstrated more enthusiasm than Fowler for raising large sums of money.

Ickes' enthusiasm was not limited to raising money in large sums; he was also enthusiastic about controlling DNC expenditures. In fact, the extent of Ickes' control over the DNC is evident from an April 17, 1996 memorandum from Ickes to Fowler, which addresses the DNC's expenditures. The entire text of that memorandum reads:

This confirms the meeting that you and I and [White House political affairs director] Doug Sosnik had on 15 April 1996 at your office during which it was agreed that all matters dealing with allocation and expenditure of monies involving the Democratic National Committee ("DNC") including, without limitation, the DNC's operating budget, media budget, coordinated campaign budget and any other budget or expenditure, and including expenditures and arrangements in connection with state splits, directed donations and other arrangements whereby monies from fundraising or other events are to be transferred to or otherwise allocated to state parties or other political entities and including any proposed transfer of budgetary items from DNC related budgets to the Democratic National Convention budget, are subject to the *prior* approval of the White House. It was agreed that a small working committee would be established which would include Chairman Fowler (or his representative), Chairman Dodd (or his representative), B.J. Thornberry, Brad Marshall, Marvin Rosen, Doug Sosnik, and others as may be agreed to, to meet at least once weekly, and more often if necessary, to implement this agreement.¹⁶

Although Ickes was "not sure" whether he sent the memorandum to Chairman Fowler, he did affirm that it reflected the process in place during 1996 concerning the expenditure of funds by the DNC.¹⁷ The memorandum itself purports to memorialize an agreement struck in a conversation between Fowler, Ickes, and Sosnik. It is difficult to conceive of any more explicit evidence of Ickes' level of control over the DNC than the agreement memorialized in this memorandum.¹⁸

Fowler, as nominal head of the party, thought that Ickes was usurping his authority. Fowler testified that, although he wouldn't necessarily describe Ickes' involvement as "micro-management,"

I did feel that he was involved in the management of the DNC in a fashion that I didn't appreciate, that I didn't agree with, that I felt that I should have been the instrument for a management effort and that the management effort should have come through me.¹⁹

¹⁶See Memorandum from Harold Ickes to Don Fowler, April 17, 1996 (Ex. 1) (emphasis in original).

¹⁷Deposition of Harold Ickes, June 27, 1997, p. 24.

¹⁸Sosnik testified, "I don't think I would have sent this memorandum." Deposition of Doug Sosnik, June 20, 1997, p. 65.

¹⁹Fowler deposition, pp. 61-62.

Fowler complained to Ickes about his undue involvement in the management of the DNC. Ickes, according to Fowler, “disagreed” with Fowler’s concern, and essentially “ignored” Fowler’s objections.²⁰

Given that “all matters dealing with allocation and expenditure of monies involving the” DNC were subject to “*prior* approval of the White House,”²¹ it is obvious that the White House was most concerned with the DNC’s financial condition. In fact, Ickes held regular meetings to discuss DNC operations with Senator Dodd and Fowler.²² In March 1995, he began weekly meetings held on Wednesday afternoons at the White House to discuss the DNC budget.²³ White House representatives at these meetings included Ickes, Sosnik, and Karen Hancox, Sosnik’s deputy. Fowler, Finance Chairman Marvin Rosen, Finance Director Richard Sullivan, Chief Financial Officer Brad Marshall, and Executive Director B.J. Thornberry attended on behalf of the DNC.²⁴ Ickes ran the meetings.²⁵

Ickes did a very thorough job keeping the President and Vice President informed on the daily finances of the DNC. Ickes prepared weekly memoranda to the President and Vice President (copied to various senior White House officials) summarizing the information gleaned from these weekly DNC money meetings. The memoranda generally identified deposits, projected fund-raising, calculated actual fund-raising (including federal, or “hard” dollars raised), documented expenditures, and reviewed the DNC’s budget in detail. These memoranda demonstrated the President’s concern with the DNC’s fund-raising, and the level of control the White House asserted over such fund-raising.

Some of these memoranda provide glimpses into Ickes’ attention to the DNC’s finances. For example, Ickes’ January 2, 1996, memorandum to the President and Vice President (among others) regarding the DNC’s proposed 1996 budget notes that Ickes, Sosnik, and Hancox had met with Fowler, Rosen, and others “to review the first draft of the proposed calendar 1996 DNC budget as well as the proposed source of funds.”²⁶ The memorandum then analyzes the DNC budget in great detail, making comments and recommendations. Ickes’ January 31, 1996 memorandum to the President and Vice President also analyzes the DNC’s budget, noting that “Chairman Fowler was also asked to take a very hard look at the \$25 million coordinated campaign’s budget and see how much savings could be achieved there.”²⁷ Like many of Ickes’ memoranda, Ickes used the passive voice (“Chairman Fowler was also asked”) when recounting his instructions to Fowler. The memorandum goes on to note Ickes’ suggestion for “a meeting early next week including the President,

²⁰ Fowler deposition at p. 62; Fowler testimony at pp. 22–23.

²¹ Ex. 1.

²² Deposition of Harold Ickes, June 26, 1997, p. 44.

²³ *Id.* at p. 44, p. 55. These meetings have been referred to as “money meetings” and “budget meetings.”

²⁴ *Id.* at p. 56.

²⁵ Deposition of Karen Hancox, June 9, 1997, p. 19; Sosnik deposition, p. 35.

²⁶ Memorandum from Harold Ickes to The President et al., January 2, 1996, p. 1 (Ex. 2).

²⁷ Memorandum from Harold Ickes to The President and The Vice President, January 31, 1996, p. 2 (Ex. 3).

Vice President, Chairman Dodd and Chairman Fowler to review the revised proposed DNC operating budget. . . .”²⁸

Collectively, Ickes’ weekly memoranda document a White House that closely scrutinized all aspects of the DNC budget. Ickes’ memoranda kept the President and the Vice President closely apprised of all details of the DNC’s finances on a weekly basis, presumably to advise the President of the status of the fund-raising effort to support his re-election through the DNC’s advertising.

The White House’s control of the DNC was especially evident in the “special relationship” that developed between the White House and the DNC’s Finance Division—the division in charge of fund-raising.²⁹ This relationship also had its roots in Ickes’ involvement with the DNC, and the relationship may have infused the Finance Division with an attitude conducive to abuse and impropriety.

Fowler testified “that the Finance Division had an independent relationship with the White House that sometimes bypassed what my office would do or would be involved in.”³⁰ The officials in the Finance Division believed they derived their authority directly from the White House; in fact, Fowler testified that the Finance Division “thought it had a separate charter from the White House.”³¹ Because of this “separate charter,” the Finance Division believed that it did not have to respond to Fowler’s directives.³² In Fowler’s view, the Finance Division had a “disposition to ignore” him.³³

Of course, organizations do not have “relationships;” people within organizations do. The people within the Finance Division who had the special, independent relationship with White House personnel were principally Rosen and Sullivan.³⁴ From the White House, Ickes had the most authoritative relationship with Sullivan and Rosen, although Hancox also had frequent contact with them.³⁵ Sosnik also had a relationship with Sullivan and Rosen.³⁶

As a result of these relationships, Rosen and Sullivan both clearly understood that, if they wanted something to happen or not to happen, it was Ickes, not Fowler, who had the final authority to make a decision.³⁷ Fowler even acknowledged that Rosen and Sullivan knew that, if they disagreed with Fowler, they could go to Ickes, and Ickes could “in every case overrule” Fowler.³⁸ Sullivan testified that he knew he could go around Fowler to the White House.³⁹

²⁸ *Id.*

²⁹ See Fowler deposition, p. 80 (referring to Finance Division’s “special relationship with the White House”).

³⁰ *Id.* at p. 75.

³¹ *Id.* at p. 79; see also Fowler testimony, p. 16.

³² Fowler deposition, p. 80; Fowler testimony, p. 16.

³³ Fowler deposition, p. 80.

³⁴ *Id.* at p. 75.

³⁵ *Id.* at pp. 85–86.

³⁶ Fowler testimony, pp. 15–16.

³⁷ *Id.* at p. 86; See also Fowler testimony, pp. 23–24.

³⁸ *Id.*

³⁹ Sullivan testified that he knew that when Fowler disagreed with either Ickes or Doug Sosnik, Ickes’ or Sosnik’s position “would usually prevail.” Deposition of Richard L. Sullivan, June 4, 1997, p. 60.

Ickes had a somewhat different view of his power. He “absolutely” denied that he circumvented Fowler and dealt directly with the DNC’s Finance Division, and testified that Fowler “ran the day-to-day operation of the DNC.” Deposition of Harold Ickes, June 26, 1997, p. 208; see also *id.* at pp. 208–10. When Senator Domenici read these portions of Ickes’ deposition to him, Fowler dryly noted that he “perhaps would have described it a little differently.” Fowler testimony, p. 247.

Needless to say, the Finance Division's unique relationship with the White House created management problems. Fowler testified that "having any division of an organization like that, not being fully integrated in the operations of the other divisions is a problem in the process."⁴⁰ Fowler was concerned that this attitude spawned a number of problems, including: insufficient notice to his office regarding events;⁴¹ failure to coordinate dates and participants for events;⁴² and failure to follow the Chairman's directives.⁴³

As nearly everyone was aware of the tension afflicting the relationship between Ickes and Fowler,⁴⁴ including the Vice President,⁴⁵ the question that naturally arises is whether the President was aware of the disagreements between Fowler and Ickes, and, if so, with whom the President usually sided. Fowler testified that he did not know what the President understood about Ickes' ability to prevail in the many disagreements between Ickes and Fowler, and he declined to venture an opinion.⁴⁶

Ickes was not so shy. Though he interspersed his comments with allusions to the "latitude" given to Fowler to run the DNC, Ickes' testimony makes clear that he was the President's "designee" for running the DNC:

Q: If in these Wednesday fund-raising meetings that you chaired in the White House, if there were disagreements about fund-raisers or amounts of money or anything of that nature, did you make the final decision, or how was the authority line there structured?

A: *The President is to have the party. He is the CEO of the party. If the President says this is the way I want it, it was up to me to see that it was done, and the chairman understood that, but beyond that, the chairman had great*

⁴⁰ Fowler deposition, p.77; *see also* Fowler testimony, p.17. Had the Finance Division's independent relationship with the White House not existed, Fowler believed that he might have had a curative effect on some of the things that went wrong at the DNC during the 1996 election cycle. *See* Fowler testimony at p. 18.

⁴¹ Fowler deposition, pp. 57–58.

⁴² *Id.* at p. 74.

⁴³ *Id.* at pp. 59–60. *See generally* Fowler testimony, pp. 12–13. The most striking example of the latter occurred during the summer of 1996, when Fowler became aware that some DNC fund-raisers were listing the address of contributors as 430 S. Capitol Street, which is the DNC's headquarters. Fowler deposition, pp. 79–80. Fowler testified that he believed "that would never have happened if we had more thorough control over the Finance Division." *Id.* at p. 79. Fowler circulated a memorandum, requiring DNC fund-raisers to obtain the actual address for donors. In the memorandum, Fowler noted, "If you are able to get people to give you checks for thousands of dollars, you really should be able to get them to give you their addresses." Memorandum to DNC Fund-raisers from Don Fowler, August 1, 1996 (Ex. 4). Fowler later learned that the directive was disobeyed, and he blamed the Finance Division's special relationship with the White House for such disobedience. Fowler deposition, pp. 80–83.

⁴⁴ Sullivan testified that "there were times when there was tension exhibited between Fowler . . . and Harold Ickes and Doug Sosnik." Deposition of Richard Sullivan, June 4, 1997, p. 57. Sullivan recalled that Fowler and Ickes disagreed often over "state splits," the amount of money the DNC would give to a state party or campaign when a fund-raising event was held within a state. *Id.* at pp. 58–59. Senator Dodd, the DNC's General Chairman, was also aware of the running disagreements between Fowler and Ickes. Fowler deposition, p. 63. Dodd, however, refrained from taking a position concerning these disagreements. *Id.* at 64. Deborah DeLee, Fowler's immediate predecessor at the DNC, also shared Fowler's concerns. She informed Fowler that "she had [had] some of the same problems" with Ickes. *Id.* at 65.

⁴⁵ Fowler testified that the Vice President was aware of the running disagreement between Ickes and Fowler, as the Vice President made allusions to it in conversation. Fowler deposition, p. 64.

⁴⁶ Fowler testimony, pp. 243–44.

latitude, and there may—whatever disagreements there were, we tried to work out collectively . . .

* * * * *

Q: It turns out the way they structured that, I understand the answer to be that basically the President had ordered that you would be in charge and if there were a disagreement, that you would be the one to make the final decision?

A: No, I didn't say that.

Q: Okay.

A: What I said was that the president of the party, in this case the Democratic, is basically, some people say, the titular leader of the party, but I think any chairman would tell you that his president, that is the party chairman's president, *is the person who basically has the last word*.

Now, *from a very technical point of view*, the party is a separate entity and we all recognize that. It has its own charter and all of that, but the President's opinion has extraordinary weight within the party apparatus, as it should. He is the party's leader. Although we're not a parliamentary system, it's basically, in some sense, similar to that.

* * * * *

But Fowler was a full-time real operational head of the party and acted as such. That's not to say there was not very close consultation with the White House; there was, very close consultation with the White House.

Q: I was trying to get at, and I think you answered in a round-about way, about if there were disagreements and you tried to work it out and whatever, who made the final decision? Was it you or—

A: If there were disagreements, *the President of the United States wanted something, you know what? The President of the United States got his way*. And you know what? That's the way it ought to be.

Q: So you would make the final decision if there were disagreements?

A: *If the President of the United States wanted something and there was a disagreement between the President of the United States and the chairman of the party, the President prevailed. That's the way it should be*.

Q: And in this context of Wednesday meetings, it would be through you as his designee?

A: *Through me as his designee*. I kept the President fully informed, as you can see by reams and reams and reams of documents. . . .⁴⁷

The President, who acknowledged using the DNC as a vehicle for running ads designed to assist his re-election,⁴⁸ had to know that the DNC was being run out of Ickes' hip pocket. The logical conclu-

⁴⁷ Deposition of Harold Ickes, June 26, 1997, pp. 209–12 (emphasis added).

⁴⁸ Transcribed statement of President Bill Clinton, White House Communications Agency videotape, December 7, 1995 (Hay-Adams dinner).

sion is that the President was comfortable with Ickes' serving as his "designee," which may explain why Fowler never went over Ickes' head to try to get any of his decisions overruled.⁴⁹ Ickes was merely doing the President's bidding.

COORDINATION IN THE RETENTION AND PAYMENT OF DNC AND
CLINTON/GORE '96 MEDIA CONSULTANTS

While Ickes was busy controlling the DNC's purse strings, Dick Morris was busy controlling the closely-coordinated campaign activities of Clinton/Gore '96 and the DNC—the very purpose for which the DNC, under Ickes control, was raising funds. The close coordination commenced in December 1994, when the President made three commitments to Morris to get him to work on the President's behalf: (1) Penn & Schoen would be hired as polling consultants; (2) a White House staff member would be hired as personal liaison for Morris; and (3) Morris would get weekly meetings with the President.⁵⁰ These commitments marked the beginning of extensive coordination between the White House, the DNC and Clinton/Gore '96 on a massive advertising campaign to re-elect the President.⁵¹ The coordination included: (1) sharing and compiling consultants' work product between the White House, the DNC and Clinton/Gore for media purposes; (2) extensive contact between the DNC and Clinton/Gore '96 consultants and the White House regarding advertising and polling issues; and (3) weekly strategy meetings held in the White House with DNC and Clinton/Gore '96 representatives specifically designed to coordinate and implement the President's re-election campaign. Moreover, the work of Morris and the other consultants was used for both political and official purposes.⁵²

In early October 1994, the President hired Morris for the first time since 1991 to conduct a survey concerning issue positioning and strategy for the 1994 congressional elections.⁵³ Morris did not have a written agreement concerning these services.⁵⁴ In fact, from

⁴⁹ Fowler testified, both in his deposition and hearings testimony, that the only people to whom he could have gone to overrule Ickes were the President, the Vice President, and Leon Panetta, Chief of Staff to the President. Fowler testified, however, that he never tried to go over Ickes' head to discuss his concerns about Ickes' intrusion into DNC affairs. Fowler testimony, p. 23; Fowler deposition, p. 64.

⁵⁰ Deposition of Richard Morris, August 20, 1997, p. 70; see Dick Morris, *Behind the Oval Office* (1997), pp. 24–25. Morris testified that all the statements in his book, *Behind the Oval Office*, were true, Morris deposition, pp. 28; 36–37.

⁵¹ From April through June 1995, Morris described the substance to the consultants' work as follows:

You decided whether you are going to advertise, what you are going to advertise about, what goals you seek to achieve in the advertisement. You poll the best ways of presenting the ads. Then you try to think of creative and attractive ways of presenting it. You write the ads. You produce them. In general, sometimes you test them before audiences . . . and then you have to decide what markets you are going to run it in, how much money you are going to spend, how many points you are going to buy, what programs you are going to buy it on, and how long you are going to run them.

See Morris deposition, p. 79.

⁵² *Id.*, at pp. 85–87. Morris defined political activity as activity "designed to promote the reelection of the President or to assist the Democratic Party generically in the 1996 elections" and official activity as activity "undertaken by the President or a member of his staff in connection with his duties as President." *Id.* at p. 87.

⁵³ *Id.* at p. 25.

⁵⁴ *Id.* at p. 43. Morris and the President initially agreed to keep their consulting relationship a secret because of, among other reasons, Morris's work on behalf of Republican clients. *Id.* at p. 46. Morris used the code name "Charlie" to disguise his initial meetings with the President. *Id.* at p. 54.

October 1994 through January 1995, Morris was unaware of whether he was retained by the White House, Clinton/Gore '96 or the DNC, despite performing work that was used by all three entities.⁵⁵ In addition, he did not recall receiving any invoices or Internal Revenue Service 1099 forms in connection with his consulting work during this time period.⁵⁶ He billed the DNC and Clinton/Gore '96 in one of four different methods: (1) receipt of funds personally, whereupon he would pay a subcontracted "interviewing house"; (2) the "interviewing house" was paid directly; (3) his company, Message Advisors, was paid directly; or (4) Penn & Schoen was paid directly.⁵⁷ With regard to whether the DNC, Clinton/Gore '96, or the White House paid for his consulting services, Morris testified as follows:

I did not understand—I did not know whether it was being done on behalf of the DNC or the Re-Election Committee for the President. I, again, assumed that it was a poll for the President, but I don't know how he elected to pay for it.⁵⁸

At Morris's request, Penn & Schoen began working for the President and the DNC.⁵⁹ Mark Penn reported to Ickes, whom Penn believed had the highest authority relative to the DNC and Clinton/Gore '96 work performed by Penn & Schoen.⁶⁰ Penn was unsure whether his firm had been retained by the White House, the DNC, or Clinton/Gore '96.⁶¹ He testified as follows:

Q: And at the time you conducted polling from the spring of '95 through the election, you were not sure, Penn & Schoen was not sure whether or not a specific poll was for the Re-Elect or the DNC; is that correct?

A: Right. We knew that we were doing polling that would work—that would be work for both entities, but we didn't know exactly which poll or part of polls would be for which entity.⁶²

* * * * *

Q: Was there ever a time that you were aware of in these creative meetings where you were working simultaneously on a DNC ad and a Re-Elect ad?

A: Yes. I think in '96—in '96 I think there were some points where ideas relative to the DNC and ideas relative

⁵⁵ *Id.* at p. 62. Morris testified that he did not routinely send out client invoices and that, on occasion, he would receive checks without formally billing a client. *Id.* at pp. 30–32.

⁵⁶ *Id.*

⁵⁷ *Id.* at pp. 41–42.

⁵⁸ *Id.* at pp. 43, 60.

⁵⁹ Penn deposition, p. 8. In early 1995, Morris convinced the President to retain the polling firm of Penn & Schoen. Morris deposition, p. 64. For a period of time, Penn & Schoen paid Morris for his consulting work as a subcontractor, such that he received no compensation directly from the White House, the DNC or Clinton/Gore '96. *Id.* at pp. 64–66. Morris also was unaware of whether Penn & Schoen had a written agreement with the White House, the DNC, or Clinton/Gore '96, nor did he know which of those entities paid for their services. *Id.* at pp. 66–67. In July 1996, Morris finally negotiated a compensation arrangement consisting of a \$15,000 monthly retainer from the Clinton/Gore Primary Campaign Committee and a percentage of the commissions from DNC and Clinton/Gore '96 media time buys. *Id.* at p. 104.

⁶⁰ Penn deposition, pp. 26–28.

⁶¹ *Id.* at pp. 11, 18.

⁶² *Id.* at p. 32.

to Clinton/Gore would have been on the table at similar times.⁶³

* * * * *

Q: * * * But to the best of your understanding when the bill [for consulting services] was actually—or the invoice was submitted to Ickes, did your firm make an effort to distinguish what work was performed on behalf of either the DNC or the Re-Elect?

A: Typically, no.⁶⁴

THE WHITE HOUSE WEEKLY STRATEGY MEETINGS

Representatives from the White House, the DNC, and Clinton/Gore would meet at the White House approximately once a week at what became known as the weekly strategy meetings (which the President agreed to conduct pursuant to Morris' three conditions). The topics discussed at the weekly strategy meetings included media, polling, speech writing, and policy and issue positioning.⁶⁵ All the attendees of the weekly strategy meetings were involved in the process of creating the advertising in various degrees.⁶⁶ Morris listed the following individuals as a "typical guest list" for the White House weekly strategy meetings:

the President; the Vice President; Leon Panetta, chief of staff; Harold Ickes, deputy chief of staff; Evelyn Lieberman, deputy chief of staff; George Stephanopoulos, senior adviser; Don Baer, director of communications; Doug Sosnik, political affairs director; Ron Klain, vice president's chief of staff; Sandy Berger, deputy national security adviser; Senator Chris Dodd of Connecticut; John Hilley, legislative director; Maggie Williams, First Lady's chief of staff; Mike McCurry, press secretary; Henry Cisneros, secretary of Housing and Urban Development; Mickey Kantor, secretary of Commerce; Mack McLarty, adviser and former chief of staff; Peter Knight, campaign manager; Ann Lewis, deputy campaign manager and director of communications; Ron Brown, secretary of Commerce, until his death; Erskine Bowles, deputy chief of staff, until his departure; Jack Quinn, vice president's chief of staff until his appointment as White House counsel; Dick Morris, consultant; Doug Schoen, consultant; Mark Penn, consultant; Bob Squier, consultant; Bill Knapp, consultant.⁶⁷

The weekly strategy meetings, which "became the central forum for campaign strategy and decisions," are a definitive example of the illegal and improper coordination between the White House, the DNC, and Clinton/Gore.⁶⁸ Morris chaired the meetings, distributed his weekly agendas summarizing the advice the consultants and he

⁶³ *Id.* at p. 44.

⁶⁴ *Id.* at p. 48.

⁶⁵ See Morris deposition, p. 124.

⁶⁶ *Id.* at p. 187.

⁶⁷ See Dick Morris, *Behind the Oval Office* (1997), p. 26, note.

⁶⁸ *Id.* at p. 26.

planned on giving the President, and received substantive input from most of the attendees.⁶⁹

THE IMPLEMENTATION OF MORRIS' ADVERTISING CAMPAIGN RESULTED IN UNPRECEDENTED, ILLEGAL, AND IMPROPER COORDINATION BETWEEN THE DNC, CLINTON/GORE, AND THE WHITE HOUSE

Ickes' management of the DNC, particularly its fund-raising operation, was designed in large part to quench the White House's thirst for advertising money. The flip side of the same coin was that the White House, the DNC, and Clinton/Gore '96 engaged in extensive coordination to develop, fund, and run that advertising. Simply stated, all practical distinctions between the White House, the DNC, and Clinton/Gore were eliminated.

The White House, the DNC, and Clinton/Gore '96 retained a number of media and advertising consultants, but made little distinction concerning which consulting work was being performed on behalf of each entity. The consultants' work was shared by all three entities, without regard to laws limiting coordination between the DNC and Clinton/Gore '96 or restrictions against White House participation in political activity. The improper coordination between the DNC and Clinton/Gore '96 is demonstrated by the failure of the political consultants to know which entity they were working for with respect to specific assignments. Moreover, these same consultants often were unaware of which entity was paying for their consulting work.

According to Morris, DNC General Counsel Joe Sandler and Lyn Utrecht, Clinton/Gore '96's counsel, "laid down the rules of what advertisements—of what the content of advertisements and the timing of the media buys could be in connection with the Democratic National Committee advertising and in connection with the Clinton-Gore advertising."⁷⁰ Morris did not receive any legal advice from Sandler or Utrecht, however, concerning the type of coordination between the White House, Clinton-Gore '96, and the DNC that was permissible when creating the issue advocacy advertisements.⁷¹ In fact, Morris testified that he "never received any information from them which would have indicated any limitations on discussions with the President, the Vice President, or members of the White House staff concerning the advertising that was done by the DNC" and that he was "never advised that there were constraints on that."⁷² Moreover, Morris testified "there was no indication of any such constraints in connection with DNC coordination

⁶⁹*Id.*

⁷⁰*See* Morris deposition, pp. 117–18. In the July 26, 1995 agenda, Morris first explained that the campaign would use DNC funds to pay for advertisements. *Id.* at p. 288; *see also* July 26, 1995 meeting agenda (Ex. 5). Morris testified that:

This agenda was issued after the President had approved and, in fact, was airing crime ads funded by Clinton-Gore. It was also subsequent to my conversation with Bowles in which he advised me to come up with a plan B after I had investigated DNC media and found that that was precisely what I wanted to do anyway.

So, this marks the beginning of the DNC phase of the media campaign and here I recommend that we do media aimed at swing Republican Senators on Medicare during the recess.

Morris deposition, p. 289.

⁷¹*Id.* at pp. 146–47.

⁷²*Id.* at p. 147.

with the Clinton-Gore campaign.”⁷³ He recalled a meeting at Utrecht’s office where he specifically was informed that the identical pollsters, consultants, and media creators would be used to prepare advertisements paid for by the DNC and advertisements paid for by Clinton/Gore ’96, and, “since it was the same people [working on both DNC and Clinton/Gore ’96 advertisements], that the closest of coordination was perfectly acceptable legally.”⁷⁴ Indeed, the coordination between the DNC and Clinton/Gore ’96 was so extensive because the consultants used by each “were the same people.”⁷⁵

The coordination in the advertising campaign became so extensive that Mark Penn, a consultant at the firm Penn & Schoen who worked on the President’s campaign with Morris, had a White House office from September through December of 1995 located in a coat closet adjacent to Sosnik’s office.⁷⁶ Penn had access to a computer and a dedicated campaign telephone line.⁷⁷ Eventually, Morris had the President “evict” Penn from the office, stating that he “did not think it was appropriate for a political consultant to have an office in the White House, particularly not one that was located 40 or 50 feet away from where the speeches were being written when that consultant had a plethora of commercial clients who had interests in those speeches.”⁷⁸

The coordination between the DNC and Clinton/Gore ’96 extended to the exact day the media team chose to run a DNC advertisement versus a Clinton/Gore ’96 advertisement. For example, Morris testified as follows concerning coordination between placing a DNC or a Clinton/Gore ’96 advertisement:

Q: Now, did anyone ever caution you or advise you as to whether or not a coordination of expenditures like this by the DNC and Clinton/Gore would run afoul of any laws or regulations?

A: No, and indeed, Sandler and Utrecht advised us to do this coordination because their view was that you had to stop your DNC advertising four weeks before a primary, and then you had to start again with Clinton-Gore.

There were some States where we literally pulled an ad off the air, and then the next day went on with a Clinton-Gore ad so that we could continue our hit in the State, but it was an entirely different ad because it was funded differently.⁷⁹

Further demonstrating the close coordination between the DNC and Clinton/Gore ’96, the July 26, 1995 meeting agenda states that, with regard to DNC issue advocacy advertising, “[u]se DNC to pay

⁷³ *Id.* at p. 148.

⁷⁴ *Id.* Morris was never instructed by the DNC or Clinton/Gore ’96 attorneys that there are legal restrictions against coordinating the consultants and media team efforts with White House officials. *Id.* at p. 164. Indeed, at the time of his deposition on August 20, 1997, Morris still was unaware that such restrictions existed. *Id.*

⁷⁵ *Id.* at p. 149.

⁷⁶ *Id.* at p. 191; See Deposition of Mark J. Penn, June 19, 1997, pp. 131–33.

⁷⁷ See Morris deposition, p. 191.

⁷⁸ *Id.* at pp. 192–93.

⁷⁹ *Id.* at pp. 339–40.

for it, we [the joint White House, DNC and Clinton/Gore media team] control production.”⁸⁰ Morris testified he was:

afraid that there would be an effort made by Ickes to make the DNC ads produced by a separate media creator and I was making the point here that I wanted the same, for us to control the creation of both ads so that we [the November 5th Group] were not sending contradictory messages.⁸¹

Moreover, specific media planning and fund-raising details were contained in virtually each weekly agenda produced to the Committee. Indeed, Morris testified that the February 22, 1996 agenda contained “the specific underlying factual detail as to how much money of Clinton-Gore we needed for each week” and the need to use Clinton/Gore ’96 money to pay for advertisements that could not be paid for by the DNC.⁸²

Morris believed the use of issue advocacy to pay for the President’s advertising throughout most of 1995 was appropriate because it “had basically nothing to do with re-election advertising.”⁸³ In support of that theory, Morris testified as follows:

I was not very concerned . . . throughout most of ’95 with the President’s reelection, per se, because I felt that for the President to have a hope of being re-elected, he first had to win the fight over the budget. He first had to defeat the agenda of the Gingrich-Dole Congress and win the battle associated with the budget and tax cut issues, and I felt that winning that battle was a condition prior to being able to be re-elected President. I felt that if he failed to win that fight, there was no way that he would ever be re-elected.⁸⁴

Regarding whether the DNC issue advocacy advertisements would provide any benefit to the President’s re-election effort, however, Morris testified:

. . . at any point in a presidency, any advertising, any issue advertising the President does whether for health care reform or for the stimulus package or to win the budget fight would eventually accrue to his benefit in the reelection.

* * * * *

I believe that once we won the budget fight, first of all, it was a very important victory for the party, it was a very important substantive issue the President was heavily invested in, and I believe that winning that fight, itself, was a prerequisite to being able to win the election.⁸⁵

⁸⁰ See Ex. 5.

⁸¹ Morris deposition, p. 296.

⁸² *Id.* at pp. 338–39; see also Feb. 22, 1996 meeting agenda (Ex. 6). The coordination between the DNC and Clinton/Gore ’96 extended to the budgeting of advertising expenditures. In order to project his advertising budget, Morris received periodic estimates of the incoming funds from both the DNC and Clinton/Gore ’96. See Morris deposition, pp. 304–06. Morris testified that his “proposal for advertising totaled 50 million,” with \$17 million from Clinton/Gore and \$33 million from the DNC. *Id.* at p. 304.

⁸³ *Id.* at p. 138.

⁸⁴ *Id.* at p. 135.

⁸⁵ *Id.* at p. 293.

Another manner of coordination between the White House, the DNC and Clinton/Gore '96 occurred through the same consultants' use of information obtained for each respective entity in the planning and execution of advertisements. While Morris testified that the consultant team determined whether an advertisement was on behalf of the DNC or Clinton/Gore '96 based on the results of mall tests and other forms of feedback, even the funding for these polls was shared between the DNC and Clinton/Gore '96.⁸⁶ In addition, while the nature of a particular advertisement allegedly determined whether it was paid for by the DNC or Clinton/Gore '96, Morris conceded that advertisements originally planned as DNC ads were switched to Clinton/Gore '96.⁸⁷ The advertisements were created in the same room, by the same consultants with identical information.⁸⁸ In fact, Morris often was unaware of which entity actually paid for advertisements;⁸⁹ apparently such distinctions were unimportant. Morris testified that the only thing separating DNC and Clinton/Gore '96 materials "was a bright line running through the middle of our conference table of DNC versus Clinton-Gore."⁹⁰

Morris testified that "[t]here was a review [of the polling] as to the extent to which it was related to the reelection campaign or the Democratic Party generically, but all of it was treated as political."⁹¹ In fact, the only attempts to separate the polling data between the DNC and Clinton/Gore '96 came after the polling was completed.⁹² Morris understood that, after polls were conducted, Ickes and Utrecht reviewed them and apportioned the cost between the DNC and Clinton/Gore '96 based on the content of the questions.⁹³

Ickes apparently was aware that this close coordination in advertising and polling created legal risks; indeed, he pressed Morris to sign an indemnification agreement so that Morris would be responsible for any FEC fines. Morris testified:

Ickes was pressing for an indemnification . . . he wanted an indemnification where basically, any violation that the FEC found, we would be indemnifying the campaign and saying, "It's our fault guys." And what we were offering was an indemnification where, if there was any FEC fine of the campaign that resulted from our refusal or inability to produce documentation about the time buy that we would be liable, but that if the FEC ruled that the underlying expenditures themselves were illegal under FEC rule[s] and imposed a fine, we took the position that we were doing this pursuant to the legal advice we were given from Sandler and Utrecht and the instruction we were given from Ickes to follow their legal advice, and therefore, there was no reason for us to indemnify them.⁹⁴

⁸⁶*Id.* at pp. 160–61.

⁸⁷*Id.* at pp. 157–60.

⁸⁸*Id.* at p. 161.

⁸⁹*Id.* at pp. 279–80.

⁹⁰*Id.* at p. 161.

⁹¹*Id.* at p. 90.

⁹²*Id.* at p. 90.

⁹³*Id.* at p. 91.

⁹⁴*Id.* at pp. 361–62.

WHITE HOUSE COORDINATION IN THE DESIGN AND IMPLEMENTATION
OF ISSUE ADVOCACY ADVERTISING

The relationship between Morris and Bill Curry provides an example of the coordination between the White House and the DNC and Clinton/Gore media consultants. Curry was the White House staff member specifically hired to work with Morris.⁹⁵ The President suggested that Morris work with Curry to implement a “series of principles” to guide the President’s “comeback in the face of the Republican victory.”⁹⁶ Morris made it clear to the President, however, that he “needed Curry to work directly with [him] to implement the entire strategy, not just a piece of it.” Morris testified he and Curry:

would talk frequently, and he would give me his thinking as to what he thought we should be saying in our advertisements, and I would listen to it and I’d take account of it, and I would—and it was one of a number of inputs I received on that.⁹⁷

In addition to the advertising and consulting work, Morris and Curry worked on Presidential “policy initiatives,” the President’s position on issues of national concern, congressional strategies, speech writing, polling results, and media plans on a regular basis.⁹⁸ Morris also testified that “a number of people at the White House [and] at the DNC . . . participated at one point or another in the process of thinking up ideas for a media.”⁹⁹

As a result of the early advertising using Clinton/Gore ’96 funds and the subsequent use of DNC-funded issue advocacy advertisements, Morris divided White House involvement in campaign advertising into two distinct time periods: April 1995 through June 1995; and July 1995 through August 1996.¹⁰⁰ From April through June 1995, the media consultants conducted polls and created advertisements primarily for Clinton/Gore ’96 because they had not yet adopted the concept of using DNC funded issue advocacy advertising.¹⁰¹ From July 1995 through August 1996, the media consultants conducted polls and created advertisements using DNC funded issue advocacy advertising and, to a limited extent, Clinton/Gore ’96 funds.¹⁰² Thus, the coordination that occurred between White House officials, the DNC, and Clinton/Gore ’96 is analyzed in these distinct time periods.

Morris testified that among the White House officials who primarily coordinated with the DNC and Clinton/Gore ’96 media consultants and representatives were: the President, the Vice President, Leon Panetta, Harold Ickes, George Stephanopoulos, Erskine Bowles, and Doug Sosnik.¹⁰³ Morris described the involvement of each of these individuals as follows:

⁹⁵ See Morris deposition, p. 72.

⁹⁶ Dick Morris, *Behind the Oval Office* (1997), pp. 37–38.

⁹⁷ See Morris deposition, p. 74.

⁹⁸ *Id.* at pp. 73–74.

⁹⁹ *Id.* at p. 76.

¹⁰⁰ Morris resigned during the Democratic National Convention in August 1996 due to a personal scandal. See Dick Morris, *Behind the Oval Office* (1997), pp. 331–34.

¹⁰¹ Morris deposition, pp. 78–90.

¹⁰² *Id.* at pp. 125, 154–55.

¹⁰³ *Id.* at p. 76.

The President

The President had significant involvement with the Clinton/Gore '96 and DNC media consultants in the areas of polling, advertising, speech-writing, legislation strategy, and general policy advice. The President: (1) reviewed, modified and approved all advertising copy; (2) reviewed, adjusted and approved media time buys;¹⁰⁴ (3) reviewed and modified polling questions; and (4) received briefings on and analyzed polling results.¹⁰⁵ Indeed, a significant amount of the polling work the consultants performed for the President “related to substantive issues in connection with his job as President, but it [also] could be considered political.”¹⁰⁶

The President wanted to keep total control over the advertising campaign designed by Morris and the media consultants.¹⁰⁷ From May through June 1995, Morris testified that the President “insisted on seeing every question before [the consultants] asked it in the questionnaire.”¹⁰⁸ In addition to the weekly strategy meetings, Morris met with the President privately to discuss the media campaign.¹⁰⁹ For example, if the media team “had to do an ad and there wasn’t a strategy meeting scheduled conveniently,” *i.e.*, a rapid response to Republican advertisements, Morris would schedule a private meeting with the President.¹¹⁰

The President’s participation began with initial discussions concerning the specific details of DNC and Clinton/Gore '96 advertisements.¹¹¹ He would review the story lines and scripts and occasionally make detailed and significant changes.¹¹² Morris testified that the President was the “day-to-day operational director” of the media campaign.¹¹³ The President “worked over every script, watched each ad, ordered changes in every visual presentation, and decided which ads would run when and where.”¹¹⁴ Morris further testified that the President “was as involved [in the DNC and Clinton/Gore '96 media campaign] as any of his media consultants were,” “[e]very line of every ad came under his informed, critical, and often meddlesome gaze,” such that “[t]he ads [for both the DNC and Clinton/Gore '96] became . . . the work of the President himself.”¹¹⁵ From July 1995 through August 1996, Morris described the President’s involvement in the media campaign as follows:

The President would be heavily involved in the first issue, the discussion of the strategy, and he would look at the ad—and we would present to him at each of these strategy meetings the scripts of media that we wanted to

¹⁰⁴ Time buys are the “list of markets . . . to buy ads in and how much you are going to spend in each media market.” *Id.* at p. 83. For example, at the March 2, 1995 weekly strategy meeting, the President decided Clinton/Gore '96 would pay for the time buys during that period. *Id.* at pp. 84–86.

¹⁰⁵ *Id.* at pp. 80–84.

¹⁰⁶ *Id.* at p. 81.

¹⁰⁷ *Id.* at p. 167.

¹⁰⁸ *Id.* at pp. 176–77.

¹⁰⁹ *Id.* at p. 190.

¹¹⁰ *Id.*

¹¹¹ *Id.* at p. 177.

¹¹² *Id.*

¹¹³ *Id.* at pp. 182–83.

¹¹⁴ *Id.* at p. 183.

¹¹⁵ *Id.* at pp. 182, 183, 184–88, 189; see also Dick Morris, *Behind the Oval Office* (1997), p. 144.

run and the visuals, the animatics that had been tested, and would brief the assembled group, which included the President and the Vice President, on the results of the mall test. And armed with those results, looking at the visual and looking at the script, the President would make fairly specific suggestions as to what he wanted or didn't want included in the final ad.

We would then take those suggestions, and suggestions that were also made by all the other people in the group in the room, including Senator Dodd and Stephanopoulos and a bunch of folks, and we would then have a creative meeting, which was a group meeting of the consultants, right after the-the day after the strategy meeting.¹¹⁶

Morris recounted a conversation with the President that demonstrates both the high level of White House coordination with the DNC and Clinton/Gore '96 advertising and its true purpose of supporting the President's re-election. Morris recalled a private Oval Office meeting with the President to discuss the use of comments by Speaker Gingrich and Senator Dole in advertisements.¹¹⁷ The President stated that he did not want to run "the Dole Medicare quote in our national ad buy" because he feared Senator Dole might lose the Republican nomination if he were associated with the proposed Medicare reforms.¹¹⁸ Because the President and Morris wanted to run against Senator Dole,¹¹⁹ Morris wrote an advertisement that "in early November . . . featured Gingrich's quote but not Dole's," and this advertisement ran "for three weeks in about 40 percent of the country during the [federal government] shutdown."¹²⁰

Based on the evidence provided by Morris, it is evident that of all the White House officials involved in the advertising campaign, the President himself was the most actively and intimately involved.

The Vice President

From April through June 1995, the Vice President was involved with the DNC and Clinton/Gore '96 concerning polling, advertising, speech-writing, legislation, policy and general advice to a lesser degree than the President.¹²¹ The Vice President reviewed, modified and approved advertisements.¹²² From July 1995 through August 1996, the Vice President attended all the strategy meetings and would make suggestions to proposed advertisements.¹²³ In placing the level of individual involvement in the media campaign and polling work on a scale from one to 100 (with 100 representing the President's level of involvement), the Vice President's participation was roughly 40 percent of the President's level of involvement.¹²⁴

¹¹⁶ See Morris deposition, pp. 168–69. Morris and the other consultants also assisted the President with speech writing. *Id.* at p. 197.

¹¹⁷ See Dick Morris, *Behind the Oval Office* (1997), p. 184.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ See Morris deposition, pp. 187–88.

¹²² *Id.*

¹²³ *Id.* at p. 186.

¹²⁴ *Id.* at pp. 187–88.

Leon Panetta

From April through June 1995, he had essentially the same involvement in the media campaign as did the Vice President, which included polling, advertising, speech-writing, legislation, policy and general advice.¹²⁵ From July 1995 through August 1996, Morris placed Panetta's level of involvement at approximately 50 to 60 percent of the President's level of involvement.¹²⁶

Harold Ickes

Morris believed that Ickes was in "minute to minute control over all field activities in connection with the Clinton-Gore campaign or the DNC."¹²⁷ Morris understood that Ickes essentially ran the DNC and, until Peter Knight arrived, he also ran the Clinton/Gore '96 re-election campaign.¹²⁸ Morris testified that:

[Ickes] was the one who had to approve any expenditure of money, and he was the one who had to be informed of any polling and had to be informed of any media.

* * * * *

I had the impression that he was in charge of every aspect of the campaign except for the substance of the message which I was in charge of.¹²⁹

Regarding Ickes' involvement with the advertising campaign, Morris testified that, from April through June 1995, Ickes had approximately the same level of involvement in the media campaign as did the President.¹³⁰ Ickes did not have final approval (as the President did) and made fewer substantive changes than the President, but he "focused with greater scrutiny than the President on the amount and the distribution of the time buy."¹³¹ For example, Ickes approved every questionnaire, script, time buy or other campaign expenditure.¹³² He also chaired all the meetings with Sandler and Utrecht in which it was determined whether an advertisement should come from the DNC or Clinton/Gore '96.¹³³ In addition, Ickes was "heavily involved" in discussions concerning how much to spend on advertising and whether the President should accept Federal matching funds.¹³⁴ From July 1995 through August 1996, Ickes' level of involvement was roughly 10 to 20 percent of the President's level of involvement in the advertising campaign.¹³⁵

George Stephanopoulos

Stephanopoulos was a senior White House advisor. From April through June 1995, Stephanopoulos did not have any significant involvement in the media process.¹³⁶ He became more involved in

¹²⁵ *Id.* at pp. 95–96.

¹²⁶ *Id.* at p. 188.

¹²⁷ *Id.* at p. 236.

¹²⁸ *Id.*

¹²⁹ *Id.* at pp. 236–37.

¹³⁰ *Id.* at p. 96.

¹³¹ *Id.*

¹³² *Id.* at p. 221.

¹³³ *Id.*

¹³⁴ *Id.* at p. 97.

¹³⁵ *Id.* at p. 188.

¹³⁶ *Id.* at p. 101.

September of 1995 and remained actively involved through Morris' departure from the campaign in August of 1996.¹³⁷ On behalf of both the DNC and Clinton/Gore '96, he reviewed advertising copy before it was approved and suggested changes to advertising visuals and advertising themes.¹³⁸ He also was in charge of the vetting process for factual accuracy for both DNC and Clinton/Gore '96 advertisements.¹³⁹ Beginning in May 1995, Stephanopoulos played a greater role in reviewing the polling conducted by Morris.¹⁴⁰ By September 1995, Stephanopoulos' role "evolved to a point where he received all questionnaires in advance and approved the questions and frequently made suggestions for modifications, additions, or deletions."¹⁴¹ Morris also called Stephanopoulos "[e]ach morning at seven-twenty . . . with the data from the previous night's interviewing so he could report to the daily seven-thirty meeting that Leon [Panetta] held with the top White House staffers."¹⁴² From July 1995 through August 1996, Stephanopoulos' level of involvement was roughly 70 to 80 percent of the President's level of involvement in the media campaign.¹⁴³

Erskine Bowles

Bowles was a White House deputy chief of staff (and now serves as chief of staff). He attended the weekly strategy meetings and acted as a liaison between Morris and the President.¹⁴⁴ Bowles also supported Morris' view that advertising should not be conducted on a piecemeal basis.¹⁴⁵ At Bowles' suggestion, Morris divided the advertising plan into four components, each costing approximately \$10 million.¹⁴⁶ From July 1995 through August 1996, Morris placed Bowles' level of involvement at roughly 10 to 20 percent of the President's level of involvement in the media campaign.¹⁴⁷

Doug Sosnik

From July 1995 through August 1996, Sosnik's level of involvement was roughly 30 to 40 percent of the President's level of involvement in the media campaign.¹⁴⁸

THE PRESIDENT AND VICE PRESIDENT AGREED TO LIMIT THE AMOUNT OF MONEY THEY WOULD SPEND ON THEIR CAMPAIGN, AND THE VIOLATION OF THAT AGREEMENT MAY CONSTITUTE A VIOLATION OF 18 U.S.C. § 371

In addition to the White House's coordination with and control of the DNC in producing and paying for ads containing electioneering messages on behalf of the President's reelection, there is a question as to whether the fundraising and expenditures neces-

¹³⁷ *Id.* at p. 103.

¹³⁸ *Id.* at p. 101-02.

¹³⁹ *Id.* at pp. 102, 106, 170.

¹⁴⁰ *Id.* at p. 107.

¹⁴¹ *Id.*

¹⁴² See Dick Morris, *Behind the Oval Office* (1997), p. 183.

¹⁴³ See Morris deposition, p. 188.

¹⁴⁴ *Id.* at p. 110.

¹⁴⁵ *Id.* at p. 111.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.* at p. 188.

¹⁴⁸ *Id.*

sitated by the desire to run those ads constitute a “conspiracy to defraud the government.”¹⁴⁹

Under the FECA, a presidential candidate who accepts federal matching funds cannot exceed the applicable expenditure limits for his campaign.¹⁵⁰ To ensure that the statutory scheme and its purposes are complied with, the FECA requires that candidates who receive matching funds under 26 U.S.C. §9037 certify that they will not exceed the FECA expenditure limits.¹⁵¹

Here, the certification was made, and the government wrote its check only after being told that what in fact was already occurring (the raising and spending of private money) would not occur. The foresworn fundraising and spending was undertaken using the DNC as a conduit.

As pointed out above, the intent of the FECA in providing limited federal funding is to remove the candidate from the fundraising process and to prevent the raising of large private campaign contributions. The deal the taxpayers make with the candidate is that in exchange for their funding, the candidate will forswear outside money, thereby making it less likely that the election will be influenced or appear to be influenced by big money. Obviously, in the matter before us, the clear purpose of the law was circumvented. If a candidate can easily circumvent those limitations through coordination with a third party, such as by raising unlimited sums for a party committee the candidate controls, that objective of the statute is completely undermined.

The “defraud the United States” portion of section 371 of title 18 is broad in scope and is applicable to any activity that has the effect of defrauding the government. This is the case even if no other criminal statute has been violated. In other words, under section 371 even an act that is not itself a violation of any statute can result in criminal liability if the government is defrauded. Accordingly, the quotation attributed to Attorney General Reno that “a conspiracy has to be a conspiracy to violate specific laws” is incomplete.¹⁵² That statement may be correct in regard to the portion of section 371 dealing with conspiracy “to commit an offense against the United States,” but apparently does not address the conspiracy “to defraud the United States,” which is the other portion of section 371. So even though it appears that the FECA may have been violated, even if the FECA was not violated, the activity at issue may still constitute a conspiracy to defraud the United States.

For instance, in *United States v. Touhey*,¹⁵³ the court decided a case in which the defendants conspired to gain control of a bank without reporting the transaction to the FDIC. Because each co-conspirator purchased less than 10% of the bank’s stock, the group thereby evaded the reporting requirement. Violations of the reporting requirements carry only civil, not criminal penalties. The court held that the defendants’ acts defrauded the government by inter-

¹⁴⁹ Under 18 U.S.C. §371, “[i]f two or more persons conspire either to commit any offense against the United States, or . . . to defraud the United States, or any agency thereof, and commit an overt act in furtherance of the conspiracy, then they have committed a federal criminal offense” (emphasis supplied).

¹⁵⁰ 26 U.S.C. §9035. The expenditure limits are set out at 2 U.S.C. §441a(b)(1)(A).

¹⁵¹ 26 U.S.C. §9033(b).

¹⁵² David Johnston, “Campaign Finance: Wider Implications; Justice Dept. Reopens Campaign Plot Case,” *The New York Times*, December 11, 1997, p. A24.

¹⁵³ 867 F.2d 534 (9th Cir. 1989).

fering and obstructing the FDIC's lawful government function of administering the banking laws. Therefore, criminal sanctions were imposed even though the underlying acts were not criminal violations.

The Supreme Court has read section 371 even more broadly. It has consistently held that the participants in a conspiracy need not conspire to violate any particular criminal or civil statute if they conspire to defraud the government. In the leading case, *Dennis v. United States*,¹⁵⁴ the defendants submitted false affidavits to the NLRB purporting to satisfy the requirement of federal labor law that union officials not be members of the Communist Party. Such an affidavit was required to be filed before the union could call upon the NLRB to investigate charges. The defendants were alleged to have falsely certified that they were not Communist Party members. The government charged the defendants with conspiracy to defraud the NLRB under section 371.

The Supreme Court found that, unable to secure the benefits of the NLRB without submitting non-Communist affidavits, the union officers deliberately concocted a fraudulent scheme. In furtherance of that scheme, they submitted false affidavits, and then used the NLRB facilities made available to the union.¹⁵⁵ The Court held that such a scheme was a conspiracy to defraud the United States, *whether or not the affidavits were themselves violations of the false statements statute*. As the Court found, section 371 covers "any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government."¹⁵⁶ For the Court, the key facts of the conspiracy in *Dennis* were "that petitioners and their co-conspirators could not have obtained the Board's services and facilities without filing non-Communist affidavits; that the affidavits were submitted as part of a scheme to induce the Board to act; that the Board acted in reliance upon the fact that affidavits were filed; and that these affidavits were false. Within the meaning of section 371, this was a conspiracy to defraud the United States or an agency thereof."¹⁵⁷

The advertisements themselves may be specific and credible evidence that overt acts were carried out in support of the conspiracy to evade the expenditure limits and other FECA requirements. The resulting interference and obstruction of the FEC's lawful function of administering the election laws as a result of either a civil or criminal violation of the FECA may form the basis for a criminal conspiracy to defraud the government under section 371.¹⁵⁸

As far as the President's use of the DNC to run the money through, a person cannot protect himself from liability by doing something in another's name that he is not allowed to do himself.

¹⁵⁴ 384 U.S. 855 (1966).

¹⁵⁵ *Id.* at p. 861.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.* at p. 862.

¹⁵⁸ In the most famous example of an attorney general's use of the discretionary provision of the Independent Counsel Act, Attorney General Meese sought the appointment of an independent counsel to investigate Col. Oliver North. The immediate issue presented in that case was whether any criminal law may have been violated by Col. North's diversion of CIA funds to the Nicaraguan *contra* rebels in light of the Boland Amendment which prohibited the use of CIA funds for that purpose. Violation of the Boland Amendment carried no civil or criminal penalties.

Direct criminal prohibitions are not skirted through indirect violation. *Whittaker v. Whittaker Corp.*¹⁵⁹

Also, “[m]en must turn square corners when they deal with the Government.” *Rock Island & L.R.R. Co. v. United States*.¹⁶⁰ Ordinary American citizens dealing with the Internal Revenue Service, for example, come to learn this quickly. Under our system of law, the same obligation is placed on the President.

COORDINATION BETWEEN THE DNC, CLINTON/GORE, THE WHITE HOUSE, AND UNION ORGANIZATIONS

Morris testified that in August 1995 Ickes organized and chaired a White House meeting in the Roosevelt Room between representatives of the DNC and Clinton/Gore '96 media team and approximately seven representatives of various labor unions.¹⁶¹ Morris recalled the meeting was attended by, among other individuals, representatives of the National Education Association, the American Federation of State, County, and Municipal Employees, the American Federation of Labor-Congress of Industrial Organizations, Sosnik, Stephanopoulos and Ickes.¹⁶² During the meeting, both the union representatives and the DNC and Clinton/Gore '96 media team displayed advertisements each had run or were considering running.¹⁶³ Morris testified that the union representatives:

Spoke in turn about what their media plans were that they were planning to advertise in States of Republican Senators, they were going to spend \$1 million over the course of the next year on doing it, here are the ads they had already run, here were the ads that they were about to run. It was a full briefing of us by them on their media plans.¹⁶⁴

Morris testified that the union representatives “suggested to us [Clinton/Gore '96 and the DNC consultants] that there be coordination of the advertising . . . issue-oriented ads about the budget.”¹⁶⁵ Morris also recalled the union representatives suggesting Clinton/Gore '96 should run advertisements in states where the unions were not advertising and, in particular, he recalled the following specific suggestion of coordination:

And I remember in particular they said, for example, we're going to be on in Vermont to go after Jeffords, and you don't care about winning Vermont politically, so we'll do Vermont and you don't.¹⁶⁶

While Morris could not recall the name of the individual who suggested the coordination, he believed it may have come from the union representatives' time buyer (possibly affiliated with Vic

¹⁵⁹ 639 F.2d 516 (9th Cir. 1981) (corporate insider violates section 6(a) of the Securities Act of 1934 by purchasing company stock for his mother's account over which he “exercised complete control” and selling stock for his own account within six months; this prohibition applies to such person's transactions “for his benefit”).

¹⁶⁰ 254 U.S. 141, 143 (1920).

¹⁶¹ *Id.* at pp. 216, 223.

¹⁶² *Id.* at pp. 216–17.

¹⁶³ *Id.* at p. 217.

¹⁶⁴ *Id.* at p. 222.

¹⁶⁵ *Id.* at p. 217.

¹⁶⁶ *Id.*

Fingerhut's agency).¹⁶⁷ Morris testified that Ickes was in favor of the coordination.¹⁶⁸ In contrast, Morris testified that he rejected a coordinated advertising effort between the White House, the DNC, Clinton/Gore '96, and the unions because he believed the union's media strategy was flawed.¹⁶⁹

CONCLUSION

One does not expect government officials, with salaries paid by the taxpayers, to manage directly the day-to-day operations of a political party. Yet that is precisely what happened in 1995–96. Ickes ran the DNC as the President's "designee."

The White House's unprecedented level of control over the DNC arose because the DNC was not in any sense independent from the President's re-election effort; the DNC was merely a vehicle for financing Morris' advertising blitz. With the Democratic Party serving primarily as a re-election vehicle, the President wanted control. Ickes obliged that desire, and Fowler was unable to go over Ickes' head, because Ickes was merely doing the President's bidding.

The nation's oldest political party simply became an arm of the White House with the primary mission of re-electing the President. The illegalities and improprieties discussed in this report stem from this simple fact. The President's attempt to slough responsibility for illegal and improper fund-raising by the DNC in 1995–96 by pinning blame on "the other campaign" rings hollow in the light of the facts uncovered by the Committee's investigation and outlined in this report.

¹⁶⁷ *Id.* at p. 222.

¹⁶⁸ *Id.* at pp. 222, 224.

¹⁶⁹ *Id.*

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Offset Folios 241 to 1 Insert here

THE DNC DISMANTLED ITS SYSTEM FOR VETTING CONTRIBUTIONS

As the DNC tried to slake the White House's historic thirst for campaign cash, it dismantled its system for reviewing contributions. The Committee concludes that the DNC, at a minimum, operated with a conscious disregard for the legality of contributions during the 1996 election cycle. Simply stated, the DNC knew how to implement procedures reasonably calculated to diminish the risk of accepting illegal or inappropriate contributions. The DNC had such procedures in place before the 1996 election cycle, and the DNC has such procedures now. Yet during the 1996 election cycle, the DNC did virtually nothing to screen significant contributions.

THE 1992 VETTING SYSTEM

The DNC was not always indifferent to the legality and appropriateness of large contributions. In preparation for the 1992 election cycle, Rob Stein, a DNC consultant, and later Ron Brown's Chief of Staff at the Department of Commerce, worked with then-DNC General Counsel Carol Darr to ensure that the DNC had an effective procedure in place to vet contributions.¹ Darr, who had worked on the 1988 Dukakis presidential campaign, wanted to institute a system at the DNC resembling the one used by the Dukakis campaign. Darr and Stein thus met with Dan Small, who had been in charge of vetting for the Dukakis campaign.²

Following this meeting, the DNC implemented a system similar to the Dukakis campaign's for vetting contributions over \$10,000. Any check for \$10,000 or more was to go through a vetting desk.³ This desk was supervised by Barbara Stafford, an attorney in the DNC's Office of General Counsel. Stafford had full-time responsibility for vetting contributions, as did her assistant, David Blank.⁴ In fact, the 1992 vetting system involved an entire group of DNC staff, usually numbering between six and 10, who did nothing but vet major contributions.⁵ Current DNC Deputy General Counsel Neil Reiff has confirmed to the Committee that there was once a separate "unit" of about seven or eight people, supervised by Barbara Stafford, that vetted checks.⁶ Likewise, current DNC General Counsel Joseph Sandler testified that "for the 1992 election a procedure known as Major Donor Screening Committee" was in place.⁷

In short, the 1992 vetting system involved a special vetting desk, staffed by six to 10 people, directly supervised by the DNC's Office of General Counsel.

¹ Deposition of Robert J. Stein, June 17, 1997, p. 57.

² *Id.* at p. 58.

³ *Id.*

⁴ *Id.* at p. 81.

⁵ Deposition of Melissa A. Moss, June 11, 1997, pp. 12, 17.

⁶ Deposition of Neil Reiff, June 20, 1997, p. 30.

⁷ Deposition of Joseph E. Sandler, May 15, 1997, p. 47.

1994: VETTING FADES

Carol Darr and Barbara Stafford were no longer in the Office of General Counsel during the 1994 election cycle. Darr's replacement, Sandler, was apparently somewhat less concerned with vetting contributions. Unlike the old vetting desk, supervised directly by the Office of General Counsel, the DNC began to rely on a less formal system involving one member of the DNC's Office of General Counsel and the part-time efforts of one member of the DNC's Research Division, Rumi Matsuyama, who was charged with helping DNC Deputy Counsel Neil Reiff vet checks larger than \$25,000.⁸

Matsuyama would receive a check and an attached form, entitled "Major Donor Screening Form," from Reiff.⁹ She would then perform a NEXIS search using the information on the form; relevant information would be downloaded. In addition, she would search a CD-ROM of Federal Election Commission records to ascertain whether the donor made other, presumably legal and appropriate contributions.¹⁰ She would then prepare a memorandum summarizing her research.¹¹ The memorandum, as well as the downloaded research, was attached to the Major Donor Screening Form, which was the same or substantially similar to the form used by the DNC's vetting desk in 1992, and all of these documents were returned to Reiff.¹² Reiff would then review the information and decide whether the DNC should accept and deposit the contribution.¹³

Matsuyama testified that she spent approximately five to 10 hours a month performing this vetting function; the remainder of her time was spent researching political issues.¹⁴ She left the DNC in May 1994.¹⁵ She was not replaced, and the check-vetting process for large contributions essentially ceased.

THE 1996 ELECTION CYCLE: WHAT REALLY HAPPENED?

The Committee's search for information about the DNC's vetting procedures following Matsuyama's departure in May 1994 was difficult. In many respects, the Committee could learn little more than DNC National Chairman Don Fowler could:

Q: What was your reaction to the vetting process that had been in place once that was explained to you?

A: Well, at that point, it became—it was reasonably clear that we should explore some more thorough vetting process than we had, more systematic vetting process, and we put that in place.

* * * * *

Q: And were you told during that explanation that in about the summer of '94, the DNC changed its process of doing Lexis-Nexis research on potential contributors?

⁸ Deposition of Rumi Matsuyama, June 10, 1997, p. 21; *see also* Reiff deposition, p. 37.

⁹ *See, e.g.*, Major Donor Screening Form dated May 24, 1993 (Ex. 1); Major Donor Screening Form dated April 17, 1993 (Ex. 2).

¹⁰ Matsuyama deposition, pp. 11–13.

¹¹ *Id.* at pp. 14, 39.

¹² *Id.* at pp. 13–14, 39.

¹³ Reiff deposition, pp. 27–28.

¹⁴ Matsuyama deposition, pp. 7, 22.

¹⁵ *Id.* at p. 6.

A: I was told that the prior process was suspended and that the responsibility was given to the Finance Division. I think we're talking past each other. I don't think——

Q: I think we're talking about the same. And how was it explained to you that the Finance Division carried out its vetting process?

A: There was a lot of vagueness there.

Q: Did you press for specifics in asking that question?

A: Yes, and there were no specifics available.¹⁶

The Committee encountered similar difficulties in trying to find out what vetting procedure, if any, was in place during the 1996 election cycle. As will be seen, much of the uncertainty stems from the testimony of those who should have been most responsible for ensuring that an adequate vetting procedures existed—the staff of the DNC's Office of General Counsel. The conclusion the Committee reaches is essentially the same as that reached by the DNC's National Finance Director, Richard Sullivan, who testified that it was his view that there was “a poor compliance system and no legal vetting.”¹⁷

Two self-serving explanations have been offered by witnesses associated with the DNC's Office of General Counsel for the absence of any vetting procedures during the 1996 election cycle. First, Joe Sandler and Neil Reiff essentially tried to shift blame to the Finance Division for poor vetting, by asserting that the vetting function had been transferred to that division. Second, they engaged in historical revisionism, attempting to segregate vetting for “legality” from vetting for “appropriateness,” and then asserting that the 1992 and 1994 procedures—which plainly collapsed in 1996—related only to “appropriateness” vetting, while “legality” vetting continued throughout. At every turn, Sandler and Reiff attempted to exculpate themselves from any responsibility for failing to catch the approximately \$3 million in illegal and inappropriate contributions that the DNC has itself returned.¹⁸

THE EXPLANATION THAT VETTING WAS TRANSFERRED TO THE FINANCE DIVISION

At first, based on the sworn testimony of DNC officials, the Committee believed it would learn that someone within the DNC's Finance Division had taken over Matsuyama's responsibilities for researching contributors for purposes of vetting major contributions. During the first day of his deposition, Sandler testified that “as of when Matsuyama left the DNC . . . a Nexis account number was given to the Finance Division, and . . . the Finance Division used that Nexis account from time to time . . . to screen donors. . . .”¹⁹ Likewise, Sandler's deputy, Reiff, testified that “we approached Jeff King as a staffer on the finance department at the time, and . . . my recollection is that he did agree in principle to do this function

¹⁶ Deposition of Donald L. Fowler, May 21, 1997, pp. 348, 350.

¹⁷ Deposition of Richard Sullivan, June 25, 1997, p. 120.

¹⁸ According to a June 27, 1997 DNC press release, the DNC had by that date returned \$2,825,600 in suspect contributions accepted during the 1996 election cycle. The DNC has failed to return other contributions of questionable legality. *See, e.g.*, the section of this report on the contributions of Ted Sioeng, his family, and related business interests.

¹⁹ Deposition of Joseph E. Sandler, May 15, 1997, p. 59.

of research.”²⁰ Reiff further testified that, at a meeting he attended with King, “[m]y impression essentially was that the finance department in principle said they would do this function of research to continue some type of appropriateness vetting for donors.”²¹

This testimony was only partially truthful. The Committee concludes that, although there was discussion of moving Matsuyama’s research function into the Finance Division, and although a Finance Division staffer originally agreed (subject to the approval of his superiors) to have a particular Finance Division employee perform that research, the employee who was to perform the research was laid off within a matter of days and the research function was never assumed by the Finance Division. Thus, the Finance Division never performed the research that Matsuyama previously undertook, and the DNC’s Office of General Counsel simply fell out of the process of automatically reviewing major, new contributions.

The Committee’s conclusion is based on the testimony of Jeff King, who primarily handled operations issues within the Finance Division. He rebutted the attempt to shift responsibility to the Finance Division for the dismantling of vetting procedures by establishing that Reiff knew that the Finance Division had not undertaken the vetting function. King testified that he had a meeting with Reiff (and others) about the time that Matsuyama left, and in the course of that meeting King agreed to have Nicole Hecker, a Finance Division employee, perform the Nexis searches—so long as King’s superiors agreed.²² Shortly after that meeting, the DNC laid off Hecker.²³ As a result, “the whole process never was implemented.”²⁴ After Hecker’s layoff, it was clear to King that the Finance Division could not assume the responsibility of conducting the NEXIS research.²⁵ More telling, King had a phone conversation with Reiff within six weeks of King’s deposition, in which Reiff acknowledged that “he knew [the Finance Division] just didn’t have the manpower to do what was necessary and that [it] certainly did not have the resources to do it.”²⁶ Thus, Reiff later admitted that he knew that the Finance Division was not undertaking the research associated with vetting contributions.

Richard Sullivan, the DNC’s National Finance Director, confirmed King’s account. Sullivan testified that he was never aware of any shift in responsibility for performing vetting research from the Office of General Counsel and Research Division to the Finance Division.²⁷ It was always Sullivan’s understanding that the General Counsel was responsible for screening contributions.²⁸ Sullivan, the highest-ranking paid employee of the Finance Division,

²⁰ Reiff deposition, pp. 39–40.

²¹ *Id.* at p. 41. Reiff also told B.J. Thornberry, the DNC’s Chief of Staff, that “the vetting responsibility was moved to Finance” when Matsuyama left the DNC. Deposition of B.J. Thornberry, May 20, 1997, p. 78. Thornberry, who was attempting to respond to press inquiries, investigated the DNC’s vetting procedures on her own during the fall of 1996. She concluded that “while the function was transferred to Finance, that clearly, if it was happening, it was happening on an episodic basis and it never became standard operating procedure.” *Id.* at p. 79. The basis for this conclusion was that “we were in the midst of beginning to return checks that had clearly not gone through any quality control procedures.” *Id.* (emphasis added).

²² Deposition of Jeffrey King, June 26, 1997, pp. 18–19, 23–24, 43.

²³ *Id.* at pp. 24, 43.

²⁴ *Id.* at p. 29.

²⁵ *Id.* at pp. 30, 43–44.

²⁶ *Id.* at p. 31; *see also id.* at pp. 30, 44.

²⁷ Deposition of Richard Sullivan, June 5, 1997, pp. 124, 128.

²⁸ *Id.* at pp. 120–21, 129–30.

agreed that it was not conceivable that the Finance Division would assume responsibility for check vetting without his knowing about it.²⁹ When Sullivan first heard the suggestion that the responsibility had been shifted to the Finance Division, he investigated and could not find any individual within the Finance Division who was aware of such a shift in responsibility.³⁰ During 1997, however, he did learn from Jeff King that King had met in 1994 with Reiff and Sandler, and they discussed the possibility of an individual with the Finance Division assuming responsibility for screening in the light of DNC layoffs; however, King informed Sullivan that the individual (Hecker) had left within a few days of the meeting, and King “told the people that were in the meeting with him that [the Finance Division] couldn’t take that responsibility, so that [it] never took that responsibility.”³¹

In addition to his pre-deposition admission to King,³² there is other evidence that Reiff knew that the DNC had stopped researching new contributions. He testified that he would review about five to 10 Major Donor Screening forms per week when Matsuyama was still a DNC employee.³³ After she left, Reiff testified that “the [vetting] process that I knew, that I was running, was over.”³⁴ Reiff simply was “no longer involved in the vetting of donors for appropriateness at that point.”³⁵ At no point did Reiff testify as to any personal awareness that someone else was conducting the review of research materials that he had once conducted, nor did he testify that he trained anyone within the Finance Division to perform that review.

To the contrary, Reiff testified that Scott Pastrick, the DNC’s Treasurer, “complained to me that there was no process within the finance department” for vetting.³⁶ Reiff recalled that this conversation took place in the summer of 1996.³⁷ If the DNC’s Treasurer—a volunteer, part-time officer—could discern that the Finance Division was not vetting contributions, it strains credulity to suggest that the DNC’s Office of General Counsel truly believed that research for purposes of vetting was being carried out by the Finance Division.³⁸ In fact, the candor of both Sandler’s and Reiff’s claim

²⁹ *Id.* at pp. 128–29.

³⁰ *Id.* at p. 129.

³¹ *Id.* at p. 133.

³² See *supra*, text accompanying note 26.

³³ Reiff deposition, p. 36.

³⁴ *Id.* at p. 43.

³⁵ *Id.*

³⁶ *Id.* at p. 50.

³⁷ *Id.*

³⁸ Pastrick testified that he spent “about eight or ten hours a week” at the DNC’s offices. Deposition of Robert Scott Pastrick, May 7, 1997, p. 46. The office of treasurer was voluntary and unpaid. *Id.* at p. 8.

Interestingly, one of the primary functions of a national committee treasurer is to sign the committee’s FEC reports. See Deposition of Richard Sullivan, June 4, 1997, pp. 46–47. Under federal election laws, only the treasurer or an assistant treasurer may sign the FEC reports. 2 U.S.C. §434(a)(1) (treasurer must sign); 11 C.F.R. §102.7(a) (assistant treasurer acceptable). Pastrick never signed an FEC report on behalf of the DNC. Pastrick deposition, p. 15. Richard Sullivan’s recollection of Pastrick’s explanation for this is interesting:

Q: Well, tell me what he [Pastrick] said in those conversations.

A: He said that he wasn’t—he said that he was told by Brad Marshall [DNC Chief Financial Officer] and Joe Sandler that he was not allowed to sign the FEC reports.

Q: Did he say why they had told him that?

A: He said that he had a—I think I remember, you know, insinuating or saying that they may not have wanted him to be a witness to the spending report side of it.

that the Finance Division had agreed to assume the vetting research is called into question by Reiff's own testimony strongly implying that both Sandler and he were aware that vetting had essentially "ended," and that this concerned both of them.³⁹

King appears to have been worried that the DNC and its outside law firm would nevertheless exploit his 1994 meeting with Reiff and others in an attempt to heap blame on him for the DNC's inadequate vetting. According to Sullivan, King told him that Debevoise & Plimpton, the DNC's outside law firm, had "summoned" King to come talk to them about the subject of vetting, and King "stated that he felt like the blame for all of this was being placed on his shoulders because of this one meeting. . . ."⁴⁰ King told Sullivan that he (King) "felt like they were trying—that the DNC, Debevoise & Plimpton were trying to blame him."⁴¹ In his deposition, though, King denied telling Sullivan that King believed that the DNC or Debevoise & Plimpton were trying to pin blame on him, characterizing Sullivan's sworn testimony as "inaccurate."⁴² King later admitted, however, that he was "concerned" that an apparently incomplete memorandum in the DNC's files could be misinterpreted as stating that the Finance Division had assumed the NEXIS re-

Q: Did he indicate what that was that they didn't want him to be a witness to the spending?

A: As I recall, he may have—as I recall, he talked about the fact that they may have been spending money, making expenditures that if he—that they didn't want him to know about. My sense was—and I don't recall if he—my sense of it is, and memory—I don't recall vividly him saying this, is that, you know, they may have been giving contributions to certain campaigns or they may have been—expenditures that they just didn't know that—just didn't want him to know about.

And, again, my memory of it is that there may have been expenditures that they didn't want Scott to know about because Scott might tell people in the White House, Harold [Ickes] or Doug [Sosnik].

Deposition of Richard Sullivan, June 4, 1997, pp. 48–49; *see also id.* at pp. 53–57. Sandler acknowledged that Brad Marshall, the DNC's Chief Financial Officer, was "the designated assistant treasurer for FEC purposes." Deposition of Joseph E. Sandler, August 21, 1997, p. 38. Sandler denied, however, that he ever told Pastrick that he was not allowed to sign FEC reports. *Id.* at p. 47.

³⁹Reiff testified as follows:

Q: I also want to be clear. I think you answered before, but I want to make sure we are clear on it.

After the meeting with Mr. King, you don't recall having any conversation with anyone at the DNC about what's going on with this appropriateness screening other than the Pastrick conversation and up until the press reports?

A: I don't specifically—I am sure over a period of time I probably expressed disappointment to Joe [Sandler] again as we went along. I don't know how many times, if I did it or not, but I'm sure I felt disappointed right after it happened in terms of 1994. But no, I have no other recollections of any other conversations.

Q: What was Mr. Sandler's reaction when you expressed that to him?

A: I can't tell you anything specific. I don't recall anything specific, but *I think we were both generally disappointed that the process ended*, the one that I was running. That's pretty much all I can tell you about that.

Q: Did you suggest to Mr. Sandler he bring it up with the higher-ups at the DNC?

A: My impression is that I did. I couldn't tell you when, how many times, but my impression is I probably mentioned it on a couple of occasions.

Q: What was his reaction to that?

A: My impression, again, not remembering specifically, I'm sure he expressed support of my view, but I never asked him—I don't recall ever asking him specifically whether he asked or what the response was to his request.

Q: As you sit here today, do you know whether he brought the issue up with anyone in the management structure of the DNC?

A: No, I don't really know anything about that. I don't recall him relaying any information back to me, for that matter.

Reiff deposition, pp. 68–70 (emphasis added).

⁴⁰Deposition of Richard Sullivan, June 5, 1997, p. 135.

⁴¹*Id.* at p. 139.

⁴²King deposition, pp. 36–38.

search responsibility, when, in fact, it had not.⁴³ King testified that he might have shared this concern with Sullivan.⁴⁴ In fact, Reiff also testified that he “got the impression that he [King] was concerned about being blamed about something.”⁴⁵

Whatever effort may have been made by the staff of the DNC’s Office of General Counsel or the DNC’s outside law firm to blame the Finance Division, the evidence is overwhelming that the Finance Division never in fact undertook to perform the limited vetting research previously done by Matsuyama, and that the Office of General Counsel knew this. The DNC’s vetting process simply was allowed to collapse. While many expressed concerns about the collapse, no one thought to restore the vetting process, as that might slow or limit the money flowing to the DNC.

THE EXPLANATION DISTINGUISHING BETWEEN VETTING FOR
“APPROPRIATENESS” AND “LEGALITY”

Another supposedly exculpatory contention made only by Sandler and Reiff is that the DNC did not dismantle its system for vetting contributions for “legality.” To make this contention, Sandler and Reiff asserted that vetting for “legal” issues was *always* the responsibility of the individual fundraiser receiving a contribution, and that the automatic vetting process in place in the 1992 and 1994 election cycles was designed to screen only for “appropriateness.”

Sandler tried to explain the difference between screening for legality and appropriateness in the following manner:

[F]irst of all, with respect to legality, throughout the time period [February 1993 to October 1996] the finance staff and the accounting staff were advised that if there was any issue or question of legality, that it should be brought to the Office of General Counsel. The Finance staff was issued specific written guidelines to that effect and there were also training sessions held for that purpose.

With respect to appropriateness, it is part of legality, there was automatic screening for donor limits. In other words, if somebody had written an individual check and it was checked and it was not clear if it was designated for the federal account, it was checked to see if they had al-

⁴³ *Id.* at pp. 46–47; Memorandum from Jeff King to Stephen Goodin, June 7, 1994 (Ex. 3).

⁴⁴ King deposition, p. 47. Sullivan generally shared King’s concern about the DNC’s outside law firm, as Sullivan testified that, in his own meeting with Debevoise & Plimpton lawyers shortly after the election, the tone of questions addressed to him about vetting procedures at the DNC was “accusatory,” and he had the “sense” that Debevoise & Plimpton wished to lay blame at his feet. Deposition of Richard Sullivan, June 25, 1997, pp. 115–16. Sullivan went on to add that he felt that the Debevoise & Plimpton lawyers “knew who they represented and who they didn’t.” *Id.* at p. 116. He continued:

They represented the DNC as an institution, and the DNC officers, Fowler, Dodd, and they—you know, and they conveyed the sense that they—they conveyed the sense, you know, that that included like the chief of staff *and the general counsel*, too.

Q: So, if there was blame to be laid, it would not be laid at the feet of the officers of the higher-ups; is that accurate?

A: That was what—that was where they wanted to go.

Q: But it was okay to lay the blame at some of the subordinate employees—

A: Sure.

Q[continuing]: lay blame at the feet of some of the subordinate employees?

A: Correct.

Q: You fell into that latter category?

A: Yes.

Id. at p. 117 (emphasis added).

⁴⁵ Reiff deposition, p. 47.

ready given the maximum. We routinely check to see if they had given the maximum to the federal account. If they had, we automatically put it in a non-Federal account. If they hadn't, the procedures generally throughout this period called for the appropriate redesignation form to be sent out to the donor.

So, I mean that is an aspect of legality. Other more complicated questions of legality, the procedure was to bring them to our office for discussion, which was done routinely and consistently throughout this period.

With respect to appropriateness, I described the process that was in place until approximately May of 1994. It is my general understanding that as of when Ms. Matsuyama left the DNC that the research position, the position of the Research Division that she had, was either not filled or was used for other research purposes, and that a Nexis account number was given to the Finance Division, and that the Finance Division used that Nexis account from time to time, as they found it necessary, to screen donors who were not otherwise well-known to them or about whom they had some concern for appropriateness.⁴⁶

This distinction was also urged by Reiff,⁴⁷ and Sandler reiterated it in his opening statement before the Committee in public hearings.⁴⁸ The exculpatory nature of this distinction is that Reiff and Sandler can claim that vetting for issues of "legality" was not terminated on their watch.

The attempt to describe the elaborate research of the 1992 "vetting desk" as mere "appropriateness" vetting is revisionist. Those who created that "vetting desk" were concerned with issues of legality—as well as broader concerns about the appropriateness of accepting certain contributions. Rob Stein testified that he and former DNC General Counsel Carol Darr looked to the 1988 Dukakis campaign because they "knew that they had [a] well-structured and [a] rigorous system . . . for complying with the laws governing campaign finance."⁴⁹ He testified that the system actually implemented by the DNC for the 1992 elections was one that "worked," adding that "we had what we needed to assure that the laws were being complied with in terms of donor contributions. And it wasn't just the laws, we had concerns about conflicts of interest or tainted money or whatever."⁵⁰ The old DNC "vetting desk" supplemented the DNC's training its fund-raisers to be sensitive to legal issues.⁵¹

Second, the "appropriateness" vetting described by Sandler and Reiff—Nexis searches and searches of FEC databases—could have triggered a review of contributions for both legality and appro-

⁴⁶ Deposition of Joseph E. Sandler, May 15, 1997, pp. 58–59.

⁴⁷ See, e.g., Reiff deposition, p. 19 ("There is political and appropriateness screening, and then there is legal, legality screening.").

⁴⁸ Testimony of Joseph E. Sandler, September 10, 1997, pp. 4–8. Sandler stated that there "are two distinct aspects to such screening: legality and appropriateness." *Id.* at p. 4. He then gave an explanation of the distinction similar to that offered in his deposition.

⁴⁹ Stein deposition, pp. 57–58.

⁵⁰ *Id.* at p. 59.

⁵¹ *Id.* at pp. 59–60.

priateness. After all, an illegal contribution would seem to be inappropriate, and the research gathered in assessing the “appropriateness” of a contribution could well be used to ascertain its legality. In fact, Neil Reiff testified as follows:

Q: So hypothetically if you do a Nexis search on someone and it turns out that person is a citizen of a foreign country and the article goes on to state they don’t have any residence status in the United States, therefore, take it from there they can’t make a contribution, you would be able to use that information to make a legality decision?

A: Hypothetically, yes.

Mr. Best [DNC lawyer]: Or hypothetically be found that he was a bankrupt.

The Witness: There is [sic] a million things you could find out. It is all part of the same process.

By Mr. Kupfer [Counsel for the Committee]:

Q: And so it seems that you stated that you can get information that would go towards legality from the appropriateness screening?

A: Hypothetically you can, but it is not a foolproof system.

Q: I understand it is not a foolproof system. You could get information that would assist you in making a legality determination, is that correct?

A: Hypothetically speaking, yes.⁵²

Accordingly, the dismantling of the automatic “appropriateness” vetting system—to use Sandler’s and Reiff’s characterization—removed information from the process that could have been informative to the potential legality of a contribution.⁵³

Even assuming that the revisionist explanation should be accepted, and further assuming that there was no interdependence between “appropriateness” and “legality” screening, the legality

⁵² Reiff deposition, pp. 65–66.

⁵³ In fact, as discussed earlier, Reiff testified that, before Matsuyama’s departure, he had been reviewing approximately five to 10 Major Donor Screening Forms per week. *Id.* at p. 36. Obviously, this afforded Reiff, the DNC’s Deputy General Counsel, an opportunity to apply his legal training to the Nexis and FEC research gathered by Matsuyama. But, as also discussed earlier, after Matsuyama left, the responsibility for vetting fell off Reiff’s “radar screen.” *Id.* at p. 42.

Despite Reiff’s relatively straightforward testimony, Sandler attempted to assert in his public testimony before the Committee that the failure to re-assign the so-called “appropriateness” screening did not “materially contribute to the receipt of the contributions the DNC has been required to return,” because “a routine Nexis check would not detect contributors serving as conduits for . . . foreign source contributions.” Sandler testimony, p. 8. Sandler then offered, as one of several examples, the Yogesh Gandhi contribution, discussed elsewhere in this report. See the section of this report on Yogesh Gandhi. According to Sandler, Lexis-Nexis searches—had they been performed—would have disclosed “a small claims court judgment and a routine State tax lien for a few thousand dollars.” Sandler testimony, p. 9. This blithe dismissal of Gandhi’s public record caused Senator Collins to wonder:

First of all, I have to say, I don’t think a tax lien of any sort is routine. But putting aside that question, would it not have struck you as at least somewhat unusual and worthy of further investigation that an individual who has never before made a political contribution in any amount, comes in with a check for \$325,000, and yet your own check, your own quick review, your own Lexis-Nexis review, reveals that he has a small claims judgment against him for unpaid bills as well as a tax lien? When you couple a first-time donor making a huge contribution with the existence of a small claims court judgment and a tax lien, why wouldn’t that raise suspicions for you to want more information and to clear this check and vet it more thoroughly?

Hearing Transcript, September 10, 1997, p. 82. No satisfactory answer was forthcoming, although the answer may underscore Sandler’s complete lack of caution. To Sandler, the existence of unpaid small claims judgments and state tax liens was not something that raised “red flags,” or was “unusual.” *Id.* at p. 83.

“screening” envisioned by Sandler, which called on the fund-raisers themselves to vet contributions, was fatally flawed. The first fatal flaw with this alleged process was that individual fund-raisers did not understand that they were to be the only line of defense against illegal contributions. For example, when the Committee deposed David Mercer, the DNC’s Deputy National Finance Director, he was shown three consecutively-numbered Lippo Bank checks, each dated August 1, 1995, from Kenneth R. Wynn to the DNC, and each for \$5,000.⁵⁴ Each check was pre-printed with a home address in Jakarta, Indonesia. Mercer filled out a check tracking form for these contributions.⁵⁵ This provoked some of the following questions:

Q: Is there a procedure in place when receiving a check with a foreign home address?

A: I do not recall among the literature that we received, among the guidelines, fund-raising guidelines, that if you receive a check with a home address or I don’t even know if it’s a home address, but an address that has a foreign city and State in it that you were to do X, Y or Z.

Q: Were there any procedures in place if you suspected a check was not from a U.S. citizen?

A: Yeah. Yes.

Q: What were those procedures?

A: To inform the individual that we were unable to accept contributions from noncitizens.

Q: In this case, you did not, to your recollection, attempt to contact the individual who made the contribution; is that correct?

A: That is correct.

Q: Why not?

* * * * *

A: I don’t recall contacting somebody to find out where they lived or whatever else.

To me, I filled out the check tracking form. A lot of what we do, we receive thousands of checks. I think we received more than a million checks last year. You’d fill out the tracking form.

If there’s over—if there is—if it is drawn on a U.S. bank account, that would suffice. If somebody had a question about it as it went through the process, they’d bring it back to me. . . .⁵⁶

Later, Mercer continued:

Q: Earlier when we were talking about his check-tracking process and we were talking specifically about these checks that showed an Indonesian home address, if I recall, you said you’d put down the information on the check-tracking form and you’d send it through the system, and

⁵⁴ Checks from Kenneth R. Wynn to the DNC, August 1, 1994, and accompanying DNC Check Tracking Form (Ex. 4).

⁵⁵ Deposition of David Mercer, May 14, 1997, p. 42. A check-tracking form was a form usually filled out by the DNC fund-raiser to keep track of contributors, identify those responsible for soliciting the contribution, and ascribe the contribution to a particular event (if applicable).

⁵⁶ *Id.* at pp. 218–19.

if any red flags came up, you'd expect that they'd bring it back to your attention; is that correct?

A: Yeah, that's correct.

Q: Who in your mind was the person who would raise the red flags relating to the information on the check-tracking form and the checks?

A: In my mind, it would be anybody that was of a superior to me, or who I reported to or legal counsel or—you know.⁵⁷

In short, although Mercer plainly had received some training and was provided with legal guidelines, he still thought that someone, presumably in the Office of General Counsel, was reviewing new contributions as a matter of course. Needless to say, this understanding was incorrect.

In fact, Mercer's immediate supervisor, Sullivan, always understood that a two-step screening process was supposed to be in place at the DNC: "I was told that there was sort of a two-step process. All checks of \$10,000 and above are automatically run through a Lexis-Nexis check by staffers in the . . . Research Department, and that there was also additional review by the Legal Department . . . As you know, Lexis-Nexis was primarily appropriate/inappropriateness, you know, because it was explained to me Lexis-Nexis doesn't necessarily determine whether a check's legal or illegal, and so then there was then a review as to legality by the Legal Department."⁵⁸ This understanding was essentially consistent with the 1994 vetting process, which involved the collaboration of Rumi Matsuyama of the Research Division and Neil Reiff from the Office of General Counsel.⁵⁹ As discussed, even this modest system was dismantled. Although Sullivan knew that he was "to use [his] best judgment in avoiding potential problems," he also believed that "once the check was passed on, this process took place."⁶⁰ He was not aware of any change in this process until after the 1996 election.⁶¹ Clearly, top DNC fund-raisers were unaware that they bore primary—indeed, exclusive—responsibility for raising concerns about potentially illegal contributions.

The fact that Mercer and Sullivan were unaware that they bore exclusive responsibility for legal vetting is unsurprising; they were not told about the dismantling of the old research system. A short passage from Sandler's testimony confirms this:

Q: Let me go back to my prior question and I believe the answer, with all due respect, is a yes or no answer.

At the time that Ms. Matsuyama left the DNC and was no longer—and no one was any longer doing a NEXIS or an FEC database research, were people within the Finance Division apprised of the fact that these searches were no longer being automatically done?

A: Not that I'm aware of.

Q: So, you yourself certainly never apprised them of that; is that accurate?

⁵⁷ Deposition of David Mercer, May 27, 1997, p. 14.

⁵⁸ Deposition of Richard L. Sullivan, June 5, 1997, pp. 92-93; *see also id.* at pp. 95, 120-21.

⁵⁹ *See supra*, notes 8-14 and accompanying text.

⁶⁰ Deposition of Richard L. Sullivan, June 5, 1997, p. 93.

⁶¹ *Id.* at pp. 97, 124.

A: That's accurate.⁶²

Moreover, even assuming that individual fund-raisers were aware that they were the first and last line of defense against illegal contributions, charging them with such final responsibility would itself be reckless and unreasonable. Fund-raisers seek funds. DNC fund-raisers obviously wanted credit for soliciting contributions.⁶³ The DNC kept track of contributions credited to individual fund-raisers.⁶⁴ Presumably, successful fund-raisers could expect appropriate remuneration or recognition. Making the fund-raiser responsible for legal vetting of contributions creates a conflict of interest. Fund-raisers want to raise money, not reject it. And this common-sense proposition could never have been more true than it was in 1996 for the DNC, given the White House's enormous appetite for money.

This inherent conflict of interest is the second fatal flaw with the alleged "legality" screening described by Sandler and Reiff. Mercer's testimony underscores that a fund-raiser is not the best person to vet contributions for legality:

My responsibility was to work within the parameters of the guidelines that are outlined and you have copies of, which I submitted via the subpoena. *My job was not to work in compliance and verify every single check, its origin, the source of the money and everything else.* We work in this environment on the good faith and the understanding of the people we work with. If someone within our—within the DNC had responsibility for checking into that, I don't know who it was. I presumed that whether through legal counsel or others, that those kinds of things would be detected or that people would question or what have you. I had never been—it had never been brought to my attention about any question of checks prior to the stories breaking in October. But *my job was as a fund-raiser to raise the money* and to make sure that the check-tracking forms were filled out and to submit the check-tracking forms.⁶⁵

Although Sandler would not agree that the alleged system for vetting contributions for "legality" at the DNC labored under an inherent conflict of interest, he recognized that "in retrospect we've separated the function now."⁶⁶ He further acknowledged that "as a matter of good policy and practice . . . it was appropriate to have those functions . . . in a separate Compliance Division rather than in the Finance Division."⁶⁷

CONCLUSION

The Committee concludes, as any reasonable observer must, that the DNC's system for vetting contributions during the 1996 election was wholly inadequate. Most DNC officials agree with this much

⁶² Deposition of Joseph E. Sandler, August 21, 1997, pp. 95–96.

⁶³ See, e.g., Deposition of David Mercer, May 27, 1997, p. 53.

⁶⁴ *Id.*

⁶⁵ *Id.* at pp. 27–28 (emphasis added).

⁶⁶ Deposition of Joseph E. Sandler, August 21, 1997, p. 77.

⁶⁷ *Id.* at 78.

of the Committee's conclusion. For example, Joe Sandler explained what the DNC perceived as deficiencies in its 1996 system: "[T]here was not automatic screening of contributions for appropriateness and legality of every donor not well-known to the DNC above a certain dollar threshold. It was instead a perceived deficiency . . . that it had instead been left to the judgment of individual members of the finance and/or accounting staffs to identify problems of that nature and bring them to the Office of General Counsel."⁶⁸

DNC National Finance Director Richard Sullivan concurred, adding additional context:

[T]here was not an adequate legal or compliance system set up to back up in an historic effort in terms of the aggressiveness of the fund-raising, and throw into there the fact that . . . we throw John Huang into an aggressive fund-raising operation with no—with a poor compliance system and no legal vetting. This is what happened.⁶⁹

Undoubtedly, the DNC should have been more vigilant and preserved its vetting procedures—especially in the face of such historic, aggressive fund-raising.⁷⁰

⁶⁸Deposition of Joseph E. Sandler, May 15, 1997, pp. 65–66. Sandler was even more explicit about the vetting deficiencies in his comments to the press. The following paragraphs from a July 1997 article, which focused on Sandler, are interesting:

What happened, Sandler says, is that "the person who was doing the research work wasn't replaced." That key job involved ensuring that contributions were not coming from inappropriate sources like ex-cons, foreign nationals, or people with insufficient resources.

Instead, says Sandler, the screening process came to depend on members of the finance staff bringing questions and problems to Sandler's office. "That clearly was a mistake, and the automatic background checks should have been continued," he says.

When asked whether anyone warned in some formal way that fund-raisers should look more critically at the money they were raising, Sandler demurs. "This is an area I probably should not comment on in detail because it's of interest to the investigators," he says.

Timothy J. Burger, "The DNC's Fall Guy?" *Legal Times*, July 14, 1997, p. 16. As discussed earlier, the fund-raisers were not told that they were the last line of defense. The article also quotes an anonymous "knowledgeable Democratic operative" as saying, "I blame this whole thing on Joe." *Id.* at p. 15.

⁶⁹Deposition of Richard Sullivan, June 25, 1997, p. 120.

⁷⁰Furthermore, the DNC's non-existent vetting procedures were unique; Democrats cannot protest that "everybody does it." When Senator Glenn questioned Richard Sullivan, the following colloquy took place:

Senator GLENN. Well, I guess what I am getting at is this: I wondered if you had knowledge of what kind of a system they [Republicans] had set up. Was the system on the Democratic side very similar to theirs? Was ours more extensive than theirs? Was theirs more extensive than the one [on] the Democratic side? Do you have any opinion on that?

Mr. SULLIVAN. As to what kind of system, Senator?

Senator GLENN. As to vetting these things, making sure that campaign contributions were legal, deciding which ones should be returned, deciding whether we are going to go after foreign money or not . . . was the system that they had set up similar to the one that you have been describing a little bit here?

Mr. SULLIVAN. Unfortunately, Senator, I'm sorry to tell you, but their system was much more systematic, complex, and thorough than our system.

* * * * *

Mr. SULLIVAN. In your question of comparing the legal vetting of the two committees, it's my understanding that the Republican National Committee's was much more thorough. I don't know that for a fact, obviously, but that's just my sense.

Senator GLENN. Okay. In that opinion, what would back that up, what observation? Do they have different layers of people that vetted these things? Do they have different lawyers, different legal staffs? How would their system be different from the one that the Democratic National Committee used?

Mr. SULLIVAN. I think you described it. I think they had a much—I think they had a much more thorough—I think a much more thorough system of vetting of a committee of lawyers, as I understand it.

Continued

The DNC now has a new compliance system, one very similar to the “vetting desk” in place during the 1992 election cycle. This may go a long way toward diminishing the risk of future fund-raising scandals—provided the DNC keeps its system in place. As for the 1996 federal elections, however, the new system came too late. As DNC Chairman Don Fowler testified, the new system “was the equivalent of closing the door [of] the barn after the horse left. . . .”⁷¹

The interesting question is how the barn door was opened in the first place. Although it may be convenient to blame the DNC’s Office of General Counsel for simple negligence, as Sullivan explicitly did,⁷² the conduct appears worse than negligent, and the responsibility vests at a level above the general counsel. After all, the members of the Office of General Counsel were concerned about the dismantling of the vetting system, and Reiff had “the impression” that Sandler had raised these concerns with higher-ups.⁷³ It is no coincidence that vetting was dismantled during a period of historic need for money to pay for unprecedented advertising, resulting in huge amounts of foreign and other illegal money. In fact, it appears that the DNC made a decision to operate under a “system” that would turn a blind eye towards questionable contributions, allowing the DNC to receive large, illegal contributions without any accountability for their receipt in the event that they were detected. In the absence of any sanctions deterring such behavior,⁷⁴ the DNC, run by the White House,⁷⁵ consciously disregarded the prospect of illegal contributions.

Testimony of Richard Sullivan, July 9, 1997, pp. 36–37, 40.

⁷¹ Fowler deposition, p. 351.

⁷² Deposition of Richard Sullivan, June 25, 1997, pp. 119–20.

⁷³ See *supra*, note 39.

⁷⁴ See the section of this report on the FECA for a discussion of the sanctions that should be available to the FEC to deter such activity in the future.

⁷⁵ See the section of this report on the White House’s control of the DNC.

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DNC FUNDRAISING IN THE WHITE HOUSE: COFFEES, OVERNIGHTS
AND OTHER EVENTS

OVERVIEW

The story of the Clinton Administration's use of the White House as a DNC fundraising tool had its origins in the panic that set in after the Republican party took control of the House of Representatives and the Senate in the November 1994 elections. At the DNC, the general mood was nearly apocalyptic. As Terence McAuliffe recalled,

the President was in serious trouble. A lot of people wondered if the President was even going to run again. I can tell you the political mood at the time clearly was that he had no chance of winning again, clearly would not win reelection and would have a very tough time with a primary. And there was a lot of talk that people would run against him in a primary. It was a very tough political time.¹

Democrats realized that if the President were to be reelected, it would take an extraordinary amount of money, more than had ever before been raised in a presidential campaign. In an article subsequently published in *Newsweek*, George Stephanopoulos—who was at the time Senior Advisor to President Clinton—described the bleak atmosphere in the White House in late 1994, recounting that this extraordinary challenge was felt to require extraordinary responses. It was believed, he wrote, that reelecting Bill Clinton and Al Gore would

take cash, tons of it, and everybody from the President on down knew it. So money became a near obsession at the highest levels. We pulled out all the stops: overnights at the White House, coffees, intimate dinners at Washington hotels, you name it.”²

All of these DNC events—coffees, overnights, dinners, and so forth—would be aimed at raising money.

One of the prime architects of this campaign to “pull out all the stops” was Terry McAuliffe, who met with the President on December 27, 1994, to discuss in general terms what needed to be done to prepare the Democratic Party for the 1996 election and the prevailing mood of the donors upon whose contributions the party's efforts were to focus.³ Among other things, McAuliffe assured the President that he himself would organize the necessary fundraising

¹ Deposition of Terence R. McAuliffe, June 6, 1997, pp. 11–12. For further discussion of this issue, see the sections of this report on the White House's thirst for money and its control of the DNC.

² George Stephanopoulos, “The View From Inside,” *Newsweek*, March 10, 1997, p. 27.

³ Deposition of Terrence R. McAuliffe, June 6, 1997, pp. 12–14.

and generally put “the operation together.”⁴ It became clear, even during this discussion, that the President’s own commitment of time and energy to encouraging campaign contributors would be central to the party’s fundraising effort. At the end of their meeting, the President asked McAuliffe what *he* needed to do,⁵ to which McAuliffe responded that he needed “some time with you [the President] to meet with some of the key supporters who are demoralized out there so that you can get them re-energized and ready for the ’96 election.”⁶

A few days after meeting with the President, McAuliffe sent a follow-up memorandum to Nancy Hernreich, Director of Oval Office Operations, reiterating the “projects” he had discussed with the President.⁷ The first project was to organize breakfasts, luncheons, and coffees with the President for about twenty “major supporters” at a time—to “offer these people an opportunity to discuss issues and exchange ideas with the President.”⁸ McAuliffe’s second project was to offer the very top supporters “overnights” at the White House.⁹ The third project in McAuliffe’s memorandum was to include “key supporters” in various other activities with the President, including “golf games, morning jogs, etc.”¹⁰ The key to all three of these projects was to give major donors “quality time for the President.”¹¹

Hernreich forwarded this memorandum to President Clinton,¹² asking him whether she should pursue McAuliffe’s first project with Billy Webster, Deputy Assistant to the President and Director of Scheduling and Advance, whether she should try to arrange overnights through the First Lady and Carolyn Huber, and whether she should “handle” (*i.e.*, include) top supporters in other activities.¹³ Hernreich also asked whether she should obtain approval for these three projects from Harold Ickes, Deputy Chief of Staff to the President.¹⁴ Meanwhile, according to McAuliffe, the White House obtained approval from its lawyers for the scheme: Hernreich’s office

⁴*Id.* at p. 14. McAuliffe told the President that “you have broad support out there in the donor community, which is what I represented as the Finance Chair of the party. I’m going to be able to put this operation together for you. The support of the people will be there for you. Don’t worry about it. I’ll handle it.” *Id.*

⁵*Id.* at p. 16.

⁶*Id.*

⁷Terry McAuliffe, memorandum to Nancy Hernreich, Jan. 5, 1995 (Ex. 1). This memorandum is dated January 5, 1993, but McAuliffe recalls sending it to Hernreich shortly after his meeting with the President in late December 1994. Deposition of Terrence R. McAuliffe, June 6, 1997, pp. 113–14.

⁸Ex. 1.

⁹*Id.* His memorandum does not say this explicitly, merely providing a list of the DNC’s ten top supporters. Nancy Hernreich, however, apparently clearly understood the idea, because she added a handwritten note reading “overnights” to this part of McAuliffe’s memorandum. Hernreich confirmed that she wrote “overnights” on the document, but could not recall whether this had been her idea or that of the President. Nancy Hernreich deposition, June 20, 1997, p. 126. Other senior officials also understood that McAuliffe’s second project involved offering overnight visits at the White House to key supporters. A memorandum from Janice Enright to Harold Ickes enclosing a copy of McAuliffe’s memorandum, to example, lists one of McAuliffe’s three projects as “overnights for top top [sic] supporters.” Janice Enright, memorandum to Harold Ickes, Jan. 6, 1995 (Ex. 2) (discussing McAuliffe’s request to the President).

¹⁰Ex. 1.

¹¹Deposition of Terrence R. McAuliffe, June 6, 1997, p. 114.

¹²See Ex. 1 (handwritten note in upper right-hand corner).

¹³*Id.*

¹⁴*Id.*

scheduled the White House, whoever does what they do over there, legal counsel, whatever, you know, decided that we could do [events for donors] in the Map Room in the White House, and I was given two or three dates to bring our past supporters in to see him [the President].¹⁵

Officials apparently believed that there was nothing wrong with using the White House to cultivate campaign contributors “for the upcoming campaign.”¹⁶

As Vice President Gore himself apparently observed during a “political budget meeting” with President Clinton, the DNC could raise the amount of money it needed “ONLY IF—the President and I actually do the events, the calls, the coffees, etc.”¹⁷ For his part, the President responded to McAuliffe’s ideas with great enthusiasm, responding to Hernreich’s note with one of his own: “yes, pursue all 3 [projects] and promptly—and get other names at 100,000 or more; 50,000 or more.”¹⁸ The President wrote that he was “[r]eady to start overnights right away—give me the top 10 list back along with the 100, 50 folks.”¹⁹ With this note, President Clinton set into motion the use of the White House to host fundraising events for the DNC.²⁰

WHITE HOUSE COFFEES

Documents released by the White House revealed that between January 11, 1995 and August 23, 1996, White House officials hosted 103 coffees.²¹ Most of these events were held in the Map Room or the Roosevelt Room at the White House itself.²² Some coffees were held in the Old Executive Office Building (“OEOB”) and others—some of the coffees hosted by the Vice President—were held at the Naval Observatory.

The White House divided these coffees into three categories:

Category	Number of coffees	Number of guests
DNC Supporters	60	633
Clinton/Gore '96 Supporters	11	110
Political and Community Leaders	32	498
Total	103	²³ 1,241

¹⁵ Deposition of Terrence R. McAuliffe, June 6, 1997, pp. 113–114.

¹⁶ *Id.* at p. 113. For top Democratic decision-makers, the end apparently justified the means: after all, “it was a very tough time for us.” *Id.* at p. 114.

¹⁷ Albert Gore, “Points for Political Budget Meeting with President,” undated, p. 4 (Ex. 3); *see also generally* Testimony of Jerry Campana, Sept. 18, 1997, pp. 180–181. (The Vice Presidential notes were produced to the Committee in typewritten form with document production “BATES” numbers following consecutively from a memorandum to the President from Ron Klain. It is clear from their first-person voice and distinct typeface that the Vice Presidential notes are a different document.)

¹⁸ Ex. 1. The President copied this message to Harold Ickes, Leon Panetta and Billy Webster, the Director of Scheduling.

¹⁹ *Id.*

²⁰ *See generally, e.g.*, Testimony of Jerry Campana, Sept. 18, 1997, p. 176 (recounting reasons for his conclusion that coffees were fundraising events). As even Harold Ickes acknowledged, “there was no question that these coffees were in part to facilitate fundraising.” Testimony of Harold Ickes, Oct. 8, 1997, p. 155.

²¹ Chart of White House Political Coffees, January 11, 1995–November 5, 1996 (Ex. 4).

²² *Id.* The Roosevelt Room is directly opposite the Oval Office. In fact, as described herein, at least one of the coffees ostensibly held in the Roosevelt Room actually occurred in the Oval Office itself.

Because some persons attended more than one DNC-sponsored coffee, the 633 people listed as having attended the 60 DNC-sponsored coffees actually numbered only 532. Checking these names against lists of campaign contributors available from the FEC reveals that 92 percent (488 out of 532) of the individuals who attended DNC-sponsored coffees at the White House contributed to the Democratic Party in 1995 or 1996. Their contributions to the DNC during the 1996 election cycle—given personally or through their businesses—in fact, totaled \$26.4 million, an average contribution of approximately \$50,000.²⁴ Moreover, many of these contributions were closely linked to the donor's coffee attendance: almost one-third of the total, some \$7.7 million, was given to the DNC within one month of a donor's attendance at a White House coffee.²⁵ Indeed, in keeping with the DNC's plan to cultivate "top top" contributors,²⁶ at least 12 individuals contributed at least \$100,000 on or around the dates of the coffees they attended: Miguell Lausell, David Bonderman, Robert Rubin, Derald Ruttenberg, Richard Lawrence, Paul Cejas, Peter Mathias, Robert Menschel, Samuel Rothberg, Barrie Wigmore, Lewis Manilow, Pauline Kanchanalak, and Melvyn Weiss.²⁷

As compared to other fundraising tools, coffees were a highly effective way for the DNC to raise money. The DNC's direct mail solicitations during this period were customarily burdened by overhead costs of 42 percent,²⁸ with the effect that only 58 cents out of each dollar solicited actually found its way into party coffers. By contrast, however, White House coffees required only minimal DNC expenditures, ensuring that almost all of the funds solicited in connection with such coffees could be pumped into campaigning against the Republicans. A memorandum Harold Ickes wrote to the President and Vice President, for example, did not even bother to list the DNC's expenses for White House coffees, describing such expenses as "not applicable."²⁹ Every cent of every dollar raised by the DNC through the White House coffees, therefore, was treated as income.³⁰

A number of White House and DNC documents underline the importance of the coffees as fundraising events. An e-mail message sent by Jennifer O'Connor, Special Assistant to the President, to Karen Hancox at the White House's Office of Political Affairs, for example, made clear that White House officials considered the coffees "money tool[s]" from which party funds could be raised even

²³This number does not include White House or DNC employees who attended the coffees.

²⁴Testimony of Jerry Campene, Sept. 18, 1997, pp. 185–86.

²⁵See generally Testimony of Jerry Campene, Sept. 18, 1997, p. 185.

²⁶Ex. 2.

²⁷Testimony of Jerry Campene, Sept. 18, 1997, p. 190; see also Chart of individual contributors of \$100,000 or more to the DNC within one month of attending a coffee (Ex. 5).

²⁸Testimony of Jerry Campene, Sept. 18, 1997, pp. 186–87.

²⁹Harold Ickes, memorandum to the President and Vice President, Feb. 9, 1996 (attachment to Todd Stern & Phil Caplan, Memorandum for the President, Feb. 16, 1996), p. 6 (Ex. 6) (discussing DNC major donor fundraising events and requests); Testimony of Jerry Campene, Sept. 18, 1997, p. 187. There must have been *some* minimal expenses associated with the coffees for the cost of the coffee and pastries served. See John O. Sutton, memorandum to Tracy B. LaBrecque, Jan. 23, 1995 (Ex. 7) (noting that "[p]er Harold [Ickes], the DNC will pay for the coffees"). It is equally clear, however, that the party regarded these costs as negligible.

³⁰Testimony of Jerry Campene, Sept. 18, 1997, p. 187.

if no formal admission fee were charged.³¹ Ironically, White House officials believed that not explicitly charging an admission fee was the way “they could make the most money” from the coffees.³² The bottom line, however, was simple: according to DNC Finance Director Richard Sullivan, for guests invited to DNC-sponsored White House coffees, “[w]e want[ed] potential donors.”³³

Although White House and DNC officials later resisted using the term “fundraiser” to characterize the coffees through which they had tried to raise political contributions in the White House,³⁴ Ickes described them at the time—and in messages sent to and read by the President—as “political/fundraising coffees.”³⁵ Memoranda from Ickes to both the President and the Vice President also detailed the amounts raised by the White House coffees, comparing these sums to contributions obtained through other DNC fundraising events.³⁶ In the first half of 1995, for example, the coffees raised \$1 million for the DNC.³⁷ Indeed, Ickes tracked the progress of the DNC’s coffee fundraising on a coffee-by-coffee basis. Thus, for example, did his bi-weekly reports to the President and the Vice President list three Presidential coffees in December 1995 that raised \$400,000 each,³⁸ and a coffee in January 1996 that raised \$500,000.³⁹ For two coffees in June 1995 that between them raised \$1 million, moreover, Karen Hancox, Deputy Assistant to the President for Political Affairs, wrote to inform Ickes of “the coffee attendees (with POTUS) + amts. raised.”⁴⁰ Lest there be any doubt on this point, a 1995 list of “DNC Fundraising Events” contained an entry for “Coffees”—noting that during the period in question they had already raised \$1,000,000.⁴¹

DNC briefing materials prepared for the President underscore the obvious fact that certain White House coffees were designed to be fundraising events and functioned as such. A DNC briefing paper entitled “Democratic National Committee Budget/Fundraising Presentation to the President on 6 June 1996,” for example,

³¹ Jennifer O’Connor, e-mail to Karen Hancox, May 10, 1995 (Ex. 8) (discussing event in New York and describing it as being “[l]ike the President’s coffees”); *see also* Testimony of Jerry Campana, Sept. 18, 1997, p. 180.

³² Ex. 8.

³³ Deposition of Richard L. Sullivan, June 4, 1997, p. 128.

³⁴ *See, e.g.*, Ickes testimony, pp. 154–55.

³⁵ Harold Ickes, Memorandum to the President, May 14, 1996 (Ex. 9) (using term three times). There is no question that the President actually read this document. The stamp at the top of the document indicates that the President saw it on May 15, 1996, and the President’s name on the first page is checked with his unusual left-handed check mark. The President also made a notation on this memorandum stating that he wished to discuss it “once more” with Harold Ickes. *Id.*

It is also apparent that many of the contributors involved with White House coffees understood their intent. The “memo” portion of a check collected from Ernest Green on the morning before a White House coffee attended by his sometime business partner Charlie Trie and their would-be client Wang Jun, for example, was annotated “Fundraiser.” Phyllis Green & Ernest Green check #5072 for \$50,000 to the DNC on February 6, 1996 (Ex. 10) (with accompanying DNC Finance Executive Summary indicating collection of \$50,000 in connection with “POTUS COFFEE 2/6/96”).

³⁶ Harold Ickes, Memorandum to the President and Vice President, June 28, 1995 (Ex. 11).

³⁷ *Id.* This memorandum has also been stamped that the President saw the document, it is marked with the President’s left-handed check mark and contains a notation from the President to Ickes.

³⁸ Harold Ickes, Memorandum to the President and Vice President, Jan. 2, 1996, p. 4 (Ex. 12) (discussing bi-weekly DNC report dated December 22, 1995).

³⁹ Harold Ickes, Memorandum to the President and Vice President, Jan. 29, 1996, p. 11 (Ex. 13) (discussing bi-weekly DNC report dated January 19, 1996).

⁴⁰ Handwritten note and list of attendees from coffees on June 7 and June 21, 1995 (Ex. 14). The coffee on June 7 raised \$400,000, while the one on June 21 raised \$600,000. *Id.*

⁴¹ List of DNC events dated June 25, 1995 (Ex. 15).

contains, among other things, detailed information tracking various Presidential fundraising events, including White House coffees. Entries for individual events feature notations indicating:

- (a) the total projected amount to be raised;
- (b) how much of that amount had been collected as of the time of the report's compilation;
- (c) the status of the DNC's cash flow into federal ("hard money") and non-federal ("soft money") accounts;
- (d) the proposed fund-raising schedule for the President and Vice President; and
- (e) estimates of the DNC's ability to meet its fund-raising goals.⁴²

Also attached to the June 6 Presidential Briefing are monthly schedules containing information concerning specific events, including projected fundraising totals—*i.e.*, projected federal contributions, corporate contributions, non-federal individual contributions. Also appearing in these materials are lists of contributions "in hand," totals of federal contributions received, and both the projected and the actual costs of particular events.⁴³

The June 6 Presidential Briefing schedules contain entries for 22 fundraising coffees and nine "servicing" coffees. Each of these fundraising coffees had projected revenues of \$400,000, while the "servicing" coffees had no projected revenue.⁴⁴ As indicated by these figures, the DNC drew a distinction between fundraising coffees (from which contributions were anticipated) and coffees at which no money would be raised. For those coffees designed to raise money for the DNC, the figures provided in the briefing were so specific that they identified the portion of each fundraising coffee's projected revenue that would be apportioned to federal dollars (*i.e.*, "hard money" that would be available to Clinton/Gore '96 rather than simply to the DNC).⁴⁵

In portions dealing with events that had already occurred, moreover, the June 6 Presidential Briefing and other DNC memoranda also summarize contributions the DNC had received as a result of other White House coffees. A May 17, 1996 White House coffee, for example, had a projected revenue of \$400,000—of which \$300,000 was described as already being "in hand."⁴⁶ In a separate DNC memorandum listing 1996 fundraising events, a White House coffee on February 22, 1996 was described as having had a projected revenue of \$400,000, with \$340,000 "raised to date"—while seven other Presidential coffees ("POTUS coffees") were listed as having each raised all of their projected revenue totals of \$400,000.⁴⁷

These documents make quite clear that while not all coffees were fundraisers, many coffees were designed specifically for that purpose. Such unequivocal accounts of "projected revenue" and the specific bank accounts into which money was to flow, for example, make irrelevant DNC and White House officials' reluctance today to employ particular terms or phrases. Despite these internal documents' clear focus upon coffee fundraising, DNC officials nonethe-

⁴² See June 6 Presidential Briefing (Ex. 16).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at p. 27.

⁴⁷ See DNC 1996 events memorandum (Ex. 17).

less went to some lengths to preserve the public fiction that the coffees were not fundraisers. Video footage shot by the White House Communications Agency (WHCA) of a December 13, 1995 coffee at the White House, for example, captured a DNC donor offering Donald Fowler five contribution checks. Fowler refused to accept this money on the spot, but told the donor that “[a]s soon as this thing is over, I’ll call you . . . We’ll get it done.”⁴⁸ Donors would have to give him their checks for the coffee *outside* the White House, in other words, in order to permit the Democratic Party to continue to pretend that the coffees were not “fundraisers.” This pretense, however, cannot survive the revelation of DNC internal documents detailing the party’s organization and tracking of White House coffees under that very name and for that very purpose. Whatever their organizers might prefer to call them, many White House coffees were obviously “fundraisers” in the most elementary sense of the word.

OVERNIGHTS

As with the coffees, the opportunity to spend a night at the White House was an important means by which the DNC raised funds from major contributors.⁴⁹ White House records indicate that between 1993 and 1996, at least 938 individuals were overnight guests at the White House.

White House officials divided these guests into the following seven categories:

<i>Category</i>	<i>Number of guests</i>
Arkansas Friends	370
Longtime Friends	155
Friends and Supporters	111
Public Officials and Dignitaries	128
Arts & Letters	67
Family	35
Chelsea’s Friends	72
Total	938

Some 760 of these guests fell into the categories of “family,” “Arkansas friends,” “longtime friends,” Chelsea Clinton’s friends, and “public officials and dignitaries,” making them seem unlikely targets for the DNC’s “overnights” project.⁵⁰ The remaining 178 individuals—from 114 different families—contributed a total of more than \$5 million to the DNC, either personally or through their businesses, during the 1996 election cycle.⁵¹ This amounts to an average contribution per family of over \$44,000.⁵²

Because the White House refused to provide a complete accounting of the dates of each guest’s stay at the Executive Mansion, it has not been possible to analyze the nexus between overnight attendance and the date of individual contributions.⁵³ The limited

⁴⁸ White House Communications Agency videotape, Dec. 13, 1995 (footage of White House coffee).

⁴⁹ Testimony of Jerry Campane, Sept. 18, 1997, p. 190.

⁵⁰ This is not to suggest, however, that none of these 760 persons made contributions to the DNC. In fact, a number did. See Testimony of Jerry Campane, Sept. 18, 1997, pp. 190–91.

⁵¹ *Id.* at p. 191.

⁵² *Id.*

⁵³ The Committee asked for this information in mid-August 1997. The White House agreed in late November 1997 to produce only the names and dates of individuals who contributed at

data the White House has seen fit to make available to the Committee, however, is highly suggestive: of 51 “long time friends” listed in one document as having attended a White House overnight,⁵⁴ fully 49—that is, some 96 percent—contributed a total of \$4,077,459 to the DNC during the 1996 election cycle.⁵⁵ The only two individuals on this list who did not personally contribute were Terry McAuliffe himself and one other individual, a relative of John E. Connelly, whose company contributed \$220,000 to the DNC in 1996.⁵⁶ FEC records also show that 47 percent of these 51 guests contributed, personally or through their businesses, a total of \$882,840.00 to the DNC within one month of their stay at the White House.⁵⁷ Moreover, if these 51 individuals are separated into their 38 different families, FEC records reveal that 97 percent of these families contributed to the DNC during the 1996 election cycle—for an average contribution of over \$107,000 per family—with more than half of them giving a total of nearly \$900,000 within one month of their stay at the White House.⁵⁸

The existence of this list of 51 overnight guests makes clear that although not everyone who stayed at the White House did so because they had made a donation to the Democratic Party, White House and DNC officials kept separate records of overnight attendees from whom they had or intended to solicit campaign contributions. A certain proportion of the overnight stays, therefore, were obviously intended to be—and functioned as—DNC fundraisers.

OTHER EVENTS

In addition to the coffees and overnights undertaken by DNC and White House officials with the explicit approval of the President,⁵⁹ the DNC and White House organized a number of other activities in order to reach the DNC’s fundraising goals. In a memorandum written in May 1994, in fact, DNC Deputy Chief of Staff Martha Phipps listed no fewer than 19 different activities that she said the DNC wished to coordinate with the White House in order to meet its fundraising targets.⁶⁰ These activities included a remarkable range of benefits or services that could be offered to campaign contributors:

- seats on Air Force One and Air Force Two;
- permission to play on White House tennis courts;
- seats at private White House dinners;
- admission to Rose Garden ceremonies and official White House visits;
- invitations to join official delegations traveling abroad;

least \$5,000 to the DNC during the 1996 election cycle. As of the time of writing, the White House still has not produced this information.

⁵⁴ As noted, these persons came from the White House’s list of “longtime friends.” Their contributions, therefore, are not included in the total given for the 178 individuals discussed above. See Testimony of Jerry Campene, Sept. 18, 1997, p. 192; List of some overnight guests with their dates of stay, released by the White House (Ex. 18).

⁵⁵ *Id.*; see also Chart of White House overnights as fundraising tools (Ex. 19).

⁵⁶ Testimony of Jerry Campene, Sept. 18, 1997, p. 193.

⁵⁷ *Id.*; see also Ex. 19.

⁵⁸ Testimony of Jerry Campene, Sept. 18, 1997, pp. 193–94.

⁵⁹ See Ex. 1 (with accompanying note by President Clinton urging officials to “pursue all 3 [projects] and promptly”).

⁶⁰ Martha Phipps, Memorandum to Ann Cahill, May 5, 1994 (Ex. 20) (discussing White House activities).

- appointments to boards and commissions;
- meal privileges at the White House Mess;
- visits to and overnight stays in the White House residence;
- “guaranteed” tickets to events at the Kennedy Center;
- seats at the President’s weekly radio addresses
- photo opportunities with the President, Vice President, First Lady and Mrs. Gore;
- seats at the Presidential lunches with corporate CEOs;
- “phone time from the Vice President;”
- seats at White House screenings of popular films;
- monthly lunches with the First Lady or with White House officials such as Mack McLarty or Ira Magaziner;
- use of the President’s box at two local theaters; and
- meetings with Vice President Gore.⁶¹

According to Ari Swiller, director of the DNC’s Trustee Program, at least some of these activities were indeed offered to contributors by the DNC, including the provision of tickets to the Kennedy Center and visits to the White House residence and overnight stays.⁶²

Two particular White House coffees stand out as illustrations of this aspect of the DNC’s fundraising scheme: the events organized on May 1 and June 18, 1996. These two coffees will be examined in more detail in the following pages.

The May 1, 1996 coffee

On May 1, 1996, five men attended a DNC coffee in the Oval Office with President Clinton. Each of these five—Barrie Wigmore, Lewis Manilow, Peter Mathias, Robert Menschel, and Samuel Rothberg—agreed to give \$100,000 to the DNC just before the White House coffee. Their checks were collected just after they visited the White House,⁶³ and the DNC recorded their \$100,000 contributions one week after the coffee occurred.⁶⁴ This May 1 event is the first instance documented in which the President used the Oval Office for one of the DNC’s “money coffees.”

According to participants in this coffee interviewed by the Committee, these DNC donations originated with the decision—apparently in early or mid-April 1996—of Barrie Wigmore, an investment banker with Goldman, Sachs in New York City, to contribute

⁶¹ *Id.*

⁶² Deposition of Jacob Aryeh Swiller, May 6, 1997, pp. 55–56. Swiller also referred to a similar list of activities recounted in another list compiled in 1994. *See also* Memorandum to Martha Phipps, April 25, 1994 (Ex. 21). He also recalled that the DNC had received an allotment of tickets for White House tours and routinely submitted names to the White House for overnight stays. Swiller deposition, p. 63.

⁶³ Memorandum of Interview of Barrie Wigmore, Oct. 28, 1997, p. 5.

⁶⁴ *See, e.g.*, FECInfo database printout of individual contributor data for Peter Mathias (Ex. 22) (indicating \$100,000 contribution to DNC on May 8, 1996); FECInfo database printout of individual contributor data for Samuel Rothberg (Ex. 23) (same); FECInfo database printout of individual contributor data for Barrie Wigmore (Ex. 24) (same); FECInfo database printout of individual contributor data for Robert Menschel (Ex. 25) (same).

Manilow does not appear in DNC records as a donor, but he told the Committee that he made \$100,000 in contributions, which were paid in installments charged to his credit card in order to help him accumulate “frequent flier” mileage. Memorandum of Interview of Lewis Manilow, Oct. 16, 1997, pp. 2–3 (recounting paying via credit card); Wigmore interview, p. 5 (recounting Manilow’s receipt of “frequent flier” miles for credit card donation). FEC records show Manilow as having made \$24,000 in contributions to various Democratic causes after the date of the coffee; the remaining \$76,000 of his commitment to Wigmore may have ended up in the coffers of state Democratic parties. *Cf.* FECInfo database printout of individual contributor data for Lewis Manilow (Ex. 26) (showing contributions during 1995–96 election cycle). All in all, Manilow had contributed \$145,000 to Democrats in the last three election cycles. *See* Testimony of Jerry Campane, Sept. 18, 1997, pp. 187–88.

\$100,000 to the Democratic Party. A longtime supporter of President Clinton, Wigmore said he had made this decision because he had been upset by the Republican primary campaigns of 1995 and 1996. He claimed that he had picked the \$100,000 figure because it was a satisfyingly large and “round” sum. Wigmore said this figure had no further significance, and that no one had suggested that he make a donation of that size.⁶⁵

Having himself made this decision to donate, Wigmore recalled, he told his friend Robert Menschel—also at Goldman, Sachs—about his idea, and asked whether Menschel might be interested in making a similar commitment. After thinking about this proposal overnight, Menschel agreed that he, too, would give \$100,000.⁶⁶ Menschel had not previously been a major political contributor: his largest past contribution was no more than “a couple thousand.”⁶⁷ Over the next few days, Wigmore persuaded the other three men to commit to identical \$100,000 contributions.⁶⁸ After the group had attended the Oval Office coffee, Wigmore collected their checks⁶⁹—some of which had been written beforehand⁷⁰—and passed them along to the DNC.⁷¹

It is clear that the prospect of a White House visit played some role in inducing the members of this group to commit to a total of \$500,000 in contributions to the DNC. Although one participant, Menschel, claimed that he would have made his \$100,000 donation whether or not he had been invited to the White House,⁷² the prospect of a visit does seem to have affected the nature and timing of at least one of his colleagues’ pledges. According to Lewis Manilow, Wigmore told him that if Manilow were going to make a large contribution anyway, “a nice way to do it” would be to do so as part of Wigmore’s group, so that he could visit the President.⁷³ Having been thus told, in effect, that his donation would buy him a Presidential audience, Manilow agreed. Making clear that he understood this connection, Manilow later compared the May 1 visit to his attendance at a previous “event like a coffee” by noting that for the earlier trip, “[t]here was not money at that point, that was not a money coffee.”⁷⁴ (It is also instructive that while some of the checks were written before the coffee,⁷⁵ Wigmore himself, the principal organizer of this delegation, refrained from writing his own \$100,000 check—and from collecting those written by his col-

⁶⁵ Wigmore interview, p. 1.

⁶⁶ Wigmore interview, p. 1; Memorandum of Interview of Robert Menschel, Oct. 17, 1997, pp. 1–2.

⁶⁷ Menschel interview, p. 1. Indeed, gifts of this size appear to have been unprecedented for most of these men. *See, e.g.*, FECInfo database printouts of individual contributor data in 1993–94 for Robert Menschel, Lewis Manilow, Barrie Wigmore, Peter Mathias, & Samuel Rothberg (Ex. 27). Manilow told the Committee, however, that he had given \$100,000 during the 1987–88 election cycle. Manilow interview, p. 3.

⁶⁸ Wigmore interview, p. 2.

⁶⁹ As noted above, however, Lewis Manilow made his donations by means of a credit card. *See supra* note 64.

⁷⁰ *See, e.g., infra* note 75.

⁷¹ *See, e.g.*, Wigmore interview, p. 5.

⁷² Menschel interview, p. 2.

⁷³ Manilow interview, p. 1. As to the existence of a causal connection between donation and invitation, Manilow said only that “you can draw your [own] conclusions.” *Id.*

⁷⁴ *Id.* at p. 3.

⁷⁵ *See, e.g.*, Robert Menschel check #1296 for \$100,000 to DNC on April 22, 1996 (Ex. 28).

leagues—until the day after the White House visit had actually occurred.⁷⁶⁾

The members of Wigmore's group seem to have very much desired a Presidential visit, and to have expected that, after agreeing to make such significant contributions, they should be able to meet personally with President Clinton to convey their messages of support. In discussing the contribution plan with Manilow, Wigmore recalled, the two men decided that they did indeed want to meet with President Clinton in order to "tell the President how [they] feel, [and] what an important job he's doing." Accordingly, after securing these donation commitments from his friends, Wigmore promptly called his old friend Thomas F. ("Mack") McLarty at the White House in order to "see if we can do this." McLarty, in turn, put Wigmore in contact with Ann Braziel at the DNC. According to Wigmore, he told Braziel that he and his friends supported the President and would like to meet him. "We all feel the same way," he recalls telling her, "and [we] would like to tell the President" in person. Braziel told him that "we'll see what we can do."⁷⁷

The evidence suggests that but for their contribution commitments, the Wigmore group would not have been invited to the White House on May 1, 1996. In Wigmore's conversation with Braziel, he told her that his colleagues would be giving money to the DNC. Soon after their conversation, Braziel called Wigmore back to suggest a date on which his group could visit the White House. After a series of discussions, they settled upon May 1 as the date for the event.⁷⁸

Although Wigmore claimed not to recall whether he told Braziel the specific size of their donations,⁷⁹ he apparently did so. The DNC, the White House staff, and President Clinton himself—as they planned the Wigmore coffee—were all soon well aware that these five men had each agreed to become \$100,000 donors.⁸⁰ This appears to have been precisely what was needed: while many Americans may have wished to tell President Clinton their views, few had \$100,000 each to offer the DNC for this privilege.

Despite the fact that this DNC coffee was originally planned to take place in the Roosevelt Room,⁸¹ it actually occurred in the Oval Office itself, with the President taking time to meet with Wigmore's five \$100,000 donors between meetings with Palestinian leader Yasser Arafat and the Rev. Billy Graham.⁸² The use of the Oval Office for this DNC function was not revealed to the Committee until the production—after repeated requests for such records—of a videotape of a portion of this event taken by the White House

⁷⁶ See Barrie Wigmore check #4250 for \$100,000 to DNC on May 2, 1996 (Ex. 29); Wigmore interview, p. 5 (recounting collecting checks from other participants after coffee).

⁷⁷ Wigmore interview, p. 2.

⁷⁸ *Id.* at p. 2.

⁷⁹ *Id.*

⁸⁰ On a document written by Sullivan on April 29, 1996 and personally reviewed by President Clinton on the day of the coffee, for example, White House aide Phil Caplan wrote: "MR PRESIDENT: Per Doug [Sosnik], the five attendees of this coffee are \$100,000 contributors to the DNC." Richard Sullivan, memorandum on May 1, 1996 coffee, April 29, 1996 (Ex. 30) (memorandum marked "THE PRESIDENT HAS SEEN 5/1/96").

⁸¹ "Schedule of the President for Wednesday, May 1, 1996, Revised Final", p. 3 (Ex. 31) (listing Roosevelt Room location).

⁸² Wigmore interview, pp. 4–5 (discussing Arafat and Graham); Menschel interview, p. 3 (recounting Graham meeting).

Communications Agency.⁸³ This tape clearly shows the delegation being taken into the Oval Office for coffee.⁸⁴ This belatedly-released videotape thus makes the May 1 coffee the first documented instance in which the Oval Office was used for a fundraising event.

As noted above, President Clinton had been made aware of the group's \$100,000 commitments prior to this Oval Office meeting.⁸⁵ In case he had forgotten their generosity to the DNC, however, one of the five, Samuel Rothberg, actually brought up the subject of fundraising in the Oval Office over coffee and pastries with President Clinton—telling the President that his speech at the funeral of Israeli Prime Minister Rabin had moved him to make his DNC contribution.⁸⁶

Interestingly, the DNC appeared to have been sufficiently impressed with Barrie Wigmore's ability to raise huge sums for the Democratic Party from his wealthy friends that it invited him to become involved in arranging more meetings with the President for "key people," as part of what Democratic campaign official Alan Patrikoff termed a "fundraising methodology" involving DNC breakfasts, coffees, dinners, and other events. At some point during the period just before the May 1 coffee, Wigmore received a telephone call from Patrikoff, who tried to persuade Wigmore to help the DNC arrange further Presidential meetings as a way of raising money from wealthy donors. Wigmore, however, was not interested in such work; after pledging \$100,000, he felt he had contributed more than his share to the DNC already.⁸⁷

Wigmore's call from Patrikoff underscores the understanding Wigmore must have had—and the White House and the DNC clearly had—that the May 1, 1996 coffee with President Clinton was a DNC fundraising tool. Having already been informed by Patrikoff that DNC "coffees" were part of the party's "fundraising methodology" as a way of enticing contributions from "key people," Wigmore recalls having been upset when Ann Brazier subsequently referred to the upcoming May 1 event as a "coffee." Wigmore claims to have bristled at this terminology; he "thought the concept of a coffee was repugnant" and preferred to think of his group as "all serious players wanting to discuss the [Clinton Administration's] second term."⁸⁸ Nevertheless, it is telling that the word "coffee" was used both by Brazier and in DNC and White House documents relating to the May 1 event.⁸⁹ Ultimately, Wigmore had understood Brazier's "repugnant" usage correctly: he and friends were precisely the sort of "key people" from whom the DNC's "coffee" system had been designed to elicit campaign contributions. In Lewis Manilow's

⁸³ For discussion of the White House's delay in producing videotapes to the Committee, see the section of this report on delays in White House document production.

⁸⁴ White House Communications Agency videotape, May 1, 1996.

⁸⁵ See *supra* text accompanying note 80.

⁸⁶ Wigmore interview, p. 4. DNC Chairman Donald Fowler and Finance Chairman Marvin Rosen were also present during this meeting, although they apparently did not contribute to the discussion. See *id.* at p. 5; Manilow interview, p. 2; Menschel interview, p. 3.

⁸⁷ Wigmore interview, p. 3. Wigmore described Patrikoff as a friend of his who was a venture capitalist and prominent Clinton fundraiser, as well as the chair of the Democratic Leadership Council (DLC). *Id.*

⁸⁸ *Id.*

⁸⁹ See, e.g., Ex. 31 (listing "coffee" on May 1, 1996 with Doug Sosnik at DNC staff contact); Ex. 30 (discussing "coffee with supporters of the Democratic National Committee" on May 1, 1996). Sullivan's memorandum, in fact, described Wigmore's group by noting that they were "[a]ll . . . new supporters of the DNC." *Id.*

words, therefore, the May 1, 1996 event in the Oval Office was indeed a “money coffee.”⁹⁰

The June 18, 1996 coffee

The June 18th coffee illustrates not only the fundraising character of the White House coffees, but the extraordinary degree of control that an individual fundraiser could exert over the DNC decision-making process and over the personal schedule of the President himself. In pursuit of substantial campaign contributions, DNC Managing Trustee Pauline Kanchanalak and DNC Finance Vice Chairman John Huang prevailed over Sullivan’s objections, and organized a DNC-sponsored White House coffee at which the President met with three foreign nationals for over one hour. The DNC and the White House permitted this coffee to go forward even though they knew that foreign nationals could not legally contribute to the DNC and that, given the presence of such individuals at the coffee, the coffee could not be cast as a “community outreach” event. In short, the June 18th coffee was a fundraiser held in the White House at which the President took time to hear the views of Kanchanalak’s foreign clients in return for substantial contributions from Kanchanalak or her associates.

The June 18, 1996 White House coffee also raises other serious questions, including:

- Why did the President spend over an hour with three DNC contributors and a group of foreign nationals without the knowledge of the NSC and over the objections of DNC executives?
- Why did the coffee occur despite the strong concerns expressed by the DNC’s Finance Chairman that Kanchanalak might be using the event for an improper purpose?
- Why were foreign nationals the only persons originally scheduled to attend the coffee if this event were really a “community outreach” or “donor servicing event”?
- Did the President and/or the DNC believe that they would receive contributions from foreign nationals?

An analysis of this coffee demonstrates the following: (a) individual DNC fundraisers exercised an enormous degree of control over the DNC, the White House, and the President’s schedule; (b) the DNC’s and the White House’s claim that the coffee was merely a “donor servicing” or “community outreach” event is false because, as it was originally planned, no U.S. citizens were invited; (c) John Huang made an explicit solicitation for financial “support” at the coffee; (d) the coffee was a fundraiser in connection with which Huang was given credit for raising over \$180,000 in contributions from Kanchanalak and her sister-in-law, Duangnet (“Georgie”) Kronenberg; and (e) the actions after the coffee of Kanchanalak and her company, Ban Chang International (USA) Inc. (BCI), suggest that evidence regarding the coffee has either been withheld from the Committee or destroyed.

As so often during this investigation, the Committee has been hampered in its ability to learn all the relevant facts concerning this coffee. Huang and Kronenberg have asserted their Fifth

⁹⁰Manilow interview, p. 3.

Amendment right against self-incrimination in response to the Committee's inquiries, and Kanchanalak fled the United States and has remained in Thailand since approximately December 1996. The following pages recount what information is available about this event.

Pauline Kanchanalak

Born in Thailand in 1950, Pauline (Pornpimol) Kanchanalak, a Thai citizen and a legal U.S. resident, graduated from Stanford University in 1983 and first worked for the press section of the Thai Embassy. After leaving the Embassy, Kanchanalak worked in Washington for the Bangkok Post while both she and her husband, Chupong ("Jeb") Kanchanalak, sought private clients for their new lobbying business. Kanchanalak applied for a position as a Washington lobbyist for the government of Thailand, but was rejected because Thai officials did not believe she had the proper connections. Kanchanalak subsequently became a lobbyist for Ban Chan Group, a Thai property development company, and President of Ban Chang International (USA) Inc., a Washington, D.C. based consulting firm.⁹¹

An early example of Kanchanalak's attempts to use her political influence is the Blockbuster deal before the Ex-Im Bank. In 1996, Maria Haley,⁹² a director at the Ex-Im Bank, reportedly tried to push through an unusual \$6.5 million financing deal sought by the Sun Tech Group.⁹³ A Sun Tech subsidiary agreed to pay \$7.7 million to the Blockbuster video rental company for the rights to operate more than 100 stores in Thailand that would be financed by Sun Trust Credit, the Little Rock unit of a large Florida banking chain. In an effort to obtain financing from the Ex-Im Bank for the franchise of Blockbuster video stores in Bangkok, Kanchanalak reportedly called Haley on June 25, 1996, met with her on July 16, 1996, and again called her on August 13 and 14, 1996. Allegedly, Huang also intervened on Kanchanalak's behalf regarding the status of the Ex-Im Bank's decision to provide financing for Sun Tech. Ex-Im Bank records show that Huang called Haley on June 18, 1996 (the date of the White House coffee and Kanchanalak's \$85,000 contribution to the DNC). In August 1996, Haley was the host of a crucial meeting in her office attended by Ex-Im officials and Kanchanalak. Eventually, Haley won support from one of the two groups of Ex-Im Bank officials required for approval, but the Blockbuster deal collapsed amid unresolved questions about the franchise's operations.⁹⁴

⁹¹For additional information on Kanchanalak's background, see Raymond Bonner and Stephen Labaton, "An Inquiry Clouds a Lobbyist's Success Story," *New York Times*, February 9, 1997, p. 26.

⁹²Haley, a former Arkansas resident with strong political ties to the President dating back to 1979, assisted then-Governor Clinton with trade missions to Asia. In 1992, she became the President's trade advisor (pushing for Arkansas to enter Asian markets). In 1993, Haley was Deputy White House Personnel Director under Bruce Lindsey. Haley is credited with assisting the placement of Huang at the Department of Commerce. In 1994, the President appointed Haley as a Director of the Export-Import Bank.

⁹³The Sun Tech Group is a Thai conglomerate controlled by Sawasdi Horrungruang (President of Hemaraj Land & Development Public Co., Ltd. and a member of the United States-Thailand Business Council), a wealthy Thai businessman who approached the Ex-Im Bank in late 1995.

⁹⁴See generally Christopher Drew and Jeff Gerth, "Appointee of Clinton Pushed Deal Sought by a Big Donor," *New York Times*, January 23, 1997, p. 1.

In 1994, in a second example of the questionable uses to which Kanchanalak put her political influence, at the request of Thai government, she helped form the United States-Thailand Business Council ("USTBC"). On September 30, 1994, telephone records indicate that Kanchanalak telephoned John Huang at the Department of Commerce.⁹⁵ On that same day, Huang wrote a memorandum urging David Rothkopf,⁹⁶ Assistant Undersecretary at the Commerce Department, to support the USTBC and to persuade the President to attend the inaugural ceremony.⁹⁷ In early October 1994, furthermore, Kanchanalak apparently attended meetings at both the White House and the Department of Commerce, presumably in an attempt to win Clinton Administration support for the USTBC. Probably not by coincidence, within days of these meetings, she contributed \$32,500 to the DNC.⁹⁸ Although the USTBC never received the grant it wanted, on October 6, 1994, both the President and the Prime Minister of Thailand (Chuan Leek Pai) attended the USTBC's inaugural ceremony.

As with so many other DNC contributors during this period, Kanchanalak's political contributions apparently provided her almost unquestioned access to the White House. Kanchanalak was invited to the White House approximately thirty-three times between January 1993 and November 1996.⁹⁹ As a DNC Managing Trustee, in fact, she received assistance from DNC and White House officials in obtaining special access to the White House and arranging meetings with other influential individuals. A few examples of such access include: (1) membership in an October 1995 official Thailand government delegation that met with Commerce Secretary Ron Brown, in which Kanchanalak was listed as an advisor to then-Deputy Prime Minister Dr. Amnuay Viravan;¹⁰⁰ (2) special White House access for business associates and friends (i.e., private White House tours);¹⁰¹ and (3) three scheduled meetings with Sandra J. Kristoff, a top Asia expert for then National Security Advisor Anthony Lake.¹⁰²

Providing this access, however, was not simply an act of charity. In the early 1990s, Kanchanalak had become a significant DNC fundraiser, consistently holding the title of a DNC Managing Trustee on account of her success in these endeavors. Kanchanalak also

⁹⁵ See September 30, 1994 telephone message slips for Huang (Ex. 32).

⁹⁶ Rothkopf and Jeffery Garten, another Commerce official, met with a group of Indonesian businessmen at the home of James Riady during President Clinton's trade summit trip to Jakarta in October 1994.

⁹⁷ See John Huang, Memorandum to David Rothkopf, Sept. 30, 1994 (Ex. 33). Huang also used his Arkansas background to urge administration officials to approve projects in which he was involved. For example, in Rothkopf's September 30, 1994 memorandum, Huang wrote that "[t]here are quite a few members in this proposed Council from Arkansas. They may want to utilize their contacts to get this matter squared away directly from the top even if they offend Sandy and NSC." *Id.*

⁹⁸ See FECInfo database printouts of individual contributor data for Pauline Kanchanalak (Ex. 34).

⁹⁹ See Secret Service WAVES records for Kanchanalak (Ex. 35). Kanchanalak's WAVES records indicate that she was admitted into the White House complex under the names Pauline Kanchanalak and Pornpimol Parichattkul. *Id.*

¹⁰⁰ Memorandum for the Office of Security from Jean Kelly, Thailand Desk Officer for the Department of Commerce, Oct. 18, 1995 (Ex. 36).

¹⁰¹ See Ex. 37 (compilation of certain Kanchanalak requests for private and special White House tours).

¹⁰² These visits also forced a delay in the consideration of Anthony Lake's nomination to be Director of the Central Intelligence Agency, which Lake later asked be withdrawn. See e.g. John Diamond, "Campaign financing issues cause new delay in Lake confirmation," *Associated Press*, February 12, 1997.

served as a co-chair of the DNC's Women's Leadership Forum and was actively engaged with the DNC's Finance Board of Directors. As a result of this status in the DNC, she was invited to and attended numerous White House events (both official and political) and DNC fundraisers.

Nevertheless, Kanchanalak's status as a significant DNC fundraiser was built upon shaky foundations. The DNC was forced to return approximately a quarter of a million dollars in improper campaign contributions which she helped arrange. These contributions, totaling \$253,500, were made under the name P. Kanchanalak—and she was duly given credit for them—but were returned when it was discovered that the money actually came from her mother-in-law, Praitun Kanchanalak.¹⁰³ The DNC also returned a contribution by Ban Chang International after it was discovered that this company was the U.S. representative of a foreign corporation.¹⁰⁴

Moreover, the contributions credited to Kanchanalak may have been illegal because they originated from a foreign source. As detailed in Exhibit 38, the source of the funds used in Kanchanalak's and Kronenberg's DNC contributions was her husband, Chupong Kanchanalak. In early June 1996, less than two weeks before Pauline Kanchanalak's coffee at the White House, Chupong Kanchanalak sent \$200,000 in wire transfers from a bank in Bangkok, Thailand, into the U.S. bank accounts of Praitun Kanchanalak and Duangnet Kronenberg. Shortly thereafter, he transferred an additional \$275,510 from Thailand into the bank account of a company called AEGIS Capital Management—which in turn transferred \$275,000 into the U.S. bank accounts of Kronenberg and Praitun Kanchanalak. This total transfer of \$475,000 from Thailand to Praitun Kanchanalak and Duangnet Kronenberg funded the DNC donations these two women made to the DNC, ostensibly in the name of Pauline Kanchanalak, in connection with the June 18, 1996 White House coffee. Without this infusion, neither of their accounts could have afforded these donations.¹⁰⁵

The June 18, 1996 coffee

The June 18, 1996 coffee provides an illustration of the extraordinary influence major DNC contributors had over the White House, the DNC and high ranking Administration officials. Several points stand out: (1) DNC documents indicate that the June 18 coffee was an illegal DNC-sponsored White House fundraiser planned and attended by high-level DNC and White House officials; (2) the timing of the contributions credited to Pauline Kanchanalak, and the DNC reporting method used by Huang, underline the fact that this coffee was a DNC fundraiser; (3) high-ranking DNC officials approved this coffee even though the only non-official attendees at the coffee were to be foreign nationals whom Kanchanalak was lobbying; (4) Huang openly solicited contributions during the June 18th coffee, asking for donations from foreign nationals in the presence of the President; and (5) the actions of Kanchanalak and her

¹⁰³ See Flow chart contribution money trail credited to Kanchanalak and those of her sister-in-law, Duangnet ("Georgie") Kronenberg (Ex. 38).

¹⁰⁴ See DNC Press Release, Nov. 20, 1996 (Ex. 39) (announcing the returned contributions).

¹⁰⁵ *Id.*

company, Ban Chang International (USA) Inc., after the coffee raise serious questions as to whether evidence regarding the coffee was withheld or destroyed.

(1) *Briefing materials*

As discussed above, DNC briefing materials prepared for the President make clear that the June 18, 1996 White House coffee was indeed a fundraiser. Among its detailed financial accounts of DNC specific fundraisers—containing information on each event’s projected revenue, what funds had been sent to federal or non-federal bank accounts, and listings of how much money was “in hand”—the briefing entitled “Democratic National Committee Budget/Fundraising Presentation to the President on 6 June 1996” contains explicit information about the June 18, 1996 coffee.¹⁰⁶ Significantly, the DNC’s entry for this event, which was scheduled to occur less than two weeks after the date of this briefing, made clear that it was a coffee of the fundraising variety. This entry contained the following information:

Principal	Event/source	Date	Pro. revenue	Pro. Fed.	Pro. corp.	Pro. NFI	In hand	Fed. in	Pro. cost	Actual cost	Variance
POTUS	Coffee (Kanchanalak)	18-Jun	\$400,000	\$40,000	\$200,000	\$160,000	\$0	n/a	n/a	\$0

Two weeks beforehand, therefore, the DNC anticipated that Pauline Kanchanalak’s June 18 coffee would raise \$400,000.¹⁰⁷ As this chart indicates, these figures were so specific that they identified the portion the coffee’s projected revenue that would be designated as federal dollars (*i.e.*, “hard money” that would be available to Clinton/Gore ’96 rather than simply to the DNC).¹⁰⁸

In other DNC documents, moreover, the DNC listed Kanchanalak’s and Kronenberg’s contributions as deriving from the June 18 coffee. A DNC document written on the day after this coffee entitled “Directed-Donor Checks Received to-Date” lists \$130,000 in contributions from Duangnet Kronenberg and \$142,500 from Pauline Kanchanalak—and recounts them as having been generated by the “John Huang Coffee.”¹⁰⁹ All in all, there can be no question that the coffees were the culmination of Terry McAuliffe’s “project” to raise money for the DNC through fundraising events at the White House, and no question that the June 18, 1996 event was part of this fundraising campaign.

(2) *Contribution credits*

Both the timing of the contributions credited to Kanchanalak and her sister-in-law by the DNC and the DNC reporting methods used by Huang underline this conclusion that this coffee was a fundraiser. Kanchanalak received credit from the DNC for an \$85,000 contribution on June 18, 1996.¹¹⁰ Significantly, the DNC Tracking Form used for this contribution—which confirms the coffee was a

¹⁰⁶ See Ex. 16, p. 32.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ See DNC list of “Directed-Donor Checks Received to-Date” (Ex. 40).

¹¹⁰ See DNC Tracking Form for P. Kanchanalak donation of \$85,000 on June 19, 1996 (Ex. 41). The check for her \$85,000 donation is dated June 19, 1996, but notations on the Tracking Form indicate that it was credited as of June 18. *Id.*

fundraiser by its use of a “Fundraiser Code”—lists Huang as the “DNC Contact” and gives the “Event Location” as “6/18/96 coffee WH.”¹¹¹ Duangnet Kronenberg also was credited with contributing \$50,000 to the DNC on June 18,¹¹² and the DNC credited Kanchanalak with contributing another \$50,000 on June 24.¹¹³ The DNC Tracking Form for this last contribution had the same “Source Code,” “Revenue Code,” and “Fundraiser Code” used for the June 18 contribution; this form, too, lists John Huang as the DNC contact.¹¹⁴

The DNC Tracking Form is used by the DNC to credit the party representative responsible for soliciting an individual’s contribution and to attribute that contribution to the correct event.¹¹⁵ Richard Sullivan, the DNC’s Finance Director at the time of the June 18 coffee, testified he was aware Huang was the DNC representative responsible for Kanchanalak’s contributions in and around June of 1996.¹¹⁶ The DNC briefing schedules covering the actual and projected contributions for the 22 fundraising coffees (including the June 18 coffee) and Huang’s use of the DNC Tracking Form underline the conclusion that Kanchanalak’s contributions were, in effect, a *quid pro quo* contribution in return for the DNC organizing a White House coffee for her clients.

(3) *Only foreign nationals were expected to attend*

The original guests for the June 18 coffee included only the President, John Huang, Donald Fowler, Marvin Rosen and Pauline Kanchanalak and her guests—several top officials from Charoen Pokphand Group (“C.P. Group”) in Thailand:¹¹⁷ Dhanin Chearavanont (Chairman and CEO), Sumet Chearavanont (Vice Chairman and President) and Sarasin Virapol (Official and translator). Apart from DNC officials and the President himself, therefore, not a single U.S. citizen or permanent resident alien was expected to attend.¹¹⁸ Shortly before the coffee, however, Kanchanalak was forced to invite U.S. citizens after concerns were raised regarding the appearance of impropriety. After significant pressure from the DNC to invite at least *someone* from the United States, Kanchanalak finally invited two U.S. citizens, asking them to attend only on the day before the coffee. Sullivan was so concerned about the appearance of this coffee that he invited three additional people to attend: Beth Dozoretz, a DNC Managing Trustee, and Robert and Renee Belfer, also DNC Managing Trustees.¹¹⁹

Sullivan knew Kanchanalak to have been a DNC fundraiser since 1991,¹²⁰ and after learning that Kanchanalak wanted to “help

¹¹¹ *Id.*

¹¹² See Duangnet Kronenberg, check #211 for \$50,000 to DNC on June 18, 1996 (Ex. 42).

¹¹³ See DNC Tracking Form for P. Kanchanalak donation of \$50,000 on June 24, 1996 (Ex. 43).

¹¹⁴ *Id.*

¹¹⁵ See Deposition of Richard L. Sullivan, June 4, 1997, pp. 161–62.

¹¹⁶ *Id.* at pp. 124–25.

¹¹⁷ The C.P. Group is Thailand’s largest multinational company and one of the largest foreign investors in the People’s Republic of China.

¹¹⁸ See Deposition of Richard L. Sullivan, June 4, 1997, p. 127. Perhaps not coincidentally, Dhanin Chearavanont was the only private businessman with whom the President met on his subsequent trip to Thailand in November 1996.

¹¹⁹ See Deposition of Beth Dozoretz, Sept. 2, 1997, pp. 88–90.

¹²⁰ See Deposition of Richard L. Sullivan, June 4, 1997, pp. 124–25. Sullivan also testified that “the White House looked to her as some kind of advisor on Asian issues.” *Id.* at p. 133.

out in a big way,” he talked with Marvin Rosen and Huang “about working with Pauline to get her to come to the table, to make her contribution, to raise some money.”¹²¹ According to Sullivan, in fact, DNC representatives were “always asking her [to] give something to come to this and that.”¹²²

John [Huang] came . . . at some point in the late spring of '96 and said that Pauline is ready to do her part. She is thinking about doing between 300 and 500 [thousand dollars] in the next couple of months, do a couple of events.¹²³

Principally, in or about the spring of 1996, Huang wrote to Kanchanalak to confirm setting up the June 18 coffee with President Clinton.¹²⁴ Huang recommended that Kanchanalak “bring a couple of people to a coffee” to this event.¹²⁵

As noted, however, because Huang’s original list of her invitees contained only three Thai executives from the C.P. Group,¹²⁶ Sullivan grew concerned that Kanchanalak intended only to invite her foreign clients to the June 18 coffee. Sullivan expressed concern to Huang that Kanchanalak was using the coffee for an “improper” purpose by inviting only foreign businessmen,¹²⁷ telling Huang that Kanchanalak needed to “invite potential donors, American citizens.”¹²⁸ Sullivan testified as follows:

when John came up with a preliminary list of who she was going to bring. It included—the list was her and the three, the three people from Thailand. I said, John that’s not—I recall saying, John that’s not what we’re looking for. I don’t want to get—I said, I would prefer—you know, I was thinking she was bringing in some people, fellow people that she would be working with in fund raising, some people that might be potential donors, American citizens.

* * * * *

We want[ed] potential donors and to tell her to, at least, get some more American citizens, more potential donors, more people who are of greater use to us down the road.¹²⁹

In response to these concerns, Sullivan recalled, Huang replied that the coffee was “very, very important to [Kanchanalak],”¹³⁰ that he and Kanchanalak were “adamant” about having the coffee and “insisted” that the C.P. Group businessmen be permitted to attend.¹³¹ Indeed, the June 18 coffee was the only time Sullivan

¹²¹ *Id.* at p. 125.

¹²² *Id.*

¹²³ *Id.* at p. 126.

¹²⁴ See John Huang, Memorandum to Pauline Kanchanalak, undated (Ex. 44) (listing subject as “Coffee” on Tuesday, June 18m, 1996).

¹²⁵ Deposition of Richard L. Sullivan, June 4, 1997, p. 126. Huang’s memorandum stated that “[w]e look forward to seeing you and your guests at the White House coffee on Tuesday, June 18, 1996.” Ex. 44.

¹²⁶ See Deposition of Richard L. Sullivan, June 4, 1997, p. 127.

¹²⁷ *Id.*

¹²⁸ *Id.* at pp. 127–28, 133.

¹²⁹ *Id.* at pp. 127–28.

¹³⁰ *Id.*

¹³¹ *Id.* at pp. 128 & 132.

could recall Huang “express[ing] some emotion” about a particular event.¹³² According to Sullivan, Huang

said something to the effect of, you know, as you know, Richard, Pauline has been a big contributor, a big supporter. It goes back to Vic Rayier and Ron Brown and she is very high maintenance. She has been good to us and she is making a—she is going to be good to us and help us into the fall. This is important to her and I feel strongly about it.¹³³

In effect, therefore, Kanchanalak’s continued contributions to the DNC rode upon whether or not she was permitted to entertain her Thai clients at the White House.

Ultimately, however, Kanchanalak reacted to Sullivan’s concerns by inviting two U.S. citizens to the coffee: Dr. Karl Jackson (the president of the USTBC)¹³⁴ and Clarke Wallace (its executive director).¹³⁵ Sullivan still had concerns about the propriety of Kanchanalak’s coffee, suspecting—correctly, as it turned out—that neither Jackson nor Wallace would contribute to the DNC.¹³⁶ Despite Sullivan’s continued reservations, however, Marvin Rosen approved the coffee.¹³⁷

(4) Huang openly solicited contributions

According to Jackson and Wallace, the two U.S. citizens invited at the last minute¹³⁸ to the June 18 White House coffee by Pauline Kanchanalak in order to assuage Sullivan’s concerns about fundraising impropriety, Huang explicitly solicited DNC contributions at this event in the presence of the President.

Jackson, who had agreed to attend the coffee in the hope that he would have the opportunity to discuss with the President the possibility of a Presidential visit to Thailand,¹³⁹ met Kanchanalak and Wallace outside the White House, where she introduced Jackson to Huang for the first time.¹⁴⁰ While entering the White House security check point, Jackson overheard Kanchanalak and Huang discussing the DNC.¹⁴¹ In fact, Kanchanalak pulled Jackson aside before they entered the White House and explained to him that this coffee was sponsored by the DNC;¹⁴² prior to that point he had

¹³² *Id.* at pp. 129 & 135.

¹³³ *Id.* at 129–30.

¹³⁴ Jackson—who in addition to being the president of the USTBC served as director of the Southeast Asia Program of the Johns Hopkins School of Advanced International Studies—had previously worked as Assistant to the Vice President for National Security Affairs from 1991 to 1993. Prior to that, he was the Special Assistant to the President for National Security Affairs and Senior Director for Asian Affairs at the National Security Council (“NSC”). He also served as Deputy Assistant Secretary of Defense for East Asia from 1986–1989. Jackson has been employed by Foreign Exchange Concepts since January 1993. *See* Karl Jackson, Curriculum Vitae (Ex. 45). As President of the USTBC, Dr. Jackson worked with Wallace and Kanchanalak. Testimony of Dr. Karl Jackson, Sept. 16, 1997, pp. 4–5.

¹³⁵ Deposition of Richard L. Sullivan, June 4, 1997, pp. 129, 144–45.

¹³⁶ *Id.* at p. 144. Sullivan also expressed concerns that there might be negative press if the President had a small coffee with foreigners. *See* Deposition of Richard L. Sullivan, June 5, 1997, p. 81.

¹³⁷ Deposition of Richard L. Sullivan, June 4, 1997, p. 135.

¹³⁸ Jackson received his invitation from Kanchanalak through Wallace approximately one or two days prior to the coffee. Jackson testimony, p. 5.

¹³⁹ *Id.* at p. 5.

¹⁴⁰ *Id.* at p. 6.

¹⁴¹ *Id.* at p. 7.

¹⁴² *Id.*

been unaware of any DNC role.¹⁴³ While on their way to the Map Room—where the coffee was ultimately held—Jackson met Kanchanalak's clients from the C.P. Group: Khun Dhanin, Khun Sumet, and their interpreter, Khun Sarasin.¹⁴⁴ At the Map Room, Jackson met Director of White House Personnel Bob Nash, Don Fowler, Marvin Rosen, Robert Belfer, and Beth Dozoretz.¹⁴⁵ Jackson was surprised by the attendance of high-level DNC representatives such as Fowler because, as a former official in the Bush Administration, Jackson was aware that it was illegal to conduct fundraising inside the White House.¹⁴⁶

Once they had been joined by the President and everyone was seated in the Map Room, Jackson recalled that Fowler stood up and welcomed everyone.¹⁴⁷ Jackson then recalled the following sequence of events:

Fowler said, "It's a pleasure to welcome all of you here to this coffee on behalf of the Democratic National Committee, and these coffees are important so that the President can maintain contact with people. This is particularly—this is important, but it is particularly important in an election year and this is an election year, arguable [sic] the most important since the one that brought Abraham Lincoln to this house."¹⁴⁸

After these introductory remarks by the DNC Chairman, Jackson testified, the party's Vice Chair for Finance gave some brief comments of his own:

Huang stood up and said that he would like to reiterate the welcome of Chairman Fowler and that he agreed with Chairman Fowler that this was an election year, and he went on to say, "Elections cost money, lots and lots of money, and I am sure that every person in this room will want to support the re-election of President Clinton."¹⁴⁹

Wallace confirms the substance of these remarks.¹⁵⁰ Jackson was shocked that the DNC had sponsored the June 18th coffee and, in particular, found Huang's statements entirely inappropriate.¹⁵¹ It seemed clear to him that Huang's comments were a solicitation for political contributions, and he was astounded such statements had been made in the presence of the President.¹⁵²

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at pp. 8–9.

¹⁴⁶ *Id.* at pp. 14–15.

¹⁴⁷ *Id.* at pp. 10–11.

¹⁴⁸ *Id.* at pp. 10–11.

¹⁴⁹ *Id.* at pp. 10–11.

¹⁵⁰ Wallace recalled, however, that Huang's statements may have been made toward the end of the coffee rather than at its outset. Testimony of Clarke Wallace, Sept. 16, 1997, pp. 105–07. Jackson's and Wallace's recollection of the *timing* of Huang's statements may differ, but their memory of the substance of his statements is entirely consistent.

¹⁵¹ Jackson testimony, pp. 10–12.

¹⁵² *Id.* at pp. 14–15. This testimony is thus far the only direct evidence of DNC solicitations for money in the White House. Other solicitations may well have occurred. WHCA's videotape of an April 1996 White House coffee, for example, shows DNC Chairman Fowler commencing his welcoming remarks to the guests by praising them as "loyal and generous supporters." White House Communications Agency videotape, April 1, 1996. As it was WHCA's practice—in the 44 tapes of White House coffees hitherto released by the White House—to videotape only the first few moments of each coffee, however, no record is available of the rest of Fowler's comments to these "generous" donors assembled at the White House on that occasion.

The coffee lasted for approximately 90 minutes, with the C.P. Group officials speaking for most of the time.¹⁵³ Jackson also recalled that he and Kanchanalak spoke briefly.¹⁵⁴ During the course of the coffee, Jackson recalled that someone raised the possibility that the President might stop in Thailand while in Asia to attend the upcoming APEC summit.¹⁵⁵ After hearing this comment, Jackson passed an encouraging note to the President, stating that were this to occur, President Clinton would be the first President since Richard Nixon to visit Bangkok.¹⁵⁶

Jackson's recollection of the events at the June 18th coffee is supported by sworn affidavits submitted by two of his close associates, R. Roderick Porter and John Taylor, respectively the President and Chairman of Foreign Exchange Concepts—who recall Jackson's contemporaneous accounts of the coffee.¹⁵⁷ According to Porter, just after Jackson returned from the coffee on June 18, 1996,

[he] explained that he had just attended a small White House coffee with, among other people, the President, members of the Charoen Pokaphand Group Company, Ltd. ("C.P. Group"), Don Fowler and other gentlemen affiliated with the Democratic National Committee.

Dr. Jackson stated that he believed the event was an improper solicitation for money by the DNC in the White House. Dr. Jackson explained that he was upset because one of the gentlemen affiliated with the DNC had solicited money in the White House in the presence of the President.¹⁵⁸

"[W]ithin a day or two of June 18, 1996," Taylor recounted, Jackson expressed the view that he "believed that the White House coffee was an improper 'shakedown' for money from the foreign businessmen in the presence of the President."¹⁵⁹

The credibility of Jackson's testimony, which of course reflects badly upon Kanchanalak, is further bolstered by his continuing personal and professional relationship with her.¹⁶⁰ He speaks with Kanchanalak over the phone a few times each month and believes they continue to have a good working relationship.¹⁶¹ Far from having any interest in hurting his colleague after the June 18 coffee, in fact, Jackson has gone out of his way to help Kanchanalak. After Kanchanalak told him that she was closing Ban Chang International because of negative publicity surrounding her participation in the June 18 coffee, for example,¹⁶² Jackson opened a new

¹⁵³ Jackson testimony, pp. 12–13.

¹⁵⁴ *Id.* at p. 13.

¹⁵⁵ *Id.* at pp. 13–14.

¹⁵⁶ *Id.*

¹⁵⁷ See Affidavit of R. Roderick Porter, Sept. 15, 1997 (Ex. 46); Affidavit of John Taylor, Sept. 15, 1997 (Ex. 47). Porter has known Jackson personally and professionally since January 1993 and they shared the same office in the summer of 1996. See Ex. 46.

¹⁵⁸ *Id.*

¹⁵⁹ Ex. 47.

¹⁶⁰ See Jackson testimony, p. 19.

¹⁶¹ *Id.* at pp. 15 & 19. At no point before giving his testimony before the Committee had Jackson spoken with Kanchanalak about what transpired at the June 18 White House coffee. *Id.* at p. 15.

¹⁶² *Id.* at p. 18.

company, Global Investments, Inc., with Kanchanalak as its only client.¹⁶³

Significantly, Wallace's¹⁶⁴ recollection of the June 18 coffee corroborates the essentials of Jackson's account. Wallace knew that Kanchanalak was a financial contributor to the DNC, and was told by Usma Kahn, a BCI employee, that Kanchanalak was also a DNC Managing Trustee.¹⁶⁵ Indeed, building upon her relationship with the DNC, Kanchanalak occasionally provided Wallace and other employees the opportunity to attend White House events,¹⁶⁶ among them a White House ceremony in the summer of 1995 on the occasion of the President's departure on a trip to Michigan.¹⁶⁷ Wallace also knew that Duangnet Kronenberg dealt with the DNC on Kanchanalak's behalf, and that she would call the DNC to arrange for business associates and other individuals to attend White House events, among them White House tours, Presidential radio addresses, and the annual White House Easter Egg Roll.¹⁶⁸ In addition, Wallace recalled that Susan Lavine and Lorin Supina, both DNC affiliates, frequently called for or visited Kanchanalak, and that Kanchanalak attended business-related events at the White House attended by the President or the First Lady.¹⁶⁹

Wallace also noted that Huang visited and called Kanchanalak at BCI's offices.¹⁷⁰ In fact, Wallace remembered, Huang visited BCI's offices and had a private meeting with Kanchanalak only a day or two before the June 18 Coffee.¹⁷¹ After the meeting, Wallace learned from Kanchanalak that she was arranging a coffee at the White House for the chairman of the C.P. Group.¹⁷² She then asked Wallace to attend the coffee as well, and told Wallace to inform Jackson that he also was invited to attend.¹⁷³ In instructing Wallace to invite Jackson, however, Kanchanalak behaved somewhat oddly, requesting that Wallace not follow the usual procedure of sending Jackson a written memorandum. Instead, Kanchanalak requested that Wallace telephone Jackson in order to discuss the White House visit.¹⁷⁴

She said at some point not to fax information to Karl but call him on the phone because this was a really unique, special opportunity and not everyone gets to do this sort

¹⁶³ *Id.* at pp. 112–13.

¹⁶⁴ Clarke Wallace graduated from the University of Virginia in 1990 and then taught English in Thailand for approximately eight months. After interviewing with Kronenberg and Kanchanalak, Wallace began working for the USTBC on March 1, 1995. *See* Deposition of Clarke Wallace, August 27, 1997, p. 5. The USTBC shared office space with Kanchanalak's company, Ban Chang International ("BCI"), which was engaged in the development of new business relating to Thailand (i.e., establishing franchises and joint ventures between U.S. and Thailand businesses) and which has the C.P. Group as one of its most important clients. (As a result of sharing offices, employees of USTBC helped with certain BCI matters, such as answering the phone and general clerical work.) For a period of time, BCI also shared office space with Ban Chang Group (owned by Chupong Kanchanalak) in Bangkok. *Id.* at pp. 8–11.

¹⁶⁵ *Id.* at p. 16.

¹⁶⁶ *Id.* at pp. 17–18.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at pp. 18–20.

¹⁶⁹ *Id.* at pp. 21–22 & 26.

¹⁷⁰ *Id.* at p. 26.

¹⁷¹ *Id.* at p. 31–32.

¹⁷² *Id.* at p. 32. The C.P. Group delegation arrived in Washington, D.C. a day before the coffee and left D.C. approximately two days after the coffee. *See Id.* at pp. 58–59. It appears that the June 18 coffee was a primary reason the C.P. Group's executives came to Washington.

¹⁷³ *Id.*

¹⁷⁴ *Id.* at p. 33. Jackson maintained a separate office from the USTBC in June of 1996.

of thing and just exercise caution by just telling him on the phone.¹⁷⁵

On the day of Kanchanalak's meeting with Huang, Wallace also saw a seating chart for the coffee in Kanchanalak's office.¹⁷⁶

Most significantly, Wallace confirmed Jackson's recollection that Huang solicited contributions at the June 18 coffee. Wallace had met Huang once or twice before the coffee and knew that he had worked for the Department of Commerce.¹⁷⁷ At the coffee, Wallace learned that Huang no longer worked at the Department of Commerce, and that he was now working for the DNC—and least through the 1996 election.¹⁷⁸ Once inside the Map Room, Wallace also met Dozoretz, Rosen, Fowler and Nash,¹⁷⁹ and recalls thinking at the time that Kanchanalak must have been very important to the DNC in order for Rosen and Fowler to attend.¹⁸⁰ Wallace thought it odd to have so many DNC officials at the coffee, and had the (correct) impression that the coffee had been arranged in conjunction with the DNC.¹⁸¹

According to Wallace, after some opening remarks by Fowler, a brief statement by the President, and Kanchanalak's introductions of the Thai officials, C.P. Group Chairman Dhanin Chearavanont spoke for approximately 30 minutes.¹⁸² After this, Jackson and Belfer posed some brief questions.¹⁸³ As Wallace later recounted, the President then introduced him to the assembled guests, describing Huang as "someone who [was] a friend and someone who had done a lot of good work for the Democratic National Committee."¹⁸⁴

And then John Huang spoke and he said that the President, thank you very much for being here, President, and I think speaking more to the table, he said, as you know, he said, this President is the right man to lead the country into the 21st century, into the next millennium, and I think we have one small hurdle or something like that, which is the election in November and I'm sure you all will do everything you can to support that, support the-everyone at this table will do what they can to support the President.¹⁸⁵

Wallace also recalled that Huang probably made a comment about "how expensive elections were."¹⁸⁶

To Wallace, as to Jackson, Huang's comments had very clear implications: the DNC was asking the President's coffee guests for campaign contributions. These remarks seemed to be aimed at

¹⁷⁵ *Id.* at pp. 32–33. Kanchanalak also indicated someone might have the opportunity to fly on Air Force One to Thailand. *Id.* at p. 34.

¹⁷⁶ *Id.* at p. 42.

¹⁷⁷ *Id.* at pp. 30–31.

¹⁷⁸ *Id.* at pp. 43–44.

¹⁷⁹ *Id.* Wallace knew Fowler was Chairman of the DNC and he learned that Rosen was "Chairman of Finance" for the DNC at the coffee. *Id.* at pp. 45–46.

¹⁸⁰ *Id.* at p. 46.

¹⁸¹ *Id.* at pp. 47–48.

¹⁸² The topics discussed by Chearavanont included how U.S. companies could successfully conduct business in China and the pending transfer of Hong Kong to China. *Id.* at p. 53.

¹⁸³ *Id.* at pp. 52–54.

¹⁸⁴ *Id.* at pp. 54–55.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at p. 56.

[h]elping to either to help to raise the money or help to strengthen the DNC somehow either through networking to get people to support the President or to networking to get people to give donations.¹⁸⁷

After recounting the events of June 18 reviewing the relevant documentation, Wallace concluded that the coffee had been a fundraiser:

Q: Now, you've seen checks from a P. Kanchanalak the day after the coffee for \$85,000 and a week or so later for \$50,000 and you've now seen a DNC document projecting incomes from a variety of different coffees, you were at the coffee, you gained an impression and sense of the things that were at the coffee. Seeing all that, as you sit here today, do you have an understanding of what exactly was going on at this coffee, at this particular June 18th coffee you attended?

A: It appears it was a Fundraiser.¹⁸⁸

After the coffee concluded and the C.P. Group executives left the White House, Jackson, Wallace and Kanchanalak went to the NSC offices in the Old Executive Office Building to visit Bill Wise, who had worked for Jackson when he was Assistant to the Vice President for National Security Affairs.¹⁸⁹ Wise was surprised to hear that the President had just hosted a meeting with senior executives from Thailand's C.P. Group. Wise had no prior knowledge of this event or the visit of the Thai businessmen,¹⁹⁰ and could find no mention of this event on the NSC's schedule for the President.¹⁹¹ Jackson found the NSC's ignorance of the meeting troubling; during the Bush Administration, it was his understanding that the NSC was kept informed of the President's schedule—and that policy-making and fundraising were considered separate activities.¹⁹² The NSC's ignorance in this case increased Jackson's suspicion that the DNC and the President had used the coffee to improperly—perhaps even illegally—solicit campaign contributions in the White House.¹⁹³

(5) Other attendees' recollections

The other persons attending at the June 18 Coffee—Dozoretz, the Belfers, Rosen, Fowler, and Nash—claimed not to recall hearing Huang solicit DNC contributions in the Map Room. On this point, however, their memory may be influenced by their strong affiliations with the DNC, the White House, or both. More importantly, while they cannot recall Huang making the remarks recounted in detail by Jackson and Wallace, these other attendees recall so little *else* of substance concerning the coffee that their lack of memory in this particular respect is hardly surprising.

¹⁸⁷ *Id.* at p. 55.

¹⁸⁸ *Id.* at pp. 85–86.

¹⁸⁹ See Jackson testimony, p. 30.

¹⁹⁰ *Id.* at pp. 30–31.

¹⁹¹ *Id.* Richard Sullivan claims to have understood that Karen Hancox of the White House Political Affairs Office had vetted the June 18th coffee attendees with the NSC. See Deposition of Richard L. Sullivan, June 4, 1997, p. 137. See also the section of this report on White House vetting procedures.

¹⁹² Jackson testimony, pp. 91–92.

¹⁹³ *Id.* at pp. 49–50.

Dozoretz was the DNC fundraiser responsible for the Belfers' invitation to the coffee. She was a successful DNC fundraiser and a personal friend of the President and the First Lady.¹⁹⁴ She was a founding member of the Women's Council for the Senate, and had helped organize the DNC Women's Leadership Forum in 1993.¹⁹⁵ Dozoretz and her husband raised approximately \$120,000 for the Clinton/Gore campaign in 1992.¹⁹⁶ Between 1992 and 1996, Dozoretz and her husband personally contributed over \$100,000 to Democratic campaigns and candidates and helped arrange corporate contributions to the Democratic Party totaling approximately \$200,000.¹⁹⁷ She consistently earned the status of DNC Managing Trustee between 1992 and 1996, either by personally contributing more than \$50,000 or by raising in excess of \$250,000 annually. In fact, she chaired the DNC Managing Trustee program for approximately 10 months.¹⁹⁸ Dozoretz's other fundraising achievements include: raising approximately \$100,000 at the kick-off event for Clinton/Gore '96;¹⁹⁹ planning a tea event for the First Lady in October of 1995 for women who had raised a minimum of \$5,000;²⁰⁰ and raising more than \$2 million for Democratic gubernatorial, U.S. Senate, and Presidential candidates since 1994.²⁰¹ Dozoretz also spoke frequently with White House officials such as Harold Ickes, Maggie Williams,²⁰² Doug Sosnik,²⁰³ Evelyn Lieberman,²⁰⁴ and Ron Klain²⁰⁵ about her DNC fundraising activities.

In March or April of 1996, Robert and Renee Belfer agreed to contribute \$100,000 to the DNC through Dozoretz.²⁰⁶ Belfer contributed the first \$50,000 of this total in May of 1996,²⁰⁷ contributing an additional \$40,000 after the June 18 coffee. Renee Belfer's sister contributed the final \$10,000, which was credited toward the Belfers' \$100,000 commitment.²⁰⁸ At the time Robert Belfer made the \$100,000 commitment, Dozoretz told him it was possible he would be able to meet with the President. Belfer claimed not to have believed that this contribution was a *quid pro quo* for the meeting,²⁰⁹ but Dozoretz confirmed that although no specific amount was explicitly requested, guests at such coffees were expected to make substantial contributions:

¹⁹⁴ See Dozoretz deposition, pp. 12–16. Indeed, Dozoretz played golf with the President the day before her deposition by the Committee and less than two weeks prior to her hearing testimony. *Id.* at p. 72.

¹⁹⁵ *Id.* at pp. 8, 12; see also Beth Dozoretz, personal statement and resume (Ex. 48).

¹⁹⁶ See Dozoretz deposition, p. 10.

¹⁹⁷ *Id.* at pp. 20–23. Dozoretz also is listed in the Vice President's DNC fundraising call sheets. See DNC Finance Call Sheet (Ex. 49).

¹⁹⁸ See Dozoretz Deposition, pp. 27, 29.

¹⁹⁹ *Id.* at pp. 32–33.

²⁰⁰ *Id.* at p. 39.

²⁰¹ *Id.* at p. 43. Dozoretz also attended two gatherings at local D.C. hotels to review DNC television advertisements. The first meeting was in the fall of 1995 and consisted of less than twenty people (including the President, Rosen and Fowler). *Id.* at pp. 56–58. The group previewed advertisements, and Rosen explained the need to raise extra money to pay for them because of their extraordinary expense. *Id.* at p. 61. The second meeting was in the spring of 1996 and celebrated the success of the advertisements. *Id.*

²⁰² *Id.* at p. 47.

²⁰³ *Id.* at p. 48.

²⁰⁴ *Id.* at pp. 128–29.

²⁰⁵ *Id.* at p. 129.

²⁰⁶ See Deposition of Robert Belfer, Sept. 6, 1997, pp. 8–9.

²⁰⁷ *Id.* at p. 9.

²⁰⁸ *Id.* at p. 70.

²⁰⁹ *Id.* at p. 37.

I don't think somebody would really be considered to attend (a coffee) if they hadn't contributed at a significant level. It could have been \$25 (thousand). It could have been 50 (thousand), but conversely, it was not that if you—if you contributed X-amount of dollars, you would go to one of these gatherings.²¹⁰

Richard Sullivan was aware of Dozoretz's fundraising endeavors on behalf of the DNC.²¹¹ Indeed, it was Sullivan who involved her in the June 18 event, calling Dozoretz approximately two weeks beforehand to inform her that she and the Belfers might be able to attend a White House coffee.²¹² At this point, however, Dozoretz was unsure of the event's exact location and time.²¹³

In contrast to the specific recollections of Jackson and Wallace, in their testimony to the Committee, Dozoretz and the Belfers had only a vague memory of the details of the June 18 coffee. The Belfers could not say, for example, how long in advance of the coffee Sullivan had first contacted them, and remembered few details of the coffee itself.²¹⁴ Neither Dozoretz nor Belfer could recall Huang soliciting contributions at the June 18 coffee as recounted by Jackson and Wallace.²¹⁵ Indeed, though she professed to be quite certain that Huang had *not* solicited money in the White House, Dozoretz could apparently remember *nothing* else about the remarks made at the coffee. She could not recall, for example, the substance of Fowler's opening remarks,²¹⁶ anything of what Kanchanalak said to the assembled guests,²¹⁷ anything of what Jackson said,²¹⁸ or whether there were any closing remarks at all.²¹⁹ Dozoretz could not even remember anything of what the President himself had said at the coffee.²²⁰

It is also noteworthy that Dozoretz had meetings with Robert and Renee Belfer and with White House attorneys before her interview and deposition before the Committee. Dozoretz had conversations with former Counsel to the President Jack Quinn and with White House Special Counsel Lanny Breuer for example, prior to her meetings with Committee staff.²²¹ Dozoretz also admitted that she had spoken with the Belfers *about the June 18, 1996 coffee* before they met with Committee staff.²²²

For his part, DNC Finance Chairman Marvin Rosen recalled attending the June 18 coffee with Kanchanalak, Belfer, Dozoretz and

²¹⁰ See Dozoretz deposition, p. 79.

²¹¹ *Id.* at p. 46.

²¹² *Id.* at pp. 88–89.

²¹³ *Id.* at pp. 89–90.

²¹⁴ See Belfer deposition, pp. 12–13.

²¹⁵ See Dozoretz deposition, pp. 116–17; Belfer deposition, p. 25. Dozoretz testified that “[i]f he said anything, it was inconsequential.” See Dozoretz deposition, p. 117. She did not recall Huang saying anything about the election, *id.* at pp. 142–43, or expressing the hope that everyone at the coffee would “support” the President. *Id.* at p. 143. Dozoretz stated that if Huang had made those types of statements she would have been upset because she “had two of [her] donors in the room” and she “would have been very sensitive to anything that would have been brought up about [her] donors being solicited by anybody but [her].” *Id.* at p. 143.

²¹⁶ *Id.* at p. 108.

²¹⁷ *Id.* at pp. 109 & 118.

²¹⁸ *Id.* at p. 114.

²¹⁹ *Id.* at p. 116.

²²⁰ *Id.* at p. 118.

²²¹ *Id.* at pp. 68–72.

²²² *Id.* at pp. 148–49.

Huang.²²³ As with Dozoretz and the Belfers, he could not recall anyone “making any comment relating to solicitation of funds for the DNC and/or the Clinton/Gore campaign at that coffee,”²²⁴ and did not remember Huang “making any statement at the coffee.”²²⁵ He also did not recall Kanchanalak making any remarks.²²⁶ His only recollection of the President’s role was that the President addressed the group; he did not remember anything about what the President said.²²⁷ Rosen also testified that while he was not sure what he believed at the time of the June 18 coffee, he now believed that Kanchanalak may have used her clients attendance at the coffee to meet her commitment to raise a certain amount of funds for the DNC.²²⁸

If anything, the memories of DNC Chairman Donald Fowler and White House Director of Presidential Personnel Bob Nash were worse than that of Dozoretz, the Belfers, and Rosen. Fowler remembered attending the June 18 coffee,²²⁹ but claimed to have no clear recollection of it.²³⁰ In fact, Fowler said that he could not recall whether Huang had attended this event—or even whether any of the other guests had done so.²³¹ Like Fowler, Nash could recall essentially nothing about the coffee. He could not remember the date of the event or the names of all the attendees,²³² he could not recall any of the specific topics discussed by the C.P. Group executives, and he did not know whether the President had made any opening statement.²³³ Since they could essentially recall nothing about the June 18 coffee *at all*, their failure to remember the Huang solicitation detailed by Jackson and Wallace is hardly surprising.²³⁴ Jackson’s and Wallace’s testimony about the June 18 coffee, therefore, stands uncontradicted.

(6) *Possible withholding or destruction of evidence*

On or about January 1, 1997, Ban Chang International was closed.²³⁵ In December 1996, FBI agents visited BCI’s offices in the execution of a criminal search warrant, acting on information suggesting that the company may have been destroying documents sought by federal investigators.²³⁶ Before the company closed, BCI employee Usma Kahn removed information from Ban Chang files pertaining to projects intended for a new company called Global Investments.²³⁷ It is not known what happened to these files.²³⁸ In addition, an outside contractor (who was a friend of Kahn) removed certain related information from BCI’s computer hard-drives, copy-

²²³ See Deposition of Marvin S. Rosen, May 19, 1997, pp. 48–49.

²²⁴ *Id.* at p. 49.

²²⁵ *Id.*

²²⁶ *Id.* at p. 50.

²²⁷ *Id.* at p. 51.

²²⁸ *Id.* at p. 255.

²²⁹ See Deposition of Donald L. Fowler, May 21, 1997, p. 135.

²³⁰ *Id.* at p. 311.

²³¹ *Id.* at pp. 135–36.

²³² Deposition of Bobby Nash, June 25, 1997, p. 268.

²³³ *Id.* at pp. 272–73.

²³⁴ See, e.g., *id.* at p. 275.

²³⁵ See Wallace deposition, p. 63.

²³⁶ *Id.* at p. 71.

²³⁷ *Id.* at p. 64.

²³⁸ See *id.* at p. 65.

ing it onto diskettes.²³⁹ These also seem to have disappeared.²⁴⁰ According to Wallace, such removal of information from the hard drives was unusual.²⁴¹ More ominously, after the FBI raid, Kanchanalak told Wallace that he would need a lawyer; she even offered to help pay for one. In a telephone conversation, Wallace

told her about the FBI raid, I told her about the interest [in] the C.P. Group and our donations and she mentioned the fact that I needed a lawyer to represent me and she talked about how she may be able to help financially and then we talked about the U.S. Thailand Business Council projects like four or five things I was working on. And she had some knowledge of them because she was in Thailand and was working with Jeb.

* * * * *

[Kanchanalak then] told me . . . to be careful about, you know, what I, be careful when I think about what I remember about the coffee because it could end up being very controversial or cause some problems for people.²⁴²

Furthermore, before Wallace was to testify before a federal grand jury inquiring into campaign finance abuses, Kanchanalak proposed helping him with financial expenses resulting from investigations into possible wrongdoing in connection with the June 18 coffee.²⁴³ Wallace, however, declined both this offer of money and Kanchanalak's suggestion that he "be careful" about "what I remember about the coffee."

CONCLUSION

There can be no question that the DNC used White House coffees, overnight stays, and other White House perquisites as explicit fundraising events to pay for the extraordinarily expensive media campaign the Democratic Party deemed necessary to save President Clinton and Vice President Gore from electoral defeat in 1996. For this reason, as George Stephanopoulos put it, money "became a near obsession at the highest levels" of the DNC and in the White House. Driven by this "obsession," the DNC and White House "pulled out all the stops" to raise money, and were not above using the White House for this purpose²⁴⁴—just as Terry McAuliffe had suggested in his 1994 proposal for various DNC fundraising "projects."²⁴⁵ While not every overnight visit and White House coffee served this purpose, DNC and White House documents and witness testimony show that the Democratic Party and the White House unquestionably organized certain coffees and other events in the White House specifically as fundraisers—even to the point of assigning "projected revenue" totals, assigning "Fundraiser Codes,"

²³⁹ *Id.* at pp. 65–66.

²⁴⁰ Wallace did not know what Kahn did with the diskettes and did not have access to the diskettes when responding to the Committee's subpoena. *Id.* at pp. 66–68.

²⁴¹ *Id.* at p. 69.

²⁴² *Id.* at pp. 72 & 74–76.

²⁴³ *Id.* at pp. 76–77.

²⁴⁴ Stephanopoulos, *supra* note 2.

²⁴⁵ See also the section of this report on the White House's thirst for money during the 1995–96 election cycle.

and tracking contributions given in connection with each event.²⁴⁶ These events netted approximately \$31.5 million for the DNC.

The May 1, 1996 coffee, was but one example of what Alan Patrikoff described as the DNC's use of coffees in its "fundraising methodology." There is no question, therefore, that the May 1, 1996 Oval Office coffee was a DNC fundraising event. Its participants were invited only after they had each pledged to give \$100,000 to the Democratic Party; these commitments were well known to the event's DNC organizers, and the President himself was informed of them in advance of the meeting. Nor is there any serious question that these donations and the invitations to the May 1 group were causally connected. The organizer of the group, Barrie Wigmore, urged at least one of its participants, for example, to make a contribution as part of this group because doing so would make possible a visit with President Clinton. Wigmore, in turn, had himself been told by DNC fundraisers that the Democratic Party used White House coffees as part of its "fundraising methodology"—as a way to elicit donations from "key people"—and knew that the DNC considered the May 1 event to be just such a coffee. It was, in other words, what Lewis Manilow termed a "money coffee," which occurred in the Oval Office itself, an undeniably "public" space within the White House complex. This coffee constitutes, therefore, the first instance uncovered by the Committee of President Clinton's use of the Oval Office as part of his party's "fundraising methodology."

If anything, the June 18, 1996 coffee was an even more blatant and inappropriate use of the White House for DNC fundraising. It was organized, over the objections of the DNC's finance director, in order to provide an opportunity for the President to meet with business executives from Thailand's C.P. Group in return for donations from and arranged by Pauline Kanchanalak, who herself funded these contributions with money from sources in Thailand. The specific details of how and why this coffee came about remain unclear because the three key figures—Huang, Kronenberg, and Kanchanalak—have either invoked their Fifth "Amendment privilege against self-incrimination or have simply fled the country.

Moreover, when all the evidence is considered, it appears that at this June 18 coffee, Huang openly asked for DNC contributions in the Map Room at the White House, in the presence of the President. Jackson and Wallace had a clear, vivid, and consistent recollection of Huang's solicitation. The Minority has alleged that Jackson invented this story out of partisan animus supposedly originating in his status as a registered Republican and as a former assistant to former Vice President Dan Quayle. As recounted above, however, Jackson's testimony is supported by Wallace—who has never contributed to either party—and is corroborated by sworn statements from Jackson's business associates attesting to his consistent and contemporaneous memory of these events. Both Jackson and Wallace, in fact, continue to maintain personal friendships and business relationships with Kanchanalak. By contrast, Dozoretz and the Belfers are fervent supporters of the President and the DNC, and raised or contributed several hundred thousand dollars

²⁴⁶ It is illegal to solicit campaign contributions on government property. See 18 U.S.C. § 607.

on behalf of the Democratic Party in 1996 alone. Moreover, neither Dozoretz nor any of the other guests apparently remember enough detail about the events of June 18 to be able to say anything about it with certainty—and certainly not enough to enable them to cast serious doubt upon the Jackson and Wallace accounts simply on the strength of their claimed inability to recall Huang’s comments. At this point, the only people who might be able to clarify this matter have refused to cooperate with the Committee: Huang has invoked the Fifth Amendment, Kanchanalak has fled the country, and President Clinton has declined to testify.

Offset Folios 338 to 612 Insert here

Offset Folios 613 to —Insert here

FUNDRAISING-CALLS FROM THE WHITE HOUSE

In the aggressive drive to raise funds to support the DNC's advertising on behalf of the President, new ways were found to solicit contributors, such as using the public facilities of the White House to host coffees and other fund-raising events. In addition, the President and the Vice President made fund-raising telephone calls from the White House.¹ In fact, evidence suggests that the Vice President himself was the originator of the idea that he make such calls.² In furtherance of these plans, DNC Finance Chair Marvin Rosen, Finance Director Richard Sullivan, and others within the DNC's Finance Division prepared "call sheets" for the President, Vice President, and First Lady to suggest potential donors whom they might contact, and to encourage them to actually make the calls.³

The fund-raising calls became an issue in the investigation because a federal felony statute, 18 U.S.C. § 607, prohibits soliciting or receiving political contributions in a federal workplace.⁴ In the early stages of the investigation, and as explained more fully below, the Committee discovered that the President and Vice President may have made fund-raising telephone calls from the White House, thereby potentially implicating section 607.

EVIDENCE OF FUND-RAISING PHONE CALLS

Vice President Gore

On March 2, 1997, an article by Bob Woodward entitled "Gore Was 'Solicitor-in-Chief' in '96 Reelection Campaign" appeared on the front page of *The Washington Post*. This was among the first of a series of articles in numerous publications that detailed the Vice President's fund-raising activities during the 1996 campaign. The picture that emerged from these articles was one of the Vice President being among the most aggressive, and enthusiastic, fund-raisers within the Clinton/Gore '96 re-election team. The Woodward article described a number of instances in which the Vice President made fund-raising telephone calls. One unidentified donor who received such a call described the Vice President's sales pitch as "re-

¹There is evidence suggesting that the First Lady also may have made fund-raising phone calls. Memoranda received by the Committee from the DNC indicated that there was some consideration given to having the First Lady make fund-raising telephone calls in the period of late 1995. Memorandum from Terence R. McAuliffe to Harold Ickes October 22, 1994 (Ex. 1), and 12 additional call sheets were also received from the DNC.

The Committee interviewed by telephone a number of the potential donors listed on those call sheets. Based on this work, the Committee concludes that it was unlikely that the First Lady actually made any of the fund-raising telephone calls contemplated by the call sheets.

²*In re Albert Gore, Jr.*, Notification to the Court Pursuant to 28 U.S.C. § 592(b) of Results of Preliminary Investigation, Dec. 2, 1997, p. 7 (Ex. 2).

³Deposition of Marvin Rosen, May 19, 1997, pp. 107-29; Memorandum from Don Fowler et al. to Harold Ickes, November 20, 1995 (Ex. 3); Memorandum from Harold Ickes to the President and the Vice President, November 28, 1995 (Ex. 4); Deposition of Richard Sullivan, June 4, 1997, pp. 178-99; Memorandum from John Raffaelli to Richard Sullivan (undated) (Ex. 5).

⁴18 U.S.C. § 607 is quoted and discussed *infra*.

volting.” Another stated that the call that he received from the Vice President had “elements of a shakedown.”⁵

On the afternoon of March 3, 1997, and in response to a number of press inquiries regarding his fund-raising activities which had been posed earlier in the day to White House Press Secretary Mike McCurry, the Vice President went to the White House press room for an impromptu press conference. In this press conference, it was revealed for the first time that the Vice President made some of the fund-raising phone calls from his White House office. Vice President Gore stated that he had charged the calls to a DNC credit card.⁶ The Vice President also stated his belief that everything he did regarding the calls was legal, but that he had decided, as a matter of policy, not to make such calls ever again. In the course of the press conference, the Vice President stated several times that he had asked potential donors “to help raise campaign funds,” “to ask people to make lawful contributions to the campaign,” to ask potential donors “to support our campaign,” to “help[] to raise funds for the campaign,” and “to help raise money for the campaign.”⁷

The Vice President was questioned extensively about the legality of making political fund-raising calls from his White House office. In response, the Vice President repeated seven times that he had been advised by his legal counsel that there was “no controlling legal authority” or case that proscribed his conduct in making these calls.⁸ Nonetheless, the Vice President acknowledged that in the past, he had taken conscious steps to make prior fund-raising calls—presumably of private persons not located in federal buildings—away from official telephones in the White House. “I went to the DNC on one occasion I believe in October of 1994 to help raise money for the party.”⁹

Based on this press conference, the Vice President’s telephone calls were one of a number of subjects that a majority of the members of the Senate Judiciary Committee asked Attorney General Reno to investigate as possibly warranting the appointment of an independent counsel.¹⁰ The Judiciary Committee members believed that the facts known to date constituted specific and credible evidence that a covered person may have committed a federal crime.¹¹ Specifically, the Judiciary Committee members suggested that the Vice President’s fund-raising telephone calls might constitute a violation of 18 U.S.C. § 607(a), which provides:

⁵ Bob Woodward, “Gore was ‘Solicitor-in-Chief’ in ‘96 Reelection Campaign,” *The Washington Post*, March 2, 1997, pp. A1, A18.

⁶ The Vice President’s office later issued a correction, stating that the Vice President had in fact used a credit card issued by the Clinton/Gore ‘96 campaign, not one issued by the DNC. (Of course, Clinton/Gore ‘96 can only accept contributions of “hard money.”) In addition, the Committee later learned that a number of the calls had not been charged to any credit card at all, but rather were charged to official White House telephone bills. The DNC later reimbursed the government for the costs of such fund-raising calls that were originally charged to official government telephones. *See infra*, text accompanying notes 17–18.

⁷ White House Press Release, Press Briefing by the Vice President, Mar. 3, 1997, pp. 1–2, 7–8 (Ex. 6).

⁸ *Id.* at pp. 2–7.

⁹ *Id.* at p. 6.

¹⁰ Letter from Senator Orrin Hatch et al. to Attorney General Reno, March 13, 1997 (Ex. 7); *see* 28 U.S.C. § 592(g)(1).

¹¹ *See* Ex. 7; 28 U.S.C. § 591(b).

It shall be unlawful for any person to solicit or receive any contribution within the meaning of . . . the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties . . . Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

On April 14, 1997, however, the Attorney General rejected the Judiciary Committee members' request that she appoint an independent counsel to investigate, among other things, the Vice President's telephone fund-raising calls. She listed two reasons to support her view that there was no specific and credible evidence that the Vice President's telephone calls were illegal. First, in her view, section 607 "specifically applies only to *contributions* as technically defined by the Federal Election Campaign Act (FECA)—funds commonly referred to as 'hard money.'"¹² Second, she stated that "there are private areas of the White House that, as a general rule, fall outside the scope of the statute, because of the statutory requirement that the particular solicitation occur in an area 'occupied in the discharge of official duties.'"¹³ Since there was no evidence that the Vice President's calls had raised hard money, and no evidence that the calls had been made from areas of the White House that fall within the statutory prohibition of section 607, the Attorney General declined to seek the appointment of an independent counsel.

As explained later in this section, the Committee rejects the Attorney General's reading of section 607 with respect to the scope of "contributions" that fall within its prohibition. Nevertheless, only a few months after her letter to Senator Hatch, the Committee learned that both of the factual premises for the Attorney General's declination of the appointment of an independent counsel were wrong. The Justice Department had apparently assumed these facts without investigating them.

DNC General Counsel Joseph Sandler provided the Committee with critical testimony regarding the Vice President's phone calls. Sandler's knowledge of these phone calls was unexpected, and came to the Committee's attention only by piercing the DNC's frivolous assertions of privilege. The Committee initially deposed Sandler on May 15 and May 30, 1997. At both of these sessions, Sandler refused to answer a number of questions, principally because the DNC was asserting the attorney-client privilege, or variations of it. In particular, Sandler refused to answer questions concerning meetings among lawyers for the White House, the DNC, and Clinton/Gore '96, based principally on the DNC's assertion of a "common-interest doctrine" theory of the attorney-client privilege.¹⁴

In response to these assertions of privilege, Chairman Thompson issued an Order on June 6, 1997, in which he rejected certain privileges previously asserted by, or on behalf of, Sandler, including any privileges based on the "common-interest doctrine," among the

¹²Letter from The Honorable Janet Reno to The Honorable Orrin G. Hatch, Apr. 14, 1997, p. 4 (emphasis in original) (Ex. 8).

¹³*Id.* at p. 5 (quoting 3 Op. Off. Legal Counsel 31 (1979)).

¹⁴*See, e.g.,* Deposition of Joseph Sandler, May 15, 1997, pp. 172–99; *see also* Deposition of Joseph Sandler, May 30, 1997, pp. 106–08.

DNC, the White House, or any other third party.¹⁵ The ruling thus permitted the Committee to inquire into conversations that Sandler had with personnel and attorneys within the White House (including the Vice President's office) and the Clinton/Gore Campaign.¹⁶

At his resumed deposition on August 21, 1997, Sandler identified and discussed a bill for \$24.20 from the "Office of the Vice President," requesting "Reimbursement to U.S. Treasury for DNC telephone expenses."¹⁷ According to an attached check, the DNC paid the bill on the day it was presented, June 27, 1997. Sandler testified that the bill was for long distance fund-raising telephone calls that were presumed to have been made by the Vice President from one of his official telephones, but which had not been charged to a Clinton/Gore '96 credit card.¹⁸

Sandler further testified that the bill and its payment were part of a project that he had worked on with the Vice President's counsel, Charles Burson and Buzz Waitkin, and with Lyn Utrecht, counsel to the Clinton/Gore '96 campaign, regarding the telephone calls.¹⁹ Sandler stated that the members working on the project determined that the Vice President had actually made at least 52 telephone calls soliciting funds, not including calls in which he was not able to reach the person he intended to solicit.²⁰ The Vice President potentially raised \$795,000 as a result of his telephone calls.²¹ Sandler was asked about legal issues that were discussed among the lawyers involved in the project. He described the focus of those discussions as follows:

Q: Did your conversation with Mr. Burson or Ms. Utrecht involve issues of legality of the calls?

A: Yes, we did discuss that.

Q: And what was said?

A: There were—well, we talked about the question of whether the statute that prohibits—assuming even for the sake of discussion, which I believe is not the opinion of the Office of the Vice President, that this statute precludes solicitation of people out office [sic] buildings used in performance of an official duty, even assuming that, there is a question of whether it applies to the solicitation of money for non-Federal accounts of political parties, so-called soft money. And we looked at the kind of money that was raised from various donors and looked at the kind of money that the Vice President would have likely thought [he] was raising given what was on the call sheets

¹⁵ Order of Chairman Fred Thompson, June 6, 1997 (Ex. 9).

¹⁶ The White House must have been uncomfortable with the DNC's claim of "common interest" between the DNC and the White House, given President Clinton's public statement, made in an effort to deflect personal responsibility for the illegalities committed by the DNC in the course of its fund-raising, that such illegalities were not committed by the Clinton-Gore campaign, but by "the other campaign." News Conference of President Bill Clinton, Nov. 8, 1997, CNN Special Event, Transcript # 96110801V06.

¹⁷ Deposition of Joseph Sandler, August 21, 1997, pp. 114–119; Invoice from Office of the Vice President to DNC, June 27, 1997 (Ex. 10).

¹⁸ Deposition of Joseph Sandler, August 21, 1997, pp. 115–23.

¹⁹ See generally *id.* at pp. 114–27; Deposition of Joseph Sandler, August 22, 1997, pp. 7–60.

²⁰ Deposition of Joseph Sandler, August 22, 1997, p. 37. At his press conference, the Vice President had indicated that he had raised funds by telephone "on a few occasions" *E.g.*, Ex. 6, p. 1.

²¹ Deposition of Joseph Sandler, August 22, 1997, p. 58.

and that kind of thing. So we discussed that issue, application of the statute.²²

On this issue, and as part of the project, Sandler conducted an analysis of the DNC accounts into which contributions potentially resulting from the Vice President's phone calls had been deposited.²³ In the course of his work, Sandler discovered that some such contributions had been deposited into the DNC's federal, or "hard money," accounts. Sandler's deposition testimony described this discovery as follows:

Q: To your knowledge, has a donor solicited by the Vice President on an official phone call ever made a subsequent donation to the DNC where any portion of such donation was deposited in the DNC's Federal account?

A: Yes.

Q: Tell me about that.

A: Well, subsequent—you mean—those were not necessarily result—donations resulting from the Vice President's solicitation, but there were donations that were made, you know, at some point subsequent to the calls. And we prepared a spread sheet—I prepared a spread sheet showing the Federal—I believe I prepared one spread sheet showing just the Federal donations that followed these phone calls by donors who were called by donors who called for some—you know, covering . . . some period of time. I don't know how far into '96 we went . . .

* * * * *

A: We talked about—I talked about that issue with Mr. Burson.

Q: In other words, the issue of whether or not the contribution had properly been deposited in the Federal account first came up in a conversation between yourself and Mr. Burson?

A: Well, the question of whether in these particular cases, if the donor had written one check in excess of the Federal amount and we deposited the—you know, a portion of the check in the Federal account and a portion in the non-Federal, that the DNC should have obtained specific—there's a procedure you're supposed to do obtain specific designation or authorization from the donor to do so, and that may not have been done in these cases. And that was checked at some point.²⁴

Monies allocated to the DNC's federal accounts are, in the parlance of the federal campaign finance laws, "hard" dollars.²⁵ Thus, under the analysis of Attorney General Reno in her April 14 letter

²² Deposition of Joseph Sandler, August 21, 1997, pp. 117–18.

²³ As evidence of Sandler's work in this regard, the DNC produced a file of his handwritten notes. File of Joseph Sandler, entitled "VPOTUS Phone Calls" (Ex. 11). These notes list all contributions received by the DNC during the period from October, 1995 to June, 1996 which were determined to be potentially attributable to the Vice President's fund-raising telephone calls. These handwritten notes show that a number of these contributions were deposited into DNC federal accounts. The DNC's individual federal account is denoted by the symbol "FO1" in Sandler's notes.

²⁴ Deposition of Joseph Sandler, August 21, 1997, pp. 123–24; 125–26.

²⁵ Deposition of Joseph Sandler, August 22, 1997, p. 32.

to Senator Hatch, 'hard' dollars unquestionably constitute "contributions" within the meaning of the FECA, thus triggering the application of section 607. The Attorney General, of course, had refused to initiate a preliminary investigation under the Independent Counsel Act at that time because of her assumption that the Vice President had raised "soft," as opposed to "hard money." Sandler's August 21, 1997 disclosure to the Committee that certain contributions presumably resulting from the Vice President's phone solicitations were deposited into the DNC's "hard money" account eviscerated that assumption.

When asked about the Vice President's knowledge regarding the accounts into which these contributions had been deposited, Sandler acknowledged that he had never spoken with the Vice President about the matter, and was not aware whether the Vice President's counsel had done so.²⁶ Sandler did volunteer, however, that he and Burson had discussed the matter among themselves and, based solely on circumstances surrounding the Vice President's telephone calls, had concluded that the Vice President must have thought he was raising "soft money."²⁷ The principal circumstances relied on by Burson and Sandler in forming this conclusion were that the amount of money that the Vice President would typically ask for in these telephone calls was in excess of the \$20,000 aggregate annual limit on individual "hard money" contributions imposed by the FECA, and the fact that the Vice President was asking for money to fund the DNC's media campaign.²⁸

As part of his hearing testimony before the Committee on September 10, 1997, Sandler addressed these issues in the following exchange:

Mr. Mattice [Senior Counsel to the Committee]. I think you will recall, Mr. Sandler, in your deposition, I asked you in the course of this project whether you and Mr. Burson, the Vice President's counsel, had ever had any discussions regarding what might have been the Vice President's state of mind at the time he made these calls with respect to how the monies were to be used or into which accounts they might have been deposited. Do you recall that?

Mr. J. Sandler. Yes, I do.

Mr. Mattice. Okay. I believe you told me in your deposition that you personally have never discussed that matter with the Vice President. Is that accurate?

Mr. J. Sandler. That is correct.

Mr. Mattice. I think you also testified that, to your knowledge, you do not recall Mr. Burson ever telling you that he had discussed that issue with the Vice President. Is that accurate?

Mr. J. Sandler. That is accurate.

Mr. Mattice. All right. And I think that you had also told me in your deposition that you and Mr. Burson did discuss this issue, but the things that you relied on were things

²⁶*Id.* at pp. 27; 41-42.

²⁷*Id.* at pp. 30-32; 41-42.

²⁸*Id.*

such as the amounts of money that the Vice President was asking for and the fact that at that point in time, he was asking for money in connection with the media campaign. Is that accurate?

Mr. J. Sandler. Both that and the fact that the call sheets given to the Vice President asked him to solicit amounts in excess of the Federal limits in each of these cases, in which we had determined that a contribution resulted from a phone call made by the Vice President and—

Mr. Mattice. Okay. I just—oh, I am sorry. Go ahead.

Mr. J. Sandler. And the fact that in each of those cases—and there were five cases that we had identified, and I know others can add and subtract and so forth, but—and those five cases that we had identified, not only did the Vice President's call sheet ask him to solicit an amount in excess of the Federal limits, in other words, soft money, but the donor had written a single check for in excess of the Federal limits.²⁹

At his testimony before the Committee on September 10, 1997, Sandler confirmed his deposition testimony that some of the money raised by the Vice President's telephone calls was "hard money." Throughout his testimony, Sandler insisted that the Vice President had no knowledge of the DNC accounts into which contributions resulting from his telephone calls had been deposited. Sandler even alluded to the Vice President's state of mind in his opening statement, when he said:

Even if the statute did apply in that way, it is limited by its terms to the solicitation of contributions subject to the Federal Election Campaign Act, meaning, in the case of party committees, Federal or so-called hard money. Though we don't think the fact is relevant because of our view of—my view of the application of the statute that I just mentioned, all the materials that we have seen clearly indicate that the Vice President was soliciting non-Federal money. And that's true even though, because of internal DNC procedures of which the Vice President would have no reason to be aware, the DNC—after the fact and without the Vice President's knowledge—deposited a small percentage of a portion of those contributions that he had solicited into our Federal Account.³⁰

At the September 10, 1997 Committee hearing, Sandler was asked about a series of memoranda prepared by then-White House Deputy Chief of Staff Harold Ickes that appeared to cast doubt on whether the Vice President had in fact made his telephone solicitations with the state of mind that Sandler and the others had attributed to him. These memoranda described the manner in which funds raised for the DNC would be allocated. These memoranda (which sometimes transmitted other memoranda prepared by Brad Marshall, Chief Financial Officer of the DNC) repeatedly high-

²⁹Testimony of Joseph Sandler, September 10, 1997, pp. 34–36.

³⁰*Id.* at pp. 15–16.

lighted the fact that, as a matter of DNC policy, the first \$20,000 of money received annually by the DNC from an individual donor would be allocated to the DNC's federal (hard money) accounts, and that only after this allocation was made would any additional monies raised from such individual be allocated to the DNC's non-federal (soft money) accounts.³¹

Most, if not all of these memoranda from Ickes were directed to both the President and the Vice President. According to Heather Marabetti, then executive assistant to the Vice President, the Vice President received an overwhelming volume of memoranda, and was not able to read them all. Some memos received by the Vice President were moved, unread, directly to his "out" box. Others, which the Vice President intended to read, would remain in his "in" box. Marabetti testified that these memoranda from Ickes were the type of internal memoranda which "stayed in [the Vice President's] in-box," and, were, therefore, presumably reviewed by him.³² Obviously, these memoranda raise an implication that the Vice President had personal knowledge that a portion of monies he solicited on behalf of the DNC in his fund-raising telephone calls would be deposited into the DNC's hard money accounts.

More important, the issue of the Vice President's precise mental state when making the calls is not necessary in evaluating whether his calls violated section 607. A Federal Election Commission regulation on this subject states:

Any party committee solicitation that makes reference to a federal candidate or a federal election shall be presumed to be for the purpose of influencing a federal election, and contributions resulting from that solicitation shall be subject to the prohibitions and limitations of the Act. This presumption may be rebutted by demonstrating to the Commission that the funds were solicited with express notice that they would not be used for federal election purposes.³³

The effect of this regulation is to create a legal presumption that, in the absence of an explicit disclaimer to the contrary, contributions solicited for party accounts (such as those maintained by the DNC) are treated as a matter of law as "hard money" if there is a reference in the solicitation to a particular campaign or candidate. This presumption arguably renders the subjective state of mind of the solicitor irrelevant with respect to whether money raised is deposited into "hard" or "soft" accounts in an analysis of the applicability of a statute such as 18 U.S.C. § 607; so long as the solicitor refers to a particular candidate or campaign, the resulting contribution is, as a matter of law, "hard money."

At his deposition testimony on August 22, 1997, Sandler conceded that he and Burson had not considered the effect for this regulation in their discussions regarding the legality of the Vice Presi-

³¹ See, e.g., Memorandum from Harold Ickes to the President and the Vice President, February 22, 1996 (Ex. 12); Memorandum from Harold Ickes to the President and the Vice President, June 3, 1996 (Ex. 13); Memorandum from Harold Ickes to the President and the Vice President, July 15, 1996 (Ex. 14); Memorandum from Harold Ickes to the President and the Vice President, July 28, 1996 (Ex. 15); see also Memorandum from Bradley Marshall to Debra DeLee, July 12, 1994 (Ex. 16).

³² Deposition of Heather Marabetti, September 3, 1997, pp. 66-67 and see Ex. 14.

³³ 11 C.F.R. § 102.5(a)(3).

dent's telephone calls. He did, however, acknowledge the operative effect for the regulation:

Q: Was this regulation discussed in the course of conversation you may have had with Mr. Burson or others in the course of this project or investigation we've been discussing?

A: Not that I recall.

Q: Okay. Tell me your understanding of what that subsection of the Code of Federal Regulations does.

A: If money is solicited in a way that's earmarked for the election of a Federal candidate in the conception of the—the framework of the FEC rules, it will be treated as Federal money unless the donor has advised that it was—or indicated that it would be deposited in a non-Federal account.

* * * * *

Q: All right. Give me again—you're the expert at this sort of thing. Tell me, can you put in a little bit more layman's language for me your interpretation of this, of what is done by this particular regulation?

A: Yes. If you solicit funds to a party account without indicating to the donor into what account it's going to be deposited, or if the donor doesn't indicate on the check what account to deposit to, and you say this is going to be used to—we're going to use this to elect Senator Smith, you know, a U.S. Senate race or a U.S. House race, Presidential race, the money will be presumed to be Federal unless the donor's advised different.

Q: Was there ever—in the course of the discussions you may have had with Mr. Burson or others in the course of this investigation, was there ever any discussion that the Vice President may have mentioned to any of these potential donors anything about the accounts into which their contributions would be deposited?

A: No. I don't think—the Vice President isn't necessarily going to be familiar with those accounts, which you can tell I don't even know the codes, and I'm ultimately in charge of it.³⁴

The Committee concludes that the regulation is most probably applicable to the Vice President's solicitation calls, as he repeatedly volunteered during his March 3, 1997 press conference that he was raising funds for "the campaign" or for "our campaign."³⁵

The timing of the Committee's discovery that monies raised by the Vice President had been deposited into hard money accounts is also significant. At his testimony before the Committee on September 10, 1997, Sandler confirmed that in construing the Committee's subpoena for documents, the DNC had concluded that it need not produce to the Committee any document created after April 9, 1997. Sandler further confirmed that the fact that, because his handwritten notes, which indicated that monies raised by the Vice

³⁴ Deposition of Joseph Sandler, August 22, 1997, pp. 44–45.

³⁵ See *supra*, text accompanying note 7.

President's calls had been deposited to hard money accounts, had been produced, those notes had been prepared on or prior to April 9.³⁶

This sequence of events makes clear, then, that at least Sandler and Burson knew that monies presumably raised by the Vice President's solicitations from his office phone had been deposited into hard money accounts *before* the Attorney General publicly stated her contrary factual assumption in her April 14, 1997 letter to Senate Judiciary Committee Chairman Hatch.³⁷ A question raised is why, given this knowledge, Sandler or Burson (or Burson's client, the Vice President) never undertook to make the Attorney General aware of the fallacy of her assumption in this regard after her letter was released.

President Clinton

At a White House press conference on March 7, 1997 (four days following the Vice President's press conference), and in response to questions of whether the President had made telephone calls soliciting contributions to the DNC from the White House, the following exchange took place:

Q: Mr. President, your press secretary this week left open the possibility that you, too, had made calls like the vice president did.

Did you ever make those calls?

A: I told him to leave the possibility open because I'm not sure, frankly. I don't like to raise funds in that way. I never have liked it very much. I prefer to meet with people face to face, talk to them, deal with them in that way. And I also, frankly, was very busy most of the times that it's been raised with me. But I can't say, over all the hundreds and hundreds and maybe thousands of phone calls I've made in the last four years, that I never said to anybody while I was talking to them, "Well, we need your help," or "I hope you'll help us."

At his deposition before the Committee on June 26, 1997, Ickes testified that based on his review of documents presented to him by Committee counsel, and based on his vague recollections and assumptions, the President may have made a limited number of telephone calls to DNC donors during 1994.³⁸

Based principally upon the information provided by Ickes and on "call sheets" apparently prepared for the President by officials at the DNC, the Committee undertook a project with respect to the President's telephone calls under the direction of Jerome O.

³⁶Sandler testimony, pp. 30–31.

³⁷Sandler also knew before April 9, 1997 that the telephone calls had been made on the Vice President's official telephones in his White House office. Deposition of Joseph Sandler, August 21, 1997, pp. 115–16, 123.

³⁸Deposition of Harold Ickes, June 26, 1997, pp. 80–108; *see also* Ex. 3; Memorandum from Harold Ickes to Leon Panetta, December 2, 1994 (Ex. 17); Memorandum from Harold Ickes to Jack Quinn, December 2, 1994 (Ex. 18); Memorandum from Harold Ickes to the President and the Vice President, November 28, 1995 (Ex. 19); Memorandum from Harold Ickes to the President with attached call sheets, February 7, 1996 (Ex. 20); Handwritten Notes of David Strauss (Ex. 21); Electronic Mail from Karen Hancox to Kim Tilley, November 24, 1995 (Ex. 22); Memorandum from Nancy Harnreich & Rebecca Cameron to the President, December 22, 1995 (Ex. 23); Fax Cover Sheet from Ann Brazier to Karen Hancox with attached call sheets, March 7, 1996 (Ex. 24).

Campane, Supervisory FBI detailee to the Special Investigation. As part of this project, the Committee contacted a number of the potential donors listed on the call sheets to determine whether the President, in fact, had contacted those individuals and, if so, what had been the results of the telephone calls. The results of this project are outlined in the "Statement of Jerome O. Campane," dated October 28, 1997.³⁹

As can be seen from Mr. Campane's statement, and the referenced letter dated October 21, 1997 from White House counsel Charles F.C. Ruff to Michael J. Madigan, Chief Counsel for the Special Investigation,⁴⁰ it was ultimately determined that telephone calls were made from the White House residence to six of the nine individuals circled on the October 18, 1994 call sheet. Two of the individuals (Jenrette and Frost) listed in Ruff's letter were among the five persons who were interviewed in connection with their contributions.

Of these individuals, the Committee was able to determine that the President had called and solicited a contribution to the DNC from at least one—Richard H. Jenrette, Chairman of the Board and Chief Executive Officer of The Equitable Companies, Incorporated. Mr. Jenrette was interviewed by telephone by the Committee, and testified before the Committee at a hearing on October 29, 1997.

Jenrette testified that he received a telephone call from the President on October 18, 1994, and that the President requested his assistance in raising two million dollars from forty friends.⁴¹ Jenrette agreed to collect \$50,000 to donate to the DNC as his share of that two million dollar goal. In his orders to fulfill his \$50,000 commitment, Jenrette wrote a personal check for \$10,000 to the DNC and collected an additional \$40,000 from businesses he helps manage, and then forwarded all checks to the President on October 24, 1994.⁴² In a letter accompanying the checks, Jenrette described in detail his conversation with the President, especially the fact of the President's solicitation. Jenrette provided the Committee copies of the five checks he collected in response to the President's solicitation.⁴³

Later that day, White House counsel Ruff, along with his assistants Lanny A. Breuer and Michael X. Imbrosio, testified before the Committee. In response to a request from Chairman Thompson, Ruff agreed to compare entries in memoranda (referred to as a "diary") regarding President Clinton's activities to White House telephone logs to determine whether the President had made other fund-raising telephone calls.⁴⁴

On November 17, 1997, Chief Counsel Madigan received a letter from Breuer, which set forth the result of that work. According to that letter, the White House counsel's office was able to determine that the President placed three other calls to individuals listed on DNC call sheets. According to Breuer's letter, the White House

³⁹ Statement of Jerome O. Campane, October 28, 1997 (Ex. 25).

⁴⁰ Letter from Charles F.C. Ruff to Michael J. Madigan, October 21, 1997 (Ex. 26).

⁴¹ Testimony of Richard Jenrette, October 29, 1997, pp. 3–6.

⁴² *Id.*

⁴³ *Id.*; Checks drawn on accounts of The Equitable Companies Incorporated, The Equitable, Richard H. Jenrette, Alliance Funds Distributors, Inc., and Donaldson, Lufkin & Jenrette, Inc. (Ex. 27).

⁴⁴ Testimony of Charles F.C. Ruff, October 29, 1997, p. 220.

could not determine that funds were raised as a result of any of these calls.⁴⁵ The Committee determined that the President's calls had all been made from the White House residence. Later in November, the Committee received documents which suggested that other White House officials may have made telephone calls soliciting funds for the DNC.⁴⁶

THE JUSTICE DEPARTMENT'S INVESTIGATION

As discussed, the Attorney General refused to recommend the appointment of an independent counsel to investigate the Vice President's telephone calls in April 1997, primarily due to her assumption that only soft money was raised by those calls. The Committee's investigation, which began long after the Justice Department's, had proven these assumptions incorrect by August 21, 1997, the date when Sandler testified to the Committee of his knowledge that the calls had raised hard money.

In fact, even a consideration of evidence in the public domain should have caused the Justice Department to realize that its assumptions were incorrect. This became clear on September 3, 1997, when an article in *The Washington Post*, based on information available to the public, determined that the Vice President's telephone calls from the White House had raised \$120,000 in hard money for the DNC.⁴⁷ The article set forth facts suggesting that at least 8 of the 46 donations that resulted from the Vice President's calls were deposited into hard money accounts. One donor to whom the reporter spoke stated that the call "was clearly focused on the reelection campaign of Clinton and Gore,"⁴⁸ an impression consistent with the Vice President's own recollection of the nature of his calls.⁴⁹ There is no question that the Justice Department had not made any inquiry to determine whether the funds raised by the Vice President's telephone calls were hard money, despite the Jus-

⁴⁵ Letter from Lanny Breuer to Michael J. Madigan, November 17, 1997 (Ex. 28).

⁴⁶ This document, produced by the DNC in late November, after the Committee's hearings concluded, reflects plans to have Ickes make fund-raising telephone calls for significant amounts of money to a number of labor leaders. Because Ickes had already been deposed and had testified before the Committee in public session, the Committee never had the opportunity to ask him about the document.

Excerpts from October 11, 1996 DNC Memorandum:

Union—Caller: Request/Action Item

AFSCME—Harold Ickes: Reminder call. Rosenthal suggests that AFSCME will hold \$100,000 to \$200,000 for distribution to coordinated campaigns "at the end." Harold should confirm this.

AFT—Harold Ickes: List to be prepared by Jill Alper and Jim Thompson for specific request.

Firefighters—Harold Ickes: Ask for \$100,000 with list prepared by Jill Alper and Jim Thompson . . .

Laborers—Harold Ickes: At the end of June, the Laborers had \$1 Million in the PAC account; ask for contributions with list prepared by Jill Alper and Jim Thompson . . .

Memorandum from Charlie Baker to Craig Smith, October 11, 1996 (Ex. 29).

The Committee's investigation has shown that at least two of these organizations made contributions to the DNC after October 11, 1996. To the extent that Ickes participated in effort to cultivate potential donors, questions arise concerning 5 U.S.C. § 7323(b), prohibiting fund-raising by such employees. In fact, if Ickes made the telephone solicitations that were the subject of the DNC's October 11, 1996 memorandum, quoted above, it would appear that he violated the criminal provisions for the Hatch Act, prohibiting a federal employee from soliciting any contributions at any time from any location. The Committee strongly recommends further investigation of these matters.

⁴⁷ Bob Woodward, "Gore Donors' Funds Used as 'Hard Money,'" *Washington Post*, September 3, 1997, p. A1.

⁴⁸ *Id.*

⁴⁹ See *supra*, note 7 and accompanying text (discussing Vice President's characterization of the content of his phone calls at March 3, 1997 press conference).

tice Department's novel view that the answer to that inquiry determined the legality of the solicitation. "The first I heard of it was when I saw the article in 'The Washington Post,' Reno said. . . . It is my understanding that is the first time that the public integrity section learned of it, as well."⁵⁰ In these circumstances, the public and the Congress are justified in questioning the competency and credibility of the Justice Department's investigation.⁵¹

Prodded by the newspaper article, the Attorney General commenced a preliminary investigation into whether an independent counsel should be appointed to investigate the Vice President's fund-raising calls on October 3, 1997. On December 2, 1997, the Attorney General notified the United States Court of Appeals for the District of Columbia Circuit, Independent Counsel Division, that the Department of Justice had concluded its preliminary investigation, and that she had determined that there were "no reasonable grounds to believe that further investigation is warranted of allegations that the Vice President violated Federal law, 18 U.S.C. § 607, by making fund-raising telephone calls from his office in the White House." In her notification, the Attorney General stated the basis for her determination:

My conclusion is supported by two independent dispositive grounds. First, the evidence that the Vice President may have violated Section 607 is insufficient to warrant further investigation. Second, even if the evidence suggested a possible violation of law, established Department of Justice policy requires that there be aggravating circumstances before a prosecution of a Section 607 violation is warranted. There is no evidence of any aggravating circumstances in this matter.⁵²

After recounting the factual and legal background for the preliminary investigation and outlining the scope of the inquiry, the Attorney General's notification outlined the results of the investigation. The Attorney General acknowledged that the fact that DNC contributions were deposited to "hard" money accounts raised the "plausible inference" that the Vice President may have asked the

⁵⁰ Roberto Suro, "Justice Did Not Review Legality of Gore White House Solicitations," *Washington Post*, September 6, 1997, p. A1.

⁵¹ Indeed, the Attorney General adopted a tortured interpretation of the Independent Counsel Act, one which no prior Attorney General has adopted for the precise reason that the statute cannot be so read. According to published reports, the Attorney General will not begin an investigation of whether a covered person has violated the law until specific and credible information has been presented to her that such a violation has occurred, even though a prosecutor may begin an investigation into anyone's conduct based on any information she receives. See Susan Schmidt & Roberto Suro, "Troubled From the Start: Basic Conflict Impeded Justice Probe of Fund-Raising," *Washington Post*, October 3, 1997, p. A1. In short, she took the unprecedented position that unless she is presented with sufficient evidence that would justify opening a preliminary investigation under the independent counsel law, then she would not investigate the actions of covered persons to see whether in fact specific and credible evidence of wrongdoing existed. Consequently, the Justice Department's interpretation of the Independent Counsel Act produced the incongruous result that it became harder to investigate a covered person under that statute for wrongdoing than to investigate non-covered persons for potentially crimes generally. Obviously, this interpretation confers an immunity from investigation that non-covered persons do not enjoy; if the Justice Department will not look for evidence of wrongdoing, then no independent counsel will be appointed to fulfill that statutory role, unless some third party presents specific and credible evidence of a criminal act by a covered person. This result hardly fulfills the intent of the Independent Counsel Act, which was designed to make sure that an authority not beholden to the President could investigate any allegations of wrongdoing against high-level officials.

⁵² Ex. 2, p. 1.

donor to make a hard money contribution. In this regard, the Attorney General addressed the significance of one of the series of memoranda from Ickes and Marshall which were directed to the President and the Vice President. This memorandum described the DNC's "splitting" practice whereby the first \$20,000 of money received annually from an individual donor would be allocated to the DNC's hard money accounts, and only subsequently would additional sums raised from those individuals be deposited into "soft" money accounts.

According to the Attorney General's notification, the Vice President stated in an interview with Justice Department attorneys or FBI agents that he did not recall having seen the memorandum, and that he tended not to read Ickes' memoranda that would be discussed at meetings. The Attorney General concluded, however, that even if the Vice President had seen the memorandum, it would have significance only if it could be shown that the Vice President had independent, detailed knowledge for the DNC's allocation or "splitting" practices. The notification states:

It is my conclusion that the memorandum, standing alone and without independent knowledge of the splitting practice, cannot reasonably be read as putting anyone on notice that the DNC was engaging in a practice of splitting contributions without the donor's consent. Therefore, even if the Vice President read the Marshall memorandum, it is my conclusion that there is no evidence on which to base a conclusion that the Vice President was aware of the DNC practice, and thus may have been soliciting contributions knowing that a portion of some contributions would end up in hard money accounts.⁵³

The Justice Department also attempted to ascertain whether, in the course of his solicitations, the Vice President had, in fact, solicited hard money. The notification states that the FBI interviewed more than 200 of the 216 prospective donors identified from call sheets prepared for the Vice President by the DNC. Of this number, the FBI was able to identify 45 who recalled actually receiving a telephone call from the Vice President during the period of late 1995 to mid-1996 in which political contributions were discussed. According to the notification, "[n]one of these 45 persons state that the Vice President explicitly or implicitly asked them to give money to the DNC's federal account or to any federal political campaign."⁵⁴ Accordingly, the Attorney General concluded:

It is my view that there are no further grounds to investigate whether any of these calls violated Section 607 on the mere grounds that a portion of the subsequent contributions were deposited into hard money accounts. There

⁵³*Id.* at p. 10.

⁵⁴*Id.* at p. 13. The Attorney General's notification did not mention 11 C.F.R. §102.5(a)(3), which states that if a federal campaign is referenced, the solicitation will be presumed for federal election law purposes to be hard money unless the solicitor makes an explicit statement that the funds are to be deposited into the soft money account. Nor did she discuss the Vice President's own statements at his March 3, 1997 news conference, in which he repeatedly made reference to his making telephone calls on behalf of "the campaign" or "our campaign." A reference to the use of the money for a media campaign is not the same as an explicit disclaimer that the funds would be accounted for as soft money, particularly given the Committee's conclusion that these advertisements were in fact Clinton-Gore campaign advertisements.

is no evidence that the Vice President was aware that part of the donations would be deposited into hard money accounts, and the donors' own descriptions of the solicitations makes it clear that they interpreted the solicitations as being for soft money.⁵⁵

Beyond her conclusions relating to the Justice Department's factual investigation, the Attorney General also rested her determination not to seek an independent counsel on the grounds that Justice Department policy would, in any event, preclude a prosecution in the absence of "aggravating circumstances" not presented in this case. The authority cited in the notification for the Attorney General's reliance on this factor is a provision of the Independent Counsel Act, 28 U.S.C. § 592(c)(1)(B), which states:

In determining whether reasonable grounds exist to warrant further investigation, the Attorney General shall comply with the written or other policies of the Department of Justice with respect to the conduct of criminal investigations.

Relying on this authority, the Attorney General observed:

A number of different aggravating factors are mentioned in the Departmental records concerning Section 607. They include, in addition to coercion, a demonstration of specific intent to flout the law by one who has been put on notice of its requirements; a substantial number of violations; a substantial misuse of governmental resources or property in conjunction with the prohibited solicitations; and a substantial disruption of government functions resulting from the solicitations.

We have conducted, as is explained above, an extensive investigation of the Vice President's telephone solicitation calls; and I find no evidence in the investigative results that any of these aggravating factors is present. There is no evidence that the Vice President was specifically aware of the prohibitions of Section 607, and no evidence that he was warned that his conduct would be in potential violation of that or any other statute. There are at most five telephone calls, even if we could draw every conceivable speculative inference against the Vice President, that could be construed as hard money solicitations, and hence potential violations for the law. The bulk of his calls were not charged to the government, and the few that were have been reimbursed. There is no suggestion that either the Vice President or any of the few staff members who were involved in these telephone solicitations neglected their official duties as a result.

Beyond these factors that have been specifically identified in Department of Justice records as potential aggravating circumstances in a Section 607 case, I am unable to

⁵⁵*Id.* at p. 14.

identify any other factors in this case that might properly be regarded as aggravating.⁵⁶
Thus, the Attorney General concluded:

In short, the preliminary investigation has established that, even if the Vice President were found to have technically violated Section 607, there is no evidence suggesting the presence of any aggravating factors of the sort that might warrant consideration of prosecution under established Departmental policy. Furthermore, I am unable to identify any way in which further investigation might lead to development of evidence of aggravating factors in this case. Therefore, in light of the clearly established policy of the Department of Justice that aggravating factors are required before prosecution of a Section 607 matter can be considered, it is my obligation under the Independent Counsel Act to close this matter without seeking the appointment of an independent counsel.⁵⁷

THE COMMITTEE'S EVALUATION OF THE LEGALITY OF THE VICE
PRESIDENT'S PHONE CALLS

The Committee believes that an independent counsel should be appointed to review a whole range of possible illegalities in connection with fund-raising in the 1996 federal election campaigns, including the telephone calls, to determine whether high-ranking federal officials violated federal campaign finance laws, and to make such a determination through a process that would command public respect.

The primary federal criminal statute implicated by the fund-raising telephone calls is 18 U.S.C. § 607(a). The predecessor statute to current 18 U.S.C. § 607 was first enacted in 1883 as part of the Pendleton Act. Although telephones were new in 1883, the statute has not been allowed to fall into disuse as modern communications developed. It was amended in 1980, and its existence is both a known and constant reality for all members of Congress. The Committee concludes that despite several arguments advanced to the contrary, telephone calls made by any person from an official area of the White House to solicit campaign contributions violate the express prohibition of section 607.

Vice President Gore stated at his press conference that no law prevented the President or Vice President, as opposed to all other federal employees, from raising federal campaign contributions from the White House.⁵⁸ The Committee disagrees. On its face, the plain language of section 607 applies to all federal officers, indeed, to "any person" who violates the statute, including the President and Vice President. Nothing in the legislative history or any court decision excludes the president or vice president from its scope. Nor has any court case held either of these officials exempt from any

⁵⁶*Id.* at pp. 27–28. A number of these conclusions are questionable. The fact that the Vice President declined to make fund-raising telephone calls from the White House in 1994, when he made such calls from the DNC, but did so in 1996, suggests that he indeed was specifically aware of the prohibitions of section 607. In addition, if the statute is not in fact limited to the raising of "hard money," as discussed below, then the Vice President made 52 such calls that may have raised as much as \$795,000, certainly a "substantial number of violations."

⁵⁷*Id.* at p. 28.

⁵⁸Ex. 6, pp. 2–3.

generally applicable federal criminal statute. In addition, the Attorney General's April 14, 1997 letter declining to seek an independent counsel in response to the letter sent her by Senate Judiciary Committee Republicans does not make the argument that these officials are exempt. Because such an exemption would have been a dispositive response to a request for an independent counsel, apparently the Attorney General was not then prepared to take the position that the President and the Vice President are excluded from the operation of section 607.

Nonetheless, more supports this conclusion than the statutory language and inferences from the Department's failure to raise the argument. In 1979, the Justice Department's Office of Legal Counsel issued an opinion which concerned whether the predecessor statute to section 607 was violated when President Carter invited about 20 private persons to a dinner in the Family Dining Room on the first floor of the White House, where some were solicited for campaign contributions.⁵⁹ In that opinion, the Department found that the term in the statute "no person" (now "any person") was "broadly inclusive." Similarly, the statute then, as now, by reference to section 603, referred to "an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States . . ." That opinion found that the intent of Congress enacting the original 1883 statute was that the "President [and *a fortiori* the vice president] . . . be included among the 'officers governed by the bill.'" The Department concluded that since averting coercion to contribute was the goal of the statute, then "[p]articularly where only criminal penalties were provided rather than provision made for discharge or removal of an offending official, policy reasons for prohibiting such abuses of power by the president as much as by any other Government official are clearly present." The Justice Department's views cannot be squared with Vice President Gore's claim that the statute does not apply to him or to President Clinton.

The Committee also concludes that the Attorney General erred in concluding that section 607 applies only to the raising of "hard money." Section 607 applies only when "contributions" within the meaning of the Federal Election Act of 1971 are solicited or received in a federal building. Section 607 references the definition of "contribution" contained in section 301(8) of the FECA. Subject to various exceptions that do not include funding for media advertising, that legislation defines the term "contribution" to mean "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. . . ." Such definition does not permit "contribution" to refer only to "hard" and not to "soft money," and the Attorney General cited no court case for her interpretation for the statute.

Even if the statutory definition were unclear, there are two reasons why "contribution" under the FECA, as referenced in section 607, cannot be limited to "hard money." First, the FEC does not

⁵⁹"The President—Interpretation of 18 U.S.C. § 603 as Applicable to Activities in the White House," 3 Op. O.L.C. 31 (1979).

equate “contribution” with “hard money.” In its view, when coordinated with a candidate, a party’s “electioneering activity” is subject to regulation as a “contribution.” Although the Attorney General purported to agree that “[e]lectioneering message” is the test when determining whether an advertisement constitutes a “contribution,” her April 14, 1997 letter erroneously appears to equate “electioneering message” with “express advocacy.”⁶⁰ In actuality, the FEC defines “electioneering message” more broadly than express advocacy to mean statements “designed to urge the public to elect a certain candidate or party.”⁶¹ The advertisements run by the DNC for which Vice President Gore solicited funds contained electioneering messages, and because of their coordination with the candidate, were “contributions” within the meaning of the FECA and section 607. “Express advocacy” must be financed with hard money. By contrast, the FEC has determined that an advertisement can be a “contribution” if it contains an electioneering message. To the FEC, and contrary to the Attorney General’s letter, the two terms “hard money” and “contribution” are simply not synonymous.

Under well-established administrative law principles, the FEC’s view that “contributions” include soft money used to fund electioneering messages prevails over the Attorney General’s position that “contributions” are limited to hard money. Where a statute is ambiguous, and Congress charges a federal regulatory agency to interpret the statute, the agency’s interpretation governs the meaning of the ambiguous statute, even where another party has a plausible view of the statute. *Chevron Corp. v. Natural Resources Defense Council*, 467 U.S. 837 (1984). The Supreme Court has held that the FEC “is precisely the type of agency to which deference should presumptively be afforded.” *Federal Election Commission v. Democratic Senatorial Campaign Cmte.*, 454 U.S. 27, 37 (1981). Thus, the Department of Justice is precluded as a matter of law from interpreting “contribution” to mean “hard money.”⁶²

A second reason why “contributions” under the FECA are not limited to “hard money” is that, under the Attorney General’s view, the statute would be rendered meaningless. The FECA’s prohibitions on various forms of illegal campaign funds are all triggered by those funds constituting “contributions.” For instance, the FECA prohibits campaign “contributions” greater than \$1000 per election, 2 U.S.C. § 441a(1); foreign “contributions,” 2 U.S.C. § 441e; “contributions” made in the name of another, 2 U.S.C. § 441f; and cash “contributions” in excess of \$100, 2 U.S.C. § 441g. Under the FEC’s interpretation of “contribution,” soft money from these prohibited sources would be illegal. The DNC apparently agrees with the FEC

⁶⁰Ex. 8, p. 7.

⁶¹See FEC Advisory Op. 1985–14, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 5819 at 11,185 (April 12, 1985); FEC Advisory Op. 1984–15; FEC Advisory Op. 1984–23; FEC Advisory Op. 1984–62; MUR 3608; MUR 3918.

⁶²Under *Chevron*, statutory terms that are unambiguous apply without regard to the interpretation provided by an administrative agency. If this prong of *Chevron* were to apply, the FEC’s view of the meaning of “contribution” would also govern, since it is consistent with the plain meaning of the statutory definition of “contribution.” See *Colorado Republican Campaign Comm. v. FEC*, ___ U.S. ___, 116 S. Ct. 2309, 2316 (1996) (recognizing that the “FECA permits unregulated ‘soft money contributions’ to a party for certain activities, such as . . . voter registration and ‘get out the vote’ drives . . . Unregulated ‘soft-money’ contributions may not be used to influence a federal campaign, except when used in the limited, party building activities specifically designated in the statute” (emphasis added)). As noted above, such limited activities do not include general media advertising.

that soft money from these sources is illegal; otherwise, it would not have returned \$2.8 million in soft money that came from foreign and/or laundered sources.

Under the FEC's view, "contribution" has the same meaning each time it appears in the FECA. This approach is consistent with the "normal rule of statutory construction" that "identical words used in different parts of the same statute are intended to have the same meaning." *Gustafson v. Alloyd Corp.*, 513 U.S. 561 (1995). By contrast, under the Attorney General's interpretation of "contribution," all the sums the DNC returned would have been legal because they were "soft money" and therefore fell outside the various FECA "contribution" prohibitions. It would be legally incoherent that for some purposes in the same statute, "contribution" means hard money and for others means "soft as well as hard money." Since "contribution" must have the same meaning each time it appears in the FECA, then under the Attorney General's view, it logically follows that it would be legal to raise foreign soft money in the name of another in unlimited cash sums. The Committee rejects an interpretation of "contribution" that would lead to such absurd results.

Even if the Attorney General's view of the statute were correct, the Vice President in fact raised hard money. The calls were made on a Clinton-Gore campaign credit card, which obviously implies that the calls were made for the purpose of advancing these candidates. The letters he sent to donors following his calls state, "President Clinton and I thank you for your continued support and contribution to the Democratic National Committee. We appreciate your dedication to our Administration and your help at a time when needed."⁶³ This ties the donations to the Clinton-Gore Administration and its campaign for reelection. One letter of the Vice President's, to Frank Pearl, reads, "President Clinton and I thank you for your continued support of our Administration."⁶⁴ This letter makes no reference to the DNC at all, and could not possibly be read as having raised soft money.

In addition, the two memoranda cited above from Harold Ickes to the President, Vice President, and others make clear that the first \$20,000 of donations would be treated as "hard money" and the rest deposited in non-federal accounts because of the campaign's shortage of federal funds. Moreover, the FEC regulation cited above states that if the solicitor mentions a particular candidate or campaign and does not expressly state that the funds being solicited will be deposited in a "soft money" account, then the money donated will be presumed to be "hard money." Thus, section 607 is not limited to "hard money," and even if it were, the Vice President raised hard money.

For section 607 to apply, the solicitation must occur in a room occupied by federal employees performing official duties. The Attorney General's April 14, 1997 letter declined to appoint an independent counsel in the absence of evidence that the vice president made calls from official places in the White House. The 1979 Office of Legal Counsel opinion exonerated President Carter because the

⁶³ Letter from Al Gore to Michael Adler, Dec. 11, 1995; Letter from Al Gore to William Dockser, Feb. 5, 1995; and Letter from Al Gore to Robert L. Johnson, Feb. 5, 1996 (Ex. 30).

⁶⁴ Letter from Al Gore to Frank Pearl, Feb. 9, 1996 (Ex. 31).

solicitation that prompted that opinion occurred in the family dining room. In OLC's view, the statute did not apply to solicitations in the private residence and other areas of the White House. OLC opined that "the statute is not framed in terms of property owned or held by the United States; it rather adopts a functional test, focusing on areas used by Federal personnel while they are conducting the Government's business." OLC's views therefore mean that section 607 would apply to calls made from the official office of the Vice President. Sandler's deposition testimony made clear that this is where Vice President Gore made his calls. The record also establishes that President Clinton made his few calls from the White House residence, so section 607 would not apply to his calls.

Although the Vice President went to great lengths at his press conference to state that he did not solicit any federal employee, and that he did not solicit anyone who was in a federal building, those two issues are irrelevant to determining whether section 607 has been violated. On the face of the statute, this is irrelevant. As the statute unambiguously reads, it is a criminal offense to solicit or receive contributions in a federal office. The 1979 Office of Legal Counsel opinion on which the Attorney General relied for her view that the statute only applies to official areas of the White House states that "solicitations of private citizens fall within the scope" of section 607. And the Justice Department's prosecutorial manual states, "Section 607 makes it unlawful for anyone to solicit or receive a contribution for a federal election in any room, area, or building where federal employees are engaged in official duties. . . . The employment status of the parties to the solicitation is immaterial; it is the employment status of the persons who routinely occupy the area where the solicitation occurs that determines whether section 607 applies."⁶⁵

If section 607(a) applied only to the solicitation of federal employees, then section 607(b) would be meaningless in the federal criminal code. Under that provision:

The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative . . . , provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee. . . .

As section 602 already makes it illegal for members of Congress to solicit federal employees, and section 603 prohibits members of Congress from soliciting or receiving contributions from their own employees, the exemption contained in section 607(b) would be unnecessary if Congress believed that section 607(a) merely applied to the receipt of contributions from other federal employees in their Congressional offices. Congress must have believed that without

⁶⁵ In neither her April 14, 1997 letter to Senator Hatch nor her December 2, 1997 notification to the Special Division of the United States Court of Appeals for the District of Columbia Circuit did the Attorney General make the argument that section 607 did not apply to solicitations of non-federal employees by federal employees in areas where official duties are performed. Since such an argument would have been dispositive of the legality of the calls, it is clear that the Attorney General would have relied on it if there were a basis for doing so.

this exemption, funds received in such offices from non-federal employees would nonetheless fall within the scope of section 607. It is a basic rule of statutory construction that statutes should be read so as not to render other parts of that statute surplusage.⁶⁶ A reading that made section 607 apply only when federal employees were solicited would render sections 602, 603, and 607(b) redundant. Thus, it is legally irrelevant that the Vice President's calls were not made to federal employees, since he was in a room in a federal building in which official duties are performed at the time he made those calls.

Finally, it is also incorrect that "there is no controlling legal authority" that section 607 renders criminal the telephone calls the Vice President made. It is true that no case has ever been brought under section 607 for soliciting a non-federal employee from a federal building. But in a statutory criminal law system such as ours, federal criminal statutes apply according to their language as soon as they are enacted. Thus, the statute itself is the "controlling legal authority" that prohibits federal employees from making telephone calls to non-federal employees from official areas of federal buildings. The notion that a statute can apply to a particular set of facts only when a court says that it does so is a feature of a common law criminal legal system, not ours.⁶⁷

The Committee therefore concludes that an independent counsel should be appointed to evaluate the ample credible evidence of legal violations. Also, the Committee believes that the making of these calls was inappropriate for our nation's highest elected officials. This amounted to unsavory and unseemly activity that lessens the dignity of these offices, offices that should command the greatest respect from their occupants and from citizens. In addition, even without containing any words that could be construed to amount to coercion, it would defy reality not to recognize that the recipients of such calls, many of whom had business interests, would find it difficult to turn down requests for funds from persons who exercise such vast power. The Committee hopes that all future

⁶⁶"Judges should hesitate . . . to treat [as surplusage] statutory terms in any setting, and resistance should be heightened when the words describe an element of a criminal offense." *Bailey v. United States*, 516 U.S. 137 (1995), quoting *Ratzlaf v. United States*, 510 U.S. 135 (1994)(brackets in original).

⁶⁷Thus, the only Supreme Court decision on the meaning of section 607, *United States v. Thayer*, 209 U.S. 41 (1908), is irrelevant to the facts here at issue. In *Thayer*, the defendant was outside the federal building when he mailed solicitations of campaign contributions to employees at their federal building. Some of the employees read those letters in their offices. In his defense, Thayer argued that since he was not in the federal building, he could not have solicited in the building. Unsurprisingly, the Supreme Court rejected that view. As the Justice Department manual correctly notes, the holding in the case was that the statute applies to solicitations made by mail as well as in person. The case simply does not address the situation in which the person in the federal building is making a call outside the building, and the case does not in any way constrict the scope of the statute.

Moreover, the decision does not stand for the proposition that the solicitation occurs where the person solicited is located. The Court pointed out that "[t]he time determines the place [of the solicitation]." Thus, if the letter is written and mailed, but the letter burns, there is no solicitation in the federal building. Only when the solicitation reached the employee in the federal building did the prohibited solicitation occur. 209 U.S. at 43. In fact, until the time the employee read the solicitation letter, no solicitation occurred. In *Thayer*, the Court thus held that if the employee received the solicitation letter in a federal building, but did not read the letter until he left the building, no solicitation occurred: *i.e.*, the time of the solicitation (when the employee read the letter) determined whether the solicitation occurred in a federal building (thus, no solicitation occurred if the employee did not read the letter until after leaving the building). Here, by contrast, at the time the Vice President made his solicitations, they occurred from a federal building's official space.

Presidents and Vice Presidents will refrain from making direct telephone solicitations for campaign contributions.

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WHITE HOUSE VETTING OF INDIVIDUALS WITH ACCESS TO THE PRESIDENT

INTRODUCTION

Since stories of its campaign finance improprieties first surfaced in the fall of 1996, the Clinton Administration has been forced to acknowledge again and again that it was inappropriate for particular unsavory individuals to have entered the White House or to have attended outside political functions involving the President or the Vice President.¹ The repeated instances of White House failure to weed out problematic prospective invitees in advance of their arrival suggested at least the existence of a fundamental deficiency in the White House's vetting process. The Committee has determined that the problem was, in fact, even more severe. Testimony of individuals familiar with the White House's creation and evaluation of its guest lists revealed that a process for vetting proposed attendees was essentially nonexistent. White House officials testified that they relied upon the United States Secret Service and the DNC to vet invitees to or attendees at political events. DNC officials likewise testified that they too principally relied upon the Secret Service to identify and remove undesirable individuals. The Secret Service, however, is charged only with identifying potential physical threats to the President, and makes no other determination as to the overall suitability of invitees. Whether through gross negligence or conscious design, the result of the absence of an organized vetting system was the same: too many unsavory individuals were allowed entrance to the White House and access to President Clinton.

WHITE HOUSE VETTING PROCEDURES DURING THE 1996 ELECTION CYCLE

The White House Political Affairs Office was the designated recipient of the DNC's proposed guest lists for White House fundraising coffees and other politically motivated events attended by the President or Vice President.² The Political Affairs Office was also

¹See, e.g., Deposition of Nancy Hernreich, June 20, 1997, pp. 67-68 (conveying President Clinton's opinion that the attendance with Johnny Chung of a delegation of Chinese businessmen at a March 11, 1995 White House radio address was "inappropriate" and that the White House "shouldn't have done that"); Kevin Sack, "From Restaurateur to Intimate at the White House," *New York Times*, Jan. 4, 1997, p. A8 ("Mr. Trie escorted a leading Chinese arms dealer [Wang Jun] to a small gathering with Mr. Clinton. The President has since described the arms dealer's presence as 'clearly inappropriate.'"); Glenn F. Bunting & Ralph Frammolino, "Cash-for-Coffee Events at White House Detailed; Politics: Zeal to Raise Funds Transformed Once-modest Sessions into Major Money-makers, Accounts Indicate," *Los Angeles Times*, Feb. 24, 1997, p. A1 ("White House spokesman Davis also has conceded that it 'was not appropriate' for the president to sip coffee with Eric Wynn just a few months after his second conviction for penny-stock fraud.").

²The White House Social Office played the primary, but essentially "functionary" role in the creation of guest lists for White House events. See Deposition of Ann Stock, June 12, 1997, p. 21. Ann Stock, who headed the Social Office, explained that representatives of the Political Af-

Continued

supposed to serve as the point of contact for the White House's system for vetting guests at political events to ensure their "suitability."³ Former Deputy Political Director Karen Hancox testified that she received the list of guests selected by the DNC for upcoming White House events by fax from Richard Sullivan, the DNC's National Finance Director.⁴ Hancox's typical practice involved absolutely no vetting of Sullivan's suggestions.⁵ In fact, she testified that she "rarely ever look[ed] at the list of names" submitted by Sullivan, and instead simply directed that the names be forwarded to the appropriate offices for insertion into the President's briefing book and for clearance by the Secret Service.⁶ Hancox took further steps only if Sullivan specifically requested that she check on the suitability of a particular name on the DNC's list.⁷ In such an event, Hancox would contact the appropriate authorities to determine whether the tentatively proposed individual could remain on the guest list. Where the invitation of a foreign national was at issue, the appropriate authority was the National Security Council ("NSC").⁸ If the NSC objected to the attendance of the proposed individual, Hancox's response was to contact Sullivan and have him rescind the invitation.⁹

Because the White House never raised "red flags" about his proposals unless he "proactively asked about" particular guests, Sullivan understood that the White House "did not conduct background checks" of his proposed guests, and that the obligation to weed out unsuitable individuals rested primarily with the DNC.¹⁰ Sullivan, however, acknowledged a carelessness in the DNC's own vetting, as he testified that he operated under the "false sense . . . that truly bad things would have been picked up . . . by the Secret Service."¹¹ Sullivan therefore suggested that the only category of poten-

fairs and other offices within the White House routinely submitted to Stock's office the names of individuals they recommend for invitation to unspecified future White House events, and each specific event's final guest list was compiled from the running list of submitted names. *Id.* Stock testified that her office played no role in vetting potential guests or deciding "who comes or who doesn't come." *Id.* She said that she assumes that prospective guests are vetted by the offices submitting the guests' names, but that she "could [not] care less" how the vetting is done. *Id.* at pp. 131-32. She testified that it is her understanding that an invited guest's criminal background would be caught by the Secret Service, which does a final review of an event's guest list before any guests are admitted to the White House. *Id.* at pp. 133-34; *see also* discussion of the role of the Secret Service, *infra*, footnotes 18-21 and accompanying text.

³ *See* Deposition of Karen Hancox, June 10, 1997, pp. 55-56.

⁴ Deposition of Karen Hancox, June 9, 1997, pp. 52 (coffees); *see also id.* at p. 109 (overnights); *id.* at p. 113 (movie events at the White House); *id.* at p. 115 (state dinners).

⁵ *Id.*, p. 53.

⁶ *Id.* at pp. 53-54.

⁷ *See, e.g., id.* at p. 70 ("Q: When would you call the NSC regarding attendees to coffees or other events. A: If Richard would call me up and ask me about a name. Q: Was there *ever* a time that you took it upon yourself to call the NSC regarding any attendees to any of the coffee events or any events that Richard Sullivan sent you lists for? A: *Not that I ever remember, no.*" (emphasis added)); *see also* Deposition of Doug Sosnik, June 20, 1997, pp. 167-68.

⁸ *See* Deposition of Karen Hancox, June 9, 1997, p. 101. Hancox could remember only one instance in which she received a question about a prospective guest that was not prompted by that individual's foreign nationality. On that occasion, Sullivan asked Hancox to determine whether a particular individual was supportive of the President's health care policies. Hancox recalls contacting the White House's Office of Public Liaison to address Sullivan's concerns. *See id.* at pp. 101-02.

⁹ *See id.* at pp. 104-05; *see also* Deposition of Doug Sosnik, June 20, 1997, p. 176. Hancox also testified that the responsibility rested entirely with Sullivan and the DNC to ensure that suspect individuals who had been identified and removed from an event on one occasion did not accidentally reappear on a subsequent list. Deposition of Karen Hancox, June 10, 1997, pp. 50-53, 62-63.

¹⁰ *See* Deposition of Richard L. Sullivan, June 4, 1997, pp. 104-05.

¹¹ Deposition of Richard L. Sullivan, June 25, 1997, p. 85.

tial guests that he felt the need to raise with Hancox was “foreign nationals.”¹²

It is clear, however, that even foreign nationals did not necessarily receive proper scrutiny under the White House’s vetting “process.” Hancox testified that Sullivan raised concerns about a total of fewer than twelve individuals,¹³ and she has no recollection of discussing with Sullivan or the NSC the propriety of White House appearances by several prominent foreign subjects of the Committee’s investigation, including Arief Wiriadinata and a delegation of Thai businessmen who accompanied Pauline Kanchanalak to a June 18, 1996 coffee.¹⁴ Moreover, Samuel “Sandy” Berger, Assistant to the President for National Security Affairs, conceded to the Committee that “[t]here obviously were some situations where foreign individuals . . . were invited to meetings with the President where the NSC’s judgment was not [sought].”¹⁵

It is also clear that Sullivan was correct when he described as a “false sense” his ultimate reliance upon the Secret Service to catch the unsavory individuals who fell through the cracks in the White House’s porous vetting system. As an initial matter, even the limited vetting conducted by the Secret Service occurs only with respect to events held in the White House. Hancox testified that with respect to events attended by the President that were held outside of the White House, she would not even provide attendee lists to the Secret Service.¹⁶ In those instances, Sullivan’s unreliable inspection of the guest list for the inclusion of foreign nationals served as the exclusive screen.¹⁷

Colleen Callahan, the Special Agent in Charge of the Secret Service’s White House Division, also stated in an affidavit submitted to the Committee that the Secret Service plays no role in determining the “suitability” of individuals for White House admittance.¹⁸ Instead, the Secret Service, which is responsible for the “physical security of the White House Complex and Secret Service

¹² See Deposition of Richard L. Sullivan, June 4, 1997, p. 109.

¹³ Deposition of Karen Hancox, June 9, 1997, pp. 78–79; see also Testimony of Samuel R. (Sandy) Berger, Sept. 11, 1997, p. 48 (“[T]here were a number, but not a huge number of occasions in which the NSC was asked its judgment.”).

¹⁴ Deposition of Karen Hancox, June 9, 1997, pp. 72–74; see also the section of this report on the activities of John Huang at the Commerce Department and the section on Coffees, Overnights and other Fundraising Events, especially the discussion of Pauline Kanchanalak and the June 18, 1996 coffee.

¹⁵ Berger testimony, p. 48. Berger also noted the President’s determination that the existing vetting procedures were inadequate, *id.* at p. 47, and explained that the NSC had adopted procedures that would correct these inadequacies by requiring the input of NSC personnel every time a foreign national is invited into the White House. *Id.* at pp. 72–73; see also Memorandum from Samuel R. Berger to “All NSC Staff”, June 13, 1997, pp. 1–3 (Ex. 1). After receiving significant criticism for acceding to a DNC request for a photograph with Eric Hotung, a Hong Kong businessman, British citizen and husband of a prominent DNC contributor, Berger, in Ex. 1, also clarified NSC policy with respect to meetings between NSC staff and individuals from outside of the U.S. government. After promising in September 1995 to contribute \$100,000 to the DNC, Hotung was granted a meeting with Robert Suettinger of the NSC, and a photo opportunity with Berger. See Memorandum from David Mercer to DNC Chairman Don Fowler, stating that “the Hotungs . . . will be contributing \$100,000” and that “[w]e will be helping to set up a meeting with the Hotungs at the [NSC]”, Sept. 14, 1995 (Ex. 2); Schedule of Robert L. Suettinger indicating a September 19, 1995 meeting with Eric Hotung (Ex. 3); electronic mail message from Stanley Roth to Sandy Berger indicating that Fowler requested a photo opportunity for the “fabulously wealthy” Hotung with Berger, Oct. 3, 1995 (Ex. 4). Berger testified that he was not aware at the time of the photograph that the Hotungs were contributors or even that the request was related to the Hotungs’ contacts with the DNC. Berger testimony, p. 24. Berger did acknowledge, however, that he knew that the request originated with Fowler. *Id.*

¹⁶ Deposition of Karen Hancox, June 10, 1997, pp. 9–10.

¹⁷ See *id.*

¹⁸ Affidavit of Colleen B. Callahan, Sept. 9, 1997, p. 1 (Ex. 5).

protectees within,”¹⁹ seeks only to uncover “pertinent” criminal history of individuals invited into the White House through a search for each invitee’s name in a database maintained by the National Crime Information Center.²⁰ A criminal history does not necessarily disqualify an individual from White House admittance. Only if the information uncovered by the database search “suggest[s] that the prospective visitor may be violent, dangerous or otherwise pose a physical or security threat to a protectee or the White House Complex” will the Secret Service limit or deny White House access.²¹ In other words, although the presence in the White House of a nonviolent, unthreatening criminal is certainly inappropriate, this is not the type of individual that the Secret Service would exclude.

THE LACK OF PROPER VETTING PERMITTED A SERIES OF UNSAVORY
INDIVIDUALS ACCESS TO THE PRESIDENT

As a result of the White House’s admitted failure to properly vet its guest lists, several unsavory individuals were allowed to enter the White House and to attend events with President Clinton. The President’s meetings with Ted Sioeng, Yogesh Ghandi, Roger Tamraz, and a delegation of Chinese businessmen led by Johnny Chung are described in detail in other sections of this report.²² The following is a summary of additional unsavory individuals whose White House visits were permitted to proceed unimpeded.

Jorge Cabrera

In November 1995, Jorge Cabrera, a Cuban-born U.S. citizen, made a \$20,000 contribution to the DNC and attended a fundraising dinner in honor of Vice President Gore in Miami.²³ One month later, Cabrera attended a Christmas party at the White House and had his picture taken with the First Lady.²⁴ At the time of Cabrera’s White House visit, he had already been convicted of two felonies and had served almost five years in prison. Cabrera pled guilty in 1983 of obstruction of justice for conspiring to bribe a grand jury witness and again in 1988 for filing a false income tax return.²⁵ Both charges stemmed from arrests on drug charges.²⁶ In January 1996, Cabrera was arrested and charged with importing 6,000 pounds of cocaine into the United States.²⁷ He is presently serving a 19-year prison term.²⁸

Wang Jun

On February 6, 1996, Charlie Trie escorted a group of individuals including Wang Jun to a White House coffee with President Clin-

¹⁹ See *id.*

²⁰ See *id.* at p. 3.

²¹ See *id.* at pp. 3–4.

²² See the sections of this report on Ted Sioeng, Yogesh Gandhi, Roger Tamraz, and Johnny Chung.

²³ See Don Van Natta, Jr., “An R.S.V.P. to the President: Deep Regrets. I’m in Custody,” *New York Times*, March 22, 1997, p. A1.

²⁴ See *id.*

²⁵ See Anne Farris, “Secret Service Didn’t Tell White House of Guest’s Criminal Background,” *Washington Post*, Oct. 26, 1996, p. A14.

²⁶ See *id.*

²⁷ See Stanley Meisler, “Democrats Return Drug Smuggler’s Check,” *Los Angeles Times*, Oct. 20, 1996, p. A25.

²⁸ See *id.*

ton.²⁹ Wang Jun's attendance at the coffee was arranged primarily by Ernest Green, managing director of the Washington, D.C. office of Lehman Brothers and a prominent DNC fundraiser.³⁰ Wang Jun is chairman of the China International Trust and Investment Corporation ("CITIC"), a financial and industrial conglomerate reportedly controlled by the Chinese government.³¹ He is also the chairman of Poly Technologies, a company that handles most of Communist China's arms exports.³² In 1996, Wang Jun and other officials of Poly Technologies were implicated in a scheme to smuggle thousands of Chinese-made machine guns and assault rifles to criminal elements in the United States.³³

Eric Wynn

Eric Wynn attended a December 21, 1995 coffee at the White House with President Clinton.³⁴ At that time, Wynn was free on bond pending appeal of his July 21, 1995 conviction on thirteen counts of conspiracy, securities fraud and wire fraud.³⁵ Wynn attended four additional fundraisers with President Clinton in 1996, despite being arrested several additional times for offenses such as assaulting a police officer, resisting arrest, aggravated assault with a motor vehicle and driving while intoxicated.³⁶

CONCLUSION

Whether by gross negligence or conscious design for fundraising purposes, the process in place at the White House for the vetting of individuals granted access to the President was incapable of keeping unthreatening criminals, inappropriate foreign citizens and other disreputable characters out of the White House and away from the President. No White House employees were specifically charged with evaluating guest lists submitted by the DNC for the sorts of unsavory individuals who, in fact, later appeared at White House coffees and other events with the President and Vice President. Instead, the White House left the responsibility with the DNC, which took inappropriate comfort in the background checks performed by the Secret Service, and therefore only haphazardly reviewed its lists for the appearance of foreign nationals. As the Secret Service sought to weed out only those criminals who posed a

²⁹ See guest list for February 6, 1996 coffee with the President attached to "Coffee with Supporters of the Democratic National Committee," Feb. 5, 1996, p. 2 (Ex. 6).

³⁰ Although Green emphatically denied any role in Wang Jun's attendance at the February 6 coffee, see Deposition of Ernest Green, June 18, 1997, pp. 269-70 ("I was not involved in Wang Jun and coffees at the White House at all. . . . I was not involved at all in Wang Jun and coffees."), the copy of Wang Jun's resume produced to the Committee by the DNC indicates that it was transmitted to the DNC from a Lehman Brothers' fax machine. Resume of Wang Jun (Ex. 7). Sullivan also testified that the DNC added Wang Jun to the guest list for the coffee as a favor to Green. Testimony of Richard L. Sullivan, July 9, 1997, p. 124. Finally, although Green did not attend the February 6 coffee, the DNC attributed Green's \$50,000 contribution on February 6, 1996 to the White House coffee held on that day. See "DNC Finance Executive Summary," Oct. 17, 1996 (Ex. 8).

³¹ See Steven Mufson, "Chinese Firm Details Visit to White House; Arkansan is Cited as Intermediary," *Washington Post*, March 18, 1997, p. A4.

³² See *id.*

³³ See Howard Blum, "The Trail of the Dragon," *Vanity Fair*, December 1997, pp. 226-44 (discussing the discovery of a Chinese arms smuggling ring by U.S. Treasury agents).

³⁴ See Bob Woodward & Charles R. Babcock, "Stock Manipulator Attended Coffee with Clinton," *Washington Post*, Feb. 1, 1997, p. A1.

³⁵ See *id.*

³⁶ See Bob Woodward, "Felon Also Attended 4 DNC Events with Clinton," *Washington Post*, Feb. 20, 1997, p. A4.

physical threat to the White House or the Secret Service's "protectees," convicted criminals that the Secret Service deemed to be nonviolent or unthreatening were permitted to pass the White House gate without comment. This was a system designed to fail, and it operated precisely as designed.

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JOHNNY CHUNG AND THE WHITE HOUSE “SUBWAY”

INTRODUCTION

Johnny Chung, a Taiwan-born businessman and self-described “die hard Democrat,”¹ serves as the Chairman and Chief Executive Officer of Automated Intelligent Systems, Inc. (“AISI”)—a California corporation based in Torrance.² He became prominent as a DNC contributor and frequent White House visitor during the 1995–96 election cycle. According to records of the FEC, Chung and AISI began making substantial contributions to the DNC in August 1994 and continued such contributions through August 1996.³ These contributions during this two-year period totaled \$366,000.⁴ After stories began to appear in the press about Chung’s activities, however, the DNC returned all of this money, allegedly because he had provided the party with “insufficient information” as to the source of the funds.⁵

These DNC contributions helped Chung obtain access to the White House at least 49 times between February 1994 and February 1996⁶—access that he used not only to further his interests with foreign business clients, but also to sit in the vestibule of the First Lady’s office and stare at photographs of her. Though he had told DNC officials that he would be using the White House as a means of entertaining his foreign clients, and though the National Security Council (“NSC”) regarded him as a “hustler,” Chung was granted extraordinary access to the White House, and especially the First Lady’s office. There can be no question that Chung’s contributions to the DNC helped give him this access to the President and the First Lady. So close was the nexus between Chung’s donations and his visits, in fact, that White House officials actually collected money from him in the First Lady’s office in exchange for allowing him to bring a delegation of his clients to White House events. This was, however, no surprise to Chung: as he phrased it, “[t]he White House is like a subway: You have to put in coins to open the gates.”⁷

¹ Letter from Johnny Chung to Doris Matsui, Jan. 4, 1995 (Ex. 1).

² See Biography of Johnny Chung (Ex. 2). AISI provides a fax broadcast service that can send faxes simultaneously to thousands of locations.

³ See Chart of contributions by Johnny Chung and AISI, with attached checks (Ex. 3).

⁴ *Id.*

⁵ See DNC press release dated June 27, 1997 (Ex. 4).

⁶ See White House Visitor Summary for Johnny Chung (Ex. 5); United States Secret Service WAVES records for Johnny Chien Chuen Chung (Ex. 6). The WAVES records, it should be noted, do not include some events that Chung is known to have attended. For example, these WAVES records do not show Chung’s attendance at the President’s Radio Address on March 9, 1995. However, the White House produced a video tape and photograph contact sheet that confirm his attendance.

⁷ See Marc Lacey, “House Subpoenas Torrance Businessman,” *Los Angeles Times*, Nov. 8, 1997, p. A12.

JOHNNY CHUNG'S ADMIRATION FOR THE FIRST LADY

One of the reasons Chung spent so much time in the White House was his admiration for First Lady Hillary Rodham Clinton. His first contact with the First Lady occurred at least as early as April 1993, when she wrote Chung to thank him for the concern he had apparently expressed during her father's illness.⁸ Chung and the First Lady apparently first met in Little Rock, Arkansas.⁹

This attention from the First Lady seemed to have sparked in Chung a remarkable fascination with and admiration for her.¹⁰ Her chief of staff, Margaret A. ("Maggie") Williams, testified in her deposition that Chung told her "how much he admired and respected" the First Lady and that he believed that "her encouragement had been the turning point in his business."¹¹ As Chung's admiration grew, on many of his visits to the White House he would simply sit in the vestibule of the First Lady's office and stare at pictures of her, apparently without any other reason for being there.¹² Williams' assistant Evan Ryan, for example, testified that if Chung were "in the building" visiting someone else, "he would stop by."¹³ The First Lady's staff found these visits "disturbing," because Chung talked constantly during these visits—continually telling them about himself, his business, and his admiration for the First Lady.¹⁴

Williams, however, remained quite well disposed toward Chung. While she acknowledged that he "could be irritating," she "didn't care how many times [Chung] wanted to come" to their office.¹⁵ Rather, Williams felt strongly that

Chung be accorded respect in our office, and I realize I may have pushed the limits, but my experience had been at the White House that people of color and others in my view were not given overall the kind of respect that white males were, and I decided I'm the boss of this office. This is one office where I can run it the way I want to run it, and the guy is genuinely, whether right or wrong, interested and grateful to Mrs. Clinton and doesn't hurt, but he's a contributor to our part [sic], and we are going to treat him as well as we would treat any other irritable jerk who would show up.¹⁶

Determined, therefore, to accord such a "contributor" the respect he deserved, Williams permitted Chung to continue his visits.

⁸Letter from Hillary Rodham Clinton to Johnny Chung, April 12, 1993 (Ex. 7). In a subsequent letter written two weeks later, the First Lady wrote Chung to wish him luck with what she described as his "innovative" fax broadcast business. See Letter from Hillary Rodham Clinton to Johnny Chung, April 26, 1993 (Ex. 8).

⁹According to Evan Ryan, special assistant to the First Lady's chief of staff, Chung once recounted having met the First Lady in Arkansas. Deposition of Evan M. Ryan, Aug. 7, 1997, p. 57; see also Ex. 7 (comment by First Lady that she hoped Chung enjoyed his visit to Arkansas).

¹⁰Ryan, for example, testified that Chung told her that the First Lady "inspired him and he credited that inspiration for getting his business and himself going." Ryan deposition, p. 57.

¹¹Deposition of Margaret Ann Williams, May 29, 1997, p. 154.

¹²Williams deposition, pp. 158–59.

¹³Ryan deposition, pp. 52 & 55.

¹⁴*Id.*, pp. 57–58.

¹⁵Williams deposition, p. 158.

¹⁶*Id.*, p. 168.

VISIT BY HAOMEN GROUP

Chung may have admired the First Lady, but he was not above using his DNC contributions—and Williams' indulgence—as a means to impress his business clients through displays of his access to the President and First Lady. In a January 6, 1995 newsletter to the shareholders of AISI, for example, Chung boasted of his political clout, claiming that he had “built up connections to easily arrange visitations to the White House and meetings with the President.”¹⁷ His activity in this regard was well known to officials at the DNC. Indeed, Chung had even advised the DNC that his foreign business clients would be *supporting* the Democratic Party: in a letter to Doris Matsui in January 1995, for example, Chung declared that over the next two years he would be “coordinating a lot of visits from Asian business leaders to support [the] DNC.”¹⁸

One of the examples of White House access Chung cited in his January 1995 newsletter was “the arrangement of a meeting for Chairman Chen of Tangshan Haomen Group, the second largest beer manufacturer in China with President Clinton.”¹⁹ Chung arranged this meeting with the assistance of Richard Sullivan, who was then the Finance Director of the DNC. In December 1994, Chung wrote Sullivan to relate that he would be bringing a group of Chinese businessmen to the White House, including Shi-Zeng Chen, the founder and president of Tangshan Haomen Group.²⁰ Chung requested Sullivan's assistance in arranging lunch at the White House Mess, and asked that the delegation be allowed to have their photograph taken with President Clinton after his weekly radio address.

To speed this process along, Chung made a \$40,000 contribution to the DNC in the name of his company, AISI. Although Sullivan would later come to suspect that Chung was laundering foreign money into the DNC—and although Chung explicitly told Sullivan that Chen would “play an important role in our future party functions”²¹—Sullivan was apparently unconcerned about this AISI donation and accepted it without question. Chung was admitted to the White House on December 19, 1995, the same day that FEC records show the DNC's receipt of his \$40,000.²² The next day, Chung, Shi-Zeng Chen, and the rest of the Haomen delegation were admitted to the White House residence for a holiday reception;²³ they had their pictures taken with the President and the First Lady.²⁴

¹⁷ Letter from Johnny Chung to “All Shareholders,” Jan. 6, 1995 (Ex. 9).

¹⁸ Ex. 1 (advising Doris Matsui of these plans); *see also* Letter from Johnny Chung to Richard Sullivan, Dec. 14, 1994 (Ex. 10) (advising, in connection with visit of a Chinese businessman to White House, that this businessman would “play an important role in our future party functions”).

¹⁹ Ex. 9.

²⁰ Ex. 10.

²¹ Ex. 10.

²² The Committee never received the WAVES records of Shi-Zeng Chen, and was therefore unable to determine whether he also entered the White House on this date.

²³ WAVES records for December 20, 1994 holiday reception (Ex. 11).

²⁴ *See* AISI brochure containing picture of Chung and Shi-Zeng Chen with the President and the First Lady (Ex. 12).

THE RADIO ADDRESS

Despite Chung's \$40,000 contribution, however, DNC Finance Director Richard Sullivan had only partly fulfilled Chung's request: the Haomen group had not been able to attend the President's radio address as Chung had requested. Two months later, Chung again requested Sullivan's assistance in arranging visits to the DNC and to the White House for his business clients—another group of Chinese business executives²⁵—this time presenting a longer and more specific list of requested services. In a letter dated February 27, 1995, Chung requested that Sullivan help arrange (1) a meeting with President Clinton, (2) a meeting with Vice President Gore, (3) lunch at the White House mess, (4) a tour of the White House, and (5) a meeting with Commerce Secretary Ron Brown.²⁶ Chung sent an identical letter to Eric Sildon at the DNC,²⁷ and faxed a letter to Ann McCoy of the White House Visitor's Office requesting her assistance in arranging a White House tour.²⁸ He apparently also asked Mark Middleton for help in setting up meetings with President Clinton and Vice President Gore, and in arranging a luncheon at the White House Mess.²⁹

By now, at least, Sullivan was becoming suspicious, and did not help Chung as much as he had for the Haomen delegation. According to Sullivan,

Johnny had showed up at the DNC and asked if I would get in—said that he would make a contribution to us of \$50,000 if I would get he and five members of his entourage into a radio address with the President. They were all for [sic] China.³⁰

This time, Sullivan later claimed, he was concerned about accepting money from Chung:

We had gotten money from Johnny previously. I think he had contributed about 100,000 to that point over the past year, and the fact that—him showing up with these five people from China, I had a concern that he might—that they—he might be taking—I had a sense that he might be taking money from them and then giving it to us, you know. That was my concern.³¹

Though Sullivan was unaware of it at the time, there were indeed some grounds for concern in this respect. On March 6, 1995, three days before Chung made his next \$50,000 contribution to the DNC—in connection with the visit of this second group of Chinese executives—he received a wire transfer from the Haomen Group in the amount of \$150,000.³² Chung has claimed that he made his DNC contribution entirely from personal funds, and that the wire

²⁵ Letter from Johnny Chung to Richard Sullivan, Feb. 22, 1995 (Ex. 13) (providing list of people who would be visiting the White House and the DNC).

²⁶ Letter from Johnny Chung to Richard Sullivan, Feb. 27, 1995 (Ex. 14).

²⁷ Letter from Johnny Chung to Eric Sildon, Feb. 27, 1995 (Ex. 15).

²⁸ Letter from Johnny Chung to Ann McCoy, Feb. 28, 1995 (Ex. 16).

²⁹ *Id.*

³⁰ Deposition of Richard Sullivan, June 4, 1997, p. 228.

³¹ *Id.*

³² Record of wire transfer from Haomen Group to Johnny Chung's California Federal Bank account (Ex. 17); California Federal Bank statement for account of Johnny Chung or Katharina T. Chung for period ending March 26, 1995 (Ex. 18).

transfer was made as part of a joint venture with the Haomen businessmen.³³ As of February 28, 1995, however, the balance of the account upon which his check was drawn was only \$9,860,³⁴ and Chung was apparently never engaged in any U.S. business with the Haomen Group.

Although Sullivan had concerns about accepting Chung's contribution, he was nevertheless willing to arrange a meeting for Chung and his delegation with DNC Chairman Don Fowler.³⁵ After meeting with Chung and the delegation, Fowler sent a follow-up letter to one of the delegation members, Zheng Hongye,³⁶ describing Chung as "an excellent facilitator" and declaring that the "Democratic Party is lucky to have him as one of our most ardent DNC members."³⁷ Despite Fowler's enthusiasm, however, Sullivan did not accept Chung's proffered contribution and refused to help him arrange the requested White House services.

Stymied with the DNC, Chung then appealed directly to the First Lady's office for help with his delegation's visit. On March 8, 1995, Chung requested Evan Ryan's assistance in obtaining four benefits: (1) a tour of the White House; (2) lunch in the White House Mess; (3) a photo with the First Lady; and (4) an invitation to attend the President's Radio Address for himself and his delegation.³⁸ To clarify his point, in making these requests, Chung told Ryan that he would also be making a contribution to the DNC when he was in Washington, D.C. for this trip.³⁹ Although Ryan did not recall Chung mentioning a specific amount, she recalled learning at some point by March 10, 1995, that he intended to give \$50,000.⁴⁰

Although the DNC had turned him away, Chung had better luck at the White House. After talking with Chung, Ryan immediately informed Maggie Williams of the requests to see if they could be fulfilled.⁴¹ According to Ryan, Williams responded "that we would look into it [in order to] see if we could arrange anything,"⁴² and instructed Ryan to make the telephone calls necessary to arrange a White House tour and lunch at the White House Mess for Chung's delegation of Chinese businessmen.⁴³

³³ Glenn Bunting and Alan Miller, "2 Donors to Democrats Linked to Asian Funds," *Los Angeles Times*, July 11, 1997, p. A1. The Committee has received a detailed proffer from Johnny Chung and his attorney, as part of their request for immunity in exchange for Chung's testimony after he invoked his Fifth Amendment privilege against self-incrimination. The Committee, however, declined to offer Chung immunity. The information contained in Chung's proffer has not been used in the preparation of this report.

³⁴ Ex. 18. Chung, however, claims that he had more than enough to afford the \$50,000 in other accounts. See William Rempel & Alan Miller, "First Lady's Aide Solicited Check to DNC, Donor Says," *Los Angeles Times*, July 27, 1997, p. A1.

³⁵ Memorandum from Richard Sullivan & Ari Swiller to Katherine, March 1, 1995 (Ex. 19) (discussing scheduling request for Chairman Fowler on March 8); see also Ex. 14 (noting "meet Don Fowler").

³⁶ Deposition of Donald L. Fowler, May 21, 1997, p. 324; see also Letter from Don Fowler to Zheng Hongye, March 14, 1995 (Ex. 20) (discussing their meeting the previous week).

³⁷ Ex. 20.

³⁸ Ryan deposition, p. 69. Chung did not request Ryan's assistance in arranging a meeting with Secretary Ron Brown. Richard Sullivan and Ari Swiller's memorandum to Katherine mentioned that Chung and the delegation from China would be meeting with Secretary Brown during the afternoon of March 9, 1995. See Ex. 19.

³⁹ Ryan deposition, p. 75.

⁴⁰ *Id.*

⁴¹ *Id.*, p. 77.

⁴² *Id.*

⁴³ *Id.*, pp. 84-85.

In this same conversation, Ryan also told Williams that Chung intended to make a contribution to the DNC.⁴⁴ Upon hearing this, Williams said that the DNC might be able to use this money to pay debts it owed the White House, and told Ryan that she would accordingly speak to Fowler about this matter.⁴⁵ Williams apparently attempted to reach Fowler at least twice that same day, because Fowler left two messages for Williams on March 8, 1995, indicating that he was returning her calls.⁴⁶

Having been instructed by Williams to help arrange for his delegation to visit, Ryan informed Chung that the First Lady's staff would try their "best" to fulfill his requests.⁴⁷ According to Ryan, this pleased Chung; he told Ryan that he hoped Williams would get "credit" for his DNC contribution.⁴⁸ After Chung left, Ryan set about making the necessary arrangements. Ryan called the White House Mess to make a reservation in Williams' name for Chung and his group,⁴⁹ and called Ann McCoy in order to arrange for a tour of the White House.⁵⁰ Ryan did not make the arrangements for the photo opportunity with the First Lady, however, because she understood this to be Williams' responsibility.⁵¹

Chung and his delegation arrived at Ryan's office around 11:30 a.m. on March 9, 1995. Ryan then escorted them to the White House Mess for lunch,⁵² after which they were given a private tour of the White House.⁵³ After the tour, Chung and his delegation returned at approximately 2:00 p.m. that afternoon and were escorted to the Map Room by Ryan for their photo opportunity with the First Lady arranged by Williams.⁵⁴

After the photograph, Ryan returned with the group to her office, where Chung told her that "he wanted to give his contribution to Maggie and wanted to have her get it to the DNC."⁵⁵ According to Ryan, when she stepped into Williams' office to inform Williams of Chung's desire to do this,⁵⁶ Williams asked Ryan to bring Chung into the office.⁵⁷ As Ryan stood at the door of Williams' office, Chung handed Williams an envelope containing a check for \$50,000 made out to the DNC.⁵⁸ This contribution apparently made it possible for Chung to achieve what had hitherto been denied him: his

⁴⁴ *Id.*, p. 77.

⁴⁵ *Id.*, pp. 80–81.

⁴⁶ Telephone message slips to Maggie Williams from Don Fowler dated March 8, 1995 (Ex. 21).

⁴⁷ Ryan deposition, p. 84.

⁴⁸ *Id.*, p. 86. Ryan also testified that at some point on March 8 or 9, 1995, Chung told her that "he wanted this check to go to Maggie to be delivered to the DNC." *Id.*, pp. 83–84.

⁴⁹ *Id.*, pp. 93–94.

⁵⁰ *Id.*, pp. 91–92.

⁵¹ *Id.*, p. 97.

⁵² *Id.*, p. 103.

⁵³ *Id.*

⁵⁴ *Id.*, p. 105.

⁵⁵ *Id.*, p. 114.

⁵⁶ *Id.*, p. 116.

⁵⁷ *Id.*, p. 117.

⁵⁸ *Id.*, pp. 117–18; see also Williams deposition, pp. 173–74 (recounting accepting envelope given her by Chung to pass along to DNC); copy of canceled check for \$50,000 to the DNC dated March 9, 1995 from Johnny Chung and Katharina Chung (Ex. 22). Chung also handed Williams two sweaters for the First Lady on March 9, 1995. See White House Gift Register (Ex. 23); White House gift tracking form for two sweaters presented by Johnny Chung to Maggie Williams on March 9, 1995 (Ex. 24). Although Ryan testified that she did not remember seeing Chung present the sweaters to Williams, she did remember seeing them on Williams' couch on either March 8 or 9. Ryan deposition, p. 124.

clients' attendance at President Clinton's weekly radio address on March 11, 1995.

According to Chung, in fact, Williams and Ryan had actively solicited the donation. Upon meeting Ryan on March 8, Chung recalled, he had asked whether his friends could have lunch in the White House Mess and meet the First Lady—and whether there was anything that he could do, in return, to help the White House. Ryan told him that “the first lady had some debts with the DNC” on account of expenses incurred through White House holiday festivities; Chung believes that Ryan mentioned a figure of about \$80,000.⁵⁹ Ryan told him that she was relaying this request on behalf of Williams, who hoped that Chung could “help the first lady” defray these costs. As Chung remembers it, at that point “a light bulb goes on in my mind. I start to understand . . . I said I will help for \$50,000.”⁶⁰

Although Williams testified that she did not recall making arrangements for Chung and his delegation to attend the radio address,⁶¹ a memorandum from Betty Currie, the President's personal secretary, indicates that Williams had some involvement.⁶² More specifically, Chung recalls that after he handed his envelope to Williams, she immediately led him into her private office and telephoned to reserve his group a table at the White House Mess.⁶³ DNC officials apparently also played a role in setting up the radio address.⁶⁴ According to Fowler,

Johnny Chung called my office, not me but my office, and Carol Khare talked to him. He said that he and some friends wanted to go to a Saturday radio address. This was just a few weeks after I came up there. Ms. Khare didn't know anything about—any more about that process than I did. She went out to this open area where the clerical people were and said, “This guy in here wants to go to the White House address. Does anybody here know how to do that or know anything about it?”

Sandra [sic] Scott, who was still there, said, “Yes, I know the person at the White House who does that.” And Ms. Khare said, “Will you call and see if it can be done?” She called her friend—and I don't know how [sic] that per-

⁵⁹ Rempel & Miller, *supra* note 34. Though Ryan did not supply a figure, this account of unpaid DNC debts corresponds closely to Ryan's own recollection. See Ryan deposition, p. 81.

⁶⁰ Rempel & Miller, *supra* note 34.

⁶¹ Williams deposition, p. 198.

⁶² According to this memorandum, Ceandra Scott of the DNC had been “concerned about Johnny Chung” and informed Currie that

we should have called them prior to their coming to the Radio Address. Apparently they were in Maggie's office when request came and Maggie said she didn't know, but to contact DNC.

Memorandum from Betty Currie to Jon, March 28, 1995 (Ex. 25). According to Currie, she meant by this that Nancy Hernreich should have called Scott prior to Chung's attendance, and that Chung was in Williams' office when he requested an invitation to the radio address. Williams, Currie explained, claimed not to know how to arrange Chung's attendance, but recommended contacting the DNC. Deposition of Betty W. Currie, Aug. 7, 1997, pp. 95–102. (Currie could not explain, however, why Scott would believe that someone at the White House needed to contact her before Chung could attend the radio address. Currie did not have any other recollection of her memorandum. *Id.*, p. 103.)

⁶³ Rempel & Miller, *supra* note 34.

⁶⁴ See list of attendees at Radio Address (Ex. 26). Johnny Chung and the delegation from China are listed under the category of “DNC Donors.” (The list of attendees at the Radio Address also includes what appears to be the President's left-handed check mark next to the “DNC Donors” category.)

son is, not at all—and said, “Can you arrange this?” And she said, “I don’t know. I will try.”

Ms. Khare went back and reported that to Chung and that’s what I know about it and it’s all hearsay.⁶⁵

Indeed, according to an NSC e-mail message, it was Fowler himself who stepped in during the evening before the March 11, 1995 radio address to ensure that Chung could attend. According to this document, the

head of the DNC asked the President’s office to include several people in the President’s Saturday Radio Address. They did so, not knowing anything about them except that they were DNC contributors.⁶⁶

In any event, it was the Office of Oval Office Operations that apparently made the final arrangements for Chung’s attendance at the radio address.⁶⁷

Despite the fact that Chung’s requests had now been fulfilled, Sullivan informed Chung that the White House—acting on the advice of NSC staff members—did not intend to release copies of the photographs Chung’s delegation had taken with the President.⁶⁸ Displeased by this, Chung faxed letters on April 5, 1995 to Williams seeking her assistance in obtaining these pictures.⁶⁹ According to an e-mail message sent to other NSC officials on April 7 by NSC staff member Melanie Darby,⁷⁰ Darby soon thereafter spoke with or received a message from Nancy Hernreich—whose office had arranged Chung’s attendance at the radio address and who now urgently needed to know whether or not she could give Chung the photos from the radio address when he stopped by her office the next day.⁷¹ Although Sullivan had by that point already told Chung of the problem with the photographs, there is no evidence that the NSC was asked whether the photos could be released until April 7, 1995.⁷² In fact—although Fowler’s office reportedly wanted to release the photographs because “these people are major DNC

⁶⁵ Fowler deposition, pp. 154–55.

⁶⁶ E-mail from Melanie Darby to Roseanne Hill, Stanley Roth and Robert Suettinger, April 7, 1995 (Ex. 27).

⁶⁷ See Deposition of Nancy Hernreich, May 21, 1997, p. 60. Hernreich testified that her assistant schedules the attendees at radio addresses; at the time Chung and the delegation from China attended, Hernreich’s assistant was Kelly Crawford. *Id.* According to press reports, Carol Khare took Chung’s call to Don Fowler requesting a face-to-face meeting with the President and referred the request to Ceandra Scott. Scott contacted the First Lady’s office, whereupon the request to let Chung and the delegation attend the Radio Address was approved by Crawford. See, e.g., Marc Lacey, “Missing Donor Still Target of Brickbats,” *Los Angeles Times*, Nov. 14, 1997, p. A14.

⁶⁸ See letter from Johnny Chung to Maggie Williams, April 5, 1995 (Ex. 28) (regarding photos from Radio Address).

⁶⁹ See *id.*

⁷⁰ Ex. 27.

⁷¹ Hernreich testified that she did not make this request to the NSC and does not know who did. Hernreich deposition, pp. 64–65. This testimony directly contradicts a White House document listing Chung’s name and those of the members of his Chinese delegation, which also contains a handwritten note to Nancy Soderberg of the NSC. Name List of Delegation (Ex. 29). This handwritten note appears to be from Hernreich, because it is signed “NH” and was made with the same type of calligraphy pen Hernreich customarily uses. See Hernreich deposition, p. 125. Although a portion of this note is illegible, it references the Chung radio address and states that “before photos are sent out we need to know if we should not send them.” Ex. 29.

⁷² This was the date of Darby’s e-mail message to other members of the NSC staff inquiring about this matter. See Ex. 28.

contributors”⁷³—it appears that the photos were retained because of concerns expressed by the President himself.⁷⁴

Replying to Darby’s query, however, NSC staff member Robert Suettinger cautioned her that he thought Johnny Chung was a “hustler” who “should be treated with a pinch of suspicion” and predicted that Chung would “become a royal pain, because he will expect to get similar treatment for future visits.”⁷⁵ Nevertheless, Suettinger did not “see any lasting damage to U.S. foreign policy” by giving Chung the photos and that “to the degree it motivates him to continue contributing to the DNC, who am I to complain?”⁷⁶ At some point thereafter, the photographs appear to have been given to Chung.⁷⁷

As Suettinger’s comments suggest, White House officials were apparently willing to overlook Chung’s faults in light of his considerable contributions to the DNC. Indeed, after the radio address episode, Chung was admitted into the White House at least 16 additional times, 12 of which were at the request of Evan Ryan.⁷⁸ “Hustler” or not, Johnny Chung was a source of money for the DNC, and the White House granted him and his Chinese clients almost unquestioned access—even to the point of actually considering hiring Chung’s company to work for the White House and the DNC.⁷⁹ White House and DNC officials, therefore, treated Johnny Chung, his business, and his Chinese clients as favored guests, “not knowing anything about them except that they were DNC contributors.”⁸⁰ That was, apparently, all that mattered.

⁷³Ex. 28.

⁷⁴See *id.* (recounting Chung photograph issue to NSC staff). Moreover, Hernreich recounted that the President had said, with regard to the attendance of Chung’s group at the radio address, that “[w]e shouldn’t have done that.” Hernreich deposition, p. 67. Hernreich understood this to mean that Chung’s clients were “inappropriate foreign people.” *Id.*, pp. 67–68.

⁷⁵E-mail from Robert Suettinger to Melanie Darby, April 7, 1995 (Ex. 30).

⁷⁶*Id.*

⁷⁷See White House contact sheet of photos with the First Lady from March 9, 1995 (Ex. 31). On April 11, 1995, in fact, Carol Khare apparently sent a fax to Chung exclaiming that, “[t]he White House assures me that you now have the pictures—hurray! If you don’t, give me a call.” Facsimile cover sheet from Carol Khare to Johnny Chung sent April 11, 1995 (Ex. 32). Hernreich, however, claimed to have been unaware that Chung had received the photos. See Hernreich deposition, p. 66.

⁷⁸See White House Visitor Summary for Johnny Chung (Ex. 5). Despite Suettinger’s warning, Maggie Williams, who had instructed Ryan to admit Chung, testified that the NSC never informed her that Chung should be treated with a “pinch of suspicion.” Williams deposition, p. 202.

⁷⁹As detailed in White House documents only produced to the Committee in mid-January 1998—after its investigation had been completed—Chung’s contributions appear also to have persuaded Harold Ickes and Erskine Bowles to urge the DNC to hire Chung’s company. Ickes told the DNC’s Bobby Watson, for example, that he “strongly urge[d]” the DNC to acquire a broadcast fax capability through AISI: “Johnny Chung’s firm has such capability which should be negotiated.” Memorandum from Harold Ickes to Bobby Watson, July 17, 1995 (Ex. 33). White House officials also met with AISI representatives to inquire into the possibility of hiring the company, although they ultimately concluded that there would be “legal concerns” were the White House itself to hire Chung. See Memorandum from Brian Bailey for Distribution, March 8, 1995 (Ex. 34). According to Bailey, “[i]n prior administrations, similar proposals for mass communications have been rejected by White House Counsel, which viewed such activities as violations of *anti-lobbying* rules.” Memorandum from Brian Bailey for Erskine Bowles, March 21, 1995 (Ex. 35) (emphasis in original). Because of these worries, Bailey recommended that the DNC, rather than the White House pursue this matter with Chung.

⁸⁰Ex. 27.

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THE CONTRIBUTION OF YOGESH GANDHI

INTRODUCTION

Yogesh Kathari Gandhi arrived in Washington, D.C., on May 13, 1996 with a bust of Mohandas K. Gandhi, an entourage of foreign spiritualists, his checkbook, and a keen desire to meet the President. Gandhi was rebuffed in his attempts to gain access to the White House, and, indeed, the White House staff concluded that Gandhi was “clearly disreputable.” Nonetheless, once the checkbook had been opened, Gandhi successfully arranged for his foreign backers to present the bust to the President at a DNC fundraising dinner. In this instance, the contributor’s dogged tenacity, paired with the complicity of some DNC fundraising officials, prevailed over attempts by White House staff to protect the President from an episode that led to the acceptance of illegal foreign contributions which were ultimately returned by the DNC.

Yogesh Gandhi is a 48-year-old citizen of India and legal resident of California who moved to the United States in 1988 and established the Gandhi International Memorial Foundation (“the Foundation”), now located in Orinda, California. Yogesh Gandhi claims to be a great grand-nephew of Mohandas K. Gandhi. He was born Yogesh Kathari and changed his surname to Gandhi only when he came to the United States. The Foundation, and Gandhi, initially focused their efforts on the erection of statues of Gandhi in major cities around the world. In recent years, however, the presentation of an award given in the name of Mahatma Gandhi (“the Prize”) has become the principal, if not sole, activity of the Foundation.

The Prize has typically consisted of both a bust of Mahatma Gandhi and a cash award. It has been presented to Mother Teresa, Nelson Mandela, and Mikhail Gorbachev, among others. The Committee has concluded that the various recipients of the Prize, the Foundation, and ultimately the legacy of Mohandas K. Gandhi have been exploited to increase the visibility and stature of Yogesh Gandhi and his magnate patrons.

Hogen Fukunaga, a 52-year-old citizen of Japan who leads a religious sect called Tensei was the beneficiary of the events of May 13, 1996. The scheme was structured as follows: Yogesh Gandhi supplied the Gandhi name, which gained Fukunaga entree to a photo opportunity with the President. Funding for the venture and the DNC contribution came from Yoshio Tanaka, a 64-year-old Japanese health products tycoon. To complete the circle, the Committee has learned—from Barry Flint, a United States-based associate of Tanaka—that Gandhi and Tanaka were helping Fukunaga in

the ultimate expectation that he, or his sect, would make a large contribution to Tanaka's Earth Aid International Foundation.¹

GANDHI'S STATEMENTS TO THE COMMITTEE

On March 25, 1997, Committee staff met with Gandhi at the Foundation's office in Orinda, California. During the interview, Gandhi provided demonstrably false and misleading information as to the circumstances of the May 13, 1996 dinner, as well as the source of the funds contributed to the DNC in connection with that event.²

Gandhi stated in the interview that the Board of Directors of the Foundation decided to present the Prize to President Clinton in late 1995 or early 1995. Gandhi contacted the White House, which, he said, agreed to accept the bust of Gandhi but not the accompanying cash award. Although the bust was ultimately presented at a DNC fundraising dinner, Gandhi insisted that there was no connection between the opportunity to present the bust to the President and his contribution to the DNC.

Gandhi acknowledged that he had paid \$325,000 to attend a DNC fundraising dinner in Washington on May 13, 1996. He told the Committee that he wanted to go to the dinner because it was his 45th birthday and his mother was visiting from India. Gandhi brought a total of 13 guests, including Fukunaga and Tanaka, whom Gandhi identified as members of the Foundation's International Advisory Board. For his party of 14, Gandhi paid over \$23,200 per person to attend the dinner.

Gandhi further stated in the interview that he had met with Charlie Trie the afternoon of the dinner, that there was a disagreement about the price of admission, and that haggling ensued. Gandhi thought the price for the dinner was \$12,500 for a table but told the Committee that Trie wanted \$12,500 per person. Either way, Gandhi paid more than the alleged ticket price. Ultimately, Gandhi wrote a check for \$325,000, which was more money than he had anticipated spending. Gandhi acknowledged that he asked Trie to make sure that the check was not cashed for ten days, so that he could move money into his bank account.³

Gandhi said that while he was in Washington, it occurred to him that he could "kill two birds with one stone" and present the Gandhi Prize at the DNC dinner. He stated that he kept a spare bust of his eminent ancestor in New York, and made arrangements for an associate to fly it to Washington that afternoon. At the dinner, Gandhi further claimed, he approached the Secret Service with his request to present the Prize, and was allowed to make the presentation, with Fukunaga and Tanaka, after the dinner.

Gandhi provided a number of inconsistent explanations as to the source of the funds that he contributed to the DNC. During the course of the interview, he variously maintained that the funds were: (1) family money which had been wired in from Egypt; (2) the

¹ Memorandum of Interview of Barry Flint, April 7, 1997. Indeed, Flint informed the Committee that Gandhi, Tanaka, and Fukunaga also attended a United Nations conference in Istanbul for which Gandhi had paid \$100,000 in funds provided to him by Tanaka. *Id.*

² Memorandum of Interview of Yogesh Gandhi, March 29, 1997.

³ As is discussed below, this portion of Gandhi's statement appears to be accurate. The DNC held Gandhi's check until May 28, 1996, before cashing it.

proceeds of a technology transfer transaction he had undertaken with a unnamed Australian firm; (3) an advance on such a deal; and/or (4) simply money that he had in the account. In the course of the interview, Gandhi agreed to provide bank records from the relevant period (April–June 1996), however, such records were never voluntarily supplied to the Committee.

Pursuant to an agreement with Gandhi, on July 1, 1997, Committee staff traveled to Orinda, California, to take his deposition. Gandhi appeared with counsel, who stated that Gandhi would decline to answer questions in reliance upon his Fifth Amendment right against self-incrimination.⁴

WHAT THE COMMITTEE'S INVESTIGATION ESTABLISHED

Contrary to Gandhi's vanilla description of the events of May 13, 1996, the Committee has established that the presentation of the Prize was arranged on a straightforward pay-to-play basis. Only after Gandhi was rebuffed by the White House did he turn to the DNC, which charged \$325,000 for a few moments rental of the Presidency to a disreputable con man.

In February of 1996, Gandhi wrote to the White House with the news that President Clinton had been selected to receive the Gandhi World Peace Award.⁵ Gandhi also arranged for both Martin Royeen, a Clinton-Gore reelection campaign volunteer who wrote on campaign letterhead to the First Lady, and Senator Charles S. Robb to contact the White House in support of the invitation.⁶ Through an examination of records produced by the White House, the Committee has been able to reconstruct the events leading up to the rejection of Gandhi's proposal to present the Prize to the President.

First, the invitation was referred to the National Security Council ("NSC"). Andrew Sens, responding on behalf of the NSC, demurred, citing the fact that the Foundation was a United States entity, with the implication that the matter was outside of the NSC's jurisdiction.⁷ After the Gandhi matter became public, Sens informed Harold Ickes that the FBI considered Gandhi "a fraud."⁸

Second, the White House Office of Public Liaison, and specifically Doris O. Matsui and her staff, undertook an investigation and found that Gandhi's Foundation "wasn't a reputable organization."⁹ Indeed, the White House staff was informed that the Foundation was a "one-man organization" that Gandhi "made a living out of," and that Gandhi would "take advantage of" a meeting with the President, who would be "hurt" by the association.¹⁰

Finally, the White House staff conducted a LEXIS/NEXIS search which revealed that, in addition to the luminaries cited by Gandhi, the Prize had been given to Ryoichi Sasakawa in 1987. In an article retrieved by the search, and produced to the Committee by the

⁴Gandhi's attorney confirmed this assertion of the privilege in writing by correspondence dated July 1, 1997. Letter from Peter J. Coleridge, Esq., to Matthew J. Herrington, July 1, 1997 (Ex. 1).

⁵Letter from Yogesh Gandhi to President Clinton, February 5, 1996 (Ex. 2).

⁶Letter from Martin Royeen to Hillary Clinton, February 15, 1996 (Ex. 3); Letter from Senator Charles S. Robb to President Clinton, March 26, 1996 (Ex. 4).

⁷Memorandum from Andrew Sens to Stephanie Streett, March 13, 1996 (Ex. 5).

⁸Notes of Harold Ickes, October 20, 1996 (Ex. 6).

⁹Deposition of Ann T. Eder, May 28, 1997, p. 201.

¹⁰Undated, handwritten notes of the White House Office of Public Liaison Staff (Ex. 7).

White House, Sasakawa was described by the *Los Angeles Times* as a “billionaire former war crimes suspect who made his fortune promoting motorboat gambling.”¹¹ The same article stated that Sasakawa “is known in Japan as ‘The Godfather’ because of his alleged connections to Gangsters.”¹²

On April 17, 1996, the White House formally regretted on behalf of the President.¹³ There is no question that Gandhi misled the Committee as to the decision of the White House: he maintained that the White House had agreed to accept the Prize and that it was happenstance that the presentation occurred at a DNC event. In fact, the White House flatly turned down Gandhi, which is why he had to scramble to arrange a DNC venue for the presentation of the Prize and, moreover, the Fukunaga photo op.

To a less industrious huckster—or perhaps to a huckster under less pressure to produce the President for his client—the White House’s April 17, 1996 “no” might have been the end of the affair. In fact, it was only the beginning, and Gandhi soon found that John Huang and the DNC would oblige his request—if the price was right. Huang has refused to answer the Committee’s questions, but the documentary record and the deposition testimony of his DNC colleagues demonstrate that he was the key DNC staffer responsible for Gandhi’s contribution.

Contrary to Gandhi’s assertion to the Committee that there was no connection between his contribution and the presentation of the Prize to President Clinton, DNC General Counsel Joe Sandler testified that the two were directly linked from the start: “Huang told me that Gandhi expressed an interest in attending an event with the President and that he wanted to contribute to the Democratic Party. He also wanted to, in connection with attending an event, present this award to the President.”¹⁴ When Huang had settled on the May 13 Sheraton-Carlton dinner as the appropriate venue, Huang arranged in advance with Craig Livingstone, who was the lead White House advance person for the event, for the President to receive the Prize during a private reception in a separate room at the dinner.¹⁵

On May 13, 1996, Gandhi gave Huang and/or Trie a check in the amount of \$325,000. Although Trie, like Huang, has refused to cooperate with the Committee, his involvement in the Gandhi affair

¹¹ Memorandum (with press clipping attachments) from Chrysanthé Gussis to Kathi Whalen, March 14, 1996 (Ex. 8).

¹² *Id.*

¹³ Letter from Stephanie S. Streett & Anne Walley to Yogesh Gandhi, April 17, 1996 (Ex. 9).

¹⁴ Deposition of Joseph E. Sandler, May 15, 1997, p. 108. Huang was apparently introduced to Gandhi through Sharon Singh, a DNC activist in the Indian-American community. *Id.*, 107–108. Because Huang, Trie, and Gandhi have all declined to provide testimony, the Committee has been unable to establish the details of the involvement of Huang and Trie in the Gandhi affair.

¹⁵ Sandler deposition, May 15, 1997, p. 111. Sandler’s testimony not only betrays the duplicity of Gandhi’s statements to the Committee, but also calls into question the pronouncements of DNC spokesperson Amy Weiss Tobe. Prior to the November 1996 election, Tobe told the press that the DNC had not known in advance that Gandhi intended to present the Prize to the President on May 13. See Alan Miller, “A Picture Worth \$325,000?,” *Los Angeles Times*, Nov. 2, 1996, p. A1. The disjunct between Sandler’s testimony and Tobe’s statements to the press is particularly jarring in that she apparently spoke with Sandler about the circumstances of the Gandhi contribution prior to speaking with the press. See Deposition of Amy Weiss Tobe, June 16, 1997, p. 22. In her deposition, Tobe claimed that Huang told her at the time of the press inquiries that he had not known about the Prize until the evening of the Sheraton-Carlton dinner. *Id.*, pp. 21–22. At best, then, Huang misled Tobe, and may have been in cahoots with Gandhi in attempting to obfuscate the pay-to-play nature of the event.

is confirmed by the relevant DNC check tracking form, which lists Huang as the “DNC Contact” and Trie as the “Solicitor.”¹⁶ On the evening of May 13, after the public program was complete, the President was taken to an adjoining room and Fukunaga presented the bust to him. Although video and audio tapes of the May 13 event, as produced by the White House, do not capture the President’s side-door acceptance of the Prize, still photographs were taken. Within a few weeks of the event, a photo of Fukunaga presenting the Gandhi bust to President Clinton was featured on the Internet web site of Tensei, Fukunaga’s religious organization.

The DNC has publicly denied that any basis existed to be suspicious of the Gandhi contribution in May of 1996, but the fact is that well before the Gandhi story hit the press in the fall of 1996—before the check had even been cashed—there was concern within the DNC about the propriety of the Gandhi contribution. Richard Sullivan testified that, after the event, Huang brought Gandhi’s extraordinarily large check by his office, and that Sullivan inquired to ensure that Huang would take the check personally to and review it with Sandler.¹⁷ Huang told Sullivan that he was holding the check until that review had taken place, and later told Sullivan that Sandler had approved the contribution.¹⁸ Sandler, however, testified that he was *not* consulted about the Gandhi contribution prior to the funds being accepted; he testified instead that his first discussion of it was after negative press reports.¹⁹ Confronted with this contradiction between Sandler’s sworn testimony and Huang’s earlier statements, Sullivan weighed in on the side of Huang. Sullivan believed that Sandler had “lied” in an attempt “to cast his performance in a better light.”²⁰

Although Sullivan claimed that the DNC “proactively” ran a LEXIS/NEXIS search on Gandhi,²¹ such a search would have turned up stories relating to Gandhi’s association with Sasakawa, the 1987 recipient of the Prize.²² Because it is unclear whether Sandler actually pre-screened the Gandhi contribution, the Committee cannot speculate as to whether or not this and other red flags were ignored—or simply never uncovered—by the DNC. During the Committee’s public hearings, Sullivan conceded that the Gandhi case was “yet another example of the DNC failing to do a sufficient job” in screening contributions.²³ Likewise, Sandler admitted that under the DNC’s new post-1996 election screening regimen, Gandhi, as a first-time contributor, would have been thoroughly investigated, and the contribution would not have been accepted.²⁴ When White House Office of Public Liaison staff member Ann Eder learned that Gandhi had managed to present the Prize to President Clinton at a DNC fundraising dinner, she was “sur-

¹⁶ DNC Check Tracking Form (Ex. 10).

¹⁷ Deposition on Richard L. Sullivan, June 5, 1997, pp. 37–39.

¹⁸ *Id.*, pp. 38–39.

¹⁹ See Sandler deposition, May 15, 1997, p. 107.

²⁰ Sullivan deposition, June 5, 1997, p. 39. For other contradictions between Sullivan and Sandler, see the section of this report on Huang’s illegal fundraising at the DNC.

²¹ *Id.*, p. 140.

²² See Ex. 8.

²³ Testimony of Richard L. Sullivan, July 10, 1997, p. 46. See also the section of this report on the dismantling of the DNC’s vetting process.

²⁴ Sandler deposition, May 15, 1997, pp. 118–19.

prised” because the Foundation was “clearly not a reputable entity.”²⁵

Finally, the extraordinary degree to which Huang and the DNC leadership were solicitous of Gandhi is perhaps explained by the sheer size of the contribution. Gandhi’s \$325,000 contribution constituted more than half the funds raised at the May 13 event.²⁶ Put another way, if Gandhi had been rebuffed in his effort to get the Prize to the President and had not attended the dinner, or if Sandler had decided afterwards not to accept the Gandhi contribution, Huang would have fallen woefully short of the evening’s fundraising goal.

ANALYSIS OF GANDHI’S BANK RECORDS

Bank records for Gandhi and the Foundation were obtained by the Committee pursuant to subpoena. The records amply illustrate the cause for Gandhi’s insistence that the DNC hold the check for a few weeks. At the time the \$325,000 check was issued on May 13, 1996, the account on which it was drawn held less than \$30,000.²⁷ Furthermore, these bank records establish beyond question that the source of the funds paid to the DNC was Yoshio Tanaka. The records show a total of \$500,000 in incoming wire transfers from Tanaka’s Tokyo bank account between the time that the May 13 check was written, and when it was cashed on June 3, 1996.²⁸

There is no question in this instance that the funds received by the DNC were both laundered and originated overseas, and thus constituted an illegal contribution.

THE DELAY IN THE DNC’S RETURN OF GANDHI’S CONTRIBUTION

On October 25, 1996, a \$325,000 refund check to Gandhi was drawn on the DNC’s account at Nationsbank. Ten days later—but more importantly, *one day after* the Presidential election—on November 6, 1996, the DNC sent the check to Gandhi.²⁹ Sandler, who signed the cover letter transmitting the refund check to Gandhi, has improbably testified that the check was issued on October 25, 1996, as a preliminary step in an investigation that did not conclude until the day after the election.³⁰ Ickes’ notes of meetings and conference calls held on October 20 and 28, however, establish that the DNC and White House knew before the election that: (1) the FBI had described Gandhi as a “fraud;” (2) Gandhi had testified in court proceedings earlier in 1996 that he was unable to satisfy a \$4,000 default judgment against him; and (3) he was in arrears on his taxes.³¹ Given that Sullivan himself has called into question the veracity of Sandler, it is difficult to credit Sandler’s testimony that it was simply a wild coincidence that the Gandhi refund

²⁵ Eder deposition, May 28, 1997, p. 202.

²⁶ See Sullivan testimony, July 10, 1997, pp. 44–45.

²⁷ Bank records of Yogesh Gandhi (Ex. 11).

²⁸ *Id.*

²⁹ Letter from Joseph Sandler (with copy of the check, DNC expenditure request form, and UPS mailing information) to Yogesh Gandhi, November 6, 1996 (Ex. 12).

³⁰ Sandler deposition, May 15, 1997, p. 115.

³¹ See Ex. 6 & Harold Ickes’ notes of October 25, 1996 (Ex. 13).

check—cut days before—just didn’t get into the mail until the day after the election.

CONCLUSION

The Committee shares the conclusion of White House lawyer Lanny J. Davis: “The professional staff at the White House checked this matter out and made a correct determination” as to the whether Gandhi should gain an audience with the President.³² That said, however, the determination of the White House staff was either ignored or overridden when Gandhi coupled his request with a \$325,000 contribution to the DNC.

³² Glenn R. Simpson, “White House Got FBI Data on Party Donor,” *Wall Street Journal*, June 10, 1997, p. A20.

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TED SIOENG, HIS FAMILY, AND HIS BUSINESS INTERESTS

PART I. INTRODUCTION

Ted Sioeng, his family, and his business interests gave \$400,000 to the DNC during the 1996 election cycle. Through extensive analysis of bank records, the Committee has determined that at least half of this figure, or \$200,000, was made with money wired into the U.S. from accounts in Hong Kong. Where this money ultimately came from and why it was used for hefty political contributions are two questions the Committee cannot answer conclusively. The reason is that Sioeng and his family left the U.S. after the campaign finance scandal broke and, through their lawyers, indicated they are unwilling to talk. The one family member who remains in the United States, Sioeng's daughter Jessica Elnitiarta, was interviewed in June 1997 by Committee staff but, since then, has indicated she would assert the Fifth Amendment if compelled to testify.¹ However, the Committee developed documentary and circumstantial evidence as to the answers to the aforementioned questions. That evidence is discussed below.

In many senses, the story of Ted Sioeng is a microcosm of the Committee's investigation. Sioeng is a wealthy Belize citizen in his early fifties who, prior to the campaign finance scandal, spent brief periods in the United States. Sioeng controls a multinational business empire that appears to generate substantial income, though not much of it within this country. Sioeng has ties to the Government of China, but their full extent is unknown. Despite making modest political contributions in 1992, 1993, and 1994 in this country, Sioeng became a major player in 1995 through a series of large contributions made by him, his family, and his business interests to a variety of candidates and political entities, but mostly to the DNC. The contributions earned Sioeng invitations to lavish fund-raisers attended by President Clinton or Vice President Gore. The contributions, in some cases, were made with foreign money.

Ted Sioeng became known to the Committee early in its investigation. The first press interest in Sioeng stemmed from his presence at DNC fund-raisers.² Since that time, the Committee has learned of Sioeng's connections to other key figures in its investigation, including Maria Hsia and John Huang, as well as his attendance at several DNC fund-raisers. In the year leading up to the 1996 elections, Sioeng attended four major DNC fund-raisers, each of which Huang had a hand in organizing. To each event, Sioeng brought family members and/or business associates.

¹ Letter from Steven R. Ross and Mark J. MacDougall to The Honorable Fred Thompson, September 17, 1997. (Ex. 1).

² See, e.g., Richard T. Cooper, "How DNC Got Caught in a Donor Dilemma; Desire for Dollars to Boost Clinton's Reelection Bid Helped Fuel Democrats' Pursuit of an Emerging Money Source—Asian Americans with Strong Overseas Ties," *Los Angeles Times*, December 23, 1996, p. A1.

Sioeng attended the February 19, 1996 Asian Pacific American Leadership Council fund-raiser at the Hay-Adams Hotel in Washington, D.C. This was the first major DNC event organized by Huang. On April 29, 1996, Sioeng attended a fund-raising luncheon at the Hsi Lai Buddhist Temple in Los Angeles, California, where he sat next to Vice President Gore. On May 13, 1996, Sioeng attended a dinner for President Clinton at the Sheraton Carlton in Washington, D.C. where, again, he was seated at the head table. Two months later, on July 22, 1996, Sioeng and 48 friends and/or business associates attended a DNC fund-raiser for President Clinton at the Century Plaza Hotel in Los Angeles. At dinner, Sioeng sat to President Clinton's immediate right. To the President's left was James Riady and his wife Aileen.

The Committee's interest in Sioeng is not related solely to his attendance at DNC events. It stems also from Sioeng's relationships with Huang and Hsia, as well as the Chinese government, and it has been piqued by the evidence that some of Sioeng's political contributions were made with foreign money.

Sioeng's relationship to the Government of the People's Republic of China has been the subject of press speculation since early 1997.³ Based on its own investigation, as discussed more fully elsewhere in the report,⁴ the Committee has learned that Sioeng worked, and perhaps still works, on behalf of the Chinese government. Sioeng regularly communicated with PRC embassy and consular officials at various locations in the United States, and, before the campaign finance investigation broke, he traveled to Beijing frequently where he reported to and was briefed by Chinese communist party officials.

The Sioeng story is a microcosm because it is a tale of foreign money and, possibly, foreign influence. One familiar refrain encountered by the Committee during its efforts to uncover the Sioeng story was a series of obstacles separating investigators from the truth behind Sioeng's political activities. Most of what the Committee has learned about Sioeng derives from bank records the Committee subpoenaed, an interview with Sioeng's daughter, Jessica Elnitiarta, information provided to the Committee by Sioeng's attorneys, and references to Sioeng in other documents produced to the Committee. The investigation, though, has been hampered by the unavailability of witnesses and their unwillingness to speak to Committee staff. As noted, Sioeng and most of his family have left the country. Elnitiarta has remained behind but has asserted her Fifth Amendment privilege, as have the two Democratic fund-raisers, Huang and Hsia, with apparent ties to the family. Moreover, business associates of Sioeng generally proved unhelpful. Early in the investigation, Committee staff spoke to Sioeng's friend and

³ See, e.g., Mark Hosenball, "On the Trail of a 'China Connection'" *Newsweek*, March 10, 1997, p. 30 (noting Sioeng's "close" connections to the PRC consulate in Los Angeles); Daniel Klaidman and Mark Hosenball, "The Feds Explore a China-California Money Trail," *Newsweek*, April 28, 1997, p. 40 ("The Sioeng money transfer is the first 'verifiable, direct link to the People's Republic of China,' one investigator told *Newsweek*."); K. Connie Kang and David Rosenzweig, "Entrepreneur Formed Ties to China, then Politicians," *Los Angeles Times*, May 18, 1997, p. A1 (discussing Sioeng's business and political ties to China in context of allegations that he is "working as Beijing's political operative in the United States"); Daniel Klaidman, "Cracking a Chinese Code," *Newsweek*, June 9, 1997, p. 46 (citing information from "federal investigators" that Sioeng was chosen as the "West Coast Representative" in the U.S. by the Chinese communist party).

⁴ See the chapter of this report entitled "The China Connection."

business associate Kent La,⁵ but he also would not appear voluntarily for a deposition. The Majority attempted to compel La's testimony, but the Minority objected to the subpoena. For months, Sioeng's attorneys held out the promise that Sioeng would agree to be interviewed at a location outside the United States. That promise was not kept.

The balance of this section is divided into two parts. Part II discusses Ted Sioeng, his family, and his business interests. Only those activities relevant to the Committee's investigation are discussed. Part III examines the major political contributions made by Sioeng, his family, and his business interests during the 1996 election cycle. Through an analysis of bank records produced to the Committee, an attempt is made to trace the origins of these various contributions.

One conclusion the Committee has drawn is that much of the money contributed by Sioeng and his family is traceable to foreign sources—specifically, bank accounts in Hong Kong. This is significant because such contributions are illegal.⁶ Most of these contributions were to the DNC, which purported to investigate the same and concluded the contributions were legal and proper.⁷

PART II. SIOENG'S ACTIVITIES HERE AND ABROAD

A. *Sioeng and his businesses*

Ted Sioeng, originally from Indonesia, is a citizen of Belize who splits his time between Singapore and Hong Kong. Sioeng's daughter, Jessica Elnitiarta, is a permanent resident alien who came to the United States in 1986.⁸ Most of her family (excluding her father) are now permanent resident aliens. Other family members once or currently in the United States are her sisters Lauren, and Sandra, her brothers Yopi and Yohan, and her mother.⁹ The Sioeng/Elnitiarta family speaks Chinese (Mandarin and Cantonese), Bahasa, and some English.

Through the marriage of his daughter, Ted Sioeng's family is related to the Tanuwidjajas, a family with substantial business interests in Indonesia.¹⁰ Sioeng's daughter, Lauren, married Subandi Tanuwidjaja, son of Susanto Tanuwidjaja, in March 1996. Subandi has been identified as "an Indonesian menswear manufacturer."¹¹ John Huang, a self-professed friend of the Tanuwidjaja family, asked the White House for a letter congratulating Lauren and

⁵ Memorandum of Interview of Kent La, May 14, 1997.

⁶ See 2 U.S.C. § 441e.

⁷ DNC spokeswoman Amy Weiss Tobe was reported as saying the party decided not to return the Sioeng family contributions because Jessica Elnitiarta is a legal permanent resident of the United States and that Sioeng himself had not contributed to the DNC. Paul Jacobs and Dan Morain, "State Treasurer Sends Back Campaign Contributions that May Have Originated in China," *Los Angeles Times*, April 23, 1997, p. A3.

⁸ Unless otherwise indicated, the information contained in Part II of this discussion derives from an interview of Jessica Elnitiarta conducted by the Committee on June 19, 1997. See Memorandum of Interview of Jessica Elnitiarta, Sept. 18, 1997.

⁹ The Committee has learned that all of Sioeng's family has left the country except Jessica and possibly Yopi. The others have gone to Hong Kong. Parenthetically, the family uses Elnitiarta, not Sioeng, as its surname. Elnitiarta is the mother's maiden name.

¹⁰ Although the Committee knows little about the Tanuwidjaja's business holdings, here or elsewhere, FEC records indicate that Subandi Tanuwidjaja is an architect in Diamond Bar, CA and Suryanti is a writer/producer in La Habra Heights, California.

¹¹ George Archibald, "Democrats Disclose Big Contributors," *Washington Times*, October 30, 1996, p. A13.

Subandi on the occasion of their marriage.¹² Huang may have become acquainted with the Tanuwidjaja's when he worked with Susanto Tanuwidjaja at the Lippo Bank's San Francisco office.¹³

Sioeng's business empire is centered in Asia. Most of the businesses are in greater China, Macao, and Cambodia. The family has owned or currently owns several businesses in the PRC, including a beer factory, a rebuilt machinery factory, and a portion of a hotel (in the Yunnan province). Currently, the family's main business is a cigarette manufacturing and distribution operation in Singapore, which is run by Chinois, a partnership between Sioeng, Hong Kong businessman Bruce Ceung, and several companies. Chinois manufactures and distributes Red Pagoda Mountain ("Hong Ta Shen") cigarettes. It holds manufacturing and distribution rights granted by the PRC government, and is obligated to purchase raw materials for the cigarettes from a government factory in Yu Xi, located in the Yunnan province.

The family has a growing U.S. business presence presided over by Jessica Elnitiarta. The family holdings and interests include:

International Daily News, a Chinese language daily in Los Angeles. The paper is discussed in more detail in the section that follows;

- Metropolitan Hotel, a hotel and restaurant in Los Angeles;
- Pacific Motel, a modest establishment in the Los Angeles area;
- Panda Estates, a real estate firm that owns Doheny Estates, comprised of luxury rental townhouses in Beverly Hills. The family purchased Doheny in 1993 in a foreclosure sale, and completed construction on the townhouses in 1995;
- Panda Industries, an import export business;
- Loh Sun International, a company that distributes Red Pagoda Mountain cigarettes in the United States. Jessica Elnitiarta told the Committee that the family does not "control" Loh Sun, but simply does business with it. However, in a brief phone interview conducted in May 1997, Loh Sun's president and registered agent, Kent La, indicated that Jessica Elnitiarta is his supervisor;¹⁴ and

- Grand National Bank, located in Alhambra, California. Jessica, Sandra, and Laureen Elnitiarta are investors in the bank and own approximately 19 percent of its outstanding stock. Jessica first purchased Grand National Bank stock in 1992 and owns 100,000 shares. Laureen and Sandra each own 45,000 shares, which they purchased in November 1995. It appears that most of the family's business and personal accounts are held at the Grand National Bank.

Sioeng provides the working capital for all of his U.S. businesses, which receive regular cash infusions through transfers of funds from overseas accounts. Jessica told the Committee that the sources of Sioeng's funds are his businesses abroad. The cash infusions typically originate in Hong Kong, where funds are wired to the Grand National Bank account of Sioeng's sister, Yanti Ardi.

¹² Facsimile from John Huang to Anne Edder, March 6, 1996. (Ex. 2).

¹³ See Deposition of Diane Poon, April 30, 1997, p. 25.

¹⁴ The Committee staff's telephone interview with Kent La took place on May 13, 1997. During the interview, La indicated Jessica Elnitiarta is his boss.

The money is then distributed to various business or family accounts as necessary. Jessica, who holds power of attorney for Yanti Ardi's account, controls distribution of the money. Sioeng regularly provides such funds, although Panda Estates and Metropolitan Hotel have generated a non-trivial amount of cash flow.

B. International Daily News

In October 1995, Sioeng and his family contracted to purchase the International Daily News, a Chinese-language newspaper in Los Angeles. They paid between \$3 and \$4 million for the paper, making payments over the next several months. The purchase was consummated on July 1, 1996.

The paper was paid for largely through checks written on one of Yanti Ardi's accounts at the Grand National Bank. Between October 1995 and July 1996, some \$2,590,000 was transferred from Ardi's account to the International Daily News and C. International Publications, the company that owns the paper itself. Almost all of the purchase money appears to derive from businesses located in Hong Kong. These businesses, Victory Trading Company, Pristine Investments Limited, and R T Enterprises Limited, also funded some of the Sioeng family's political contributions, as is discussed below.

It is not entirely clear why the Sioeng family purchased the paper. Jessica recounted that buying the paper was Sioeng's idea (in consultation with Jessica, who ended up overseeing it). Sioeng had been a significant advertiser for the paper and was close to the former owner (Chen), who started lobbying Sioeng to buy it back in 1993. According to Jessica, Sioeng purchased the paper because (i) it would enhance the family's standing in the local community, (ii) it was cheap, and (iii) there were tax advantages to assuming the paper's debt.

Another explanation is that Sioeng purchased the paper with the approval of or otherwise to please the Chinese government. Prior to its purchase, the International Daily News was a pro-Taiwan publication. According to *Newsweek*, "Now the paper is breathlessly pro-Beijing."¹⁵ *Newsweek* goes on to report from its sources that Sioeng's purchase of the paper may have been encouraged or even bankrolled by the PRC.¹⁶ In any event, since the purchase, the paper has consistently lost money and is subsidized by Sioeng with funds from overseas.

In a June 1996 letter to Sioeng, President Clinton praised the International Daily News for "faithfully report[ing] both local and international issues" and for being "part of the lasting heritage of the Chinese-American community."¹⁷ John Huang arranged for the letter at Jessica's request.

The Committee has learned that the Sioeng family owns the International Daily News through a series of companies. The newspaper is owned by Chen International Publications (U.S.A.), Inc., a California company in turn owned by Sioeng's Group, Inc. Sioeng's Group, Inc. was described by Sioeng's attorneys as a holding com-

¹⁵ Daniel Klaidman and Mark Hosenball, "Connecting the Dots," *Newsweek*, April 28, 1997, p. 40.

¹⁶ *Id.*

¹⁷ Letter from President Clinton to Ted Sioeng, June 20, 1996. (Ex. 3).

pany owned by Jessica Elnitiarta, her four siblings, and their mother. Jessica holds the largest share and is the sole director and officer of the company. Jessica also serves as the Secretary and CFO of Chen International. Sieong Fei Man is the newspaper's general manager.

In addition to purchasing the paper, Sioeng, it appears, supplements its operations with cash infusions. While it is not clear whether the International Daily News generates a substantial cash flow for Sioeng, it is apparent he has supplemented its income and that he has done so with money transferred from Hong Kong accounts.

C. Sioeng's political contributions

Since 1992, but starting in earnest during the 1996 election cycle, Sioeng and his family have become prolific political contributors. The Committee has been able to determine that Sioeng, his family, and his business interests have made the following contributions to political candidates, parties, and affiliated non-profit entities:¹⁸

Date	From	To	Amount
3/23/92	Sioeng San Wong ¹⁹	Friends of Bonnie Wai	\$500
5/12/92	Sioeng San Wong	A. Yung Hsiang Wu	10,000
6/20/92	Sioeng San Wong	Alfred Y. Wu	1,500
6/20/92	Sioeng San Wong	Yung Hsiang Wu	5,000
3/25/93	Jessica Elnitiarta	Mike Woo for Mayor	1,000
5/27/93	Jessica Elnitiarta	Mike Woo for Mayor	1,000
6/4/93	Sioeng San Wong	Michael Woo for Mayor	2,500
9/11/93	Jessica Elnitiarta	California Republican Party	2,000
1/26/94	Sioeng San Wong	Friends to Elect Sam Kiang	1,000
4/16/94	Sioeng San Wong	Friends of Michael Woo	1,000
9/28/94	Jessica Elnitiarta	Matt Fong for Treasurer	2,000
3/11/95	Sioeng San Wong	Friends of Norman Hsu	7,500
3/25/95	Sioeng San Wong	Comm. to Elect Miu Mey Chang	1,500
4/20/95	Sioeng San Wong	Matt Fong for State Treasurer	20,000
4/28/95	Sioeng San Wong	Matt Fong	30,000
7/18/95	Panda Industries, Inc.	National Policy Forum	50,000
12/14/95	Panda Estates Investment	Matt Fong for State Treasurer	50,000
2/15/96	Su/Sa/La Elnitiarta ²⁰	Dr. Daniel Wong	5,000
2/19/96	Jessica Elnitiarta	Democratic National Committee	100,000
7/12/96	Panda Estates Investment	Democratic National Committee	100,000
7/29/96	Panda Estates Investment	Democratic National Committee	50,000
7/29/96	Loh Sun International	Democratic National Committee	50,000
7/29/96	Su/Sa/La Elnitiarta	Gary Locke for Governor	1,100
7/29/96	Jessica Elnitiarta	Gary Locke for Governor	1,100
9/9/96	Subandi Tanuwidjaja	Democratic National Committee	60,000
9/16/96	Suryanti Tanuwidjaja	Democratic National Committee	20,000
9/19/96	Subandi Tanuwidjaja	Democratic National Committee	20,000
Total			593,700

While Sioeng made an impressive number of contributions throughout the 1994 and 1996 election cycles, the table above shows that Sioeng's largesse became far more prolific starting in 1995. John Huang's influence clearly had something to do with this. But whatever other influences motivated Sioeng largely are unknown.

¹⁸ There may be other contributions about which the Committee is unaware.

¹⁹ Sioeng San Wong is another version of the name "Ted Sioeng."

²⁰ These checks were written on an account held jointly in the names of Sundari, Sandra, and Laureen Elnitiarta.

1. Contributions to the DNC

John Huang solicited all of the family's contributions to the DNC. In total, Sieong's family and business interests contributed \$400,000 to the DNC in 1995 and 1996. Most of this was given in connection with specific fund-raising events to which Sioeng, his family, and business associates were invited. These events provided Sioeng an opportunity to impress his guests and to meet President Clinton or Vice President Gore. The family put great value on such meetings and on having their pictures taken with political leaders. Jessica considered the family's attendance at such events a way to honor her father.

A member of the Chinese-American community in Los Angeles first introduced Huang to the Sioeng family in 1995. According to Jessica, Huang is not a close family friend, but instead a prominent person in the Chinese-American community whom they came to know reasonably well. Regardless, it is clear Huang was treated by Sioeng's family with familiarity and respect. For example, in correspondence relating to the Sheraton Carlton fund-raiser Huang helped organize, Jessica referred to him as "Uncle Huang."²¹

Huang first mentioned political fund-raising to Jessica in January 1996, when he indicated that he could arrange for the family to meet President Clinton at a fund-raiser in Washington in February. This turned out to be a February 19, 1996 fund-raiser at the Hay Adams Hotel. After some back and forth among the family and with Huang, it was agreed that eight people—family and business partners²²—would attend, including Sioeng, who flew in from the Far East for the event. Jessica Elnitiarta paid \$100,000 (figured at \$12,500 per attendee, in accordance with the "price" of the event described by Huang in advance) by personal check. Her sister delivered the check to Huang at the event, making sure of the correct amount with Huang before filling it in. All eight attendees had their picture taken with President Clinton. Because the family decided to attend so late, however, they had poor seats for the dinner, a matter that caused Huang to apologize afterwards. Jessica told the Committee that the source of the contributions was revenue from Panda Estates. By analyzing relevant bank records, the Committee determined that Jessica's statement is incorrect, and that the \$100,000 came from an account in Hong Kong.²³

Huang next contacted Jessica to see if the family would like to attend the April 29, 1996 Hsi Lai Temple fund-raiser. He made it clear that he would "comp" the family's attendance as a way to make up for their poor seats at the Hay Adams event in February. Jessica explained that one of her sisters is Buddhist and was very excited at the prospect of meeting the Venerable Master of the Temple; for the family, this was of equal importance to meeting Vice President Gore. Sioeng again flew from the Far East, and the family brought five attendees to the event.²⁴ Huang made sure that

²¹ Memorandum from Jessica to Uncle Huang, undated. (Ex. 4).

²² The attendees were: Sioeng; Sandra Elnitiarta and husband; Yopi Elnitiarta; Jimmy Tsang, a business partner, and his wife; Lie Kwee Kei, a Hong Kong business partner; and Bruce Cueng, the Chinese partner.

²³ See discussion below on Jessica's \$100,000 contribution to the DNC of February 19, 1996.

²⁴ Sioeng and wife, Jessica Elnitiarta, Laureen Elnitiarta, and Sioeng Fei Man, general manager of the International Daily News.

Sioeng sat next to Vice President Gore, which the family considered a huge honor. The family paid nothing to attend.

Huang later called in May 1996 about another event where the family could see President Clinton. He explained that it would be a small dinner in Washington, and asked whether the family would like to participate. Jessica communicated this to Sioeng, who was very excited, viewing it as a good opportunity to impress some of his business partners from overseas. They accepted, and in this case, Jessica sent Huang a list of invitees in advance. The dinner was held on May 13, 1996, at the Sheraton Carlton in Washington. The family's attendees were:

- Ted Sioeng;
- Chio Ho Cheong, President, Ang-Du International Corporation Ltd.;
- Guo Zhong Jian, Deputy General Manager, China Construction Bank, Hong Kong Branch;
- Lin Fu Qiang, Managing Director, Everbrite Asia Limited, Hong Kong;
- Chan Elsie Y.Z., Managing Director, Ang-Du International Corporation Ltd.;
- Kent La, President, Loh Sun International; and
- He Jian Shan.²⁵

It appears Sioeng met and spoke to President Clinton at the Sheraton Carlton event. By letter dated May 28, 1996, the President thanked Sioeng for attending the fund-raiser and, more generally, “for being there when you are asked to help.”²⁶ President Clinton noted that he had “enjoyed having the chance to talk” with Sioeng, and expressed hope that Sioeng would “continue to share [his] advice and insight.”²⁷

Jessica told the Committee she knew that she would need to pay for the May dinner, but Huang did not push her. He invited—begged actually, as Jessica recalls—the family to attend an additional event in July at the Century Plaza Hotel in Los Angeles. The event, which was larger than the previous dinners, was held on July 22, 1996, and Huang indicated that he was having difficulty finding people to attend. He encouraged Jessica to bring as many people as she would like. Sioeng flew in for this event, bringing one business associate (Lam Kwok Man, from Hong Kong), and the family came with approximately 48 local friends. Jessica Elnitiarta made a \$100,000 contribution to the DNC (from the account of Panda Estates) on July 12, 1996 to cover the seats for the May fund-raiser, figuring the price at \$12,500 per seat. Later, on July 29, 1996, Jessica wrote an additional \$50,000 check—also on the Panda Estates account—to the DNC to cover the July Century City event. Jessica considered the price-per-head for the Century City event significantly less than that for the Sheraton Carlton fund-raiser in May.

Jessica disclaimed any involvement in several other contributions. One was a Loh Sun International contribution of \$50,000 to the DNC on July 29, 1996 (the same day as the Century City fund-

²⁵ Ex. 4.

²⁶ Letter from Bill Clinton to Ted Sioeng, May 28, 1996. (Ex. 5).

²⁷ *Id.* Note that Sioeng is not a citizen or legal permanent resident of the United States and, therefore, he cannot legally contribute to the DNC or any other national political parties.

raiser and the \$50,000 contribution from Panda Estates to the DNC). Jessica stated that she knew nothing about this until she read about it in the papers. Jessica's seeming attempt to distance the Sioeng family from Loh Sun is belied by the obvious financial relationship between them. As described below, a wire transfer to Loh Sun from R T Enterprises—one of the businesses that often wired funds from Hong Kong to Sioeng family accounts in the United States—may have funded some or all of Loh Sun's \$50,000 contribution to the DNC. In addition, a check signed by Kent La, Loh Sun's president, was deposited into Sioeng's account and may have been used to fund Panda Industries' 1995 contribution to the National Policy Forum, also discussed in more detail below. Moreover, in December 1995 and January 1996, Jessica wrote two checks to Kent La totaling \$58,000.²⁸ In the memo line of these checks is written, "Hong ta Shan," the brand of cigarettes Loh Sun distributes.

Other contributions Jessica disclaimed knowledge of were made by the Tanuwidjajas, her family's in-laws, who wrote three checks totaling \$100,000 to the DNC in 1996. Jessica claimed to know nothing about these contributions. However, the Tanuwidjaja family attended at least one fund-raiser with Jessica, and two of the three Tanuwidjaja contributions were solicited by John Huang.²⁹

Huang called later in 1996 about other events in Chicago and San Francisco, but by that time Jessica had lost interest in the process. She felt she had adequately honored her father and did not need to participate further.³⁰

2. Contributions to Matt Fong

Sioeng and Panda Estates made three contributions to Matt Fong in 1995, totaling \$100,000. At the time, Fong was running for Treasurer of the State of California. Sioeng contributed a total of \$50,000 in April 1995. Later, in December 1995, Jessica Elnitiarta contributed \$50,000 more through Panda Estates.

According to Jessica, the contributions were the result of some intense fund-raising appeals from Fong personally, and others on his behalf. Faye Huang (a local activist not related to John Huang) participated in a fund-raiser the Sioeng family held for a local candidate (Julia Wu) at the Metropolitan Hotel in 1994. Faye Huang subsequently approached the family for contributions on behalf of Fong. She courted both Sioeng and Jessica aggressively, and Sioeng eventually made his contributions in April 1995. The checks were filled out in part by Faye Huang.

²⁸ See December 1995 check to Kent La from Jessica Elnitiarta for \$50,000 (Ex. 6).

²⁹ Curiously, DNC check-tracking forms indicate that Huang attributed three Sioeng-related checks to a small, July 30, 1996 dinner at the Jefferson Hotel attended by President Clinton. A July 29, 1996 Panda Estates Investment check for \$50,000 (Ex. 7), a September 9, 1996 Subandi Tanuwidjaja check for \$60,000 (Ex. 8), and a July 29, 1996 Loh Sun International check for \$50,000, (Ex. 9), are all listed by Huang as connected to the July 30, 1996 dinner. Among the intimate dinner's attendees were President Clinton, Huang, DNC Chairman Donald Fowler, James Riady, Taiwanese businessmen Eugene T.C. Wu and James L.S. Lin of the Shin Kong Group, and Sen Jong "Ken" Hsui, a Taiwanese-American businessman who is president of Prince Motors. See Alan C. Miller and David Rosenzweig, "Clinton Dinner Gives Probes Some Questions to Chew On," *Los Angeles Times*, February 7, 1997, p. A1. No one from the Sioeng or Tanuwidjaja families attended the dinner.

³⁰ Jessica told the Committee she has spoken only once to Huang since the campaign finance story broke in October 1996, and then only in passing at a community event.

On April 22, 1997, after press stories had appeared linking Sioeng to the campaign finance scandal, Fong returned the contributions from Sioeng and Panda Estates. Fong had requested that Sioeng and Jessica verify that the contributions were not from foreign sources.³¹ When Sioeng and his daughter failed to respond within a 24-hour deadline, Fong returned the contributions, stating, "I want absolutely no cloud, no suspicion, no doubt about my campaign conduct or my performance in public office."³²

By letter dated May 27, 1997, attorneys for Jessica and Panda Estates responded to Fong.³³ The letter criticizes "Mr. Fong and his campaign [for joining] in the shameful rhetoric directed at Asian-Americans."³⁴ It states further that Jessica relied "upon the direct representations made by the Fong campaign . . . that Panda Estates could properly contribute to Mr. Fong's campaign."³⁵ Although the letter notes that Panda Estates operated the Doheny Estates condominium complex in Beverly Hills, it does not represent—let alone prove—that the source of the Panda Estates contribution to Fong was its domestically-generated income. In fact, the Committee has determined that at least a portion of one Sioeng contribution to Fong was made with foreign money.

3. Contribution to the National Policy Forum

On July 18, 1995, Panda Industries made a \$50,000 contribution to the National Policy Forum (NPF). Exactly how this came about is uncertain, though it appears Sioeng's acquaintance with the NPF began with Matt Fong. Perhaps in gratitude for Sioeng's earlier contributions, Fong arranged in June 1995 for Sioeng to have his picture taken with Speaker Gingrich in Washington, DC. Later, Fong sent a letter in support of a Los Angeles badminton tournament Sioeng underwrote, and arranged for Gingrich to send a similar letter.

Around the same time, Sioeng and Elnitiarta took steps to host a fall 1995 fund-raiser featuring Speaker Gingrich at their Los Angeles hotel. They thought such an event would add to the hotel's prestige. The fund-raiser ended up occurring at another Los Angeles hotel, but Sioeng and family members nevertheless attended the event. The July 18, 1995 contribution of \$50,000 to the NPF was solicited by a fund-raiser named Steve Kinney. Elnitiarta characterized it as a gesture of gratitude for the photo with the Speaker and also an attempt (unsuccessful, as it turns out) to persuade people to hold the fund-raiser at the family hotel.

Although discussed in detail elsewhere in the report,³⁶ some brief background information on the NPF is warranted. The NPF was an independent 501(c)(4) organization created by Haley Barbour to serve as a grass roots organization for the Republican exchange of ideas. It had no PAC, donated no money, and did not

³¹See Paul Jacobs and Dan Morain, "Fong Returns \$100,000 in Gifts," *Los Angeles Times*, April 23, 1997, p. A3.

³²*Id.*

³³Letter from Mark J. MacDougall and Steven R. Ross to William R. Turner, May 27, 1997. (Ex.10). The letter indicates that it was sent after Fong's deadline because "Ms. Elnitiarta was traveling at the time [Fong's] letter arrived."

³⁴*Id.*

³⁵*Id.*

³⁶See the section of this report on the National Policy Forum. See also *infra* note 84.

advocate the election or defeat of any candidate. It was not legally prohibited from accepting foreign money.

PART III. ANALYSIS OF SIOENG/ELNITIARTA/TANUWIDJAJA POLITICAL CONTRIBUTIONS MADE WITH FOREIGN MONEY: 1995–96

Ted Sioeng, Jessica Elnitiarta, the family's businesses, and their in-laws, the Tanuwidjajas, made a number of significant political contributions in 1995 and 1996. In total, the Sioeng family and businesses spent over half a million dollars on the 1996 elections.

The Committee has examined bank records relevant to most of family's large political contributions and discovered a recurring pattern: wire transfers from Hong Kong companies to Sioeng & Co. accounts in the United States. Five companies—Pristine Investments Limited, R T Enterprises Limited, Dragon Union Limited, Mansion House Securities, and Victory Trading Company—believed to be based in Hong Kong, are the apparent source of funding for many of the Sioeng family's activities in this country. In 1995 and 1996, these companies transferred millions of dollars from Hong Kong banks into U.S. accounts held by Sioeng's sister, Yanti Ardi.³⁷ Jessica Elnitiarta, who held a durable power of attorney over Ardi's account,³⁸ distributed money from the account to other Sioeng family accounts and directly to Sioeng-related businesses and interests. Funds from Ardi's account eventually were used to make political contributions, to purchase and subsidize the International Daily News, and to fund other activities in this country.

Jessica's use of Yanti Ardi's U.S. bank account as a holding pen for funds wired in from Hong Kong raises questions about the origins of the Sioeng family's money as well as its intended use in the United States. As noted, the Committee has discovered that millions of dollars were wired into the U.S. from Hong Kong bank accounts held in the names of foreign firms. Because of the Committee's inability to compel production of bank records located outside U.S. borders, the Committee cannot determine the source of the dollars wired into Sioeng family accounts in this country.

The Committee's analysis of Sioeng family bank records reveals that at least \$200,000 in contributions to the DNC derived from foreign sources. In addition, some \$16,000 in contributions to Matt Fong are linked to foreign money. The Majority staff has determined that the following contributions derive in whole or in part from foreign funds:³⁹

³⁷ The account in Ardi's name was not the only one used as a conduit for foreign funds. On November 13, 1995, the Sioeng family set up another such account at the Grand National Bank, this one in the name of Nanny Nitiarta, an Indonesian citizen of unknown relation to the family. Like Ardi's account, Nanny's appears to have been used to shift money from overseas to various Sioeng-family accounts and business interests. For example, on November 5, 1996, Nanny's account was credited with a \$700,000 wire transfer from a Hong Kong account held by R T Enterprises Limited. (Ex. 11). A day later, Jessica wrote a check on Nanny's account for \$140,000 to the International Daily News. (Ex. 12). The check was reversed because Jessica did not have signature authority over the account (Ex. 13) (though she had signed other checks and authorized other transfers that were not reversed). On November 8, 1996, \$700,000 was transferred from Nanny's account to Yanti's. (Ex. 14). Jessica remedied the signature problem by executing a durable power of attorney over Nanny's account on November 20, 1996. (Ex. 15). Nanny's account was closed on March 14, 1997.

³⁸ Grand National Bank Durable Power of Attorney to Jessica G. Elnitiarta, December 20, 1995. (Ex. 16).

³⁹ See chart listing the largest Sioeng family contributions (Ex. 17).

Account name	Donee	Check date	Check amount
Panda Estates Investment	Matt Fong	12/14/95	\$50,000
Jessica Elnitiarta	DNC	2/19/96	100,000
Panda Estates Investment	DNC	7/12/96	50,000
Subandi Tanuwidjaja	DNC	9/9/96	60,000
Subandi Tanuwidjaja	DNC	9/19/96	20,000

Only the Fong contribution has been returned. The DNC has refused steadfastly to give back any of the Sioeng family contributions.

The sections that follow discuss in detail the Sioeng family contributions listed on Exhibit 17. The discussion largely revolves around bank records produced to the Committee pursuant to subpoenas. The records support the conclusions drawn above; namely, that a substantial portion of the Sioeng family contributions were made with foreign money.

A. DNC contributions

1. 2/19/96; Jessica Elnitiarta; \$100,000

On February 19, 1996, Jessica Elnitiarta wrote a check for \$100,000 to the DNC.⁴⁰ A DNC check tracking form indicates the contribution related to a dinner held on the same date at the Hay Adams hotel.⁴¹ Although the \$100,000 check is dated February 19, 1996, it was not paid until February 26, 1996.⁴²

As of February 19, 1996, Elnitiarta's account carried a balance of less than \$10,000.⁴³ However, on February 22, 1996, Elnitiarta transferred \$200,000 to her account from Yanti Ardi's.⁴⁴ Days later, half of this money was used to satisfy the check Elnitiarta wrote to the DNC on February 19, 1996. The source of funds in Yanti Ardi's account at that time appears to be a \$518,433.56 wire transfer from an account maintained at the Hong Kong branch of the Dutch ING Bank by a company called Pristine Investments, Ltd.⁴⁵ The wire transfer took place on February 12, 1996. Prior to the transfer, Ardi's account carried a balance of less than \$3,000.⁴⁶ There were no additional deposits into Ardi's account between February 12 and 22, 1997.

In short, bank records indicate that Jessica Elnitiarta's February 19, 1996 contribution of \$100,000 to the DNC was made with substantially all foreign funds.

2. 7/12/96; Panda Estates (family business); \$100,000

Panda Estates Investment Inc. contributed \$100,000 to the DNC on July 12, 1996 from an account the report will refer to as "Panda 801."⁴⁷ At the time, the Panda account had a negative balance of \$598.55.⁴⁸ The check to the DNC was paid on July 25, 1996, leav-

⁴⁰ \$100,000 check from Jessica G. Elnitiarta to the DNC, Feb. 19, 1996. (Ex. 18).

⁴¹ DNC Check Tracking Form for Jessica G. Elnitiarta (Ex. 19).

⁴² Grand National Bank account statement for account number 210473306, Feb. 1–29, 1996. (Ex. 20).

⁴³ *Id.*

⁴⁴ Grand National Bank Funds Transfer Authorization, Feb. 22, 1996. (Ex. 21).

⁴⁵ Grand National Bank Miscellaneous Credit form, Feb. 12, 1996. (Ex. 22).

⁴⁶ Grand National Bank account statement for account number 240417614, Feb. 1–29, 1996. (Ex. 23).

⁴⁷ \$100,000 check from Panda Estates Investment, Inc. to DNC, July 12, 1996. (Ex. 24).

⁴⁸ Grand National Bank account statement for account number 200739801, June 29–July 31, 1996. (Ex. 25).

ing the Panda account with a negative balance of \$100,124.75.⁴⁹ On July 26, 1996, \$100,000 was transferred from a second Panda account ("Panda 814") to Panda 801,⁵⁰ bringing the balance of Panda 801 to negative \$2,351.29.⁵¹ Hence, the Panda 814 account was the source of the contribution from Panda 801.

The sources of the funds for Panda 814's \$100,000 transfer to Panda 801 appear to be (1) rental income received by Panda Estates and (2) a \$60,000 transfer from Yanti Ardi's U.S. account. On July 25, 1996, Panda 814 carried a balance of approximately \$50,000,⁵² or not enough to cover a \$100,000 transfer. On July 26, 1996, a \$60,000 check from Yanti Ardi was deposited in Panda 814—a check whose source appears to be funds received by wire transfer from a bank in Hong Kong.⁵³ On June 28, 1996, Yanti Ardi's U.S. account was credited with \$1,652,479.98, which had been transferred by R. T. Enterprises Ltd. from the ING bank in Hong Kong.⁵⁴ On June 27, 1996, Ardi's account balance was under \$5,000.⁵⁵ After the large R. T. Enterprises transfer, there were no additional deposits into Ardi's account until after the July 26, 1996 \$60,000 transfer to Panda 814.⁵⁶

In short, at least \$50,000 of Panda Estate's \$100,000 July 12, 1996 contribution to the DNC can be traced to foreign money.⁵⁷

3. 9/9/96; Subandi Tanuwidjaja; \$60,000

9/19/96; Subandi Tanuwidjaja; \$20,000

The Tanuwidjaja's contributed \$100,000 to the DNC through three checks dated in September 1996.⁵⁸ Contributions dated September 9 and 19, 1996 and totaling \$80,000 were from Subandi Tanuwidjaja, son of Susanto Tanuwidjaja, and the man who married Ted Sioeng's daughter, Laureen. A contribution of \$20,000 dated September 16, 1996 was made by Suryanti.

The September 9 and 19 contributions from Subandi appear to be covered by a \$100,000 check from Susanto dated September 6,

⁴⁹ *Id.*

⁵⁰ Grand National Bank Customer Authorization for Funds Transfer, July 26, 1996. (Ex. 26).

⁵¹ Ex. 25.

⁵² Grand National Bank account statement for account number 200739814, June 29–July 31, 1996. (Ex. 27).

⁵³ \$60,000 check from Yanti Ardi to Panda Estates Investment, Inc., July 26, 1996. (Ex. 28).

⁵⁴ Grand National Bank Miscellaneous Credit form, June 28, 1996. (Ex. 29).

⁵⁵ Grand National Bank account statement for account number 240417614, June 1–28, 1996. (Ex. 30).

⁵⁶ Grand National Bank account statement for account number 240417614, June 29–July 31, 1996. (Ex. 31).

⁵⁷ Panda Estates Investment Inc. contributed \$50,000 to the DNC by check dated July 29, 1996 and drawn on the Panda 801 account. (Ex. 7). At the time the check was written, the Panda 801 account carried a negative balance. (Ex. 25). The check was not paid until August 6, 1996, the same day two wire transfers totaling \$50,000 were deposited into the Panda 801 account. Grand National Bank Account statement for account number 200739801, Aug. 1–Aug. 30, 1996 (Ex. 32). One transfer, in the amount of \$40,000, came from the Panda 814 account. Grand National Bank Funds Transfer Authorization, Aug. 6, 1996 (Ex. 33). The other transfer, this for \$10,000, came from Code 3 U.S.A. Grand National Bank account statement for account number 200739814, Aug. 6, 1996 (Ex. 34), which the Committee understands to be a gun shop run by Elnitiarta's husband.

The \$40,000 from Panda 814 was funded by a number of small deposits, which appear to be rental payments made to Panda Estates. Grand National Bank account statement for account number 200739814 (Ex. 35). The Committee does not know the source of the \$10,000 wired from Code 3. Hence, from the documents reviewed by the Committee, the July 29, 1996 Panda Estates contribution cannot be traced to foreign money.

⁵⁸ \$60,000 check from Subandi Tanuwidjaja to the DNC, Sept. 9, 1996. (Ex. 8). \$20,000 check from Subandi Tanuwidjaja to the DNC, Sept. 19, 1996 and \$20,000 check from Suryanti Tanuwidjaja to the DNC, Sept. 16, 1996. (Ex. 36).

1996,⁵⁹ and a \$20,000 wire transfer on September 18, 1996 from Dragon Union Ltd.'s account at the Hua Chiao Commercial Bank Ltd. in Hong Kong.⁶⁰ It is clear from markings known as "imad" characters on the lower left of the wire transfer report that the funds were, in fact, transferred from Hua Chiao's Hong Kong branch.⁶¹

On September 8, 1996, Subandi's account carried a balance of less than \$5,000.⁶² On September 9, 1996, the \$100,000 check from Susanto was deposited into Subandi's account.⁶³ On the same day, Subandi wired \$38,000 to a bank in Singapore,⁶⁴ leaving a balance of \$66,049.99, or enough to cover Subandi's \$60,000 check to the DNC, also dated September 9, 1996.⁶⁵ On September 18, 1996, Subandi's account was credited with the \$20,000 wired by Dragon Union Ltd, increasing the balance to \$86,039.99.⁶⁶ Thereafter, the two DNC checks were cashed; the \$60,000 check on September 27 and the \$20,000 check on October 4, 1996.⁶⁷

The \$100,000 check from Susanto to Subandi can be traced in large part to a foreign source. Susanto's account carried a balance of less than \$3,000⁶⁸ when it was credited with a wire transfer in the amount of \$99,985 from an account maintained by Subandi in Jakarta, Indonesia.⁶⁹ Again, it is clear from the "imad" characters on the left side of the wire transfer report that the funds were transferred from Subandi's United City Bank account in Jakarta.⁷⁰ There were only two other deposits into Susanto's account between August 22 and September 9, 1996—one for \$20,000 on August 30 and one for \$10,000 on September 3, 1996.⁷¹ These two deposits, however, appear connected to debits in similar amounts.⁷²

In any event, it is clear that Subandi's \$80,000 in contributions to the DNC derived mostly—if not entirely—from foreign funds.

The Majority staff has obtained corporate records for Dragon Union Ltd. in Hong Kong and have attached them as an exhibit.⁷³ The records show that Subandi Tanuwidjaja's links to the company; he was made a director of Dragon Union on January 27, 1997. Subandi's connection to Dragon Union would tend to suggest he may have been aware that foreign money was being used to make contributions to the DNC.⁷⁴

⁵⁹ \$100,000 check from Susanto Tanuwidjaja to Subandi Tanuwidjaja, Sept. 6, 1996. (Ex. 37).

⁶⁰ Reprint of Incoming Wire Traffic, Sept. 18, 1996. (Ex. 38).

⁶¹ *Id.*

⁶² Western State Bank account statements for account number 033100-153947, Aug.-Oct. 1996. (Ex. 39).

⁶³ *Id.*

⁶⁴ Memorandum and report of outgoing wire traffic from Subandi Tanuwidjaja to Western State Bank, Sept. 9, 1996. (Ex. 40).

⁶⁵ Ex. 39.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Western State Bank account statements for account number 033200-055538, Aug.-Oct. 1996. (Ex. 41).

⁶⁹ Report of incoming wire traffic, August 22, 1996. (Ex. 42).

⁷⁰ *Id.*

⁷¹ Ex. 41.

⁷² *Id.*

⁷³ The Companies Ordinance of Dragon Union Limited, Dec. 11, 1996 (Ex. 43).

⁷⁴ Two other large Sioeng-family contributions to the DNC bear mention, although the Committee has not been able to determine whether or not they were made with foreign money. By check dated September 16, 1996, (Ex. 36), Suryanti Tanuwidjaja contributed \$20,000 to the DNC. Suryanti's contribution to the DNC was not paid until September 30, 1996. Bank of America statement of Suryanti Tanuwidjaja, Oct. 30, 1996 (Ex. 44). On September 18, 1996, Suryanti's savings account was credited with a \$20,000 wire transfer from Dragon Union Ltd.'s

B. Matt Fong contribution

12/14/95; Panda Estates (family business); \$50,000

The Committee has determined that one of three Sioeng-family contributions to Matt Fong was made, in part, with foreign money. Fong returned all of the contributions in April 1997.

Panda Estates Investment Inc. contributed \$50,000 to Matt Fong for State Treasurer on December 14, 1995.⁷⁵ The check was signed by Jessica Elnitiarta and paid on December 18, 1995.⁷⁶ The balance in Panda Estates' account at that time was only \$7,000, and the check to the Matt Fong (and one other check) left Panda with a negative balance of \$43,888.55.⁷⁷

On December 19, 1995, \$50,000 was transferred to the Panda account from one of Yanti Ardi's Grand National Bank accounts.⁷⁸ On December 11, 1995, Ardi's account was credited with a wire transfer of \$150,000 from a Hong Kong account maintained by Pristine Investments Limited.⁷⁹ At the time, Ardi's account carried a balance of approximately \$34,000,⁸⁰ which, in turn, was the remainder of a \$562,500 deposit into Ardi's account on November 15, 1995.⁸¹ The \$562,500 deposit was from a check written on an account held in the name of Sandra and Laureen Elnitiarta,⁸² an account the Committee does not have records for.

In sum, the records reviewed by Committee staff show that at least \$16,000 of the \$50,000 contribution from Panda Estates to Matt Fong derived from a foreign source.⁸³

account at the Hua Chiao Commercial Bank Ltd. in Hong Kong. Funds Transfer History, Sept. 18, 1996 (Ex. 45). On the same day, Suryanti transferred \$24,000 from her savings to her checking account at Bank of America. Bank of America statement of Suryanti Tanuwidjaja, Sept. 27, 1996 (Ex. 46).

Although the timing appears suspicious, the Committee has not been able to identify conclusively the \$20,000 wire transfer from Dragon Union as the source of Suryanti's contribution to the DNC in the same amount. There were sufficient additional funds in Suryanti's savings account to cover the \$24,000 transfer to checking. (*Id.*). Likewise, there were sufficient additional funds in Suryanti's checking account to cover the DNC check on September 30, 1996, the day it was paid. (Ex. 44).

Loh Sun International, Inc. contributed \$50,000 to the DNC by check dated July 29, 1996 and signed by Kent La. (Ex. 9). The check was not paid until August 5, 1996, at which point the Loh Sun account carried a balance of more than \$250,000. Union Pacific Bank Records for Loh Suh International, Aug. 30, 1996 (Ex. 47). On July 24, 1996, the Loh Sun account was credited with \$97,555, which had been wired by R T Enterprises Limited from an account at a Hong Kong branch of the Dutch ING Bank. Union Pacific Bank records for Loh Suh International, Inc., July 31, 1996 (Ex. 48). Although this was the largest deposit made into Loh Sun's account in 1996 and the only one that, on its face, clearly was made with foreign funds, the Committee was unable to determine whether the money wired to Loh Sun by R T Enterprises was used to make the DNC contribution. There was simply too much other money in Loh Sun's account.

⁷⁵ \$50,000 Grand National Bank check from Panda Estates Investment Inc. to Matt Fong for State Treasurer, Dec. 14, 1995. (Ex. 49).

⁷⁶ Grand National Bank account statement for account number 200739801, Dec. 1–29, 1995. (Ex. 50).

⁷⁷ *Id.*

⁷⁸ Grand National Bank Customer Authorization for Funds Transfer, Dec. 19, 1995. (Ex. 51).

⁷⁹ Grand National Bank Miscellaneous Credit form, Dec. 11, 1995. (Ex. 52).

⁸⁰ Grand National Bank account statement for account number 240979814, Dec. 1–29, 1995. (Ex. 53).

⁸¹ Grand National Bank account statement for account number 240979814, November 13–30, 1995. (Ex. 54).

⁸² \$562,500 Grand National Bank check from Sandra and Laureen Elnitiarta to Yanti Ardi, November 15, 1995. (Ex. 55). Laureen Elnitiarta's signature appears on the check.

⁸³ The Committee examined two other Sioeng-family contributions to Fong that cannot be traced to foreign sources from the information at hand. Sioeng San Wong (a.k.a. Ted Sioeng) contributed \$20,000 to Matt Fong by check dated April 20, 1995. Check 671 to Matt Fong for State Treasurer from Sioeng San Wong, Apr. 20, 1995 (Ex. 56). The check was paid on April 27, 1995. Grand National Bank account statement for Sioeng San Wong, Apr. 1–Apr. 28, 1995 (Ex. 57). Two days earlier, Sioeng's account carried a balance of near zero. It appears that the

Continued

*C. Other contributions and questionable transactions*⁸⁴

- PRC Consulate in Los Angeles—two \$20,000 checks, both dated November 15, 1996 and consecutively numbered, were writ-

Fong check was covered by a \$30,000 transfer on April 26, 1995 from Sundari and Laureen Elnitiarta. Statement of Transfer, Apr. 26, 1995 (Ex. 58). Referred to as a "loan advance," the \$30,000 transfer represented the only funds in Sioeng's account at the time his check to Matt Fong was paid. (Ex. 57). The Committee does not know the source of the \$30,000 transferred from Sundari and Laureen to Sioeng.

Sioeng San Wong wrote another check to Matt Fong—this one for \$30,000—on April 28, 1995. Grand National Bank check from Sioeng San Wong to Matt Fong for State Treasurer for \$30,000, Apr. 28, 1995 (Ex. 59). This check was paid on May 2, 1995. Grand National Bank account statement of Sioeng San Wong, Apr. 29-May 31, 1995 (Ex. 60). At the time, Sioeng's account still had roughly \$10,000 left from Sundari and Laureen's loan advance and an additional \$30,000 from a check written on the account of a Glenville A. Stuart. Grand National Bank check from Glenville Stuart to Sioeng San Wong for \$30,000, Apr. 28, 1995 (Ex. 61). The check was deposited on April 28, 1995. (Ex. 57).

Committee staff spoke to Mr. Stuart about the \$30,000 check on November 3, 1997. Stuart, who said he has known Ted Sioeng for ten years, claimed the check was written in partial satisfaction of a loan Ted Sioeng had extended to him. Stuart said no one gave him the money to give to Sioeng and that he does not recall Sioeng asking him for it. He said that Jessica Elnitiarta, however, may have asked him for the money. Stuart declined to discuss what line of business he is in.

Committee staff asked Stuart about Sioeng and his family more generally. Stuart characterized Sioeng as a kind, good-hearted, and generous man with lots of friends from all over the world. Sioeng, who Stuart knows as "Sioeng San Wong," is frightened now, according to Stuart, who has not seen Sioeng in quite some time. Stuart also knows Jessica Elnitiarta, who he said handles the Sioeng family businesses in this country.

⁸⁴Note that the Committee could not determine whether Panda Industries' \$50,000 contribution to the National Policy Forum (NPF) was made with domestic or foreign money. The Committee's analysis follows.

Panda Industries, Inc. contributed \$50,000 to the NPF. Grand National Bank check from Panda Industries signed by Jessica Elnitiarta (Ex. 62). The check was paid on Aug. 3, 1995. Grand National Bank statement of Panda Industries, Account number 240539301, Aug. 1–Aug. 31, 1995. (Ex. 63).

Because of multiple deposits into and withdrawals from the Panda Industries account during the relevant time frame, the Committee has been unable to pinpoint one particular source—domestic or foreign—for Panda's contribution to the NPF. That said, there are two potential sources of funds for the \$50,000 contribution. On July 17, 1995, Panda Industries deposited a \$50,000 check written the same day on Sioeng San Wong's account. Grand National Bank check from Sioeng San Wong to Panda Industries, Inc. for \$50,000 (Ex. 64). Prior to this deposit, the Panda Industries account carried a balance of roughly \$1,300. Grand National Bank statement of Panda Industries, Inc. account number 240539301, July 1–July 31, 1995 (Ex. 65). Also on July 17, 1995, \$70,000 was deposited into Sioeng San Wong's account. The \$70,000 derived from a check written on Vinh B. La's account at the United Pacific Bank. United Pacific Bank check written by Vinh B. La to Cash, July 17, 1995 (Ex. 66). This \$70,000 appears to be the source of Sioeng's \$50,000 transfer to Panda Industries as, save for the \$70,000, Sioeng's account carried a balance of less than \$5,000. Grand National Bank statement for Sioeng San Wong, account 210459806, July 1–July 31, 1995 (Ex. 67).

It is difficult to trace the source of the \$70,000 transferred from Vinh La's account. On the day the check was paid (July 18, 1995), La's account carried a balance of \$101,326.93. United Pacific Bank Statement of Vinh Binh La, account 001-017438, July 25, 1995 (Ex. 68). Half of this amount is attributable to a July 14, 1995 deposit of \$50,000 withdrawn from a savings account maintained by Loh Sun International at the United Pacific Bank. United Pacific Bank deposit slip for account of La Vinh Binh, July 14, 1995 (Ex. 69). The savings withdrawal request was signed by Kent La, who later signed a contribution check from Loh Sun to the DNC. *Id.*

The source of the \$50,000 withdrawal from Loh Sun's United Pacific Bank savings account appears to be a transfer from a Loh Sun checking account maintained at the same bank. Loh Sun's savings account was opened with a deposit of a \$200,000 check, dated January 4, 1995, written on Loh Sun's checking account. United Pacific Bank statement of Loh Sun International, Inc. account 001-409204, Jan. 31, 1995 (Ex. 70). An examination of the quarterly statements for Loh Sun's savings account from the time it was opened until the \$50,000, July 1–July 31, 1995 withdrawal was made on July 14, 1995 reveals that the withdrawal derived from the \$200,000 deposited on January 4, 1995. United Pacific Bank statement of Loh Sun International, Inc., account 001-720-806, Mar. 31, 1995 (Ex. 71). There were no other significant deposits made into the account during this time period. *Id.* The Committee does not know the source of the \$200,000 transferred from Loh Sun's checking account.

The second potential source of Panda Industries' contribution to the NPF was an \$80,000 telephone transfer into the Panda Industries' account. The transfer was made on July 24, 1995 and increased the balance in the account to \$124,877.52. (Ex. 65). The Committee has learned that the telephone transfer was requested by Jessica Elnitiarta and made from another account maintained in the name of Panda Industries ("PI 314"). Customer Authorization for Funds Transfer, July 24, 1995 (Ex. 72). However, the Committee could not determine with the information at hand the source of the \$80,000 transferred from PI 314.

ten on Jessica Elnitiarta's account to the PRC Consulate General in Los Angeles.⁸⁵ The checks were deposited by the Consulate in its "Education Section" account; an account that appears to have been opened with Elnitiarta's money.⁸⁶ The purpose behind these checks—and why two were written instead of one—is not known.

- Overseas Chinese Friendship Association—a \$10,000 check was written on Sioeng San Wong's account to the "O.C. Chinese Friendship Ass." on April 15, 1995.⁸⁷ The memo line the check indicates that it was meant as a donation. The Committee could not determine the nature of the donation. The check may have been intended for an organization called the Overseas Chinese Friendship Association. The association was set up at the direction of the PRC's Communist Party apparatus, specifically, the National Committee of the Chinese People's Political Consultative Conference ("CPPCC"), and was meant to forge and strengthen ties between the United Front Work Department of the CPPCC Central Committee and overseas Chinese in this country and elsewhere.⁸⁸

- Dr. Daniel Wong—a \$5,000 check was written to Wong on the account of Sundari, Sandra, and Laureen Elnitiarta on February 15, 1996.⁸⁹ Wong is a Republican who ran for the California State Assembly.

- Norman Hsu—a \$7,500 check was written on Sioeng San Wong's account to Friends of Norman Hsu on March 11, 1995.⁹⁰ Hsu is a former president of the Chinese-American Association.

- PRC Consulate in Los Angeles to Hollywood Metropolitan Hotel—a \$3,000 check, dated March 22, 1996, was written on the PRC Consulate's account at the Bank of China, Los Angeles branch to the Hollywood Metropolitan Hotel, a business owned and operated by the Sioeng family.⁹¹ Three days later, the check was deposited into a Grand National Bank account maintained by Panda Hotel Investment, Inc.⁹² Nothing on the check itself or told to the Committee by Jessica helps explain the instrument's purpose.

PART IV. CONCLUSION

The story of Ted Sioeng and his family is a fascinating glimpse at how quickly an individual or family—even one with markedly limited U.S.-based income and with the vast majority of its wealth overseas—can become an influential figure with a political party or in an election. In Sioeng's case, some \$400,000 in contributions to

In sum, the Committee cannot determine whether any portion of Panda Industries' \$50,000 contribution to the NPF derived from a foreign source.

⁸⁵ Two \$20,000 checks from Jessica G. Elnitiarta to the Consulate General of the PRC (Education Section), November 15, 1996. Grand National Bank check number 442 & 443 from Jessica G. Elnitiarta to Consulate General of the PRC (education section) for \$20,000, Nov. 15, 1996 (Ex. 73).

⁸⁶ Bank of China account statement for account number 5011-0600059-000, December 31, 1996. (Ex. 74). The two \$20,000 checks were credited to the L.A. Consulate's Education Section account as a \$4,000 and a \$36,000 deposit. A Bank of China representative could not explain why the two checks were credited in that way.

⁸⁷ \$10,000 Grand National Bank check from Sioeng San Wong to the O.C. Chinese Friendship Ass., April 15, 1995. (Ex. 75).

⁸⁸ BBC Summary of World Broadcasts, January 20, 1995.

⁸⁹ \$5,000 Grand National Bank check from Sundari, Sandra, and Laureen Elnitiarta to Dr. Daniel Wong, February 15, 1996. (Ex. 76).

⁹⁰ \$7,500 Grand National Bank check from Sioeng San Wong to Friends of Norman Hsu, March 11, 1995. (Ex. 77).

⁹¹ \$3,000 Bank of China check from the Consulate General of the People's Republic of China to the Hollywood Metropolitan Hotel, March 22, 1996. (Ex. 78).

⁹² *Id.*

the DNC in 1995 and 1996 earned him remarkable access to the President and Vice President of the United States, and not just for him, but for his family and friends as well.

The Sioeng story, though, has only been partially told by the Committee. Still to be answered are many questions, among them the following:

- Was money sent by Sioeng from Hong Kong to the United States for the express purpose of making political contributions;
- What was the ultimate source of the funds Sioeng wired from Hong Kong to accounts in this country;
- What was the nature of Sioeng's relationship with the Government of China; and
- Why did Sioeng and his family decide to start making large political contributions during the 1996 election cycle.

It is clear that Sioeng and his family became major Democratic donors during the 1996 election cycle and that they did so with money wired from overseas. The questions above take the analysis to a new level—one that focuses less on the Sioeng family's contributions and more on their motives for making them. Until the questions are answered, Sioeng, like Charlie Trie, John Huang, Maria Hsia, and others, will remain a mysterious figure who was embraced all-too eagerly by a money-hungry DNC.

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JOHN HUANG'S YEARS AT LIPPO

In the fall of 1996, John Huang was brought out of the obscurity of the DNC fundraising operation and into the media spotlight as a central character in the DNC fundraising scandal. A prominent figure through the course of the Committee's investigation, Huang appeared as a key player in numerous questionable fundraising ventures, including the Hsi Lai Temple fundraiser and the Yogesh Gandhi imbroglio.¹ Huang solicited approximately \$1.6 million that has been returned to date by the DNC. Further, Huang apparently violated the Hatch Act in that certain solicitations were undertaken during his tenure at the Commerce Department.

Huang's connections to his long-time patrons, the Riady family, at Indonesia's Lippo Group linked his past with his questionable fundraising practices. Two further discoveries pushed an examination of the Lippo Group and its U.S. activities to the top of the Committee's investigative agenda: First, the Committee learned that Huang obtained a security clearance in connection with his appointment to the Commerce Department and received classified briefings on sensitive trade issues of importance and value to Lippo, despite his exceedingly modest policy portfolio.² Second, extensive evidence emerged of Huang's continuing contacts with Lippo after he had left its employ. The following discussion sets forth the Committee's findings concerning the history and structure of the Lippo Group, Huang's role as the U.S. representative of Lippo, and Huang's role in laundering Lippo and Riady monies into the U.S. political system. In brief, the evidence accumulated by the Committee establishes a pattern of John Huang undertaking questionable and illegal activities in the service of his Lippo Group sponsors.

THE LIPPO GROUP

The Committee heard expert testimony on the history and structure of the Lippo Group from Thomas R. Hampson, an investigator who specializes in advising U.S. corporations considering international acquisitions and joint ventures. Hampson, using publicly available sources as well as documents produced to the Committee pursuant to subpoena, developed the following profile of the Lippo Group, which was presented to the Committee in public hearings held July 15, 1997.³

The Lippo Group is a multi-billion dollar confederation of companies controlled by the Riady family of Indonesia. Starting from a retail banking base in Indonesia, the Lippo Group has grown over three decades to encompass banking, finance, insurance, property-

¹ See the sections of this report on the Hsi Lai Temple fundraiser and Yogesh Gandhi.

² See generally the section of this report on Huang's tenure at Commerce.

³ Testimony of Thomas R. Hampson, July 15, 1997, pp. 60-73. Except as otherwise noted, the following background information on Lippo is drawn from the Hampson's testimony.

development, and manufacturing interests concentrated in Indonesia, China and the United States.

The Chairman of the Lippo Group is Dr. Mochtar Riady, an Indonesian of Chinese descent. Today, Lippo Group is managed by his two sons, Stephen and James. Stephen Riady is responsible for Lippo Limited and the Hong Kong Chinese Bank Co., which are based in Hong Kong and concentrate on banking and property development in Hong Kong and mainland China. James Riady is responsible for the flagship Lippo Bank of Indonesia, and he also manages Lippo Land, a corporation constructing two new cities on the outskirts of Jakarta. Throughout the 1980s and early 1990s, John Huang was the chief representative of the Lippo Group in the United States.

Over the past five years, the Lippo Group has shifted its strategic center from Indonesia to the People's Republic of China. Lippo is currently involved in dozens of large-scale joint ventures in the PRC, involving the construction and development of apartment complexes, office buildings, highways, ports, and other infrastructure. Lippo's principal partner on the mainland is China Resources, a company wholly-owned and operated by the PRC government. The interrelationship between Lippo and Chinese government-sponsored companies such as China Resources (and China Travel, another Lippo partner) has grown markedly in the last three years. Indeed, in the spring of 1997, Stephen Riady announced that the name of Lippo's Hong Kong Chinese Bank would be changed to the Lippo China Resources Bank, to reflect that China Resources is now an equal partner with Lippo in the bank. Additionally, when Indonesia-based Lippo Land faced a cash flow crisis that threatened a run on Lippo Bank, China Resources injected tens of millions of dollars into Lippo Land and became a substantial partner in that entity as well.

Hampson testified that China Resources is widely reported to be a corporate agent of economic and political espionage serving the government of China. Intelligence officials have confirmed in the press that the Chinese intelligence establishment is heavily involved in the operation of China Resources, and that China Resources selects overseas business partners in part on the basis of their value as potential intelligence gatherers.⁴

LIPPOBANK CALIFORNIA

In addition to heading-up Lippo Bank and Lippo Land, James Riady owns 99% of LippoBank California, a federally insured institution headquartered in Los Angeles. LippoBank is a small California-chartered bank with less than one hundred million dollars in assets. The bank has experienced chronic asset-quality and management problems, and has been served with numerous "cease and desist" orders by the F.D.I.C. The bank has consistently generated losses. From 1986-1988, James Riady served as the CEO of LippoBank. Although Riady continues to own a house in Los Angeles, he moved back to Jakarta some time before 1990.

⁴See, e.g., James Wood, "Article Details Chinese Intelligence Network in Hong Kong," *BBC Summary of World Broadcasts*, March 9, 1995, p. 3.

The Committee heard testimony from Harold Arthur, a director of LippoBank and its former CEO. Arthur testified that the bank is part of the Indonesia-based Lippo Group.⁵ James Per Lee, the current CEO, insisted in deposition testimony that the relationship was limited to a licensing agreement which allowed the bank to use the Lippo name.⁶ James Alexander, another former CEO of the bank, stated that the bank was not only part of the Lippo Group, but was under the direct control of Indonesia-based Lippo executives.⁷

HUANG AT LIPPOBANK

The Committee interviewed and deposed several of Huang's LippoBank colleagues in an effort to gain an understanding as to his activities and responsibilities while affiliated with LippoBank.

Alexander told the Committee staff that Huang was James Riady's "man in America," and that he kept his activities largely to himself.⁸ This latter assessment is borne out by the testimony Arthur, who, although he worked in the same office suite with Huang and claimed to have had a "close business relationship for many years," testified that he had no idea how Huang passed his day.⁹ Per Lee, when asked what Huang did, replied cryptically "I don't know, I don't know."¹⁰ Despite the length of his employment at Lippo, Huang's colleagues offered little insight into his activities there and seemed to consider him something of a mystery. The Committee has, however, been able to cast some light into Huang's activities at LippoBank.

First, perhaps the most concise piece of evidence available to the Committee as to John Huang's activities at Lippo was a letter written by Maeley Tom, a Californian lobbyist and Lippo consultant, to John Emerson, then the Deputy Director of Presidential Personnel.¹¹ In recommending Huang for a position in the Administration, Tom opined that: "John Huang . . . is the political power that advises the Riady Family on issues and where to make contributions. They invested heavily in the Clinton campaign. John is the Riady family's top priority for placement because he is like one of their

⁵ Testimony of Harold R. Arthur, July 15, 1997, pp. 93–94.

⁶ Deposition of James Per Lee, May 2, 1997, pp. 11–19. Arthur was called to testify at public hearings rather than Per Lee because the focus of the Committee's inquiries was not the LippoBank per se, but the activities of John Huang at the bank. Arthur worked directly with Huang for more than five years.

⁷ Memorandum of Interview of James A. Alexander, July 7, 1997. Per Lee's position that the bank is not part of the Lippo Group is simply not tenable on the facts. In addition to the statements of former CEOs Arthur and Alexander, the Committee found that (i) LippoBank is listed as part of the Lippo Group in its promotional materials, and even in the date book carried by Per Lee, *see* Per Lee deposition, pp. 11–19; (ii) Per Lee and his predecessor CEOs attended bi-annual Lippo Group meetings in Jakarta, *see id.*; (iii) Per Lee's own appointment was announced in the Lippo Group Executive Express newsletter, which holds itself out as a news source "exclusively for senior Lippo Group executives," *see id.*; and (iv) LippoBank receives an annual budget for community and political affairs directly from the Lippo Group in Jakarta, *see* Deposition of David Sugita, May 16, 1997, pp. 30–33. The distinction is of import to regulators because it bears on the veracity of representations which the bank has made to the F.D.I.C. and state banking authorities, but also bespeaks the reach of the Riady empire. Further, a true understanding of the relationship between the LippoBank and the Lippo Group is necessary to a consideration of the continuing communications between Huang and the bank after he joined the Commerce Department. In a nutshell, calling the LippoBank offices in Los Angeles—which Huang did hundreds of times after he entered government service—was the functional equivalent of calling Jakarta.

⁸ Alexander interview, p. 1.

⁹ Arthur testimony, p. 97.

¹⁰ Per Lee deposition, p. 34.

¹¹ Letter from Maeley Tom to John Emerson, February 17, 1993 (Ex. 1).

own.”¹² This description is consistent with Alexander’s description of Huang as a “fixer” who operated in high political circles.¹³

Second, Huang’s activities can be reconstructed in part through his correspondence, particularly a letter dated October 7, 1993 that Huang sent to the Office of the Vice President, thanking the Vice President’s Chief of Staff, Jack Quinn, for meeting in the White House with Shen Jueren, the Chairman of China Resources.¹⁴ China Resources, as discussed above, is a PRC-owned entity widely reported to serve as a front for Chinese intelligence services. China Resources is also an important Lippo partner. It appears from Huang’s letter, as well as from a White House audio tape of the Los Angeles function referenced in the letter, that Vice President Gore may have met with Shen Jueren in the White House and also exchanged words with him at a subsequent DNC event.¹⁵ China Resources was no doubt impressed that the Riady’s “man in America” could gain an audience for its Chairman with senior administration officials.¹⁶ Furthermore, as discussed later, it appears that Huang paid Jueren’s way into the White House with laundered Lippo Group funds.¹⁷

Third, whatever the precise scope of Huang’s services, it is clear that he was well compensated for his achievements. Like his salary, the generous severance payment Huang received when he left Lippo’s employ to join the Clinton Commerce Department was paid through Hip Hing Holdings, Inc., a Riady real estate holding company.¹⁸ Huang’s total compensation for 1993–1994 was in excess of seven hundred and fifty thousand dollars.¹⁹

Finally, Huang’s services for the Lippo Group clearly extended beyond his formal period of employment. As is discussed in detail elsewhere in this report, Huang had hundreds of phone calls—well more than one per business day—with Lippo-related persons and entities after he joined the Commerce Department.²⁰ LippoBank’s CEO, Per Lee, conducted his own inquiry after press reports of Huang’s Lippo contacts surfaced in the fall of 1996.²¹ To his surprise, Per Lee found that his own secretary, Juwati Judistira, was the originator of the bulk of the calls to Huang from the bank. Per Lee was surprised because he had only talked to Huang on one occasion to his recollection. Of note, Judistira, who has left the United States and declined to speak with the Committee staff, had *never* been Huang’s secretary, but rather she had been James Riady’s secretary when he served as President of the bank. Fur-

¹²See Ex. 1. As discussed below, the “investments” the Riady family made in the campaign appear to have been funded with illegal overseas monies laundered by Huang through U.S. holding companies.

¹³See Alexander interview, p. 2. Alexander had left the bank by the time Huang joined the Commerce Department. In discussions with a director of the bank, Alexander was told about Huang’s position and that things were going well for the Riadys in Washington. The director, apparently joking, said that Riady had “his own office in the White House.” *Id.*

¹⁴Letter from John Huang to Jack Quinn, Oct. 7, 1993 (Ex. 2).

¹⁵White House Communications Agency audio tape, Sept. 27, 1993. See the section of this report on The Hsi Lai Temple Fundraiser and Maria Hsia at notes 95–103 and accompanying text.

¹⁶This was apparently not Huang’s first connection with China Resources, Alexander told the Committee that in 1991, Huang was sent to Beijing to negotiate with China Resources over the Lippo proposal to join forces to purchase the Hong Kong branch of B.C.C.I. See Alexander interview, p. 2.

¹⁷See footnote 31 *infra*.

¹⁸Memorandum from Roy Tirtadji to John Huang, June 27, 1994 (Ex. 3).

¹⁹Testimony of Juliana Utomo, July 15, 1997, pp. 15–19.

²⁰See the section of this report on Huang at Commerce.

²¹Per Lee deposition, pp. 93–97.

thermore, when Per Lee asked Judistira why she had placed so many calls to Huang, she said she was “relaying messages” for him.²²

In sum, the evidence strongly suggests that Huang remained in day-to-day contact with Lippo throughout his government service.²³ Because neither Huang nor virtually any of the recipients of these calls has made themselves available to answer the Committee’s questions, the content of these conversations and the information imparted therein remain unknown.

Huang was a long-standing and loyal emissary of the Riady family, and was well compensated for his efforts. While his undertakings cannot be catalogued in detail, he was responsible for maintaining the political profile of his patrons. His duties extended from shepherding China Resources’ Chairman into the White House, to positioning himself for an administration position by becoming a player in Democratic politics. This last effort involved using Riady money to fund favored candidates and causes, and would appear to have accustomed Huang to the use of foreign money in the domestic politics of the United States.

LIPPO AND RIADY POLITICAL CONTRIBUTIONS

Huang was well versed in the ways of skirting United States campaign finance laws before he joined the DNC, and, indeed, before he had even left California. The Committee has established that Huang funneled foreign-source monies through three different Riady-controlled entities to the DNC during 1992 and 1993. The facts and documents underlying these violations were presented during the Committee’s public hearings on July 15, 1997.

Juliana Utomo, a former colleague of Huang’s, appeared before the Committee and testified that Hip Hing Holdings, Inc., and San Jose Holdings, Inc., are real estate holding companies owned and/or controlled by James Riady and managed by Huang.²⁴ Utomo worked for Hip Hing Holdings and San Jose Holdings from 1988 through late 1996. Utomo testified that Huang made all decisions regarding political contribution expenditures, and that Huang likewise approved all requests which were made to the Lippo Group in Jakarta for operating funds and expense reimbursement. Requests for funds were frequent, typically monthly, because the expenses of the Hip Hing entities generally exceeded their income.²⁵

Utomo identified three (and the records in total show four) DNC contributions which were funded with monies from Indonesia at Huang’s direction.

The first contribution was evidenced by a \$50,000 Hip Hing Holding check dated August 12, 1992, made payable to the “DNC Victory Fund.”²⁶ In a memorandum to the Lippo Group dated August 17, 1992, Huang requested reimbursement for the contribution, and several weeks later a wire transfer was received from LippoBank Jakarta in the amount requested in the August 17

²²*Id.* at 97–99.

²³Indeed, as discussed elsewhere in this report, Huang was cagey in his efforts to hide his continued communications with Lippo, even making use of a spare office at Stephens, Inc., across the street from his Commerce Department office.

²⁴Utomo testimony, pp. 14–15.

²⁵*Id.*

²⁶\$50,000 check from Hip Hing Holdings to DNC Victory Fund, August 12, 1992 (Ex. 4).

memorandum.²⁷ In 1992, the year of the \$50,000 DNC Victory Fund contribution, Hip Hing Holdings actually lost \$482,395.33.²⁸ Utomo testified that the entire shortfall was made up with funds transferred to the United States from Jakarta.

The second overseas-funded contribution was evidenced by a Hip Hing check, dated September 23, 1993, for \$15,000 made payable to the DNC.²⁹ Huang's signature, as well as that of Hip Hing's Comptroller, Agus Setiawan, appears on the check. In 1993, Hip Hing Holdings actually lost \$493,809.93.³⁰

Third, Utomo also identified a \$15,000 check written on the San Jose Holdings account and made payable to the "DNC" dated September 27, 1993.³¹ In 1993, San Jose Holdings lost \$65,177.32.³²

A fourth check, dated September 23, 1993, from another Riady company, Toy Center Holdings, Inc., was also drawn payable to the DNC in the amount of \$15,000.³³ In 1993, Toy Center Holdings lost \$26,886.67.³⁴

In the course of the Committee's July 15, 1997, hearing, the Minority attempted to downplay the significance of these foreign contributions, claiming that so long as U.S. income (rather than profits) was sufficient to cover the contributions, such contributions were legal, regardless of reimbursement from overseas.³⁵ This position simply mis-states the law. In order for the subsidiary of a foreign corporation to make legal political contributions, the funds must be derived from U.S. *profits*. As the FEC opined in June 1992: "The domestic subsidiary of a foreign corporation may make political contributions even though it receives subsidies from its foreign parent *if the contributions are made from domestic profits*."³⁶

The information developed by the Committee relating to these contributions constitutes a compelling case that Huang broke the law in furtherance of the Riadys' political agenda. Certainly in the case of Hip Hing's \$50,000 contribution, there could be no more compelling evidence than Huang's own memorandum request for reimbursement from overseas. To the knowledge of the Committee, the Department of Justice has not pursued these apparent violations, and, indeed, the Department may have allowed the statute of limitations to lapse on at least one of the illegal contributions identified by the Committee.

In addition to the four Lippo holding company contributions discussed above, the Committee also identified a large number of 1992

²⁷ Memorandum from John Huang & Agus Setiawan to Ong Bwee Eng, August 17, 1992 (Ex. 5).

²⁸ Hip Hing Holdings 1992 Earnings Statement (Ex. 6).

²⁹ Composite of checks from Hip Hing Holdings, San Jose Holdings, and Toy Center Holdings (Ex. 7).

³⁰ Composite of 1993 Earnings Statements of Hip Hing Holdings, San Jose Holdings, and Toy Center Holdings (Ex. 8).

³¹ See Ex. 7.

³² See Ex. 8.

³³ See Ex. 7.

³⁴ See Ex. 8. Thus, Huang drew two checks for a total of \$30,000 on September 23, 1993, and a check for \$15,000 on September 27, 1993. See Ex. 7. It cannot escape notice that on September 24, 1997, Huang brought China Resources Chairman Shen Jueren to the White House, as discussed above, and on September 27, Huang and Shen Jueren attended a DNC event in Los Angeles. See Ex. 2.

³⁵ Comments of Minority Chief Counsel Alan I. Baron, July 15, 1997, pp. 35-38.

³⁶ See Federal Election Commission Advisory Opinion 1992-96: Contributions by Domestic Subsidiary of Foreign National, June 26, 1992 (emphasis added) (Ex. 9).

contributions from James Riady and his wife, Aileen, to the DNC and various Democratic state party organizations.³⁷ The checks total \$465,000 and were produced pursuant to a Committee subpoena from the files of Hip Hing Holdings, suggesting that Huang may have directed these contributions as well. Notably, while Riady has claimed in the press that he possesses a green card and was thus eligible to make contributions in the 1992 election cycle, it is uncontested that he moved back to Indonesia in 1990, and has not been a resident of the United States since that time. Because Riady declined the Committee's invitation to explore these and other issues when Committee staff were in Indonesia, the Committee has been unable to reach a final determination. The legality of these contributions remains in doubt.

CONCLUSION

The record developed by the Committee establishes that Huang was well accustomed to the use of political giving—and the laundering of funds—to further the interests of the Riadys. The Riadys and their Lippo empire, in turn, have become increasingly intertwined with Chinese government-owned enterprises. In the case of Shen Jueren's White House visit, Huang's value to Lippo was demonstrated by the combination of money laundering and political string pulling—all for the sake of the president of China Resources, the Riadys' business partner. As discussed in detail in other sections of this report, the evidence uncovered by the Committee pertaining to Huang's tenure at the LippoBank California, and his political activities there, set a pattern which was often repeated.

³⁷ Composite of checks from James & Aileen Riady to various Democratic state party organizations (Ex. 10).

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JOHN HUANG AT COMMERCE

Throughout the Committee's investigation, John Huang has persisted as one of the most central figures in the campaign finance scandal. Huang's involvement was evident from the earliest inkling that there was systematic illegality in the way the DNC raised money during the 1996 election cycle. The first sign was a *Los Angeles Times* story about an illegal \$250,000 contribution to the DNC from Cheong Am America. Mr. Huang raised that money. Huang proved to be a prodigious fund-raiser for the DNC in 1996, bringing in \$3.4 million to DNC coffers. Nearly half of that amount has been returned to date, and there are serious questions about much of the balance not returned.¹

Huang is linked through his fund-raising activities to many other important figures in the scandal, including Maria Hsia, Ted Sioeng, Charlie Trie, Mark Middleton, Pauline Kanchanalak, Antonio Pan, and Huang's patrons and former employers, the Riadys. Before he went to the DNC, Huang worked as a political appointee at the Department of Commerce. The press has written often about Huang's activities at Commerce, including how he got a job there, what security clearances he held, what classified or other sensitive information he had access to in the course of his employment, whether he leaked or mishandled any such information, and whether he engaged in political fund-raising there.

In an effort to address questions regarding Huang's activities at Commerce, the Committee held hearings on July 16 and 17, 1997. The hearings were the culmination of intense investigative work performed by Committee staff, which conducted dozens of interviews and depositions and reviewed hundreds of thousands of documents in connection with this phase of the hearings. Although its work was complicated by Huang's refusal to cooperate, the Committee received excellent cooperation from the Commerce Department. The Department appears to have undertaken a diligent and thorough search for materials responsive to the Committee's subpoena. The Department also made employees readily available for interviews and depositions.² For the most part, the Committee's dealings with Commerce were free of the problems encountered with the White House and the DNC.³

What emerges from the Committee's investigation is a picture of Huang both complex and vexing, which raises as many questions as it answers. He was a valuable fundraiser for the 1992 and 1996

¹ See, for example, the report section regarding DNC contributions raised by Huang from Ted Sioeng, Sioeng's family, and his businesses, totaling \$400,000. The DNC has not returned these contributions.

² The Committee notes in particular the efforts of Kent Hughes, Associate Deputy Secretary of Commerce, and Susan Truax, Office of General Counsel, in accommodating the Committee's many requests for information.

³ Other sections of this report detail the Committee's frustrating dealings with the White House and DNC.

Clinton campaigns and a “must hire” candidate who knew President Clinton personally, yet he obtained only a mid-level appointment in the Administration. Despite his modest position and the fact that he was purposely excluded from any real policy work at Commerce, Huang received classified intelligence briefings, and he appears to have met often with high ranking White House officials, including, on occasion, the President himself. In addition, he met with various Chinese diplomatic officials with some frequency, even though he was suppose to be “walled off” from substantive China policy at Commerce.

While at Commerce, Huang maintained constant contact with representatives of his former employer the Lippo Group, and his patrons, the Riadys, and was often in contact with other leading figures in the campaign finance scandal. It seems clear that he engaged in political fund-raising in violation of the Hatch Act, working closely with DNC officials to do so. The illegality of his fund-raising was compounded by the fact that at least some of the money Huang raised while at Commerce was foreign.

I. HUANG’S APPOINTMENT TO COMMERCE

On his way from Lippo to the DNC, Huang made an eighteen-month stopover at the Department of Commerce. The Committee examined the circumstances surrounding Huang’s arrival at Commerce, seeking answers to two principal questions in that regard: How did Huang secure an appointment in the Clinton administration, and why at Commerce? The Committee found only partial answers to each.

Huang was a prominent Democratic fundraiser and activist in the Asian-American community during the 1992 election. His efforts were focused largely in California. Through them, Huang forged significant ties to the DNC and other Democratic groups; ties he would rely on later for help in securing an appointment with the Clinton administration.

Before joining Commerce, Huang was employed by the Lippo Bank. Located in Los Angeles, the Lippo Bank is a wholly-owned subsidiary of the Riady-controlled Lippo Group, which is based in Jakarta, Indonesia. At the Lippo Bank, Huang participated in many fund-raising activities, both independently and on behalf of the Riady family. For example Huang, together with Maeley Tom, formed the Asia/Pacific Leadership Council, a political fund-raising group that raised thousands of dollars for the Clinton/Gore campaign.⁴ Although the extent to which Huang’s fund-raising activities facilitated his appointment to Commerce is not clear, it is certain that they played a role.

After the 1992 election, Huang became interested in a position with the Clinton administration. His name first came to the attention of the White House Priority Placement Office in 1992 when he was placed on a “must-consider” list compiled by the DNC.⁵ Mi-

⁴Maeley Tom, who, like Huang, is Chinese by birth, has spent two decades in Democratic politics in Sacramento, California. She served as a part-time consultant for the Lippo Bank while John Huang worked there. In 1994, Tom was an active fund-raiser in the Asian-American community in California and a contributor to the Democratic party.

⁵Interoffice Memorandum from Paul Carey and Rick Lerner to Michael Whouley, December 21, 1992, pp. 5, 11 (Ex. 1).

chael Whouley, who received the “must consider” list, was the head of White House Priority Placement at the time, and it was Whouley’s job to sort through various candidates who received particularly strong support, and to determine which of these candidates would then be considered a priority for the administration.⁶ Huang was placed on this list as a “must-consider” candidate for several positions, including “Under or Assistant Secretary for International Affairs” at the Department of Treasury, “Undersecretary for International Trade” at the Department of Commerce, and a “sub-cabinet” position at the Department of State.⁷ Huang’s resume was also submitted to the White House Personnel Office.⁸

Over the course of the next few months, several letters were submitted on Huang’s behalf. These letters included recommendations from Senators Paul Simon, Tom Daschle, and Kent Conrad, California State Treasurer Kathleen Brown,⁹ and lobbyist and Asian-American fundraiser Maeley Tom.

Maeley Tom’s letter, written to Deputy Director of Presidential Personnel John Emerson, is remarkable in the way it touts several Asian-Pacific Americans (“APA”) for administration positions.¹⁰ In her letter, Tom adopts a very personal, emotive tone in imploring Emerson and the administration to “use this window of opportunity to cultivate (recruit) [the APA] community’s loyalty by demonstrating that the true party of inclusion is the Democratic Party,” and, more specifically, by appointing those Tom recommended.¹¹ Although the recommendations were clearly hers and, purportedly, those of the APA community, Tom wrote on the stationery of her boss, David Roberti, President Pro Tempore of the California State Senate.

Tom’s letter is heavily salted with references to political fundraising and Democratic party-building efforts. Her recommendation of Huang relies mainly on Huang’s connection to the Riadys, major Democratic donors. Tom’s letter characterized Huang as “the political power that advises the Riady Family on issues and where to make contributions.”¹² She wrote, “[The Riady’s] invested heavily in the Clinton campaign. John is the Riady Family’s top priority for placement because he is like one of their own. The family knows the Clintons on a first-name basis. . . .”¹³

After being labeled “high priority” by the White House Priority Placement office, Huang’s file was sent over to the Personnel office and placed in a job bank.¹⁴ Here, Huang’s application foundered for several months, until his name eventually came to the attention of Gary Christopherson, who served as the Associate Director of the White House Office of Presidential Personnel from May 1993 to

⁶Testimony of Gary Christopherson, July 16, 1996, p. 14.

⁷*Id.*

⁸Resume of John Huang, undated (Ex. 2).

⁹Letters of recommendation for John Huang, December 1992–February 1993 (Ex. 3).

¹⁰Letter from Maeley Tom to John Emerson, Feb. 17, 1993 (Ex. 4). Two versions of Tom’s letter to Deputy Director of Presidential Personnel John Emerson were produced to the Committee by the White House. The first version is heavily redacted and bears a handwritten notation on the cover page indicating it was copied to Bruce Lindsey who was then Director of Presidential Personnel at the White House. The cover page of the second version contains a different handwritten notation—“Asian Appointments.” Otherwise, the two versions appear identical.

¹¹*Id.* at p. 1.

¹²*Id.* at p. 6.

¹³*Id.*

¹⁴Deposition of Gary A. Christopherson, June 4, 1997, pp. 25–26.

September 1994.¹⁵ It was Christopherson's responsibility to recruit candidates for the administration, and then match people with positions.¹⁶

According to Christopherson, Huang was raised as a "high priority placement" candidate by various members of the Asian-American community.¹⁷ The Asian Outreach section¹⁸ within the Personnel Office also weighed in on Huang and advocated his placement because it would represent an "important symbol to the Asian community."¹⁹

Huang was on the priority list for a "good period of time."²⁰ White House Personnel was having difficulty in placing Huang in an appropriate position because Huang was considered lacking in the necessary qualifications for higher level posts.²¹ When the Deputy Assistant Secretary position at the Department of Commerce became available, Christopherson felt that he had finally found an acceptable match.²²

Christopherson drafted a "decision memo" recommending Huang for an appointment as Principal Deputy Assistant Secretary for International Economic Policy.²³ This recommendation was sent to Bruce Lindsey for final review.²⁴ Christopherson's memorandum to Lindsey stated, among other things, that "John Huang has been a major Democratic supporter and expert in banking policy. He was extremely active in the Clinton/Gore campaign. . . ." ²⁵ In addition, the letter noted that Huang had been recommended by Senators Paul Simon and Kent Conrad, and Maria Haley.

Christopherson remembered speaking to someone at the Commerce Department regarding Huang's placement there.²⁶ Although he was unable to recall specifics, Christopherson concluded that during this time, he would have been in regular contact with the White House Liaison Office at Commerce, which would have received the John Huang decision memo approved by Bruce Lindsey.²⁷ Christopherson's recollection of the specifics of Huang's placement was vague. He speculated that Huang's placement was routine and uneventful and that as a result, the events did not stand out in his memory. According to Christopherson, there was little disagreement between the White House or Commerce regarding Huang's placement within Commerce.²⁸

The Committee found scant indication that the White House personnel office vetted Huang before sending its recommendation over to Commerce. According to Christopherson, Presidential Personnel

¹⁵ *Id.* at p. 14.

¹⁶ *Id.* at p. 12.

¹⁷ *Id.* at p. 41.

¹⁸ Christopherson testified in his deposition that the White House Personnel Office had "outreach" groups advising the staff and providing them with names of candidates for administration jobs. Huang was identified by the Asian Outreach group as a priority. This group included Maria Haley, Martha Watanabe, Melinda Yee and Ginger Lew. (*Id.* at p. 40).

¹⁹ Christopherson testimony, p. 8.

²⁰ Christopherson deposition, p. 49.

²¹ *Id.* at p. 42.

²² *Id.* at p. 51.

²³ *Id.* at p. 32. See also Decision Memorandum from Gary Christopherson to Bruce Lindsey, Dec. 6, 1993 (Ex. 5).

²⁴ Christopherson testimony, pp. 12–13.

²⁵ Ex. 5 at p. 1.

²⁶ Christopherson deposition, p. 49.

²⁷ *Id.*

²⁸ *Id.*

essentially left the due diligence work on Huang to the Commerce Department. The personnel office's decision to place Huang at Commerce was based solely upon Huang's resume and his status as a priority placement for the APA Community.²⁹ Once Presidential Personnel made what it considered to be an appropriate fit, vetting the applicant and reviewing his credentials and experience fell to the individual department—in this case, Commerce.

Christopherson testified as to why Presidential Personnel relied so heavily on the receiving agencies to vet appointees. He explained that the office was “incredibly busy at this time,” and that, “by the time we got around October of 1993, we were running a very streamlined, thin process and were very much more depending on the agencies to play roles there. . . .”³⁰ In short, Christopherson relied on Commerce to identify problems with the Huang appointment.³¹

Vetting aside, the Committee determined that Huang's fund-raising efforts on behalf of the DNC and the Clinton campaign were important factors in Huang's placement on the priority list.³² In his deposition, Bruce Lindsey testified, “I think we always had a preference to appoint people who were supportive of the campaign, either financially or because they worked, you know, but there was always a preference if two people were qualified to take someone who had been active and involved in the campaign at one point or the other.”³³

In Huang's case, the fund-raising continued right up until his appointment and beyond. Indeed, once Huang had finally been matched to an appropriate position, Christopherson's notes reflect that the appointment was delayed in order that Huang could participate in a fund-raising dinner held on December 4, 1993 in California.³⁴ The delay was needed since Huang would be a political appointee and thus prevented from fund-raising after his appointment to Commerce.³⁵ As Christopherson put it, “Once you become a political appointee, you stay out of the fund-raising part of the business, period.”³⁶

In late 1993, Huang's name was sent over to Commerce along with several other candidates by the White House Personnel Office. This list was sent to Jeffrey Garten, who was the Undersecretary of Commerce for International Trade during most of Huang's tenure there. Once Garten received the list, he forwarded it to the assistant secretaries below him at the International Trade Administration (ITA), including Charles Meissner.³⁷ Meissner, the Assistant Secretary for International Economic Policy, made the decision to hire Huang as his principal deputy. According to Garten, “Meissner came to me and said here's what I would like to do, and he wanted to—he was suggesting that we hire Huang, and I think the

²⁹ *Id.* at pp. 54–55.

³⁰ *Id.* at p. 63.

³¹ *Id.* at pp. 63–64.

³² Deposition of Bruce Lindsey, July 1, 1997, p. 62.

³³ *Id.* at p. 62.

³⁴ Christopherson deposition, p. 101. Memorandum from Gary Christopherson to Bruce Lindsey, Oct. 18, 1993 (Ex. 6). Christopherson's notes on the memo stated as follows: “Check Ethics with Bueno re. fund-raiser on December 4th. Check proximity of job decision in fund-raiser . . . Draft with Bruce to discuss timing.”

³⁵ Christopherson deposition, p. 101.

³⁶ *Id.*

³⁷ Deposition of Jeffrey Garten, May 16, 1997, p. 12.

major reason was that Secretary Brown was quite adamant that we have ethnic diversity.”³⁸ According to Garten, the White House Liaison list contained two Asian-Americans, and Garten and Meissner discussed where these candidates would best fit within the structure at Commerce.³⁹ The two “jointly came up with the idea that Huang ought to be [the] principal deputy, because of the two, we felt Huang was the least qualified to do something substantive, and therefore, we felt we could make that an administrative position so that we could satisfy Brown’s objective—it wasn’t just Brown; I supported it, too—of having some ethnic diversity but at the same time, not putting somebody in a position of policy responsibility that [he wasn’t] qualified for.”⁴⁰

Garten concluded that Huang lacked the professional qualifications to handle substantive trade and export policy, and reached an agreement up front with Meissner that Huang’s responsibilities would be confined to administrative matters. Huang was to act as an administrative assistant to Meissner. According to his agreement with Meissner, Garten understood “that Huang had no—was to have no policy responsibilities. . . . To the best of my knowledge, he had no responsibility for any policy, and he was there to handle administrative issues.”⁴¹ As a result of this decision, Huang ultimately joined the Department of Commerce as the Principal Deputy Assistant Secretary (PDAS) for International Economic Policy on July 18, 1994.

II. HUANG’S JOB RESPONSIBILITIES AND PERFORMANCE AT COMMERCE

It is fair to say that from the perspective of his contributions to policy and administrative matters at Commerce, Huang was very nearly an invisible man. In his eighteen months as Principal Deputy Assistant Secretary for International Economic Policy (IEP), he left virtually no mark. Indeed, in interviews and depositions conducted by the Committee, many of Huang’s subordinates, colleagues, and supervisors were at a loss to explain what occupied his time, apart from routine bureaucratic meetings and some light administrative work.

Huang served as the Principal Deputy Assistant Secretary for IEP at Commerce from July 18, 1994 until December 3, 1995, when he left to join the DNC.⁴² Huang’s office, IEP, fits within Commerce’s ITA. Huang’s immediate supervisor was Charles Meissner, the Assistant Secretary for IEP; Meissner’s immediate supervisor was Garten. Meissner died in the April 1996 plane crash that took the lives of Secretary Brown and other Commerce officials.

ITA was perhaps the most high profile organization at Commerce while Huang was there. Its primary function—to promote the export of American goods and services abroad—was the cornerstone of a Clinton administration initiative to make America’s economic interests an important consideration in our foreign policy. Garten was appointed Undersecretary in order to invigorate the ITA and

³⁸*Id.* at p. 14. It should be noted that according to Meissner’s administrative assistant Halina Malinowski, Meissner did not want to hire Huang but felt that he had no choice.

³⁹*Id.* at p. 16.

⁴⁰*Id.* at p. 16.

⁴¹*Id.* at pp. 25, 28.

⁴²It appears that Huang remained a Commerce employee on leave without pay from December 4, 1995 through January 17, 1996. Interview of Elizabeth Stroud, June 11, 1997.

make it a significant player in the commercial diplomacy effort envisioned by the Clinton administration. By many accounts, the activity level and profile of ITA picked up significantly during Garten's tenure. One thing Garten did at ITA was to ignore organizational charts, instead selecting ITA officials who he thought were best able to complete various tasks. This caused some friction, as described below.

When Huang was at Commerce, IEP was one of the four operating units that comprised ITA.⁴³ IEP was arranged geographically. Assistant Secretary Meissner sat atop IEP's structure; beneath him were four deputy assistants with responsibility for different regions of the world; beneath them were "country desks" staffed primarily by career officials. Huang, as Meissner's principal deputy, had no specific geographical responsibility.

When occupied by Huang's predecessors, the PDAS position had three basic job functions. First, it was designed to be a day-to-day manager for IEP, handling administrative matters—personnel, budget, space and office resources, and parking—on behalf of the Assistant Secretary. Second, the PDAS was also intended to fill in for the Assistant Secretary when that person was away from the office. Third, the PDAS carried a policy portfolio, which varied from one Assistant Secretary to another. Huang's immediate predecessor, for example, was the lead official at Commerce staffing the United States's involvement in the Asian-Pacific Economic Cooperation forum.⁴⁴

By all accounts, the initial agreement about Huang reached by Garten and Meissner stuck. Throughout his Commerce tenure, Huang was never trusted to handle substantive policy responsibilities, and he had none to speak of. This reflected not personal animus—Huang was remembered as a kind and deferential colleague⁴⁵—but instead a widely-held assessment of Huang's inability to handle substantive policy in a reenergized ITA. From the start, for example, Garten had misgivings about Huang. "I was uncomfortable with Huang, because one doesn't have a lot of time in these situations, but my instinct, as someone who had lived and worked in Asia, was that he wasn't the kind of person who ought to represent the American government."⁴⁶ Garten considered Huang "totally unqualified, in my judgment, for the kind of Commerce Department that we were establishing."⁴⁷

Garten considered certain policy areas to be of sufficient priority that he brought them into the Undersecretary's office and ran them himself through hand-picked ITA officials.⁴⁸ Several of these involved "big emerging market" countries in Asia. This, combined with Garten's broader decision to ignore the bureaucratic structures within ITA in tasking out important work, led to some dis-

⁴³The others were Trade and Development, the U.S. and Foreign Commercial Service, and the Import Administration. IEP has since been reorganized and is now called MAC, or Market Access and Compliance.

⁴⁴Interview of Rick Johnston, June 12, 1997.

⁴⁵See Deposition of Alan Neuschatz, May 22, 1997, p. 22; Deposition of David Rothkopf, June 2, 1997, p. 34.

⁴⁶Deposition of Jeffrey Garten, May 16, 1997, p. 17.

⁴⁷Testimony of Jeffrey Garten, July 16, 1997, p. 125.

⁴⁸David Rothkopf, Garten's deputy, described this as a process where the top ITA officials decided to create a "company within a company" on certain issues instead of attempting a wholesale reformation of ITA and IEP.

agreements between Garten and Meissner. Meissner wrote Garten a memo in September 1994, complaining about the situation and offering that Huang and another deputy assistant secretary at IEP could handle Asia. Garten's response was blunt: "John Huang and Nancy Linn Patton [the other deputy assistant secretary] are not up to what I need at this time. I am not running a training program, so I have to be brutal in terms of getting results. . . . I can tell you one thing: neither John Huang nor Nancy Linn Patton are up to handling Asia in any way, shape or form at this time."⁴⁹ Eventually, one exception was permitted, and Huang took on a very modest policy role assisting Meissner with Taiwan.⁵⁰

Garten's view that Huang could not handle substantive policy matters was widely shared at ITA. Tim Hauser, a Garten deputy and the top career official at ITA, recalls "a general view across the senior management ranks" that Huang lacked the necessary attributes for substantive policy work.⁵¹ Garten's other deputy, David Rothkopf, while more diplomatic, likewise "was not particularly struck by [Huang's] effectiveness."⁵² Career officials shared these sentiments.⁵³

In light of his frequent access to classified information relating to China, the Committee paid particular attention to whether Huang held any policy responsibility regarding that country, and if not, why. As it turns out, Huang was specifically walled off from China because his superiors concluded he was not capable of doing the work. Garten, who handled China in large measure himself, remembered, "Well, generally, I didn't want Huang working on anything, and since China was such a high priority, there was no chance that, with my knowledge, he would have gotten close to it."⁵⁴ A second reason Garten walled Huang off was Garten's sense that for diplomatic reasons, you "did not mix people" working on Taiwan and China.⁵⁵

Although he was permitted, and indeed expected, to handle administrative matters at IEP, Huang's colleagues held a similarly dim view of his abilities in that regard. Alan Neuschatz, ITA's Director of Administration, interacted frequently with Huang on administrative matters, finding Huang unsure of himself even as to routine decisions and "requir[ing] constant reinforcement."⁵⁶ Neuschatz would have given Huang a grade of "low C" as an administrator and noted that Huang was "fortunate" to have an "experienced and energetic and capable" career assistant, Halina Malinowski, to help him.⁵⁷

On the whole, the image developed of Huang is that of a shy, kindly, somewhat reclusive "light weight" who was out of his depth at Commerce. The only piece of evidence found by the Committee running counter to this image is a favorable job performance for

⁴⁹ Memorandum from Jeffrey Garten to Charles Meissner, October 4, 1994, pp. 1, 3 (Ex. 7).

⁵⁰ Garten deposition, May 16, 1997, p. 28.

⁵¹ Deposition of Timothy Hauser, May 22, 1997, p. 39.

⁵² Rothkopf deposition, p. 34.

⁵³ *E.g.*, Interview of Don Forest, April 29, 1997. Alan Neuschatz, the Director of Administration, observed that Huang was "as uninvolved a player as [he] had seen in ten years at ITA." Neuschatz deposition, p. 17.

⁵⁴ Garten deposition, May 16, 1997, pp. 35–36; *see also* Garten testimony, p. 126.

⁵⁵ Garten deposition, May 16, 1997, p. 36.

⁵⁶ Neuschatz deposition, p. 22.

⁵⁷ *Id.* at p. 80.

Huang prepared by Charles Meissner. Meissner's October 1995 appraisal scores Huang a possible 485 out of 500, and grades him as "outstanding."⁵⁸ Yet according to the witnesses with whom the Committee spoke, the appraisal is meaningless. Garten recounted: "This document has no significance in my mind. All of these reports are totally inflated. Reports written on political appointees are not worth the paper they are written on."⁵⁹ When asked why Meissner would write such a positive review for someone not held in high professional esteem, Garten surmised, "My guess is that he felt sorry for Mr. Huang because I had so clearly eclipsed any role that [Huang] could have, and he wrote the report knowing that it really made no difference. He couldn't promote Mr. Huang. He couldn't expand his range of policy responsibilities. . . . So under those circumstances, the more friendly thing to do was to give him a high rating."⁶⁰

Much of the media coverage that preceded the Committee's hearings suggested Huang had an active hand in directing Commerce's international trade policy. The Committee's investigation indicates that this was not so. Huang was inconsequential at Commerce, and he was precluded from having much of a role in substantive policy. He was specifically prohibited from handling matters involving China. That said, Huang nevertheless had frequent access to classified and proprietary information relating to trade policy that was valuable to companies and foreign governments. He received much of that information notwithstanding the fact that he lacked a "need to know" it, in violation of a bedrock principle for controlling the dissemination of classified information. Why that happened, and what he might have done with that information, are discussed below.

III. JOHN HUANG'S SECURITY CLEARANCES

Since his name first appeared in media accounts regarding the campaign finance scandal, there has been enormous public interest in the security clearance Mr. Huang held at Commerce, including questions regarding why he was granted a clearance, how long he held it, and whether an adequate examination of his background was conducted before its issuance. This section examines the security clearances Huang was granted prior to and during his tenure at the Commerce Department.

In connection with his appointment to Commerce, Huang was granted a top secret security clearance. More precisely, Huang was issued three security clearances in succession, each at the top secret level. Although Huang's first day at Commerce was July 18, 1994, he was granted his first security clearance in January 1994. During that month, the DOC Office of Security (OS) conducted preliminary records checks on Huang and, on January 27, 1994, grant-

⁵⁸ Classification and Performance Management for John Huang, October 1995 (Ex. 8).

⁵⁹ Garten testimony, p. 135.

⁶⁰ *Id.* at p. 138. Others shared Garten's view that Huang's job appraisal was an innocuous—and meaningless—gesture of kindness by Meissner. Tim Hauser, for example, considered the appraisal "more inflated" (Hauser deposition, p. 42) than his view of Huang, noting that political appointees almost always get high ratings. *Id.* at pp. 47–50. Rothkopf was unfamiliar with Huang's specific appraisal but observed that "generally [] these things are baloney. . . . [The genre] is not high in nutritive content." Rothkopf deposition, p. 109. Neuschatz noted that Meissner was "extremely nurturing," and supportive of all of his subordinates; he was also "an easy grader." Neuschatz deposition, pp. 19–20.

ed him an interim top secret clearance. On August 9, 1994, approximately three weeks after Huang joined Commerce, the Office of Security sent Huang's file to OPM for it to conduct a full background investigation. OPM reached a favorable determination on October 18, 1994; the Office of Security concurred seven days later and Huang's final top secret clearance was granted.

Huang's top secret clearance was taken from him on January 25, 1996, shortly after he left for the DNC. However, on December 14, 1995, he already had been granted his third clearance, a top secret consulting clearance, by the Defense Industrial Security Clearance Office (DISCO) in connection with an unsuccessful effort to make Huang a consultant to the Department while he worked for the DNC. Huang's DISCO clearance was not taken away until December 1996.

Huang's first clearance, his interim top secret, was granted by Commerce's Office of Security on January 27, 1994. At the time, Huang was still Vice Chairman of the Lippo Bank, and he would remain at Lippo until July 1994. Huang received the interim clearance based on a records check alone and no interviews or other investigation of his background. Why was Huang granted a top secret clearance six months before he began at Commerce? Since shortly after the campaign finance scandal broke, the press has provided ample speculation, but no answers.⁶¹ The Committee has found no evidence that Huang actually saw classified materials before joining the Department. That possibility, however, was not ruled out by witnesses with whom the Committee spoke. For example, Joe Burns, an information specialist in the OS who worked directly on Huang's clearance, said Huang may have been granted access to classified information based upon his representation that he held a clearance. "They may say, hey, I'd like you to see this; by the way, do you have a clearance? If you say yes, they [may] take you at face value."⁶²

The answer to why Huang was granted a clearance prior to joining the DOC appears to lie in a policy set in place during the changeover of administrations in early 1993. In past administrations, Commerce followed a policy under which a political appointee's supervisor had to demonstrate the appointee's "need to know" and "critical need" for classified information before an interim clearance would be granted.⁶³

⁶¹ See, e.g., Brian Duffy & Bob Woodward, "FBI Warned 6 on Hill About China Money; Officials Say Lawmakers, Others Targeted in \$2 Million Plan to Buy Influence," *Washington Post*, March 9, 1997, p. A1 ("For five months while he was still employed at Lippo Group, before he joined the Commerce Department, Huang received a top-secret security clearance that could have allowed him to review classified U.S. intelligence documents. . . ."); James Adams, "Chinese Spies Had Open Door to Oval Office," *Sunday Times*, November 10, 1996 (noting that Huang's interim clearance "gave him access to vital American intelligence"); Bill Gertz, "Huang Frequent White House Visitor; Also Got Unusual Security Clearance Waiver," *The Washington Times*, October 31, 1996, p. A1.

⁶² Deposition of Joseph J. Burns, May 23, 1997, p. 115.

⁶³ This point was circuitously made by Paul Buskirk during the Committee hearing of July 16, 1997. Buskirk testified that, under pre-1993 policy, (and under the policy in place as of March 1997), OS would not issue an interim clearance "until management justify[ed] the need-to-know classified information," (Testimony of Paul Buskirk, July 16, 1997, p. 71) and again, that "before 1993, if a position required access to classified information, what we required was that there be a justification for a clearance. Otherwise, if that request came in, they were requested to wait until the background investigation was completed before the clearance was issued." Buskirk testimony, p. 65. Joe Burns told the Committee it was the employee's supervisor who had to demonstrate the requisite need to know. Burns deposition, p. 16.

The Clinton Administration ushered in a new policy at Commerce. Under the new policy, all political appointees at Commerce were granted interim top secret clearances after a short series of pre-appointment checks. All appointees were later subjected to full field investigations, but that was because the Clinton Administration eliminated the requirement that management justify each appointee's "need to know" prior to the granting of an interim clearance. The new policy was, "everybody gets one."

This policy change is itself an interesting story. It was effected in early 1993 to accommodate the roughly 200 political appointees who soon would be joining the Department.⁶⁴ The idea was to design a system that would allow appointees to have access to classified information the day they walked into the Commerce Department. While meeting that goal, the system was beset by a variety of problems. Perhaps the most significant stemmed from the government requirement that interim clearances can only be granted where there is a "critical need" for one. An interim clearance is granted only after a determination is made to waive the normal background checks that precede the granting of a "final" clearance. For a waiver to be granted, a particularized determination must be made of a "critical need" for the person in question to have access to classified information in short order.⁶⁵ In the Clinton Commerce Department, hundreds of waivers were granted—and interim top secret clearances conferred—without particularized determinations of critical need. As noted earlier, under prior policy, interim clearances were granted only for those employees whose supervisors specifically requested such action.

Stephen Garmon, the former Director of Commerce's OS, claims much of the responsibility for the system put in place in January 1993. Faced with a flood of new Commerce appointees, Garmon had to figure out what to do, how to "facilitate the institutionalization . . . of a new administration."⁶⁶ As he put it:

So I suggested very pointedly that we treat them all as candidates for top secret clearances, and with that as a decision as sort of a bottom line, we'd give them the full blast as far as investigations were concerned, and then it would not make that much difference who was going to be in what position on any given day. The powers that be, whoever they may have been didn't resist that and accepted it, and we proceeded on that. The intention was to sort of back out of that once they got enough people in key positions that they could operate with any sort of effectiveness, and the unfortunate part is we didn't turn the spigot off probably as fast as we should have within security. That's one of those things that happens. You just don't do it.⁶⁷

Garmon recalls that he proposed his idea in a January 1993 meeting with the DOC's Director of Human Resources and two presidential transition team members, one of whom, Carol Darr, "was

⁶⁴ Deposition of Steve Garmon, May 23, 1997, p. 26.

⁶⁵ *Id.* at p. 45.

⁶⁶ *Id.* at p. 34.

⁶⁷ *Id.* at p. 27.

part of the Democratic National Committee.”⁶⁸ Garmon called the two transition team members “emissaries from the administration.”⁶⁹ Garmon received what he recalls to be “a nod of approval” from them.⁷⁰

One of the reasons Garmon conceived of the “everybody gets one” system and ran it by representatives of the Clinton administration was to pre-empt pressure from the administration to grant its appointees access to classified material. Garmon testified, “My experience . . . had been such that I was sensitized to the fact that if I didn’t find some way to expedite this activity, I was going to feel that pressure. I was trying to be on the front end of it, if you will, and avoid the pressure by taking care of it before it arose as an issue.”⁷¹

The system Garmon conceived was implemented soon thereafter. The most obvious problem with the system was its evisceration of the mandated “critical need” standard. No particularized determination of “critical need” was undertaken for the Clinton Administration’s appointees to Commerce.⁷² OS assumed that a “critical need” existed for all political appointees to receive a background-check waiver by virtue of the fact “they were coming on board.”⁷³ Commenting that he knew of no other agency that granted an interim secret clearance to each political appointee, Joe Burns testified: “I don’t think that anyone did it quite the way we did, which was the blanket boilerplate.”⁷⁴

When the 1993 change was put in place, it was meant to last only until a “critical mass” of Commerce appointees were in the door and could access classified information, at which point OS would return to the more particularized, involved process. But this is not how things worked out. The 1993 policy change lived on for four years; Commerce Secretary Daley put an end to the practice in early 1997 as a result of the Committee’s investigation.⁷⁵ Paul Buskirk, who became Acting Director of the OS when Garmon retired, believes the policy instituted by Secretary Daley—the same policy in place before the Clinton administration—“clearly is preferable.”⁷⁶ Joe Burns agrees: “I can understand why we went the way we did based on the possibility [of] facing an onslaught of hundreds of people, a lot of chaos going on with trying to process everybody and making sure that everybody had a clearance who needed one. But, in retrospect, I think the way we’re doing it now is the best way, which is you’ve got to justify each person.”⁷⁷

Reverting to the old clearance process was not the sole course of action pursued by Secretary Daley on the subject. In response to the Committee’s investigation, he also created a security task force to study the Department’s handling of security clearances and clas-

⁶⁸ *Id.* at p. 30.

⁶⁹ *Id.*

⁷⁰ *Id.* at p. 31.

⁷¹ *Id.* at p. 34.

⁷² *Id.* at p. 40.

⁷³ *Id.* at p. 45.

⁷⁴ Burns deposition, p. 36.

⁷⁵ See Deposition of Paul Buskirk, June 3, 1997, pp. 25–26.

⁷⁶ *Id.* at p. 27.

⁷⁷ Burns deposition, pp. 35–36.

sified information.⁷⁸ The task force's recommendations on the granting of security clearances emphasize the inadequacy of the procedures set in place in 1993 and suggest even stricter controls than those reinstituted by Secretary Daley.

Several aspects of John Huang's case are typical of clearances issued by the Clinton Commerce Department. In early January 1994, OS was notified Huang would be hired by the Department. Shortly thereafter, pursuant to the procedures in place at the time, Joe Burns made a standard series of pre-appointment checks on Huang. The checks, documented on an OS form referred to by Burns as a "case cover sheet,"⁷⁹ were made largely over the course of one day.⁸⁰ Essentially, they entailed checking various computer databases for information on Huang. Hence, Burns ran a National Crime Information Center ("NCIC") check, a credit check, and checks utilizing OPM and Department of Defense databases.⁸¹ Through all but the NCIC check, Burns found no adverse information on Huang.

The NCIC check revealed that Huang had been arrested or detained by INS agents in Baltimore in 1972.⁸² No follow-up work was done to determine the nature of the arrest or detention or its resolution prior to granting Huang his interim clearance.⁸³ Instead, OS officers assumed the incident was insignificant based on Huang's representation (on his SF-86) that he became a U.S. citizen four years later. Specifically, when he was notified that an NCIC check revealed a "hit" for John Huang, Burns went to see Paul Buskirk for guidance. Buskirk told him not to do any follow-up work and to grant the interim clearance.⁸⁴ Looking back, Burns thinks OS probably should have followed up on the NCIC hit to determine the nature of the immigration action.⁸⁵

Huang was granted an interim top secret clearance on January 27, 1994, some six months before he joined the DOC. Whether Huang was notified at the time that he had been granted an interim clearance is not certain. A notification letter, dated January 27, 1994,⁸⁶ and informing Huang that he has been granted an interim top secret clearance, is unsigned but initialed by Burns.⁸⁷ Both Burns and Buskirk (the author listed in the letter) are reasonably certain Huang was never sent or shown a copy of the letter.⁸⁸

According to Burns, the letter would have been sent to Huang only when Huang entered into service at the Department and was "briefed in"; that is, provided instructions regarding the handling of classified information and shown and made to sign a non-disclo-

⁷⁸The task force's recommendation and Secretary Daley's instructions to implement them are attached as an exhibit to this report. See Memorandum from William M. Daley to Raymond G. Kammer, Jr., June 27, 1997 (Ex. 9).

⁷⁹Burns deposition, p. 53.

⁸⁰Case Coversheet [title derived], file no. 207, 427, undated (Ex. 10).

⁸¹The Defense Department database is known as the Defense Central Investigations Index.

⁸²NCIC report, Jan. 13, 1994 (Ex. 11).

⁸³Garmon deposition, p. 48.

⁸⁴Burns deposition, p. 56.

⁸⁵Burns deposition, p. 67.

⁸⁶Letter to John Huang from Paul A. Buskirk, Jan. 27, 1994 (Ex. 12).

⁸⁷Burns deposition, p. 69.

⁸⁸*Id.*, p. 70; Buskirk deposition, pp. 44-45.

sure agreement (SF-312).⁸⁹ The “briefing in” process is supposed to occur before actual access to classified information is granted.⁹⁰ However, once an interim clearance has been granted, the DOC Office of Personnel is notified and OS updates its computer system to reflect the occurrence.⁹¹ Hence, while it is unlikely that Huang became aware that he received an interim clearance around the time it was granted, it is “possible” that he did.⁹² As Garmon put it, “I do not know that he was [notified of his clearance]. I do not know for certain that he was not. I am reasonably comfortable that he wasn’t, but there’s no guarantee.”⁹³ It should be noted that, in terms of access to classified information, there is no difference between an interim and a final clearance.⁹⁴

In order to issue Huang an interim top secret clearance, the Office of Security had to grant him a background investigation waiver. This was done by a waiver memorandum in January 1994.⁹⁵ The memo states that Huang was granted a waiver of background investigation “due to the critical need for his expertise in the new Administration for Secretary Brown.”

It is clear that this “critical need” language, and, for that matter, language concerning Secretary Brown’s purported involvement in the decision to grant Huang the waiver, is a misleading by-product of the Commerce Department’s clearance process. Burns characterized this language as “boilerplate,” observing, “Take out Huang’s name, and if Mr. Burns was a new political, you put in Burns’ name. I mean, you just—it was boilerplate. Every political waiver is going to look like this.”⁹⁶ According to Steve Garmon, neither Secretary Brown nor anyone in his office notified OS that the Secretary had a “critical need” for John Huang’s expertise such that he needed an interim top secret clearance.⁹⁷ Paul Buskirk has a similar recollection. Buskirk testified no one in Secretary Brown’s office informed OS that the Secretary had a critical need for Huang’s expertise.⁹⁸ Buskirk was not aware of anyone within the Department who had a critical need for Huang’s expertise that would require Huang to have immediate access to classified information.⁹⁹ Indeed, in January 1994, Buskirk “didn’t know where Huang was going to be assigned.”¹⁰⁰

The six-month lag between the granting of an interim top secret clearance to Huang and his entering into service at the Department is difficult to understand. Back in 1994, when Huang joined the Department, it was not uncommon for an interim top secret

⁸⁹ Burns deposition, pp. 70, 75–76. The Committee never received from Commerce a dated and signed copy of Exhibit 12, the letter notifying Huang of his interim top secret clearance. Such a letter, if it exists, falls clearly within the scope of the Committee’s subpoena to the DOC.

⁹⁰ *Id.*

⁹¹ *Id.*, pp. 72–73.

⁹² *Id.*, p. 72.

⁹³ Garmon deposition, p. 52.

⁹⁴ *Id.*, p. 35.

⁹⁵ Memorandum from Paul Buskirk to H. James Reese, Jan. 31, 1994 (Ex. 13).

⁹⁶ Burns deposition, p. 46.

⁹⁷ Garmon deposition, p. 41.

⁹⁸ Buskirk deposition, p. 38.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

clearance to be issued weeks before an appointee started. Huang's six-month lag, however, was unusual.¹⁰¹

After Huang's arrival at Commerce, the DOC Office of Security granted him his second successive clearance, a final top secret clearance, on October 25, 1994.¹⁰² The final clearance was not based on a background investigation conducted by OS. Rather, as was its custom, OS farmed that task out to the Office of Personnel Management ("OPM"), which conducted what is known as a Special Background Investigation on Huang. Once OPM had completed its investigation, OS reviewed the results,¹⁰³ and Buskirk then issued the final top secret clearance, which states that it is "valid only while Huang occupies the position [of Deputy Assistant Secretary within the International Trade Administration]." ¹⁰⁴

The OPM commenced its background investigation of John Huang on August 9, 1994, completing it on October 18, 1994. In the course of the investigation, OPM decided not to conduct an overseas background check on Huang despite Huang's years abroad. OPM claims that its guidelines neither required nor precluded such an investigation in Huang's case.¹⁰⁵ The Committee interviewed Scott Kaminski, a former investigator reviewer at OPM, about Huang's case.¹⁰⁶ Kaminski reviewed the background investigation of Huang before forwarding the completed report to the DOC. Kaminski told the Committee that under OPM rules then in existence, overseas investigative coverage was only required if the appointee lived overseas more than six months in the three years prior to being appointed to a government agency. After reviewing Huang's OPM file, Kaminski concluded that Huang had not lived overseas in the previous three years and decided, within his discretion, not to schedule an overseas investigation.

Kaminski did identify a potential security issue with Huang, however, and he communicated it to Commerce. Kaminski told the Committee that when he learned Huang still traveled frequently to Asia and had a number of contacts there, including at least one bank account, he made a character level "E" notation on his reviewer action sheet for Huang. The "E" notation signified a potential security problem and was used to alert Commerce OS officials, who nevertheless failed to act upon it.¹⁰⁷

After the OPM report was forwarded to Commerce, neither Burns nor Buskirk returned the file to OPM to request an overseas check. Hence, the overseas check did not happen, and Huang was granted a final top secret clearance on October 25, 1994.

Buskirk knew at the time that OPM did not do an overseas background check on Huang.¹⁰⁸ That did not trouble him then, but it does now. "Because now we have an issue that if we had gone to Hong Kong and done the neighborhood checks, we probably would

¹⁰¹ Burns deposition, p. 42. As Burns told the Committee, "[I]f Personnel says to do this waiver, [we just assume] that they want it done because the person's coming on board fairly quickly. Why it took six months for Huang to come on board, I don't know." *Id.*

¹⁰² Ex. 10.

¹⁰³ Certification of Investigation, Oct. 25, 1994 (Ex. 14).

¹⁰⁴ *Id.*

¹⁰⁵ In his October 30, 1996 letter (Ex. 15) to Representative Larry Combest, James King, Director of OPM, claimed that the investigation of Huang "met the coverage standards for the type of investigation conducted."

¹⁰⁶ Memorandum of Interview of Scott Kaminski, May 12, 1997.

¹⁰⁷ *Id.*

¹⁰⁸ Buskirk deposition, p. 60.

have picked up or possibly would have picked up some issues that we didn't pick up in the investigation."¹⁰⁹ The issue for Buskirk: "Was [Huang] an agent for Chinese intelligence?"¹¹⁰ That issue was not resolved to Buskirk's satisfaction.¹¹¹

Shortly before Huang left Commerce, an effort was undertaken to make him a consultant to the Department notwithstanding the fact that he was leaving to join the DNC as a political fund-raiser. As part of the consulting arrangement, Huang was to have been granted the third of his top secret clearances, this one reflecting his status as a Commerce consultant. Although, ultimately, Huang was not made a consultant, he was nevertheless granted a top secret consultant clearance by DISCO in December 1995.¹¹² This clearance was not taken away for a year, or long after Huang had departed Commerce for the DNC. As far as Buskirk knows, no other consultant on the DOC payroll was ever granted a top secret security clearance.¹¹³

Garmon testified to the process through which Huang was granted a top secret clearance by DISCO. According to Garmon, DISCO granted the clearance based on the fact that Huang, at the time, held a top secret clearance at Commerce. DISCO did not conduct a separate background investigation of Huang.¹¹⁴ OS was notified by DISCO that Huang had been granted a clearance but failed to tell DISCO that Huang would not become a consultant (i.e., that no clearance was needed for Huang). According to Garmon, "My office can be faulted."¹¹⁵ As a result of the snafu, OS changed its procedures so that now, all requests to DISCO for clearances must go through OS.¹¹⁶

Though not directly involved with the granting of a consulting clearance to Huang, Buskirk and Burns both of OS became aware that the clearance had been issued. Buskirk told us that the request for Huang's consulting clearance was handled by the ITA security office, not OS.¹¹⁷ Specifically, Bob Mack, an ITA security officer, submitted the paperwork to DISCO.¹¹⁸ Buskirk recalls a conversation he had with Mack in which Mack told him that Halina Malinowski, Meissner's administrative assistant, pushed him to secure a top secret consulting clearance for Huang. Buskirk recalls the conversation as follows: "What Bob Mack told me was, because I am asking him if he remembers John Huang, he goes, no, I don't remember John, but I remember Halina calling me saying this guy needs a clearance, and no is not an acceptable answer."¹¹⁹ The Committee interviewed Mack, who denied that Malinowski applied undue pressure on him. For her part, Malinowski clearly recalls that Meissner wanted Huang to get the clearance. In fact, she told the Committee that Meissner pushed for the consulting arrangement, and a consulting clearance, as a favor to Huang.

¹⁰⁹ *Id.* at p. 60.

¹¹⁰ *Id.* at p. 61.

¹¹¹ *Id.* at p. 62.

¹¹² DISCO clearance, Dec. 14, 1995 (Ex. 16).

¹¹³ Buskirk deposition, pp. 66–67.

¹¹⁴ Garmon deposition, p. 66.

¹¹⁵ *Id.* at p. 66.

¹¹⁶ *Id.* at p. 68.

¹¹⁷ Buskirk deposition, p. 65.

¹¹⁸ *Id.* at pp. 65–66.

¹¹⁹ *Id.* at p. 68.

Burns testified that he became aware Huang held a DISCO top secret clearance in December 1996, during a conversation Burns and Buskirk were having with ITA security officer Bob Mack. As Burns puts it, “Bob Mack and Buskirk and I were having a conversation, and Huang’s name came up, nothing to do with him having a consultant clearance, and Mack said, ‘you know, he still has a DISCO T[op] S[ecret],’ and Buskirk’s eyes got wide as saucers and [he said]—‘What?’ So it caught us off guard.”¹²⁰ Burns testified that OS “screwed up” by not entering Huang’s DISCO clearance on its database.¹²¹ As with his interim top secret clearance, it is unclear whether Huang was notified of the DISCO clearance issued in December 1995.¹²²

The more important question is whether Huang had access to classified information during the periods when he held a top secret clearance but did not work at the DOC. Although the Committee found no evidence that Huang did, in fact, secure such access to classified information, opportunities to do so may well have existed. When asked whether Huang had access to any classified information at Commerce between January 1994, when he received his interim clearance, and July 1994, when he started work, Buskirk observed, “I don’t know the answer to that, but it would have been a breach if someone had given him access.”¹²³ As for access after leaving Commerce, although John Huang began working at the DNC on December 5, 1995, he did not turn in his Commerce ID, keys, and passcard until January 22, 1996. Huang therefore had unfettered access to the building for almost two months after he left the Department.¹²⁴ In addition, Buskirk testified that Huang visited Commerce headquarters four or five times in the period February–May 1996.¹²⁵

IV. THE EFFORT TO MAKE JOHN HUANG A CONSULTANT

The effort to make Huang a Commerce Department consultant after he had announced his departure for the DNC is perhaps the most mysterious aspect of the Department’s experience with Huang. It appears that Charles Meissner and, presumably, Huang, were behind the effort, but it is not clear why either wanted this done. What is clear is that Meissner signed off on paperwork to (1) place Huang on leave without pay starting December 4, 1995 and (2) make him a consultant effective December 3, 1995. In addition, Meissner directed his administrative assistant, Malinowski, to request Huang’s third top secret clearance, which was granted by DISCO on December 14, 1995.

The paperwork requesting Huang be made a consultant contains a statement concerning why Commerce purported to need Huang. It reads, “Mr. John Huang will help the Assistant Secretary for International Economic Policy during the transition time of the Principal Deputy Assistant Secretary’s position in IEP.”¹²⁶ The

¹²⁰ Burns deposition, p. 86.

¹²¹ *Id.* at p. 87.

¹²² When asked in his deposition whether Huang was notified of his DISCO clearance, Steve Garmon replied, “I don’t know that he was not.” Garmon deposition, p. 84.

¹²³ Buskirk deposition, pp. 45–46.

¹²⁴ *Id.* at pp. 73–74.

¹²⁵ *Id.* at p. 74.

¹²⁶ Request for Approval of Advisory and Assistance Services, undated (Ex. 17).

forms further represent that Huang was needed to fill a position “requiring a high degree of expertise not available from the regular work force” and that “Huang’s expertise on the Asia Pacific region will be used by IEP in commercial policy formulation.” To put it mildly, these representations are at odds with the negligible policy role Huang played as Principal Deputy to Meissner.

The effort to make Huang a consultant entailed more than paper shuffling. Meissner met with at least three Commerce officials to enlist their support. In early December 1995, Meissner walked down the hall at Commerce headquarters to Deputy Undersecretary Tim Hauser’s office and found Hauser and ITA’s Director of Administration, Alan Neuschatz. Meissner pitched his idea to Hauser and Neuschatz, who, at this point, were aware of Huang’s impending move to the DNC. Bemused, Hauser and Neuschatz told Meissner they thought making Huang a consultant was a terrible idea and unsupportable. Undeterred, Meissner informed Hauser and Neuschatz that he might raise the issue to a higher level, which he did.

Sometime in early December 1995, Meissner also paid a visit to Will Ginsberg, who was then Secretary Brown’s Chief of Staff. As Ginsberg recalls, Meissner raised several issues, one of which was adding John Huang to the ITA consultant’s list. Ginsberg remembers asking whether the move would be politically sensitive. He also asked why Meissner wanted to make Huang a consultant. Ginsberg’s notes from the meeting reflect Meissner’s reply: to “keep his [Huang’s] security clearance.”¹²⁷

On the effort to hire Huang as a Commerce consultant, the Committee deposed several of Huang’s former colleagues at Commerce. The perspectives of those we spoke to, as discussed below, were largely consistent. In short, those who became aware of the proposal to make Huang a consultant were at a loss to understand—given Huang’s move to the DNC and his inconsequential performance at Commerce—why such an effort would be undertaken.

Tim Hauser, a career civil servant, served as Deputy Undersecretary for International Trade. Huang’s boss, Meissner, reported to Hauser. In early December 1995, Meissner strolled into Hauser’s office, where Hauser was talking to Neuschatz, ITA’s Director of Administration. According to Hauser, the conversation went as follows: “Meissner said, you know John Huang is leaving. I said, yes, I had heard that. He said he would like to keep him on as a consultant.”¹²⁸ Hauser had the impression that Meissner was seeking permission from him and Neuschatz,¹²⁹ although Meissner did not bring any documents for Hauser and Neuschatz to sign.¹³⁰ At the time of this proposal, Hauser was aware that Huang had already accepted a fund-raising position with the DNC.¹³¹

Hauser made clear to Meissner that the idea of retaining Huang as a consultant was “unnecessary and inappropriate”¹³² because Huang was going to the DNC¹³³ and because Huang’s expertise

¹²⁷ Notes of William Ginsberg, week of Dec. 6, 1995 (Ex. 18).

¹²⁸ Hauser deposition, p. 59.

¹²⁹ *Id.* at p. 61.

¹³⁰ *Id.* at p. 66.

¹³¹ *Id.* at pp. 59–60.

¹³² *Id.* at p. 59.

¹³³ *Id.* at pp. 59–60.

and knowledge of the Asia Pacific region were not unique.¹³⁴ Hauser testified, “I felt the organization could survive Mr. Huang’s departure.”¹³⁵ What Hauser thought, though, and out of respect for Meissner, did not say, was that the proposal was “lunacy.”¹³⁶ Meissner did not have the authority on his own to make Huang a consultant. Hauser believed that, because Huang was a political appointee, the chief of staff (Ginsberg) would have had to authorize Meissner to make such a decision.¹³⁷ When Hauser told Meissner that he could not support bringing Huang on as a consultant, Meissner said that he might “want to talk to the people upstairs;”¹³⁸ Hauser understood this to mean Meissner might speak Ginsberg.¹³⁹

The consulting paperwork represented that Huang would be assuming a consulting position “requiring a high degree of expertise not available from the regular work force.”¹⁴⁰ Hauser was not aware of any expertise John Huang had that was shared by no one else in the Commerce work force¹⁴¹ and stated that he believed Huang did not serve a significant role in any policy matters.¹⁴² Moreover, Hauser characterized the principal deputy position held by Huang as “perhaps an unnecessary layer of management.”¹⁴³

The Committee also spoke about the proposed consultancy to Neuschatz, who recounted that he and Hauser were “somewhat surprised and a little aghast” by Meissner’s suggestion; neither saw the necessity of such a move and both were concerned that Huang was going to the DNC.¹⁴⁴ Neuschatz recalled telling Meissner “it would be a Hatch Act violation” for Huang to work at the DNC and remain a Commerce consultant.¹⁴⁵

After striking out with Hauser and Neuschatz, Meissner was true to his word and, in early December 1995, “took the matter upstairs,” meaning to Will Ginsberg, Secretary Brown’s chief of staff. Meissner visited Ginsberg’s office to discuss, among other things, Meissner’s desire to make Huang a consultant. At that time, Ginsberg had never met Huang. Meissner did not ask Ginsberg to

¹³⁴ *Id.* at p. 65. Although Garten was unaware at the time of Meissner’s proposal to retain Huang as a consultant, he shares Hauser’s view that hiring Huang would have been a waste. “Huang was so totally ineffective, in [my] view.” Garten deposition, May 16, 1997, pp. 40–41. Garten went on to state, “[l]ooked at rationally, Huang made virtually no contribution that I can think of to national policy, and so, I would consider it totally irrational to want to keep him on.” *Id.* at p. 40.

¹³⁵ Hauser deposition, p. 61.

¹³⁶ *Id.* at p. 63.

¹³⁷ *Id.* at pp. 58–59.

¹³⁸ *Id.* at p. 60.

¹³⁹ *Id.* The paperwork requesting Huang’s consulting state in part, “Mr. John Huang will help the Assistant Secretary for International Economic Policy during the transition time of the Principal Deputy Assistant Secretary’s position in IEP.” Ex. 17, p. 1. In his eighteen years of employment at the Department of Commerce, Hauser was unaware of any occasion where a Department employee was made a consultant to ease the transition of the person taking over for him or her. Hauser deposition, p. 64. Hauser further testified that he was unaware of any employee who was made a consultant upon leaving the Department, and he characterized Meissner’s request as “unusual” in that sense. *Id.* at p. 112.

¹⁴⁰ Ex. 17, p. 2.

¹⁴¹ Hauser deposition, p. 65.

¹⁴² *Id.* at p. 23.

¹⁴³ *Id.* At the bottom of Ex. 17 is a box to be signed by the “certifying official.” Although his title was typed in the box and there is a blank line for his signature, Hauser was never asked to sign this document and would not have signed it had he been asked. Hauser deposition, pp. 18–22, 23, 66.

¹⁴⁴ Neuschatz deposition, p. 42.

¹⁴⁵ *Id.* Neuschatz confirmed Hauser’s recollection that Meissner said he needed Huang in order to ease the transition period that would result from his departure and that Meissner believed Huang going to the DNC did not matter. *Id.*

take any action in this regard; rather, Meissner was “simply seeking to make [Ginsberg] aware of [his plan].”¹⁴⁶ Ginsberg later learned that Meissner had already approached Hauser and Neuschatz about making Huang a consultant and “the idea was not being greeted warmly. . . . It basically wasn’t going anywhere.”¹⁴⁷

Although Ginsberg does not specifically recall a discussion about Huang with Meissner, his notes reflect that Huang was discussed.¹⁴⁸ Ginsberg believes that the three lines highlighted in his notes refer to Meissner’s proposal to make Huang a consultant.¹⁴⁹

The second line of the highlighted portion of Ginsberg’s notes read, “political sensitivity?” According to Ginsberg, the notation reflects his conclusion that it would be problematic to make Huang a consultant because he was going to the DNC.¹⁵⁰ Ginsberg had learned that Huang was going to the DNC either prior to or during his meeting with Meissner,¹⁵¹ and it struck him as odd that Huang, a Commerce employee he had heard “almost nothing about” was being placed in a high-level position at the DNC.¹⁵²

On the third line of Ginsberg’s highlighted notes, he wrote “why? keep his security clearance.” In his deposition Ginsberg stated, “I take that to mean that I asked Chuck Meissner why he wanted Huang to be on the ITA consultants list and that he said to keep his security clearance. He may have said other things as well, but he said that at least part of the reason was so that Huang could keep his security clearance.”¹⁵³ Ginsberg’s general impression is that Meissner was seeking to make Huang a Commerce Department consultant as a favor to Huang.¹⁵⁴

V. HUANG’S ACCESS TO CLASSIFIED AND OTHER SENSITIVE INFORMATION

ITA’s senior officials regularly receive classified information about political and economic developments abroad. The information comes from CIA materials, State Department cables, and working papers and reports that contain classified information. In addition, those officials have access to proprietary information about American trade policies and individual business deals. Public officials, including ITA officials like Huang, are supposed to receive classified information only if they hold the requisite clearances and only if they have a “need to know” the information. The Committee has found no evidence that Huang received information for which he did not hold the proper clearance, but there is significant evidence that Huang had no need to know, and indeed had no business re-

¹⁴⁶ Deposition of William Ginsberg, June 17, 1997, p. 65. One of Ginsberg’s duties as chief of staff was overseeing personnel issues for the Department of Commerce’s political appointees. *Id.* at p. 91.

¹⁴⁷ *Id.* at p. 59.

¹⁴⁸ *Id.* at pp. 45–47. During his tenure at the Department of Commerce, Ginsberg took some twelve volumes of notes, four while he was Chief of Staff. Ginsberg’s notes are organized chronologically. According to Ginsberg, “[t]he purpose of the notes was to remind myself of anything that I needed to know. . . . These were all memory joggers in one sense or another.” *Id.* at p. 29. The Department produced portions of Ginsberg’s volumes including entries from the week of December 4–8, 1995, which is where the notes of the Meissner meeting are found. *See* Ex. 18.

¹⁴⁹ *Id.* at p. 52. *See* Ex. 18.

¹⁵⁰ *Id.* at p. 54.

¹⁵¹ *Id.* at p. 55.

¹⁵² *Id.* at p. 57.

¹⁵³ *Id.* at pp. 55–56.

¹⁵⁴ *Id.* at p. 66.

ceiving, whole areas of classified information made available to him.

Expecting that Huang's marginalized policy role would have greatly limited his access to classified information, the Committee was surprised to learn that Huang enjoyed frequent and routine access to such information. In fact, Huang's virtual freeze out from substantive matters did not hinder his ability to see that information at all. In summary, the Committee determined that Huang obtained classified and other sensitive information routinely from the following sources:

- First, he received regular intelligence briefings from a CIA detailee who worked in Commerce's Office of Intelligence Liaison (OIL).¹⁵⁵ Between October 1994, when they began, and November 1995, when they ended, Huang received a total of 37 one-on-one briefings.
- Second, Huang received a flow of classified and unclassified cables from foreign diplomatic posts relating to trade and economic matters.
- Third, by virtue of being Meissner's principal deputy, Huang had routine access to reports and briefing materials that would have contained classified and other sensitive information.

Because much had been written in the press about whether Huang had received intelligence briefings at Commerce, the Committee examined that issue in detail. The topic involves the Commerce Department's Office of Intelligence Liaison. Owing to the nature of the topic, much of the Committee's work is classified. However, in the interest of making as much information as possible available to the public, an unclassified version is provided below.

As the Committee learned, OIL is Commerce's window to the intelligence community. It "provides information on foreign governments to the Secretary and his senior executives," and much of [that information] is classified."¹⁵⁶ OIL's main responsibility is to review classified material and then provide regular briefings to senior Commerce officials,¹⁵⁷ doing so through a small cadre of officials drawn from Commerce and other government agencies. Those OIL officers are assigned particular Commerce officials to brief and then establish "client" relationships with them, attempting to tailor the classified information available to OIL to a particular "client's" job responsibilities.

Huang was one such OIL client. Robert Gallagher, the head of OIL, assigned Huang to John Dickerson, one of Gallagher's OIL officers. Dickerson was in fact an employee of the Central Intelligence Agency (CIA) detailed to OIL. Dickerson was undercover at Commerce, posing as a Department of Energy official, so Huang thus would not have known of Dickerson's CIA affiliation. Because

¹⁵⁵ After Huang left Commerce, the Office of Intelligence Liaison was renamed the Office of Executive Support. For clarity's sake, in this report we will refer to the office by its former name, OIL.

¹⁵⁶ Deposition of Robert P. Gallagher, May 30, 1997, p. 5. The Committee deposed Gallagher and Dickerson on May 30, 1997, bifurcating each deposition into unclassified and classified portions. In the case of Gallagher, the Committee has obtained declassification of excerpts of his previously-classified testimony. In order to keep references to Gallagher's deposition testimony precise, subsequent citations to Gallagher's deposition will distinguish between the "unclassified" and "declassified" portions.

¹⁵⁷ *Id.*

Dickerson's cover was compromised in 1997 by media coverage of a FOIA lawsuit involving the Commerce Department, the CIA decided to roll back his cover. Dickerson testified before the Committee as an openly-acknowledged employee of the CIA.

Although Huang started at Commerce in July 1994, he did not have his first contact with OIL until early October 1994, when Gallagher and Dickerson first approached him.¹⁵⁸ At the time, Dickerson was providing classified briefings to Meissner, Huang's supervisor. Meissner mentioned to Dickerson that Huang should be receiving such briefings as well. Dickerson discussed the matter with Gallagher, and they agreed that Dickerson should start briefing Huang.¹⁵⁹ Notwithstanding Meissner's request that they brief Huang, the ultimate decision regarding the scope of his briefings resided with OIL. As the holder of the classified information to be imparted, OIL has a "fair amount of autonomy" in deciding which areas briefings for particular officials would cover.¹⁶⁰

In his deposition Gallagher recalled the process for deciding the scope of Huang's briefings in some detail, possibly because Gallagher remembered Huang fitting an OIL briefing void so neatly. At the time, no senior official at Commerce was receiving and digesting the full range of intelligence available regarding the greater China area.¹⁶¹ Gallagher perceived that such a person was needed to provide "steady, continuous executive following" of that information.¹⁶² Gallagher and Dickerson identified Huang as a good candidate to provide that coverage, to serve as a "safety net" on China,¹⁶³ and they decided to shape his intelligence briefings accordingly to focus on the greater China area.¹⁶⁴ They did not consult his personnel file in making this decision, instead relying on "getting a feel from him" in person¹⁶⁵ and also relying on their own experience in such matters.¹⁶⁶

What drew them to Huang still stands out in Gallagher's mind. Huang had "an obvious cultural background. There was a sensibility about things Chinese that you just don't get even if you're a Chinese scholar from Yale."¹⁶⁷ Huang "would go into interesting vignettes about how people have to got to understand how to deal with the Chinese."¹⁶⁸

Having thus determined for itself the appropriate scope for Huang's briefings, OIL commenced Huang's briefings. As Dickerson and Gallagher explained, the briefing process consisted of one-on-one meetings in Huang's office, where Dickerson would take intelligence materials to Huang, Huang would read them, and the two would occasionally discuss the significance of particular docu-

¹⁵⁸ *Id.* at p. 6.

¹⁵⁹ Deposition of John H. Dickerson, May 30, 1997, p. 5.

¹⁶⁰ Gallagher unclassified deposition, p. 11.

¹⁶¹ Gallagher declassified deposition, p. 34.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.* at p. 37.

¹⁶⁵ *Id.* at p. 36.

¹⁶⁶ Gallagher unclassified deposition, pp. 10–11; *see also* Gallagher declassified deposition, p. 34. Dickerson believed that Meissner mentioned to him that Huang "would be his Asia specialist and I assumed that I should bring him intelligence in that area." Dickerson deposition, pp. 5–6. At the hearing, both Dickerson and Gallagher testified that they briefed Huang on Asia because Meissner specifically directed them to do so. Testimony of John Dickerson, July 16, 1997, p. 218.

¹⁶⁷ Gallagher declassified deposition, pp. 36–37.

¹⁶⁸ *Id.* at p. 35.

ments.¹⁶⁹ Dickerson typically called Huang to arrange their briefings; Janice Stewart, Huang's secretary, noted that he treated these as important meetings.¹⁷⁰

Dickerson briefed Huang a total of 37 times. Dickerson estimated that he showed Huang between 10 and 15 pieces of intelligence per briefing. Thus, the best estimate of how many separate pieces of intelligence Huang saw was between 370 to 550.

The great bulk of materials Huang saw was "field reporting," or raw intelligence, that is considered more sensitive—largely because it may contain information about sources and methods of intelligence gathering—than other kinds of classified information. The field reports Dickerson took Huang were sufficiently sensitive that Huang was forbidden from keeping the materials or taking notes about them. Likewise, owing to the sensitivity of the material, after a briefing Dickerson would destroy the materials shown Huang.¹⁷¹ Thus, for nearly all of what Huang saw there is no record, apart from what Dickerson (and, presumably, Huang) can reconstruct from memory.

Consistent with OIL practice, however, Dickerson wrote down any substantive comments Huang made on the field reporting that Dickerson showed him. There are 15 field reports total that reflect Dickerson's transcription of Huang's comments.¹⁷² Of that 15, three bear the special designation "MEM DISSEM," which according to a CIA representative who testified at the hearing, reflects "an exceptionally sensitive bit of information or an exceptionally sensitive source. . . . [T]he MEM DISSEMS are much more sensitive than our ordinary field reporting."¹⁷³

On occasion, in addition to the field reports, Dickerson would provide Huang with "analytical" classified reports on various topics, which Huang could retain. Under OIL protocols, Huang had to sign receipts for those materials if they were classified at a secret level or higher. Records reflect that he received 12 such "finished" intelligence reports.¹⁷⁴ There are receipts for 10 of the 12 documents.¹⁷⁵ The other two, which are classified as "confidential," a level below secret, are known only because they were found in Huang's safe after he left Commerce.¹⁷⁶

Owing to classification restrictions, the Committee could not elicit public testimony regarding the specific documents or briefing areas covered with Huang. However, in a series of hypotheticals, Dickerson recounted the kinds of information that the CIA might have shared with Huang, assuming for the sake of the questions that the CIA even possessed it:

Q: If you had information on economic issues which confronted Taiwan and China, is that the sort of information that you might have given to Mr. Huang?

A: Again, hypothetically, if the CIA had information on these issues, I might have made that available to him.

¹⁶⁹ Gallagher unclassified deposition, pp. 5–7.

¹⁷⁰ Deposition of Janice Stewart, May 16, 1997, p. 48.

¹⁷¹ Dickerson testimony, July 17, 1997, p. 160.

¹⁷² Dickerson testimony, p. 158; Gallagher deposition, p. 11.

¹⁷³ Testimony of William H. McNair, July 17, 1997, p. 171.

¹⁷⁴ Gallagher unclassified deposition, p. 11.

¹⁷⁵ Classified Material Receipts, various dates (Ex. 19).

¹⁷⁶ Memorandum from Robert P. Gallagher to John Sopko, June 24, 1997 (Ex. 20).

Q: And, hypothetically, if you had information on investment opportunities in China, is that the sort of information that you might have made available to Mr. Huang?

A: If—again, hypothetically, if the CIA had information on this issue, I might have made that available to Mr. Huang.¹⁷⁷

* * * * *

Q: Again, hypothetically, Mr. Dickerson, if you had information on the assessment of action by China to assure continuing investment by Taiwan in China, is that the kind of information that you might have made available to Mr. Huang?

A: Yes, if the CIA had—hypothetically had such information, I might have made that available to Mr. Huang.¹⁷⁸

The Committee was struck by how little the OIL representatives knew about the true nature of Huang's job responsibilities. As former Undersecretary Garten testified, Huang was walled from China policy specifically, and had very little policy responsibility at all. When Garten learned for the first time during his Committee deposition that Huang was provided information on China by OIL, he was surprised: "I certainly didn't know it was happening. . . . He was in a position where he had the right to access and what I didn't realize, if what you're saying is right, the indiscriminate nature of the way the intelligence was passed around. . . it was clearly a mistake."¹⁷⁹ Garten would have "preferred for [Huang] not to receive intelligence briefings that touched on the general topic of the People's Republic of China."¹⁸⁰

Just as Garten had no idea that OIL was briefing Huang on Asia with emphasis on China, Gallagher and Dickerson were ignorant of Huang's exceedingly modest policy role. Neither Huang nor Garten (nor, apparently, Meissner) ever described Huang's actual policy portfolio to them. In his deposition, when he first heard about Huang's actual job responsibilities, Gallagher became visibly annoyed. "If any of them had it probably definitely would have changed the way—I mean it would have been nice if Jeff [Garten] had communicated such a policy to us. I mean I can't read minds."¹⁸¹ Although Dickerson was more measured, he, too, was unhappy: "At a minimum, I would have sat down with Mr. Garten and asked him exactly why he was doing this or at least said to Mr. Garten, 'Mr. Garten, are you aware that we are briefing Mr. Huang on China?'" In fact, this is the first I've heard of that."¹⁸² Gallagher agreed that there was a "disconnect" between Huang's policy responsibilities and his intelligence briefings.¹⁸³ As for Huang's input, Gallagher only recalled Huang telling Gallagher and Dickerson of his interest in China.¹⁸⁴ Gallagher could not re-

¹⁷⁷ Dickerson testimony, pp. 164–165.

¹⁷⁸ *Id.* at p. 167.

¹⁷⁹ Garten deposition, June 3, 1997, pp. 73–74.

¹⁸⁰ *Id.* at p. 74.

¹⁸¹ Gallagher unclassified deposition, p. 19.

¹⁸² Dickerson deposition, p. 13.

¹⁸³ Gallagher unclassified deposition, pp. 19–20.

¹⁸⁴ Gallagher declassified deposition, p. 36.

member whether Huang ever indicated that he had a policy portfolio relevant to China.¹⁸⁵

The upshot of the “disconnect” between Huang’s job and his intelligence briefings is that in all likelihood, Huang saw significant amounts of intelligence information that he lacked a need to know. Gallagher and Dickerson defended the nature of the OIL briefings to Huang, with Gallagher opining that OIL was “100 percent correct in what we showed him.”¹⁸⁶ However, the simple facts about Huang’s actual policy responsibilities reflect otherwise. A clear mistake was made in briefing Huang on China and probably other areas as well.

Apart from his intelligence briefings, Huang had frequent access to other sources of sensitive and classified information. First, he routinely received classified diplomatic cables sent to Commerce through an electronic cable system employed by the federal government. Commerce’s access to the cable system is maintained at ITA’s Communication Center.¹⁸⁷ The center keeps “reader profiles” for senior positions at Commerce, and through a program that automatically reads and selects cables responsive to the profiles, the center gathers and holds such cables for distribution to appropriate officials.¹⁸⁸

Huang had a reader profile, which meant cable traffic was automatically set aside for him by the ITA Communications Center. Because the Communications Center only keeps records for 90 days of which cables it distributes, there are no records of the cables Huang saw.¹⁸⁹ Thus, in the absence of Huang’s own recollection, no one will ever know what exactly he saw. However, through the testimony of his former secretary, Janice Stewart, the Committee has established a fairly clear record of at least how often he received such cables. Stewart recounted that she signed for Huang’s cables from the Commerce communication center each morning.¹⁹⁰ The cables Huang received often numbered from about 25 to 100 per pick up.¹⁹¹ The cables were classified as “confidential” and “secret.” Once Huang finished a review of a cable, he would either direct Stewart to file them in a safe maintained in Huang’s office (or a similar one for Stewart),¹⁹² or dispose of them.¹⁹³ Stewart is sure

¹⁸⁵ *Id.*

¹⁸⁶ Testimony of Robert P. Gallagher, July 16, 1997, p. 224. As mentioned previously, Dickerson recalls that Meissner told him Huang would be his Asian specialist and that therefore Dickerson should brief him. (E.g., Dickerson testimony, p. 180). At the Committee’s hearings, both Dickerson and Gallagher clung to this remark as a justification for providing Huang with so much briefing on matters he did not need to know. There two problems with the comment as offered. First, it is contradicted by Gallagher’s recollection—at his deposition and earlier interview—that he and Dickerson decided for themselves the appropriate scope of Huang’s briefings, making the call that Huang should serve as the China “safety net.” Second, the remark attributed to Meissner makes no sense in light of events at the time. Meissner already had an “Asia specialist” in Nancy Linn Patton, the Deputy Assistant Secretary for Asia. More importantly, by this time Undersecretary Garten had made it clear to Meissner that neither Patton nor Huang were to handle Asia policy. See Ex. 7. Regarding China in particular, Garten made it exceedingly clear to Meissner that Huang was to have no role whatsoever. Garten testimony, p. 126. Based on this unrefuted testimony, it would defy logic for Meissner to then tell Dickerson and Gallagher what they say he told them.

¹⁸⁷ A limited number of cables with special dissemination strictures are handled separately at Commerce by OIL.

¹⁸⁸ Interview of Lewis Williams, June 11, 1997; Neuschatz deposition, pp. 29–31.

¹⁸⁹ Williams interview.

¹⁹⁰ Stewart deposition, pp. 14–15.

¹⁹¹ *Id.* at p. 16.

¹⁹² *Id.* at pp. 22–23.

¹⁹³ *Id.* at p. 21.

Huang had her make copies of classified cables for filing in her safe.¹⁹⁴ She cannot recall if Huang ever directed her to send copies of cables or other classified information to others,¹⁹⁵ but she is not confident Huang returned to her all of the cables he received for either disposal or filing.¹⁹⁶

In addition to cables, Huang routinely had classified and sensitive briefing papers and memoranda cross his desk. Again, Stewart provided the best informed account of how that worked day-to-day. Stewart would sign “classified material receipts” for reports Huang received from the OIL,¹⁹⁷ as well as for secret level reports, briefing materials, and correspondence received in the ordinary course of business.¹⁹⁸ In addition, Huang reviewed classified materials sent to Charles Meissner,¹⁹⁹ and could keep copies of these documents if he chose to do so. Stewart, however, does not recall if Huang ever requested such copies to be made.²⁰⁰ Stewart’s recollection that classified information crossed Huang’s desk frequently is borne out by the general impressions of his other co-workers.²⁰¹

An obvious question regarding Huang’s access to classified information is whether he mishandled or improperly disclosed any of it. The press has reported on the prospect that Huang might have shared such information inappropriately,²⁰² including with his former employer, Lippo, which has extensive business interests throughout Asia and thus might have found the information useful.

None of Huang’s coworkers noticed anything unusual or inappropriate in his handling of classified information. That said, the Committee has found that Huang had ample opportunity to mishandle that information if he chose to do so, including significantly a secret office across the street from Commerce at Stephens Inc. to which he frequently repaired. That access, combined with Huang’s unusually frequent contact with Lippo officials worldwide while at Commerce, at a minimum raises the threshold question of whether Huang passed along classified information to those who should not have received it. The Committee is unable to answer the question to its satisfaction. On this key question, as on so many others, it would have been extremely helpful to receive testimony from Huang himself.

As explained by Stewart, Huang had a safe in his office for the storage of classified materials.²⁰³ Huang’s office suite (which he shared with Meissner and others) contained 8 or 9 safes, and every morning each safe would be opened by the secretaries for the day.²⁰⁴ Each safe, at the end of the day, would be locked by the last secretary to leave, unless a professional was still working with ma-

¹⁹⁴ *Id.* at p. 28.

¹⁹⁵ *Id.* at p. 18.

¹⁹⁶ *Id.* p. 23.

¹⁹⁷ *Id.* at p. 57.

¹⁹⁸ *Id.* pp. 57–58.

¹⁹⁹ *Id.* at pp. 39–40.

²⁰⁰ *Id.* at p. 40.

²⁰¹ *E.g.*, Interview of Don Forest, April 29, 1997; Neuschatz deposition, pp. 28–34; Hauser deposition, pp. 5455.

²⁰² According to one press account, “reliable but unconfirmed” FBI reporting indicates that Huang passed a classified document to the Chinese government while he was at Commerce. Bob Woodward, “FBI Had Overlooked Key Files in Probe of Chinese Influence,” *Washington Post*, Nov. 14, 1997, p. A1.

²⁰³ Stewart deposition, pp. 25, 29.

²⁰⁴ *Id.* at pp. 26–27.

terials from a personal safe.²⁰⁵ Huang would frequently stay later than Stewart, and thus would be responsible for locking his safe.²⁰⁶ Stewart recalls a few occasions when Huang would be the last person in the office.²⁰⁷ In addition, as one might expect, there were plenty of phones, facsimile machines, and copiers in Huang's suite of offices to which he had access.

Much more striking than his Commerce facilities, however, was the Committee's discovery that while at Commerce, Huang maintained access to a separate office across the street at Stephens, Inc. Huang used this office regularly, including its phone and facsimile facilities, and he frequently received packages at the office. No one at Commerce—not his secretary, not his supervisors, not his co-workers, nobody—knew that he had such an office.

VI. HUANG AND STEPHENS, INC.

During his tenure at the Commerce Department, Huang made frequent use of a second office across the street in the D.C. office of the Arkansas-based brokerage house Stephens, Inc. ("Stephens D.C.") Huang's use of the office is cloaked in mystery. The Committee knows he visited the office, but for what purposes is unclear. He visited Vernon Weaver there, a former Stephens official who is now U.S. Ambassador to the European Union, but what they discussed is not known. Huang received faxes and overnight packages at the office, but the Committee doesn't know their substance or who sent them. Huang sometimes appeared at Stephens carrying an envelope or small briefcase, but the Committee does not know what they contained and what Huang did with the contents. Finally, no one the Committee spoke to at Commerce was aware of Huang's frequent visits to the Stephens D.C. office. Indeed, Huang's secretary, Janice Stewart, testified she had "never heard of Stephens, Inc."²⁰⁸

On July 17, 1997 the Committee heard the testimony of Paula Greene, who, from early 1993 until January 1996, worked as an administrative assistant and secretary at Stephens D.C. Stephens, Inc. is Arkansas' largest brokerage firm and has significant business ties to the Lippo Group and the Riady family. During the time Greene worked there, its Washington, DC offices were located on the 6th floor of the Willard Building, 1455 Pennsylvania Avenue, NW, just across the street from the Department of Commerce.

Stephens D.C. maintained a spare office for use by friends of the firm and visitors from out of town.²⁰⁹ Greene testified that Huang infrequently used that office when he worked for Lippo Bank in California and more often when he moved to the Department of Commerce.²¹⁰ When Greene worked at Stephens D.C., the office included three other employees: J.W. Rayder, Greg Eden, Vernon

²⁰⁵ *Id.*, p. 27.

²⁰⁶ *Id.* at pp. 27–28.

²⁰⁷ *Id.* at p. 34. According to the Department, there are no surviving records reflecting occasions when the office suite safes, including Huang's were opened and closed.

²⁰⁸ Stewart deposition, p. 83.

²⁰⁹ Testimony of Paula Greene, July 17, 1997, p. 12. A Committee chart reflecting Mr. Green's recollection of the Stephens D.C. office layout is attached as Ex. 21.

²¹⁰ *Id.* at pp. 14–15.

Weaver; later, Celia Mata, a secretary and receptionist, joined the staff.²¹¹

Greene testified that Stephens D.C. made its spare office available to visiting Stephens' employees, as well as to friends of Weaver, Rayder, and Eden.²¹² Any visitors using that office were also permitted to use the fax machine, copier, and telephone, which had no special access or security codes. There were no records kept of incoming or outgoing faxes, nor of what copies were made and by whom.²¹³

While he worked at Commerce, Huang regularly received faxes, packages, and correspondence at Stephens D.C.²¹⁴ Greene had specific instructions from Ambassador Weaver to alert Huang when this occurred, and Huang would routinely come by and pick these items up.²¹⁵ Sometimes, Huang would show up at the Stephens office unprompted by a call from Greene.²¹⁶ Generally, when documents or packages addressed to Huang were received in the Stephens D.C. office, Greene placed those in an in-out box located on the desk in the spare office, which she referred to as "Mr. Huang's desk." She then called Huang to let him know something had arrived.²¹⁷

Greene testified that, while at Commerce, Huang used the spare office more frequently than anyone other than visiting Stephens, Inc. employees. Huang used the office "perhaps two, three times a week, . . . not every week, but sometimes it would be two or three times."²¹⁸ When Huang visited the office he would meet with Weaver if he was around.²¹⁹ Greene does not know what Huang and Weaver discussed.²²⁰ Following these meetings, Huang would walk back to the spare office. Huang made use of the Stephens phones and copier machine as well.

Huang would not come to Stephens D.C. office empty-handed. On this point the Committee deposed Celia Mata, who worked as a Stephens D.C. secretary and receptionist.²²¹ She testified as follows:

Q: What would John Huang bring with him to the office, if anything?

A: He would have like a yellow envelope or a folder sometimes or a very small, like a legal-size briefcase.²²²

Mata does not know what Huang may have brought into the Stephens office in the envelope or folder, or what he carried out.²²³

Greene testified she was not able to see whether Huang used the fax or copy machines when he visited the office, but, like every

²¹¹ *Id.*

²¹² Deposition of Paula Greene, July 2, 1997, p. 18.

²¹³ Greene testimony, p. 13.

²¹⁴ *Id.* at app. 21, 36. We also know that Huang received faxes at Stephens Inc. prior to joining the Commerce Department. See Facsimile to John from the Committee of 100, a New York based group of Chinese Americans who favor strong U.S. relations with China, May 5, 1994 (Ex. 22).

²¹⁵ Greene testimony, p. 16.

²¹⁶ *Id.* at pp. 21–22.

²¹⁷ *Id.* at p. 21.

²¹⁸ *Id.*

²¹⁹ Deposition of Celia Mata, August 1, 1997, p. 50; Greene testimony, p. 18.

²²⁰ Greene deposition, p. 40.

²²¹ Mata deposing, p. 6.

²²² *Id.* at p. 52.

²²³ *Id.* at p. 52.

other visitor, he was entirely permitted to do so.²²⁴ Although from her desk she could not see whether Huang used the telephone, Greene could tell he did so, based on the phone lights at the receptionist's desk.²²⁵

Greene described an unusual set of instructions she was given by Ambassador Weaver. Weaver, would ask Greene to call Huang on his behalf, often to alert Huang that Weaver wanted to speak or meet with him.²²⁶ Huang was the only person Weaver asked her to call on his behalf. Greene understood that Weaver asked her to do this because "[h]e did not want his name to appear on [Huang's telephone] logs very frequently."²²⁷ At the hearing, Greene responded to Senator Collins' questioning as follows:

Senator COLLINS. Did Mr. Weaver also ask you on occasion to call Mr. Huang and indicate that Mr. Weaver wanted to speak with him?

Ms. GREENE. Yes.

Senator COLLINS. And then would Mr. Huang meet on occasion with Mr. Weaver at Stephens, Inc.?

Ms. GREENE. Yes.

Senator COLLINS. Did Mr. Weaver also tell you he wanted you to call Mr. Huang on his behalf? In other words, Mr. Weaver didn't call directly very often. He would ask you to call for him; is that correct?

Ms. GREENE. Yes.

Senator COLLINS. Did he say why he wanted you to call for him?

Ms. GREENE. Yes, he did.

Senator COLLINS. Could you tell us why that was?

Ms. GREENE. He did not want his name showing up on the message logs very frequently.

Senator COLLINS. So he asked you to call for him because he didn't want his name showing up on the message logs of the Department of Commerce for Mr. Huang; is that correct?

Ms. GREENE. Yes, that's correct.²²⁸

In addition, Weaver instructed Greene to speak directly with Huang, and in the event that Huang was not available, simply to leave a message for him to call her. She was specifically instructed not to leave a detailed message:

Ms. GREENE. As best as I remember, I was told that if any faxes or anything came in for Mr. Huang, I was to contact him directly . . . in regards to letting him know that he had something to pick up at the office. If he was not there, then I was just to leave a message for him to call me.

Senator COLLINS. Did Mr. Weaver specifically instruct you not to leave a detailed message with Mr. Huang's secretary?

²²⁴ Greene testimony, pp. 13, 21.

²²⁵ *Id.* at p. 22.

²²⁶ *Id.* at p. 18.

²²⁷ *Id.* at p. 19.

²²⁸ *Id.* at pp. 18–19.

Ms. GREENE. To my knowledge, yes.

Senator COLLINS. He did? He told you, in other words, that if you couldn't talk to Mr. Huang directly, to just leave your name and have him call back, to not leave a message saying that there was a package for him or he had received faxes, but just to leave your name. Is that correct?

Ms. GREENE. Yes, that's correct.

Senator COLLINS. In your experience in working with Mr. Weaver, this was the one case where you were told not to leave a detailed message?

Ms. GREENE. Yes.²²⁹

The Committee documented twenty-six messages left for Huang at Commerce by either Weaver or Greene. Greene told the Committee that each of these messages would have been left to alert Huang that he had received a fax or a package or that Mr. Weaver wanted to speak to him.²³⁰ The message slips represent only unsuccessful calls, and thus do not tally all of the calls to Huang.²³¹

Huang's purpose in visiting Stephens D.C. so regularly remains a mystery. Any speculation that Huang faxed Commerce-derived classified or proprietary materials from the Stephens D.C. facsimile remains just that, speculation. Given that proviso, attached as Exhibit 24 is a spreadsheet prepared by the Committee listing by date (1) the 37 intelligence briefings John Dickerson gave Huang, (2) the nine classified material receipts covering ten pieces of finished intelligence receipted to Huang, and (3) phone calls and facsimile transmissions from Stephens D.C. to various Lippo entities.²³²

As one can see, there are no telephone or fax transmission entries after January 1995. Counsel for Stephens has informed the Committee that, some time in early 1995, Stephens D.C. changed its long distance carrier, and the Committee could not obtain records from the new carrier. The spreadsheet contains no records of calls made after the change.

Although the Committee has no specific information about the contents of Huang's communications from Stephens D.C. to Lippo, a number of these communications took place in close proximity to his intelligence briefings. Among the more notable are the following:

- On October 5, 1994 at 9:00 a.m., John Dickerson briefed Huang. At 5:49 p.m. on the same day, a fax was sent from Stephens D.C. to Lippo Ltd. in Hong Kong. At 4:20 p.m. the next day, a fax was sent from Stephens D.C. to the Director of Lippo Bank in Indonesia;
- On January 12, 1995 at 10:30 a.m., John Dickerson briefed Huang. At 5:03 p.m. on January 16, 1995, a fax was sent from Stephens D.C. to Lippo Pacific in Indonesia;

²²⁹ *Id.* at pp. 16–17.

²³⁰ *Id.* at pp. 19–20. See also Chart of phone messages to John Huang from Stephens, Inc. (Ex. 23).

²³¹ *Id.* at p. 20.

²³² Committee spreadsheet, Calls and Fax Transmissions from Stephens, Inc. and Receipt of Intelligence Information, October 1997 (Ex. 24). The spreadsheet also contains one phone call from Stephens D.C. extension 6774 to Huang's home in Glendale, California. It appears that 6774 is the extension of the visitor's office Huang used.

- On January 25, 1995 at 11:00 a.m., John Dickerson briefed Huang. At 5:21 p.m. on January 30, 1995, a fax was sent from Stephens D.C. to Lippo Pacific in Indonesia.

Huang's primary professional contact at Stephens D.C. appears to have been Vernon Weaver, who is now the U.S. Ambassador to the Economic Union. In an effort to place that relationship more fully into context, the Committee staff interviewed Ambassador Weaver on June 10, 1997. Huang's relationship with Ambassador Weaver has spanned a decade, extending through Huang's tenure at Lippo, the Commerce Department, and the DNC. Weaver met Huang for the first time in the Spring of 1986 when they both attended a trade mission to Hong Kong with a group from Arkansas.²³³ From that time until 1989 or so, Weaver was in frequent contact with Huang regarding Lippo matters. Weaver characterized Huang as a "personal friend" and noted their wives are friendly.

According to Weaver, Huang was involved in Lippo's "day-to-day" activities "but not the important stuff." Huang served as an "intermediary" between the Riadys and Stephens. Weaver did not recall how he first learned of Huang's appointment to the DOC but noted, "we have a lot of common friends." He did not help Huang secure the Commerce appointment. Weaver said that, after 1989, he "had relatively small amounts of dealings with John Huang."

A review of documents obtained by the Committee shows that Weaver and J.W. Rayder (a Stephens D.C. tax attorney) were in contact with Huang in 1993, while Huang was at the Lippo Bank in California. In September 1993, Weaver faxed Huang a report on former President Carter's summer 1993 trip to Africa.²³⁴ And some time in or before the same year, Rayder sent Huang a handwritten note thanking him for attending a meeting with California State Senator Roberti.²³⁵

Weaver could not explain fully the sixteen written phone messages he left for Huang at Commerce. Weaver said he may have called to congratulate Huang on his appointment and that he met Huang "for lunch and so forth, from time to time." Weaver said he may have had ten lunches with Huang. Weaver never met Huang at the DOC and does not recall meeting with Huang (while Huang was at Commerce) for anything other than a meal. However, Weaver did say Huang may have come to see him at Stephens D.C. to ask about a business deal. Weaver does not know of any fund-raising Huang may have done while he was at Commerce.

After Huang joined the DNC in December 1995, Weaver saw Huang once or twice for lunch.²³⁶ The last time Weaver recalled seeing Huang was on July 16, 1996, at Weaver's ambassadorial

²³³ Memorandum of Interview of Ambassador Vernon Weaver, July 4, 1997. Unless noted otherwise, the following discussion is based on that interview.

²³⁴ Facsimile from Vernon Weaver to John Huang, Sept. 1, 1993 (Ex. 25).

²³⁵ Note from J.W. Rayder to John Huang, undated (Ex. 26). Roberti was Maeley Tom's employer at the time.

²³⁶ Weaver's contact with Huang after he joined the DNC was not limited to lunches. Among the documents produced to the Committee by the DNC is a May 31, 1996 facsimile from Vernon Weaver to John Huang, (Ex. 27). Pages 3 and 4 of the fax are copies of articles from the South China Morning Post. There are two fax lines on each of these articles: one from Stephens Inc. to Huang at the DNC; the other from Lippo Hong Kong to the number 202/234-0015. We learned 202/234-0015 is the fax number at the Sheraton Hotel on Woodley Road in the District. Who was there to receive the fax is unknown.

Weaver told us he did not actually send the fax but that he directed it be sent "for Huang's information."

swearing-in ceremony. Weaver said he doesn't know why Huang left the DOC for the DNC.

Weaver recalled that when Huang worked at Lippo, he sometimes used the Stephens D.C. guest office. Huang was permitted to do so because he was a "friend" of Stephens. Weaver was "quite sure" that Huang continued to use the guest office after he joined Commerce. Weaver doesn't know what Huang did during his visits from Commerce. Weaver's "impression is that [Huang] did not" use the guest office after he joined the DNC.²³⁷ However, Weaver never told Huang to stop using the guest office.

When asked why Paula Greene left a number of phone messages for Huang at Commerce, Weaver said she was probably alerting Huang he had received a fax or message at Stephens D.C. Weaver "suppose[d], probably" that Huang received faxes and messages at Stephens D.C., an arrangement that was in place before Huang joined the DOC.

Weaver's relationship with Huang was not a one-way street. Indeed, it is clear that, while Huang was at Commerce, he did at least one major favor for Weaver and Stephens, Inc. He introduced Weaver to Matt Fong, who had recently been elected California State Treasurer, helping Stephens obtain bond business with the State of California. Before Fong became Treasurer, Stephens, Inc. had been on California's "bid list" for bond issues and had received business from the State. Six to eight months before Fong was elected, Huang told Weaver he knew Fong and that he could introduce Weaver to Fong if Fong won the election.

Huang arranged a meeting with Fong for January 20, 1995 at 1:30 p.m.²³⁸ The meeting which took place in Fong's old office in Los Angeles, was attended by Fong, Weaver, Huang, and perhaps J.W. Rayder.²³⁹ As a result of the meeting and a follow up meeting, (on March 24, 1995 between Weaver and Fong), Stephens ended up with bond work from the State of California.

VI. HUANG'S FUND-RAISING, WHITE HOUSE ACCESS, AND FREQUENT CONTACT WITH LIPPO AND OTHERS WHILE AT COMMERCE

In light of unanimous testimony that Huang did little substantive work at Commerce, and in light of early indications that Huang might have engaged in political fund-raising on the job, the Committee undertook an examination of what Huang actually did at the Commerce Department. That examination was substantially complicated by Huang's refusal to testify before the Committee. However, the Committee was able to draw back the curtain on at least some of his activities by reviewing phone records, appointment books, work product, and other documents that create a paper portrait of his actions. This paper trail, when augmented by relevant testimony from officials at the DNC and Stephens D.C., shows that much of what Huang did at Commerce bore little rela-

²³⁷ Celia Mata has a different recollection. She recalls that Huang continued to visit Stephens D.C. until early spring, 1996, or around the time when Weaver made known his interest in the E.U. ambassadorship. Mata deposition, pp. 40-43. Huang stopped calling the office after Weaver moved to Belgium in July 1996. *Id.* at p. 40.

²³⁸ Note that, according to Huang's travel itinerary, he arrived in Los Angeles on a flight from Tokyo on Friday, January 20, 1995 at 9:10 a.m. Huang was scheduled to take the red-eye from Los Angeles to D.C. on Monday, January 22, 1995.

²³⁹ Memorandum from Paula Greene to Vernon Weaver, et al., Jan. 13, 1995 (Ex. 28).

tion to his job. Specifically, the records and relevant testimony indicate that while at Commerce, Huang probably raised political contributions illegally, stayed in contact with Lippo officials to an extraordinary degree, enjoyed frequent access to the White House unexplained by his substantive job responsibilities, and had frequent contacts with various foreign embassy officials, including PRC officials.²⁴⁰

In compiling the paper record of John Huang's activities from July 1994 to January 1996 (his period of service at Commerce), the Committee relied on the following records subpoenaed or voluntarily produced from the following sources:

- long distance telephone records from Huang's office at the Commerce Department;
- international long distance records from a calling card issued to Huang by the Commerce Department;
- handwritten telephone message slips reflecting unsuccessful calls placed to Huang at his Commerce Department office;
- daily appointment calendars kept by his Commerce secretary;
- expense reports reflecting Huang's Commerce-related travel;
- long distance telephone records from Huang's residences in Silver Spring, Maryland, and Glendale, California;
- call detail from his California cellular telephone;
- call detail from Huang's former employer, Lippo Bank of California.
- Secret Service WAVE and E-Pass records, reflecting Huang's appointments and visits to the White House compound; and
- Records from the Financial Crimes Center (FinCen), which track Huang's entry and exit history to and from the United States during 1994 to 1996.

The Committee staff compiled the data of each of the separate components into computer spreadsheets and, using various software applications, sorted and searched the data to provide "snapshots" of Huang's activities by day, by category of activity, or by keyword. The overall product of these labors and a brief description of the methodology and work behind it is attached as exhibits 29 and 30.²⁴¹

A. Possible Fund-raising at Commerce

The Committee's analysis shows that while at Commerce, Huang was in frequent contact with several DNC finance officials, thus raising the threshold question of whether he was involved in fund-raising on behalf of the DNC. Such fund-raising would constitute a criminal violation of the Hatch Act,²⁴² which prohibits federal government employees from soliciting or receiving political contributions. Huang's message logs and telephone records indicate he

²⁴⁰ A description of the Committee's work on this project and summaries of some of the information about Huang's activities were presented during the Committee's July 17, 1997 hearing.

²⁴¹ These are two versions, one sorted chronologically and one by field of information, that set forth all of the data on Mr. Huang's activities revealed from the paper record. The voluminous back up materials—hard copies of the message slips, phone records, and the like—have been retained in the Committee's records.

²⁴² 5 U.S.C. § 7323.

spoke often with David Mercer, Mona Pasquil, Marvin Rosen, Ari Swiller, David Wilhelm, and Richard Sullivan, all prominent members of the DNC's finance staff.²⁴³

The Committee was able to piece together sequences of events surrounding four different DNC donors that suggest Huang actively (and successfully) solicited each donor while he was at Commerce. Described below are the four instances.

As a predicate to the four examples, it is important to understand that more broadly, Huang seemed to discuss potential donors and particular fund-raising events with DNC officials when he was with Commerce. The DNC Deputy Finance Director, David Mercer, testified to a standing arrangement between Huang and him, that "if you [Huang] know or if anybody that you know is interested in attending or participating in the [fund-raising] events, have them give me a call. I don't recall, you know, specifically, you know, whether as a foreward (sic) or follow up, people did or not. But in any event, that's the nature of our contact."²⁴⁴ Mercer recalled talking to Huang a total of 10 to 15 times at Commerce.²⁴⁵

Huang became involved while at Commerce in organizing a DNC fund-raising apparatus, the Asian-Pacific American Leadership Council (APALC), and apparently in soliciting contributions through its auspices.²⁴⁶ It is unclear who at the DNC recommended the creation of such a council, which according to DNC staffer Mona Pasquil, was intended to track how much money Asian-Americans were contributing to the DNC.²⁴⁷ The kick-off event for APALC was a November 2, 1995 fund-raising dinner with Vice President Gore as the featured guest. Pasquil was tasked with organizing the dinner. Pasquil was not in the DNC's financial division and had not organized a fund-raiser previously. Accordingly, the DNC tasked a fund-raiser, Sam Newman, to help her.²⁴⁸ Newman explained that in early October 1995, Richard Sullivan asked Newman to "help [Pasquil] set up the venue, help her produce any sort of materials she needed, work with her to track the contributions and to strategize about who to contact and, you know, anything she needed."²⁴⁹ Because Newman is not Asian-American, the actual fund-raising calls were left to Pasquil to make or to arrange through others in the Asian-American community she knew.²⁵⁰

Pasquil encountered trouble raising money for the event, and as a result, David Mercer stepped in to assist. So, too, did Huang. Pasquil had lunch with Huang and Newman before the November 2 APALC event. According to Newman, they discussed particulars about the upcoming dinner, including the location, price, and donors. Huang "seemed interested" in the APALC dinner.²⁵¹ Pasquil acknowledged that as of her lunch with Huang, she was "scared"

²⁴³ Because local calls successfully placed between the DNC and the Commerce Department would not appear on Commerce telephone records, the Committee likely has an incomplete picture of how many calls there were. Message slips and long distance calls alone, however, reveal scores of calls between Huang and DNC officials. See Exs. 29 and 30.

²⁴⁴ Deposition of David Mercer, May 14, 1997, p. 88.

²⁴⁵ *Id.* at p. 87. Mercer left Huang 17 phone messages at Commerce. See Exs. 29 and 30.

²⁴⁶ The contributions discussed below from the Wiriadinatas were raised in connection with the APALC kick-off dinner on November 2, 1995.

²⁴⁷ Deposition of Mona Pasquil, July 30, 1997, p. 17.

²⁴⁸ *Id.* at p. 20.

²⁴⁹ Deposition of Sam Newman, July 17, 1997, p. 13.

²⁵⁰ *Id.* at p. 24-25; Pasquil deposition, pp. 23-24.

²⁵¹ Newman deposition, p. 33.

that despite her hard work, the dinner “might flop” because few donors had expressed interest.²⁵² When she expressed her concerns to Huang, he mentioned that he “might be leaving Commerce and to come work at the DNC and that he could be helpful once he came over to the DNC.”²⁵³ As discussed further below, Huang made himself “helpful” before leaving Commerce by raising money for the event.

Huang also met with Mercer directly before and immediately after the APALC dinner. Mercer provided evasive testimony regarding the substance of the pre-event meeting, explaining that he simply “ran into [Huang] at the Willard Hotel” and did no more than exchange pleasantries.²⁵⁴ The Committee is left to wonder whether Huang might have discussed particulars about fund-raising with Mercer. Mercer’s actions after the meeting suggest that whatever was discussed, the meeting was more than a chance encounter. He submitted a Willard Hotel parking receipt, dated October 27, 1995, to the DNC for reimbursement, providing as justification for the expense a “John Huang meeting.”²⁵⁵

Immediately after the November 2 dinner, Huang had dinner with Mercer, Charlie Trie, and a fourth, unidentified person. What was discussed at dinner presaged the foreign money questions that would arise the next year:

To be honest, it was more in Chinese or Mandarin, or whatever, to the point that I was focused on eating and don’t know really what subject matters were discussed. And again, it was just a—for me at least, it was a break after a long evening, and just sharing in the breaking of bread with John and Charlie. . . . [M]ost of the conversation that night was in Chinese.²⁵⁶

Perhaps Mercer, who does not speak Chinese, should have wondered at that point about the possibility of foreign contributions coming to the DNC, but he apparently did not.

1. Mi Ryu Ahn (Pan Metal)

Phone records and other documents suggest that John Huang solicited a large DNC contribution from Pan Metal, Inc. Exhibit 31 summarizes contacts between Huang and the Pan Metal’s president, Mi Ryu Ahn.²⁵⁷ Huang’s message logs and telephone records indicate the following sequence of calls between Huang and Mi Ryu Ahn as follows: On May 26, 1995, there were 4 calls between Huang and Mi Ahn and, on June 5, 1995, another message from Mi Ahn, which Huang later returned. Four days later, on June 9, 1995, a message left for Huang at the Commerce Department from Mercer reads: “Have talked to Mi. Thank you very much.” Six days later, a \$10,000 contribution from Pan Metal was received by the DNC, for which “Jane Huang” is listed as the solicitor.

What seems so apparent from the paper record—Huang illegally raised \$10,000 for the DNC from Mi Ahn and then the DNC made

²⁵² Pasquil deposition, p. 86.

²⁵³ *Id.* at p. 45.

²⁵⁴ Mercer deposition, May 14, 1997, pp. 115–16.

²⁵⁵ *Id.* at pp. 117–20.

²⁵⁶ *Id.* at pp. 47–48.

²⁵⁷ Huang Fundraising at Commerce? Mi Ryu Ahn (Pan Metals) (Ex. 31).

a transparent attempt to disguise this by crediting the donation to “Jane Huang” instead of John Huang as the solicitor—was corroborated by David Mercer and Mi Ryn Ahn. Mercer, told the Committee that Huang referred Mi Ahn to Mercer for a contribution to the DNC.²⁵⁸ Mercer, however, would not state “for a fact” whether Huang or his wife solicited the Mi Ahn contribution, nor would he rule either of them out.²⁵⁹ In an interview with the Committee, Mi Ahn said that she could not recall ever speaking to Jane Huang.²⁶⁰ Ahu did recall that John Huang asked her to get involved with the DNC and to continue to be supportive.²⁶¹

2. Kenneth Wynn, President of LippoLand Ltd.

Exhibit 32 summarizes several contacts between Huang and Kenneth Wynn, President of a Lippo subsidiary, LippoLand. During the month of August, 1994, records indicate 31 calls between John Huang and the Lippo office where Wynn worked. On August 18, 1994, Wynn and his wife contributed a total of \$15,000 to the DNC.²⁶² “Jane Huang” was listed as the solicitor of these contributions. Mercer admitted to filling out the check tracking form that credited John Huang as the solicitor, but he professed not to know that Huang was a Commerce employee when the donation was made.²⁶³

Similarly, between October, 1995 and November 1995, there were 23 calls between Huang and the Lippo office where Wynn worked.²⁶⁴ On October 12, 1995, Kenneth Wynn contributed another \$12,000 to the DNC, for which “Jane Huang” was also listed as the solicitor.²⁶⁵ Mercer confirmed that he also filled out the DNC check tracking form for the November 1995 contribution, and credited Jane Huang with the solicitation. Mercer could not recall why he listed her so.²⁶⁶ Mercer observed that it was possible that John Huang delivered the check to him.²⁶⁷ As with the Mi Ahn solicitation, it is apparent to the Committee that Jane was substituted for John in an effort to conceal John’s illegal role in soliciting the contribution.

3. Arief and Soraya Wiriadinata

Exhibit 35 depicts a series of events between Huang and the Wiriadinatas.²⁶⁸ On June 19, 1995, after Soraya’s father, Hashim Ning, a wealthy business partner of the Riady family, had a heart

²⁵⁸ Mercer deposition, May 14, 1997, pp. 210–213.

²⁵⁹ Mercer deposition, May 27, 1997, p. 9.

²⁶⁰ Memorandum of interview of Mi Ryu Ahn, July 1, 1997, pp. 2–3.

²⁶¹ *Id.* at p. 5. A *Los Angeles Times* story cited Mi Ahn as saying that Huang made this request as well as other similar ones, in the spring and summer of 1995. Glenn Bunting and Alan Miller, “Huang Helped Raise Money While at Agency,” *Los Angeles Times*, May 25, 1997, p. A1. Mi Ahn affirmed that Huang made such a request in her interview with Committee staff, but placed it after her June 1995 contribution. Ahn interview; p. 5.

²⁶² Exhibit 32 understates the total contribution(s) by \$5,000. DNC records reveal three checks written by the Wynns on August 18, 1994, for a total of \$15,000. See checks from Kenneth R. and A. Sihwarini Wynn to the DNC, August 18, 1994, with DNC check tracking form. (Ex. 33).

²⁶³ Mercer deposition, May 27, 1997, pp. 10–11, 14.

²⁶⁴ The Committee cannot determine from phone records how many of those calls were made to Wynn. Because the Wynns refused to meet with Committee investigators, the Committee was unable to confirm a number independently.

²⁶⁵ Check from Kenneth R. and A. Sihwarini Wynn to DNC, Oct. 12, 1995, with DNC check tracking form. (Ex. 34).

²⁶⁶ Mercer deposition, May 27, 1997, p. 17.

²⁶⁷ *Id.*

²⁶⁸ Huang Fundraising at Commerce? The Wiriadinatas (Ex. 35).

attack, Huang helped to arrange a “get well” note from President Clinton, which was hand delivered by Mark Middleton. Between June and August 1995, Huang visited Ning twice in the hospital and encouraged the Wiriadinatas to donate money to the DNC. On November 5 and November 7, 1995, Ning wired a total of \$500,000 from Indonesia to the Wiriadinatas’ account in the U.S. The following day, November 8, 1995, Huang helped arrange for another get well note for Ning from President Clinton. The day after that, November 9, 1995, the Wiriadinatas contributed \$30,000 to the DNC. In 1995 and 1996, the Wiriadinatas contributed a total of \$450,000 to the DNC, all of which has been returned.

The Wiriadinatas, who returned to Indonesia in December 1995, corroborated the paper record during their interview with Committee staff on June 24, 1997, in Jakarta, Indonesia. In the interview, Arief Wiriadinata made clear that John Huang directed all of their political contributions. Arief acknowledged that Huang’s solicitations began in 1995, when Huang was still a Commerce official.²⁶⁹ In return for contributions, Huang promised to introduce Arief to prominent American businessmen, especially Asian-Americans.²⁷⁰ In fact, Huang once arranged a meeting between Arief and the Chancellor of the University of California at Berkeley regarding Arief’s fledgling computer business.²⁷¹

Arief recounted that Huang solicited the November 9, 1995 contributions in connection with a Washington, D.C. fundraising event. That event was the November 2 APALC dinner Huang had helped plan with DNC officials. Moreover, on November 20, 1995, both Arief and Soraya contributed \$1,000 to the congressional campaign of Jesse Jackson, Jr., again at the specific direction of Huang.²⁷² As for Jane Huang, the solicitor credited on DNC check tracking forms for their November 1995 contributions, both Wiriadinatas denied ever meeting or speaking to her.²⁷³

Mercer prepared the DNC check tracking for the Wiriadinatas’ November 1995 contributions that listed Jane Huang as the solicitor.²⁷⁴ When asked why, Mercer provided the following tortured response:

Q: How did you know to credit this to Jane Huang as solicitor?

A: Through an understanding prior of the Wiriadinatas having association with the Huangs.

Q: How did that understanding come about?

A: I don’t recall.

Q: But you understood that the Wiriadinatas and the Huangs were associated. How did you understand that they were associated?

A: I don’t recall.

Q: Why didn’t you put John Huang down as solicitor?

A: I don’t recall why I—you know, I don’t recall. I didn’t you know—I don’t . . . I don’t recall. Jane could have—I

²⁶⁹ Memorandum of Interview of Arief and Soraya Winiadinata, July 13, 1997, p. 3.

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ Mercer deposition, May 27, 1997, pp. 32–33.

could have been told that Jane was the one that brought these checks in. I don't know.²⁷⁵

In a fitting coda to the Wiriadinata contributions solicited illegally by Huang, Arief appears in the videotape of a December 15, 1995 White House coffee being greeted by President Clinton. On the tape, Mr. Wiriadinata tells President Clinton, "James Riady sent me." The President responds "Yes . . . I'm glad to see you. Thank you for being here." Portions of the tapes were presented at the Committee's hearing on October 7, 1997.

4. Pauline Kanchanalak and the U.S.-Thai Business Council

Contacts suggesting that Huang solicited Pauline Kanchanalak, then head of the U.S. Thai Business Council, are detailed in Exhibit 37.²⁷⁶ Huang's Commerce message logs indicate that Kanchanalak left five messages for Huang between September 7, 1994 and October 21, 1994. On September 30, 1994, Huang wrote a memo to David Rothkopf, Deputy Undersecretary for International Economic Policy, urging that President Clinton host the U.S. Thai Business Council inaugural at the White House.²⁷⁷ Seven days later, on October 6, 1994, the U.S. Thai Business Council inaugural was held at the White House, attended by President Clinton and Thai Prime Minister. Later that month, Huang attended a U.S. Thai Business Council meeting. Two days following that meeting, Kanchanalak contributed \$32,500 to the DNC.

Between November 1994 and December 1995, 17 messages were left for Huang at the Department from Kanchanalak or her office. Because calls between the two were local, the messages likely reflect only a portion of the total calls placed between them. In the 1995–1996 election cycle, Kanchanalak, who is now in Thailand, and her business partners contributed \$253,500 to the DNC, all of which has been returned.

B. Huang's White House visits

One of the still unexplained aspects of Huang's tenure at Commerce is the frequent access he enjoyed to the White House. His access was unknown to his co-workers at the Commerce, including his secretary and supervisors. White House "WAVES" and E-Pass records, which reflect appointments and entries into the White House, show Huang went there at least 67 times while he was at Commerce.²⁷⁸ The Committee was unable to determine what hap-

²⁷⁵ *Id.* at pp. 33–34.

²⁷⁶ Huang Fundraising at Commerce? Pauline Kanchanalak (U.S.-Thai Business Council) (Ex. 37).

²⁷⁷ Memorandum from John Huang to David Rothkopf, September 30, 1994 (Ex. 36). Huang's memo reads in part, "My personal observation is that President Clinton will be very upset if he finds out what's going on behind the scene. It could really damage his personal relationship between him and [Thai] Prime Minister Chuan; and the relationship between U.S. and Thailand." In his Committee deposition, Rothkopf testified to being bemused and puzzled by the memo: Huang had no policy responsibility for Thailand; Rothkopf thought it odd that Huang would send him such a document; and Rothkopf considered strange for Huang to speak for how President Clinton might view the matter. Rothkopf deposition, pp. 42–47. Nevertheless, over Rothkopf and Garten's objections, the U.S. Thai Business Council held its inaugural ceremony at the White House, with President Clinton and the Thai Prime Minister in attendance.

²⁷⁸ The Secret Service has explained to the Committee that "WAVES" and E-Pass records are two parallel and separate systems for tracking entry and exit from the White House complex. A visitor to the White House might appear in either or both (or occasionally neither) system, depending on the particulars of the visit. In tallying Huang's visits, the Committee took this into account, and counted only once multiple E-Pass and WAVES entries that might reflect a

pened during most of those meetings. The officials Huang was scheduled to visit were varied, including political affairs officials, National Security Council employees, highly placed aides to President Clinton and Vice-President Gore, and on at least one occasion, President Clinton himself. Moreover, Huang's meetings were scheduled for many different locations in the Old Executive Office Building, the West Wing, and, at least once, the Oval Office.

One such meeting was the intimate September 13, 1995 conversation, described more fully elsewhere, in the Oval Office among Huang, President Clinton, James Riady, Joseph Giroir, and Bruce Lindsey. At the meeting, Huang or Riady requested of the President a "transfer" for Huang from Commerce to the DNC, and President Clinton obliged the request.

The truth is, no one will ever know who Huang saw at the White House or what matters he might have discussed there. However, the September 13, 1995 meeting should suffice to make the point that Huang had incredible access at the White House, especially for a midlevel political appointee at Commerce with no policy portfolio. Huang's WAVES entry that day nowhere discloses that he sat in the Oval Office with President Clinton, had a lengthy chat, and succeeded in securing a new job at the DNC. Instead, the record simply recounts that Huang had a 5:15 pm appointment that day in the West Wing. The "visitee" is listed as Nancy Hernreich; the requestor is Rebecca Cameron, Hernreich's assistant. No one at Commerce had the slightest idea that Huang had this sort of access.

C. Huang's contacts with Lippo employees, offices and consultants

Telephone records reviewed by the Committee show nearly constant contact between Huang and Lippo officials, as well as with several individuals who had close ties to Lippo and the Riady family. Call detail records disclose approximately 232 calls between Huang and his former employer, Lippo Bank, during the 18 months he worked at Commerce, and at least 29 calls or faxes between Huang and Lippo's headquarters in Indonesia. While the sheer volume of calls raises many concerns, the situation invites further scrutiny given Lippo's generous severance package just weeks before his arrival at Commerce, Huang's access to classified and proprietary business information, and the fact that the Riadys and Huang were major donors and fund-raisers for the Democratic party.

Among those associated with Lippo with whom Huang had frequent contact was a Lippo consultant, Maeley Tom. Records reveal 61 calls that Huang placed during his Commerce employment period to Tom. Tom wrote on Huang's behalf in 1993 to support his appointment.²⁷⁹

single visit. Nor did the Committee count any visits unless there was confirmation that Mr. Huang in fact entered into the White House complex. The WAVES and E-Pass records have been retained in the Committee's files.

Nevertheless, when information was presented about Huang's White House visits at the Committee's July 17, 1997 hearing, the White House complained bitterly that the number of Huang's visits had been overstated. In fact, quite the opposite is true. The Committee staff used a conservative methodology to ensure that any miscalculation would err on the side of understatement.

²⁷⁹ See Ex. 4.

Huang's telephone records also show 72 calls to Arkansas lawyer and Lippo joint venturer C. Joseph Giroir. Giroir, a former Rose Law firm partner and board member of the Worthen Bank, was present at the small Oval Office meeting held on September 13, 1995 attended by President Clinton, Huang, and James Riady and at which the decision was made to move Huang from Commerce to the DNC. According to former DNC Finance Director Richard Sullivan, Giroir lobbied vigorously for Huang's position at the DNC, particularly at a meeting between DNC Chairman Don Fowler and Mr. Riady just prior to the White House meeting with the President.²⁸⁰

Records also demonstrate Huang was often in contact with other Lippo business associates.²⁸¹ Huang had at least 21 calls and one meeting with Mark Middleton, a former White House aide who later became a Lippo business agent, 14 calls and 4 meetings with Mark Grobmyer, a Lippo attorney, and 10 calls and one meeting with Webster Hubbell, a former DOJ official hired by Lippo.

D. Huang's embassy contacts

Because calls to embassies or representative offices in Washington are local, documents available to the Committee regarding Huang's contact with embassies are incomplete since there are no records that would reflect calls successfully placed between Huang and such offices. Huang's message slips and appointment calendars are the primary source of information about his contacts with these offices. The documents reveal that Huang received 35 calls from officials of the PRC, Korean, Singapore embassies, that he visited the PRC embassy six times, and that he met on three other occasions with PRC embassy officials. Other records show that Huang visited other embassies at least 15 times, and had 8 meetings with and 4 calls from representatives of Taiwan's unofficial embassy, the Taiwan Economic and Cultural Representative Office.

When questioned about such contacts by Huang, Jeffrey Garten was "taken aback" to learn that Huang ever dealt with anyone from the PRC embassy, the White House, or Congress on anything.²⁸² "There was nothing about him; there was nothing he ever said; there was nothing that he ever did that I saw or anyone told me that would have evidenced activity in the White House, on the Hill or in the Embassy of China."²⁸³

VII. CONCLUSION

Huang's stopover at Commerce lasted only eighteen months. Looking at Huang's career to date, one might expect that this period offered Huang a respite from political fund-raising and a unique opportunity to shape U.S. international trade policy from the inside. While, due to Huang's refusal to testify, it is unclear why he sought the Commerce position, it was a sharp diversion from both his prior years as an executive at a small Los Angeles bank and his subsequent stint at the DNC. The two constants in

²⁸⁰ Testimony of Richard Sullivan, June 4, 1997, p. 219.

²⁸¹ In addition, Huang's telephone records show 4 calls placed by Huang to David Chan, President of the Hong Kong Chinese Bank, an interest jointly owned by Lippo and China Resources.

²⁸² Garten deposition, May 16, 1997, p. 42.

²⁸³ *Id.*

Huang's career at Lippo and forward were his relationships with the Riadys and the Democratic party.

By all accounts, Huang and the International Trade Administration were not a good match. Huang's tenure as a political appointee at Commerce makes clear that he held a job he was ill-prepared to handle and received it at least in part because of his demonstrated fund-raising prowess. Huang was shut out of substantive policy work and was specifically prohibited from working in the area where he held the most interest—China. As a result, there is little among the several hundred thousand pages of documents produced by the Commerce Department to the Committee that evidence Huang's mark on policy matters. Likewise, Huang's colleagues in the ITA could point to almost no policy matters on which Huang worked. As one of them testified, Huang was "as uninvolved a player" as he had seen in his ten years at the Department.²⁸⁴ Indeed, the clearest record of Huang's activity at Commerce might well relate to his fund-raising. Information developed by the Committee strongly suggests that Huang raised money for the DNC at Commerce in violation of the Hatch Act.

Huang's job at Commerce included largely administrative duties. But the ITA had an administrative office separate and in addition to the departmental office of administration. And the head of the ITA administrative office graded Huang's handling of administrative matters a "low C."

What did Huang do at the Commerce Department? One answer might provide a clue as to why Huang sought and took the position. Huang saw a great deal of classified, business proprietary, and other valuable material. From regular intelligence briefings, to daily classified cables, to ITA reports containing proprietary material on any number of businesses, Huang had access to very sensitive information. Although the Committee found no direct evidence that Huang passed any such information to his former employers or anyone else, he clearly had the opportunity to do so. Huang made frequent use of a spare office at Stephens D.C., which was located across the street from Commerce headquarters. There, Huang had free and unmonitored access to a telephone, copier, and fax machine. He also received mail and packages there, but precisely what is not known.

At bottom, Huang's stint at Commerce is difficult to understand. The Committee attempted meticulously to reconstruct what Huang did there in the hopes of determining why he sought the position and what he hoped to accomplish in accepting it. Ultimately, and only after attempting to retain his top secret security clearance, Huang quietly left Commerce for a position more suited to his qualifications, at the DNC.

²⁸⁴ Neuschatz deposition, p. 17.

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JOHN HUANG MOVES FROM COMMERCE TO THE DNC

This section of the report summarizes John Huang's movement from the Department of Commerce to the DNC. In examining the hiring of Huang, at least three important themes arise that are revisited later in the 1996 campaign fund-raising matter. First, there is evidence that the President of the United States personally played a central role. President Clinton not only spoke to Huang and others about the potential of raising money in the Asian-American community, but the President recommended to the DNC that it hire Huang. Second, there is evidence that even before his hiring, DNC officials were concerned that Huang might not comply with federal campaign finance laws, and thus they insisted on an unprecedented, individualized training session with the DNC's general counsel. These concerns may have been prompted, in part, by DNC officials' probable knowledge that Huang had violated the Hatch Act while he was an employee of the Department of Commerce.¹ Third, despite these concerns, the DNC established a structure that could promote fund-raiser abuses, in part by offering Huang an incentive bonus for raising large amounts of money.

In compiling information on this topic, the Committee's task was made significantly more difficult by Huang's refusal to cooperate. Without his testimony, the Committee has been forced to piece together the specifics of Huang's move to the DNC from various sources. Many of the witnesses provide only partial information and claim not to have much recollection of specific events or dates. Some of the witnesses provide conflicting testimony. Moreover, there is very little documentary evidence on this topic. The Committee has received only a few relevant calendars or phone logs and a handful of meeting notes.

THE DNC IS ASKED TO HIRE HUANG

C. Joseph ("Joe") Giroir has known the President and First Lady since the mid-1970s, when Hillary Rodham Clinton joined the Rose Law Firm in Little Rock, Arkansas.² Giroir was the Managing Partner of the Rose Firm and was credited with a great deal of its growth in the 1970s and 1980s.³ He was also one of the first securities lawyers in Arkansas, and helped take public some of Arkansas'

¹ While Huang was still at the Commerce Department, he solicited contributions for the DNC, thereby violating the Hatch Act. Recognizing this violation of the law, the DNC tried to protect Huang by falsely attributing contributions to his wife, Jane Huang. Certain DNC officials, including Deputy National Finance Director David Mercer, were probably aware of Huang's illegal fund-raising and helped conceal it by using Jane Huang's name, rather than John Huang's, for tracking DNC contributions solicited by John Huang. See the section of this report concerning Huang's fund-raising at the Commerce Department.

² Deposition of C. Joseph Giroir, Jr., April 30, 1997, p. 26

³ *Id.* at p. 11.

best-known companies, such as Tyson Foods, Wal-Mart, Inc., and Beverly Enterprises.⁴

One of Giroir's biggest clients was Stephens Inc., a prominent investment banking firm in Little Rock. It was through Giroir's role as attorney for Stephens that he first met Mochtar and James Riady.⁵ In 1978, Mochtar Riady hired Stephens to assist in the Lippo Group's acquisition of an American banking institution. In 1983, Giroir and Stephens helped the Riadys acquire a controlling interest in Worthen Banking Corporation, a bank holding company based in Little Rock.⁶ As a result of that acquisition, Giroir and Mochtar Riady became members of the board of directors of Worthen Bank and James Riady was named the bank's president.⁷ Giroir also first met John Huang during this period, after James Riady hired Huang to serve as the bank's vice president.⁸

Giroir's business association with the Riadys and the Lippo Group ended in 1987 or 1988 after the Riadys sold their interest in Worthen Bank and moved Lippo's banking operation to the West Coast. Until early 1993, Giroir maintained a purely social relationship with the Riadys and spoke to them only two or three times a year.⁹

Following the 1992 election of Bill Clinton, however, Giroir and the Riadys became very close business partners. Even though Giroir had never been an international businessman, he and the Riadys established several joint ventures designed to match Lippo with American companies that wanted to invest in East Asia. The first of these joint ventures was Arkansas International Development Corporation ("AIDC I"), which Giroir incorporated in Arkansas on April 20, 1993.¹⁰ Giroir owned all of the stock of AIDC I, but the company was merely a nominee for an operating entity named Arkansas Joint Venture Company ("AJVC"). Giroir and P.T. Masindo, a subsidiary of the Lippo Group, jointly owned AJVC.¹¹ The Committee has learned that Lippo, acting through P.T. Masindo, provided all of the \$50,000 capitalization for Giroir's company (AIDC I).¹² In addition, between 1993 and 1995, Lippo funded all the developmental expenses for the joint venture, including entertainment and travel expenses. Giroir estimated that these expenses totaled \$300,000 to \$400,000 in 1993, \$400,000 to \$600,000 in 1994, and \$600,000 to 700,000 in 1995.¹³ Giroir testified that he also performed services for Lippo for which he was compensated outside of the joint venture. Giroir indicated that, in the aggregate, he received roughly \$500,000 per year in compensation from Lippo.¹⁴

⁴*Id.*

⁵*Id.* at p. 32.

⁶*Id.* at pp. 33-34.

⁷*Id.* at pp. 37-38.

⁸*Id.* at p. 41.

⁹*Id.* at pp. 47-48.

¹⁰*Id.* at p. 15.

¹¹*See Id.* at pp. 16-20.

¹²*Id.* at pp. 15-16.

¹³*Id.* at pp. 15-19. Giroir testified that these developmental expenses also included personal loans that he was authorized to take from the joint venture and that the largest of these loans was \$350,000. He indicated that he has since paid the joint venture back for those loans and currently owes approximately \$50,000. *Id.* at p. 19.

¹⁴*Id.* at pp. 17, 19.

In 1995, Giroir incorporated a second joint venture with the Lippo Group in the Cayman Islands, Arkansas International Development Corporation, II ("AIDC II").¹⁵ P.T. Masindo, the Lippo subsidiary, again provided essentially all of the start-up capital for the joint venture. In exchange for Giroir providing AIDC II all of his rights to the assets of AIDC I, the Lippo subsidiary agreed to fund AIDC II with \$1 million in 1995, \$1 million in 1996 and \$500,000 in 1997.¹⁶ AIDC II, and therefore Lippo, paid Giroir a salary of \$360,000 per year. In addition, Lippo gave Giroir the authority to take a discretionary bonus whenever he desired.¹⁷

Through Giroir and AIDC II, Lippo attempted to gain influence by hiring people with access to the Clinton Administration. For example, on May 23, 1995, AIDC II hired Paul Barry, an old friend of President Clinton's from Little Rock, who was a registered lobbyist in Washington, D.C.¹⁸ Giroir ostensibly hired Barry to "seek out and make preliminary investigations concerning business deals that people he had contact with desired to enter into . . . to enter the Asian market."¹⁹ Giroir testified, however, that AIDC II never entered a joint venture with a company sponsored by Barry. Nevertheless, Lippo—through AIDC II—paid Barry a \$7,000 per month retainer from July 13, 1995 until January of 1997.²⁰

Similarly, in July 1995, Lippo hired—through AIDC II—Mark Middleton.²¹ From January 1993 until February 1995, Middleton served as Special Assistant to President Clinton and Deputy to White House Chief of Staff, Thomas "Mack" McLarty. After Middleton established his own international business consulting firm, Commerce Corp. International, AIDC II hired Middleton to perform the same prospecting function for which Barry had been hired. Lippo paid Middleton a retainer of \$12,500 per month.²² As with Barry, AIDC II never consummated a joint venture with any of the clients that Middleton recommended.²³

During the summer of 1995, Huang spoke to Giroir about his desire to become more involved in the fund-raising for the Presidential campaign. Giroir summarized, "I don't remember the exact evolution of the conversation, but it was that he [Huang] was unhappy, would like to be involved in the fund-raising aspect of the campaign and thought that he would be more effective, and either he asked or I volunteered to help him try to make a move to an appropriate position."²⁴

Giroir followed through, contacting his friend from Arkansas, Truman Arnold. At that time, Arnold, who is a successful businessman and longtime friend of President Clinton, was the Finance Chairman of the Democratic National Committee. During their meeting, which took place in June or July 1995, Giroir recommended to Arnold that the DNC hire Huang as a fund-raiser

¹⁵ *Id.* at p. 20.

¹⁶ *Id.* at pp. 20–21. Giroir testified that he contributed only \$30,000 to the initial capitalization of AIDC II. *Id.* at p. 20.

¹⁷ *Id.* at p. 21.

¹⁸ *Id.* at p. 228.

¹⁹ *Id.* at p. 229.

²⁰ *Id.* at pp. 229–31. In 1997, Giroir reduced Barry's retainer to \$2,000 per month. *Id.*

²¹ *Id.* at p. 232.

²² *Id.* at p. 234.

²³ *Id.* at pp. 234–35.

²⁴ *Id.* at p. 76.

specializing in the Asian-American community.²⁵ Giroir told Arnold that there was a “reservoir of support in the Asian American community . . . [that] could also be translated into financial support” and that Huang was the person to coordinate it.²⁶ Arnold remembered the meeting differently, testifying that Giroir just mentioned that Huang would be available to assist the DNC as a volunteer, but saying nothing about fund-raising in the Asian-American community.²⁷ Regardless of whether the Asian-American community was discussed, Arnold thought that it was important enough to pass information about Huang on to Don Fowler, National Chairman of the DNC, and Richard Sullivan, National Finance Director of the DNC.²⁸

Giroir subsequently learned that Arnold had resigned his DNC position, and in August 1995, he visited Fowler in Washington, D.C.²⁹ Giroir informed Fowler about his previous discussion with Arnold, and requested to speak to the new DNC finance chairman as soon as one had been selected.³⁰ During a 15 minute meeting with Fowler and Sullivan in Fowler’s office, Giroir pointedly advocated that the DNC hire Huang as a fund-raiser, mentioning Huang’s successful fund-raising during the 1992 campaign.³¹ Sullivan had the clear sense that Giroir had come to Fowler’s office for the sole purpose of recommending that the DNC hire Huang.³² Despite Giroir’s presentation, Fowler did not commit to hiring Huang and told Giroir that they would think about it.³³ Sullivan explained in his deposition that Fowler’s noncommittal response to Giroir’s proposal may have been motivated by Fowler’s personal feelings towards Giroir.³⁴

Sullivan’s characterization of Fowler’s reaction to Giroir, while not particularly significant, is a good example of the difference in tone and substance between Sullivan’s deposition testimony and his hearing testimony. In his deposition, Sullivan testified that Giroir was “too strong in his recommendation, and it just rubbed Don the wrong way.”³⁵ Sullivan also testified that Fowler told him that he did not like Giroir.³⁶ However, in his hearing testimony, Sullivan told a different story. Sullivan first characterized Giroir’s presentation as a “soft sell” rather than a “hard sell.”³⁷ He then said that Fowler took Giroir’s presentation “in stride.”³⁸ Asked directly if Fowler felt that Giroir was “too strong in his recommendation,” Sullivan avoided giving a direct answer. He testified,

He—I would say that he—he just wasn’t enthu—he just wasn’t—wasn’t enthusiastic. I wouldn’t say that—Mr. Giroir had a very direct manner about him, and I think that I would characterize it as Mr. Giroir was very direct

²⁵*Id.* at p. 77.

²⁶*Id.*

²⁷Deposition of Truman Arnold, May 16, 1997, pp. 163–65.

²⁸Deposition of Richard Sullivan, June 4, 1997, pp. 216–17; Arnold deposition, p. 166.

²⁹Giroir deposition, p. 108.

³⁰*Id.* at pp. 108–109.

³¹Deposition of Richard Sullivan, June 4, 1997, pp. 212–216.

³²*Id.* at pp. 213–214.

³³Deposition of Don Fowler, May 21, 1997, p. 170.

³⁴Deposition of Richard Sullivan, June 4, 1997, p. 219.

³⁵*Id.*

³⁶*Id.*

³⁷Testimony of Richard Sullivan, July 9, 1997, p. 17.

³⁸*Id.* at p. 18.

and to the point. And that may have thrown Chairman Fowler a little bit, but I wouldn't say that—I would say that he was—I would just say that he took it in stride and said we'll look into it.³⁹

Later in his hearing testimony, Sullivan was confronted with his deposition testimony. Only then did Sullivan acknowledge that “the pushing of Mr. Giroir in that meeting was pretty strong.”⁴⁰

On September 13, 1995, two important meetings occurred regarding Huang moving to the DNC. In the morning, Giroir hosted a meeting between James Riady, the head of Lippo Group, and Fowler at Riady's suite at the Four Seasons Hotel in Washington, D.C. Fowler was accompanied by Sullivan. There is some disagreement about whether Huang attended. Giroir stated that Huang was not at the meeting.⁴¹ However, Sullivan believed that Huang was present, recalling that Huang stood in the back of the room.⁴² Fowler concurred, testifying that he was “almost certain” that Huang was present.⁴³

According to Giroir, the purpose of the meeting was for Riady to “get to know and intermix” with Fowler.⁴⁴ Sullivan testified that the meeting was “clearly between Don and James [Riady] . . . my interpretation was that James wanted to get to know Don; that he thought Don was a player.”⁴⁵

While introductions may have been one purpose of the meeting, much of the discussion in Riady's suite revolved around fund-raising—both the need for the DNC to raise money for its upcoming advertising campaign and about untapped Asian-American support for the Democratic Party. Fowler indicated that the DNC had “an immediate need to raise money.”⁴⁶ Giroir recalled that Fowler mentioned a DNC advertising campaign that was going to cost more than \$5 million.⁴⁷ In addition, Giroir testified that they had a 15–20 minute conversation in which both he and Riady expressed their view that “there was a reservoir of support in the Asian-American community, votes as well as financial support, and that if they could focus their attention on that reservoir, that it would be beneficial to the Democratic Party.”⁴⁸ Giroir told Fowler that he believed that Huang would be the person best able to “orchestrate” the Asian-American effort.⁴⁹ Fowler did not recall much about the meeting, except that it was a “pleasant meeting” and that Giroir expressed his desire that the DNC hire Huang.⁵⁰ Fowler testified that he was noncommittal about hiring Huang, since the DNC did not have any openings at that time.⁵¹

In the late afternoon of September 13, Giroir, the Riadys, and Huang met with President Clinton and Bruce Lindsey in the Oval

³⁹ *Id.*

⁴⁰ *Id.* at p. 148.

⁴¹ Giroir deposition, p. 135.

⁴² Deposition of Richard Sullivan, June 4, 1997, p. 241.

⁴³ Fowler deposition, p. 186.

⁴⁴ Giroir deposition, p. 131.

⁴⁵ Deposition of Richard Sullivan, June 4, 1997, p. 241.

⁴⁶ Giroir deposition, pp. 135–136.

⁴⁷ *Id.* at pp. 136–37.

⁴⁸ *Id.* at p. 97.

⁴⁹ *Id.* at p. 98.

⁵⁰ Fowler deposition, p. 170.

⁵¹ *Id.*

Office.⁵² The meeting lasted for about 20 minutes.⁵³ Giroir described the meeting as a social call, and said that he could not recall any of the topics discussed during the meeting.⁵⁴ Giroir testified, for instance, that he did not hear any discussion about DNC fund-raising, but also acknowledged that the meeting was “bifurcated [with] different people talking to different people.”⁵⁵

Lindsey, who was the only other meeting participant deposed by the Committee, stated that the *only* thing that he could remember about the Oval Office meeting was that “something was said” about Huang’s desire to leave the Commerce Department and move to the DNC.⁵⁶ Either Riady or Huang indicated that he thought that Huang “could do a good job at the DNC, [p]rimarily . . . working with the Asian-Pacific American community.”⁵⁷ Lindsey recalled that during the discussion about Huang moving to the DNC, the “President indicated that it sounded like a good idea to him.”⁵⁸

Lindsey’s recollection that Huang or Riady told the President about Huang’s desire to move to the DNC is backed up by Huang himself. In October 1996, Huang had a conversation with DNC General Counsel Joe Sandler about this September 13, 1995 White House meeting. Sandler testified, “[Huang] indicated to me that the basic purpose of the meeting was to visit, social in nature, and that the main substantive point that he recalled being discussed—he gave me the impression that the point that Mr. Riady wanted to convey to the President was . . . that Mr. Huang’s abilities were being wasted at Commerce. In effect, he [Riady] said something to the effect that he was a pencil pusher and that he should be utilized in some other way.”⁵⁹

Either on his own, or prompted by the President, Lindsey called Huang the next day. After asking Huang if he really wanted to move to the DNC, Lindsey scheduled a meeting with Huang for the following day, September 15.⁶⁰ The meeting occurred at the White House from about 11:00 to 11:30 a.m.⁶¹ Lindsey again asked Huang if he wanted to leave Commerce and go to the DNC. Lindsey testified that “[Huang] said yes. Well he said if that’s where the President thinks I would be the most good, you know, do the most good, and I said well, John, that’s not my question. I’m trying to find out what you want, you know, where you want to go, and he said yes, he did want to go.”⁶² Lindsey recalled that “John may have indicated at some point that he thought he could raise money in the

⁵² Deposition of Bruce Lindsey, July 1, 1997, pp. 106–107; Giroir deposition, pp. 78–79. Giroir’s unusual account of how he arranged this meeting bears noting. According to Giroir, several days before the meeting, he attended some White House event and, while shaking the President’s hand, informed him that James and Eileen Riady were part of an Indonesian trade group that would be in Washington, and that the President may want to visit with them. Clinton asked Giroir to call Nancy Hernreich, the President’s secretary, and schedule such a visit, if possible. Giroir did so, and, on the day of Riady’s visit to Washington, was able to get a visit scheduled. Giroir then called the Riadys, who was staying at the Four Seasons, and drove over to pick them up for the meeting. John Huang just happened to be in the Four Seasons’ lobby, and he accompanied the group to the Oval Office meeting. See Giroir deposition, pp. 79–86; 110–17.

⁵³ Schedule of the President, September 13, 1995 (Ex. 1).

⁵⁴ Giroir deposition, p. 87.

⁵⁵ *Id.* at pp. 89–90.

⁵⁶ Lindsey deposition, p. 114.

⁵⁷ *Id.* at p. 115.

⁵⁸ *Id.* at p. 118.

⁵⁹ Deposition of Joseph Sandler, May 30, 1997, p. 21.

⁶⁰ Lindsey deposition, pp. 120–123.

⁶¹ Entry Report Electronic Mail to Bruce Lindsey, September 15, 1995 (Ex. 2).

⁶² Lindsey deposition, pp. 122–23.

Asian-Pacific community . . . It was just one of the talents he thought he had and one of the things he thought he could bring to the DNC.”⁶³ Lindsey also said that he could not recall whether James Riady’s name came up, but opined, “it’s hard to imagine that somehow James’ name wouldn’t have come up.”⁶⁴ Before the end of the meeting, Lindsey told Huang that he would mention this conversation to White House Deputy Chief of Staff Harold Ickes.⁶⁵

Afterwards, Lindsey went to see Ickes and told him that Huang “had indicated an interest in going to the DNC.”⁶⁶ At the same time, Ickes was also hearing about Huang’s interest from the President. According to Ickes, at around the same time, September 1995, the President specifically mentioned that he had spoken to Huang. Ickes remembered the President telling him that Huang was “prepared to go to work at the DNC or the Reelect, wherever the President or any of his people felt that he could be best used.”⁶⁷ According to Ickes, the President then asked Ickes “to follow up on it with John Huang.”⁶⁸ Following those instructions, Ickes called Huang and set up a meeting at the White House for October 2, 1995.

Meanwhile, Giroir continued to push for Huang’s move to the DNC. After learning that Marvin Rosen would be the new DNC Finance Chair, Giroir had Middleton set up a meeting with Rosen. Rosen recalled that Middleton called him and asked if he “would meet with him and a person who was possibly interested in helping the DNC raise some money.”⁶⁹ They set up a meeting for September 26, 1995.

In the afternoon before the Rosen meeting, Giroir made an impromptu visit to the DNC to see Fowler.⁷⁰ Fowler had only a vague recollection of the meeting, stating that they discussed “the possibility of [Giroir’s] making a contribution, and while I have no specific clear memory, I think we probably discussed Mr. Huang again.”⁷¹ Giroir’s follow-up letter to Fowler mentions “pending matters” and also assures Fowler that when Fowler’s daughter travels to Indonesia, the Riadys’ Lippo Group “would like to host her and give her whatever assistance possible.”⁷²

Later that day, Giroir, Middleton, and Huang met Rosen in the lobby of the Willard Hotel in Washington D.C. At the meeting, which Rosen said lasted about 15–20 minutes, Giroir repeated his pitch about Huang.⁷³ Rosen testified that he was told, “that [Huang] had been helpful in ’92, and that [he] had various connections in the Asian-American community that he felt he could be very helpful in getting money from.”⁷⁴ Rosen recalled that Huang said very little during this meeting.⁷⁵ Giroir followed this meeting

⁶³*Id.* at p. 129.

⁶⁴*Id.* at p. 123.

⁶⁵*Id.* at p. 124.

⁶⁶*Id.*

⁶⁷Deposition of Harold Ickes, June 26, 1997, p. 115.

⁶⁸*Id.*

⁶⁹Deposition of Marvin Rosen, May 19, 1997, p. 129.

⁷⁰Schedule for Don Fowler, September 26, 1995 (Ex. 3); Fowler deposition, pp. 184–185.

⁷¹Fowler deposition, p. 186.

⁷²Letter from Joseph Giroir to Don Fowler, September 27, 1995 (Ex. 4). Fowler did not remember talking with Giroir about the Lippo Group. Fowler deposition, p. 182.

⁷³Giroir deposition, p. 103.

⁷⁴Rosen deposition, p. 134.

⁷⁵*Id.* at p. 135.

with a letter, dated September 27, 1997, reiterating his belief that Huang “would be an excellent selection for an assistant to you.”⁷⁶

On October 2, 1995, Ickes met with Huang at the White House. While Ickes recalled that the meeting lasted “at the most 10 to 15 minutes,” WAVES records show that Huang was in the White House for about an hour, from 3:22 p.m. to 4:21 p.m.⁷⁷ Ickes testified that Huang talked about his background, and indicated that he would go to the DNC or the Clinton/Gore campaign, whichever Ickes thought was best. Ickes said that “given the nature of the situation, it was probably better for him to go to the DNC.”⁷⁸ Ickes and Huang also talked about Huang’s current Commerce salary and the fact that a DNC salary would be significantly lower. Huang, according to Ickes, “did not seem concerned about salary.”⁷⁹ Ickes testified that he had no recollection of any discussion with Huang about a bonus for raising more than a certain amount of money.⁸⁰

According to Ickes’ notes of this meeting, Huang told him that he had already met with Rosen.⁸¹ Huang was likely referring to the September 26 meeting at the Willard Hotel. Ickes explained to Huang that he would call both Rosen and Fowler and tell both of them that Huang was interested in coming to the DNC. Ickes testified that he is sure he spoke to Rosen but cannot recall if he successfully reached Fowler. According to Ickes, “I am confident I talked to Marvin because I think I recall Marvin saying to me that he knew John Huang and thought that he would be a real asset in dealing with Asian Americans, both from a political point of view as well as raising money.”⁸² Rosen also remembers his conversation with Ickes, stating, “He [Ickes] asked me if I would interview John Huang.”⁸³ Rosen recalled that Ickes might have indicated that he had already called Fowler about Huang.⁸⁴

After his meeting with Huang, Ickes reported back to the President. Ickes could not remember whether he made a “formal report,” but he “undoubtedly said to [the President], look I met with John, he’s interested in going over there . . . he’s working it out.”⁸⁵

During the latter half of October 1995, Rosen had a number of conversations with Middleton about Huang. According to a letter from Middleton to Giroir, dated October 19, 1995, Rosen called Middleton on October 18 and asked about Huang’s starting date.⁸⁶ In the letter, Middleton characterized his conversation with Rosen as follows: “In short, it appears that the arrangement is moving forward and there is strong interest in John becoming a part of the team.” Middleton also informed Giroir that he had relayed the inquiry to Huang, who was “going to call Marvin.”⁸⁷ A few days after that conversation, on Monday, October 23, Middleton called Rosen

⁷⁶ Letter from Joseph Giroir to Marvin Rosen, September 27, 1995 (Ex. 5).

⁷⁷ WAVES records for John Huang, October 1995 (Ex. 6); Deposition of Harold Ickes, June 26, 1997, p. 117.

⁷⁸ Deposition of Harold Ickes, June 26, 1997, p. 118.

⁷⁹ *Id.* at p. 120.

⁸⁰ *Id.*

⁸¹ Notes of Harold Ickes, October 2, 1995 (Ex. 7).

⁸² Deposition of Harold Ickes, June 26, 1997, pp. 125–26.

⁸³ Rosen deposition, p. 138.

⁸⁴ *Id.*

⁸⁵ Deposition of Harold Ickes, June 26, 1997, p. 128.

⁸⁶ Letter from Mark Middleton to Joe Giroir, October 19, 1995 (Ex. 8).

⁸⁷ *Id.*

at the DNC, leaving a message that he would like to set up a meeting between himself, Rosen, Giroir, and Huang.⁸⁸ According to Rosen's DNC call sheet, the meeting was set for Middleton's office on October 24.⁸⁹ Rosen testified that he recalled being in Middleton's office, but does not know if it was for this meeting.⁹⁰ Rosen also stated that he does not remember meeting Giroir a second time and he is not sure if he met Huang a second time before Huang's coming to the DNC.⁹¹

By early November 1995, the DNC had still not hired Huang, nor had Huang come to the DNC for any type of formal job interview. That all changed very quickly. On November 8, 1995, the DNC held a fund-raising event at the Historic Car Barn in Washington D.C. During that event, President Clinton asked Rosen about Huang's status.⁹² Rosen told the Committee that when he responded to the President that the DNC was in the process of interviewing Huang, the President said something to the effect of "good" or "Huang comes highly recommended."⁹³ In his deposition, Rosen testified that he had a brief conversation with the President about Huang. Asked whether the President "spoke approvingly about Mr. Huang," Rosen replied, "I believe as part of a conversation, [the President said] something along the lines that he come highly recommended or something, but I did believe that it was an approving comment at the time."⁹⁴ Rosen immediately told Fowler and Sullivan about the President's comment.⁹⁵

While the President had already mentioned Huang's hiring to Lindsey and Ickes, this appeared to be the first time that he had communicated directly with DNC officials. According to Fowler, Rosen said that the White House was in favor of the DNC hiring Huang.⁹⁶ As would be expected, the President's interest brought the immediate attention of Sullivan and Fowler.⁹⁷ Fowler instructed Rosen and Sullivan to bring in Huang for an interview.⁹⁸ According to Sullivan, this response from Fowler appeared to be a change of heart from his earlier position with respect to Huang. Sullivan described how when Rosen had previously brought up Huang's name after Ickes had called, Fowler had said "I didn't like that guy Giroir."⁹⁹ Sullivan inferred that Fowler had not wanted to hire Huang because he did not like Giroir.¹⁰⁰ That all changed after the President's personal interest became even clearer.

It appears that one day after the President made his comment about Huang, Rosen called Huang to arrange an interview. According to Rosen's call sheets, Rosen received a phone message from

⁸⁸ Rosen call sheet, October 24, 1995 (Ex. 9).

⁸⁹ *Id.*

⁹⁰ Middleton refused to cooperate with the Committee's investigation, and asserted his Fifth Amendment privilege against self-incrimination in refusing to testify, so his memory of events could not be probed.

⁹¹ Rosen deposition, pp. 156–57.

⁹² Don Van Natta, "President Is Linked to Urgent Enlisting of Top Fund-Raiser," *New York Times*, July 7, 1997, p. A1. In his deposition, Rosen could not recall exactly where the event was at which the President inquired about Huang. Rosen deposition, p. 140.

⁹³ Memorandum of Interview of Marvin Rosen, April 25, 1997, p. 10.

⁹⁴ Rosen deposition, p. 141.

⁹⁵ Deposition of Richard Sullivan, June 4, 1997, p. 222.

⁹⁶ Fowler deposition, p. 188.

⁹⁷ Deposition of Richard Sullivan, June 4, 1997, pp. 222–223.

⁹⁸ *Id.* at p. 223.

⁹⁹ *Id.* at p. 222.

¹⁰⁰ *Id.*

Huang on November 9, 1995.¹⁰¹ Rosen explained that he called Huang to set up an interview, and that is what the November 9 phone call was probably about.¹⁰² On November 13, 1995, Huang came to the DNC and met with Rosen and Sullivan.¹⁰³ Rosen testified that the meeting lasted about a half hour.¹⁰⁴ When asked in his deposition what was said at the meeting, Rosen responded, I don't recall specifically what was said, but we went into the—Mr. Huang's coming to the DNC and fund-raising for the DNC, and I believe what was said to Mr. Huang was a reiteration that in mine and Mr. Sullivan's mind that neither of us had the ability to offer him a job and that decision had to be made by Mr. Fowler."¹⁰⁵ Rosen did not describe the meeting in any greater detail. Fowler wasted no time following the interview. According to Sullivan, Fowler made a decision on the same day, November 13, 1995, to hire Huang.¹⁰⁶ Huang formally started at the DNC about three weeks later.¹⁰⁷

DNC CONCERNS ABOUT HUANG

Even before Huang became a part of the DNC fund-raising team, senior officials of the DNC had concern about Huang's ability to understand and comply with the various fund-raising guidelines. Sullivan traced his nervousness about Huang to a few different factors. He recalled that in 1992, an Asian individual had embarrassed the Republican National Committee by borrowing \$500,000 and then donating it to the RNC in order to sit next to President Bush at an event.¹⁰⁸ When pressed during his deposition, Sullivan also stated that his previous dealings with another Asian-American donor, Johnny Chung, had made him "nervous."¹⁰⁹ Sullivan explained that in March 1995, Chung "showed up at the DNC and . . . said that he would make a contribution to us of \$50,000 if I would get he and five members of his entourage into a radio address with the President. They were all from China . . . I had a sense that he might be taking money from them and then giving it to us, you know. That was my concern. So I said—I said—I said I wouldn't do it."¹¹⁰ Sullivan linked the Chung incident to Huang, in part, because Sullivan remembered that he had heard Chung mention Huang's name and so he assumed that the two men knew each other.¹¹¹

In his deposition, Sullivan recounted that he rejected this offer from Chung despite the fact that the DNC had previously accepted, according to Sullivan, about \$100,000 from Chung during the past year.¹¹² As is described in another section of the report, Sullivan's principled stance regarding Chung was fruitless, as Chung simply

¹⁰¹ Rosen Call Sheet, November 9, 1995 (Ex. 10).

¹⁰² Rosen deposition, p. 153.

¹⁰³ Testimony of Richard Sullivan, July 9, 1997, p. 101.

¹⁰⁴ Rosen deposition, p. 141.

¹⁰⁵ *Id.*

¹⁰⁶ Testimony of Richard Sullivan, July 10, 1997, p. 108.

¹⁰⁷ The precise date on which Huang started working for the DNC is in dispute; in any event, it appears that Huang started working as a fund-raiser for the DNC prior to leaving the Commerce Department's payroll. See the section of this report on Huang's fund-raising at the Commerce Department.

¹⁰⁸ Deposition of Richard Sullivan, June 4, 1997, p. 227.

¹⁰⁹ *Id.* at p. 228.

¹¹⁰ Deposition of Richard Sullivan, June 4, 1997, pp. 228–29.

¹¹¹ *Id.* at pp. 229–30.

¹¹² *Id.* at p. 228.

bypassed Sullivan and used Chairman Fowler's office to get himself and his group into the radio address. Chung contributed \$50,000 to the DNC at the time of the address, and ultimately contributed \$366,000 to the DNC, all of which has been returned.¹¹³

Sullivan apparently felt so strongly about his concerns that he communicated them to Rosen even before the two of them met with Huang. In his deposition, Rosen stated that he could not recall the substance of his conversations about Huang, nor did he identify any concerns about hiring him.¹¹⁴ Notwithstanding Rosen's purported lack of memory, Sullivan recalled that Rosen himself enunciated another concern about Huang—that he was coming from the Commerce Department. According to Sullivan, "Ron Brown was an aggressive Commerce Secretary. There was always this criticism that we were getting about, you know, the ties between the DNC and Commerce . . . [M]y interpretation was Marvin had a sense that we need[ed] to be careful with somebody coming from Commerce, also."¹¹⁵ Accordingly, Sullivan proposed, and Rosen agreed, that Huang should have an extensive training session with the DNC's general counsel, Joseph Sandler.¹¹⁶

When Huang came to the DNC for his November interview, Sullivan communicated this proposal to Huang. Sullivan explained, "In that very meeting, I also vividly remember—I think I said, John, the first thing we want—if you should come to work here, the first thing we want to do is sit down and have an extended training and briefing period for a number of hours with our counsel, Joe Sandler, as to what's right, what's wrong, what's appropriate, what's inappropriate, what's legal, what's illegal, and I want you to work with Joe to be careful on that front."¹¹⁷

Sullivan further testified, "We talked then and there about it—if you [Huang] had any question, you know, please work closely with Joe Sandler. I mean, Marvin and I both had a sense that—that he needed to be trained well and needed to be—you know, that an—Asian effort both made us a little nervous at that point."¹¹⁸ When asked in his deposition, "Was it unusual for you to make such a big point about a new fund-raiser being—needing to have extensive training and discussions with the general counsel?" Sullivan responded, "Yes."¹¹⁹

When asked about his concerns about Huang, Sullivan yet again was much less forthcoming in his hearing testimony than he had been in his deposition testimony. During his hearing appearance, Sullivan stated that he was not concerned about Huang's potential actions in raising illegal contributions, and that his request for "special training" was motivated by other reasons.¹²⁰ Asked to describe those other reasons, Sullivan simply stated that Huang did not have "full-time experience raising money on a professional level."¹²¹ It was only later in his testimony, after being confronted with his deposition transcript, that Sullivan acknowledged that he

¹¹³ See the section of this report on Johnny Chung.

¹¹⁴ Rosen deposition, pp. 141–43.

¹¹⁵ Deposition of Richard Sullivan, June 4, 1997, p. 235.

¹¹⁶ *Id.* at p. 230.

¹¹⁷ *Id.* at pp. 226–27.

¹¹⁸ *Id.* at p. 227.

¹¹⁹ *Id.* at p. 228.

¹²⁰ Testimony of Richard Sullivan, July 10, 1997, p. 45.

¹²¹ *Id.* at p. 46.

was concerned about Huang's understanding of the law.¹²² Sullivan also admitted at that point that the incident with Chung had played a role in his insistence on training for Huang.¹²³

In any event, Rosen and Sullivan then met with Fowler in order to discuss the Huang situation. Once again, Rosen testified that he could not recall the conversation.¹²⁴ According to Sullivan, the conversation was primarily between Rosen and Fowler, with Sullivan listening.¹²⁵ Sullivan testified that Rosen explained to Fowler that both Sullivan and he felt that it was worth giving Huang "a shot."¹²⁶ Rosen also told Fowler that "the first thing he wanted [Huang] to do was to sit down and have an extensive training session with a lawyer, lawyers."¹²⁷ Fowler, who according to Sullivan, shared some of their concerns about Huang, agreed with that idea.¹²⁸

Fowler met personally with Huang, and then told Sullivan that the DNC should make the formal offer to Huang.¹²⁹ Once again, Huang came to the DNC to meet with Rosen and Sullivan.¹³⁰ At this meeting, the DNC confirmed the specifics of Huang's compensation and title. There was also more discussion about the need for Huang to meet with Sandler. Sullivan testified that Rosen and he told Huang, "We want you to have extensive discussions as to what's legal and what's illegal, what kind of legal contributions you can take and what's illegal, what's appropriate, what's inappropriate. And we want you to—anything—if there is any kind of—you know, anything that has any possibility of a question to check with Joe."¹³¹ According to Sullivan, Huang agreed.¹³²

DNC Finance officials were harping on the need for Huang to have special, extensive training with Sandler; however, they also approved an arrangement that, at a minimum, encouraged Huang to cut corners in raising money. That arrangement included an incentive bonus if Huang was successful in raising money. Besides the troubling nature of this compensation package, the Committee finds it disturbing that no DNC official mentioned the incentive until Sullivan's deposition in early June 1997.

The Committee deposed Rosen on May 19, 1997,¹³³ but Rosen said that he could not recall much of the substance of his November interview with Huang. However, a few weeks later, when the Committee took Sullivan's deposition, the Committee learned additional facts about this meeting, including details of Huang's compensation.

In contrast to Ickes' testimony that Huang "did not seem concerned about salary,"¹³⁴ Sullivan remembered that Huang asked to

¹²² *Id.* at p. 68.

¹²³ *Id.* at p. 70.

¹²⁴ Rosen deposition, pp. 142–43.

¹²⁵ Deposition of Richard Sullivan, June 4, 1997, p. 233.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.* at p. 234.

¹²⁹ *Id.* at pp. 236–37.

¹³⁰ *Id.* at pp. 237–38.

¹³¹ *Id.* at pp. 239–40.

¹³² *Id.* at p. 240. As will be discussed, Sullivan later confirmed that this private session never took place. Sandler, however, maintained that no one asked him to provide extensive training for Huang, nor did he ever do so.

¹³³ Rosen had been interviewed by the Committee on April 9, 1997.

¹³⁴ Deposition of Harold Ickes, June 26, 1997, p. 120.

be paid approximately what he was making at the Commerce Department.¹³⁵ In response, Rosen offered Huang an incentive plan—that Huang would receive a base salary and then a bonus payment based on his success at raising money. Sullivan testified in his deposition:

Somehow it was his salary, potential salary was discussed, and Marvin came up with the idea that of—John said that he wanted to be paid somehow, some way be paid what he was making at Commerce. He didn't mention exactly how much. Marvin said, well, what if we—somehow they came to the consensus agreement that he would be paid a salary of \$60,000 and that if he were successful at some point, he would be given a lump sum payment of whatever needed to get him to his Commerce Department salary.¹³⁶

Sullivan understood that Huang was making between \$80,000 and \$120,000 at Commerce and so the difference between those amounts and \$60,000 (Huang's base DNC salary) would comprise the incentive portion of Huang's DNC compensation package.¹³⁷ In other words, Huang would have an incentive component "somewhere in the \$50,000 to \$60,000 range" if he was successful in raising money for the DNC.¹³⁸

Besides talking about salary, Rosen, Sullivan, and Huang discussed other issues relating to Huang's employment with the DNC at this November interview. Huang explained, for instance, that he wanted a "special title, given his status, age, unique position."¹³⁹ Rosen testified that Huang "felt he needed some credibility."¹⁴⁰ After some discussion, they all agreed that Huang would be the Vice Finance Chairman, a title created for Huang that no other DNC employee held.

Following this meeting with Huang, Rosen informed Fowler about Huang's request for a special title and the details of Huang's incentive compensation package. Fowler approved both items.¹⁴¹ Sullivan admitted in his deposition that he thought it was "little odd" that Fowler approved Huang's compensation arrangement without any further discussion.¹⁴² Nevertheless, Sullivan did not say anything. He testified, "It was above my head. I mean, what was I to say."¹⁴³ Huang returned to the DNC again, and the specifics of his compensation and title were confirmed.¹⁴⁴ Sullivan indicated that the incentive portion of Huang's compensation package was never reduced to writing.¹⁴⁵

Confirmation of the existence of the incentive arrangement—and its importance to Huang—is shown by what occurred after Huang left the DNC. Even after the controversy burst and accusations swirled around Huang, he still sought to collect his lump sum pay-

¹³⁵ Deposition of Richard Sullivan, June 5, 1997, p. 6.

¹³⁶ Deposition of Richard Sullivan, June 4, 1997, p. 226.

¹³⁷ Deposition of Richard Sullivan, June 5, 1997, p. 5.

¹³⁸ *Id.*

¹³⁹ *Id.* at p. 226.

¹⁴⁰ Rosen deposition, p. 148.

¹⁴¹ Deposition of Richard Sullivan, June 4, 1997, pp. 235–36.

¹⁴² *Id.* at p. 236.

¹⁴³ *Id.*

¹⁴⁴ *Id.* at pp. 237–38.

¹⁴⁵ Deposition of Richard Sullivan, June 5, 1996, p. 8.

ment. Sullivan testified, for instance, that in the “past couple of months” (referring to the months before Sullivan’s June 1997 deposition), Sullivan heard from his former assistant Scott Freda that Huang was asking for his bonus payment.¹⁴⁶ Sullivan also recounted an inquiry from B.J. Thornberry, the Executive Director of the DNC, “I remember her [B.J. Thornberry] calling down after John sort of went into hiding or whatever you want to—went underground—whatever you want to call it. She asked—I vaguely remember her asking me was there an agreement where he would get a—was there an agreement between he and Marvin where he would get a lump sum payment after the election. I said, yes.”¹⁴⁷

Sullivan changed his testimony concerning Huang’s compensation between his deposition and his hearing appearance. In his deposition, Sullivan emphasized just how unusual was the incentive compensation arrangement. He volunteered that it was “unprecedented.”¹⁴⁸ In his hearing testimony, however, Sullivan told a different story. First, he avoided confirming that Huang was the person who asked for the incentive arrangement, instead testifying that salary was not an issue for Huang, and that Rosen simply volunteered it “out of respect to John’s situation in life.”¹⁴⁹

Sullivan then downplayed the significance of the arrangement. He described it as “merely that at some point later in the year, if things were working out, the DNC would pay him a share to get him up to whatever he was making at the Commerce Department.”¹⁵⁰ Asked what “working out” meant, Sullivan avoided giving a direct answer. He testified, “I didn’t—I didn’t—I’m not sure. You should ask—Marvin made the agreement with him. I was an observer, and I’m not sure what exactly I [sic] meant.”¹⁵¹ Later, when he was asked directly if the arrangement was “unusual,” Sullivan ducked the question. He answered, “Senator, you have to take it in larger context of which I touched upon, which was that salary wasn’t important to John.”¹⁵²

During the hearing, Sullivan also minimized his reaction to the salary structure. Asked if he was comfortable with the compensation package, Sullivan replied, “I was—sure. I mean, it was not a common arrangement, but I was comfortable with it.”¹⁵³

CONCLUSION

The circumstances surrounding Huang’s hiring by the DNC were unusual. DNC officials were lobbied by close associates of the President, such as Giroir and Middleton, to hire Huang. Ultimately, the President himself intervened to help Huang move from the Commerce Department to the DNC, after meeting with Huang and James Riady, Huang’s patron and long-time friend and supporter of the President.

¹⁴⁶*Id.* at p. 7. Freda still works at the DNC, and is currently the Chief of Staff of its Finance Division.

¹⁴⁷*Id.*

¹⁴⁸ Deposition of Richard Sullivan, June 4, 1997, p. 230.

¹⁴⁹ Testimony of Richard Sullivan, July 10, 1997, p. 64.

¹⁵⁰*Id.* at p. 63.

¹⁵¹*Id.*

¹⁵²*Id.* at p. 64.

¹⁵³*Id.* at p. 63.

Top DNC officials were sufficiently concerned about the possibility that Huang's fund-raising could run afoul of the law that they requested special, individualized legal training for Huang. Whether this training occurred is a matter of controversy, as will be seen.

Although prudently directing that Huang be given special training, DNC officials conferred an "unprecedented" incentive compensation package on Huang, one likely to encourage aggressive fund-raising. As will be seen, Huang was an extraordinarily aggressive fund-raiser who violated a variety of federal laws.

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JOHN HUANG'S ILLEGAL FUNDRAISING AT THE DNC

This chapter covers a number of events that occurred during John Huang's tenure at the DNC. It does not attempt to paint a comprehensive picture of Huang's activities at the DNC; rather, it illustrates some important points. First, as discussed previously, DNC Finance officials were concerned enough about Huang's potential to raise funds illegally that they insisted that he receive a personal training session from DNC General Counsel Joe Sandler. Although Richard Sullivan declares that he was informed that such training occurred, Sandler claims that no one ever asked him to provide such training, nor did he do so. These contradictory accounts are typical of the confusion and lack of responsibility or accountability in the DNC's fund-raising operation.

Second, the concerns about Huang were not just theoretical, but arose in reality as early as his first fund-raising event in February 1996. At that time, DNC Treasurer Scott Pastrick was concerned about foreign nationals at the event, and asked Sandler to review checks from it. Subsequently, the DNC returned two checks from the event in March 1996. These returns—which stood out on the DNC's Federal Election Commission report for the relevant time period—should have put DNC officials on notice that their early concerns about Huang had materialized quickly. Not only did the DNC ignore this warning sign, but DNC officials also did not volunteer any information about these early returns in this investigation. It was not until a few days before the opening of the Committee's hearings in July 1997—and months after the Committee had served the DNC with its subpoena—that the Committee received documentary evidence of the return of funds that Huang had raised in February 1996. Until July 1997, none of the DNC officials who had been deposed—such as Richard Sullivan, Marvin Rosen, or Joe Sandler—had mentioned anything about these returns.

Third, Huang's solicitation and collection of a \$250,000 contribution from Cheong Am America in April 1996 should have provided even more warning signs for DNC officials. It was clear to anyone who cared enough to look that this contribution was illegal. Nevertheless, DNC officials were so obsessed with raising money that, at a minimum, they failed to ask obvious questions about the source of the money collected. The story of the Cheong Am contribution shows the unprofessional manner in which Huang operated. It also demonstrates the shameless selling of the President—as the DNC arranged a five minute photo-op in exchange for a quarter million dollar contribution.

Fourth, DNC officials were uncomfortable with the guest list for a July 30, 1996 event organized by Huang. The guest list consisted of a small group of foreign nationals and the President. Nevertheless, DNC officials allowed the event to go forward. Only after-

wards did they make the decision not to allow Huang to organize any more fund-raising events attended by the President.

Fifth, Huang attempted to launder political contributions to the DNC. In August 1996, a time when there was significant pressure on Huang to perform, Huang approached a Washington area businessman and asked to use his organization to launder contributions, the source of which was not disclosed. Although Huang was rebuffed, and the deal was never consummated, the incident demonstrates how far Huang would go to raise money for the DNC.

Finally, even at the conclusion of this investigation, there is still little known about what Huang did on a day-to-day basis. The Committee deposed numerous people at the DNC, including Huang's supervisors, co-workers, and office-mates. These individuals claimed to have little or no interaction with Huang, and in any event, shed little light on what he did every day. Huang did not have an assistant or a secretary, nor did he leave many documents at the DNC.¹ As discussed, Huang himself refused to speak to the Committee. Accordingly, it is still not possible for the Committee to paint a comprehensive picture of Huang's activities at the DNC.

CONTRADICTORY TESTIMONY ON WHETHER SANDLER TRAINED HUANG

As described previously, DNC Finance Director Richard Sullivan, among others, was concerned enough about John Huang to insist on an individual training session between Huang and DNC General Counsel Joseph Sandler. Sullivan also testified that he was informed by both Huang and Sandler that such a session took place soon after Huang began work at the DNC. Nevertheless, Sandler insisted that such a session never occurred.

According to Sullivan, immediately after Sullivan and Rosen had interviewed Huang for the first time in November 1995, Rosen asked Sandler to come to Rosen's office.² Sullivan and Rosen informed Sandler that, pending Don Fowler's approval, it looked like Huang would be coming to the DNC. They explained to Sandler that they had told Huang that the first thing they wanted him to do was to have an extensive training session with Sandler, so that Huang would learn the rules governing fund-raising.³ Sullivan explained, "We asked Joe [Sandler] to make sure that happened and expressed our desire for that. Joe said certainly."⁴

A few days after Huang started at the DNC, Sullivan went to Sandler's office and inquired whether Sandler had, in fact, sat down with Huang and discussed fund-raising rules. According to Sullivan, Sandler answered yes, and indicated that he had spent an hour or two with Huang.⁵ Sullivan testified: "He [Sandler] said that he had had an extensive session with John; that he felt comfortable with his knowledge of the rules; with the way he described

¹Sam Newman, a DNC fund-raiser who shared an office with Huang for a few months, testified that Huang sat at a desk, but did not use any of the drawers, or any other space in the office, to maintain files or documents. Newman stated that Huang recorded all his notes and meetings in a bound writing tablet, which he carried with him. According to Newman, when Huang left the office each day, he left behind no notes, files, or any possessions whatsoever. Deposition of Samuel Newman, July 17, 1997, pp. 111-122.

²Deposition of Richard Sullivan, June 5, 1997, p. 24.

³*Id.* at pp. 24-25.

⁴*Id.* at p. 25.

⁵*Id.* at p. 27.

his future conduct and was comfortable with his general knowledge of fund-raising rules and regulations.”⁶ Asked whether Sandler provided any more detail about his session with Huang, Sullivan responded, “I believe that he [Sandler] mentioned that he had obviously emphasized to him that the thing that you had to be careful about was, the foreign subsidiary rule and just making sure that you were not taking contributions from non-U.S. citizens or green card holders.”⁷

Sullivan heard about this training session from Huang as well as from Sandler. Within a week after Huang started working at the DNC in December 1995, Sullivan asked Huang if he had already sat down with Sandler, whether Huang felt comfortable with the rules as they related to foreign subsidiaries and non-U.S. citizens, and whether Huang was comfortable in taking any questionable contributions to the counsel’s office for review.⁸ Sullivan testified that Huang responded “[v]ery positively. He said, absolutely I had a great session. We got along well. I feel very comfortable. I mean, John was not a man of great words, but—I feel comfortable and I see no problem with working closely with Joe to answer any questions that may arise.”⁹

The uncommon nature of the individual training session further enhanced Sullivan’s memory about this issue. After explaining that Huang was the only “student” in the training session with Sandler, Sullivan remarked that it was “very uncommon” for a fund-raiser to have a private training session with the general counsel.¹⁰ Sullivan testified, “I don’t remember anyone else ever having a private session with the general counsel.”¹¹ Rosen also confirmed Huang’s private session with Sandler. Rosen testified, “I knew that early on, Mr. Huang had met with Mr. Sandler about the rules of getting money from foreign owned corporations in the United States or resident aliens or whatever.”¹²

Sullivan testified that in the ensuing months, both Sandler and Huang confirmed that they were following up on their initial session. Sullivan testified that on “random times” in the “first couple months of [Huang’s] employment,” he asked Sandler if Huang was vetting his checks with him, and Sandler responded “yes.”¹³ Sullivan also stated that during that same time period, he asked Huang on numerous occasions if he was working with Sandler to vet all checks that were of questionable legality. Huang responded affirmatively.¹⁴

Sandler told the Committee a completely different story. During his deposition, Sandler was asked in seriatim whether Richard Sullivan, Marvin Rosen, Don Fowler, or “anyone else in the world” asked him to give Huang specialized or individualized training at the time that Huang came to the DNC. Sandler responded, “no” to

⁶*Id.* at p. 26.

⁷*Id.* at pp. 26–27.

⁸*Id.* at pp. 27–28.

⁹*Id.* at p. 28.

¹⁰*Id.* at p. 29.

¹¹*Id.*

¹²Deposition of Marvin Rosen, May 19, 1997, p. 268.

¹³Deposition of Richard Sullivan, June 5, 1997, p. 37.

¹⁴*Id.* at p. 33. The issue of vetting at the DNC is fully discussed in another chapter of this report. See the section of this report on the DNC’s dismantling of its vetting procedures.

each query.¹⁵ Sandler then testified that regardless of whether anyone asked him to give such training, he did not, in fact, conduct any specialized training for Huang in the beginning of December 1995.¹⁶

When confronted with Sullivan's conflicting testimony, Sandler's only explanation was that in February 1996 he met with Huang and reviewed checks collected in connection with Huang's first event, an Asian-American fund-raiser at the Hay-Adams Hotel in Washington, D.C.¹⁷ Sandler explained that he may have had a conversation with Sullivan following this meeting with Huang. Sandler testified that he "probably would have referred to my feeling that Mr. Huang . . . seemed to understand the rules applicable to fund-raising for the DNC, in particular, in connection with issues of citizenship and legality on contributions from U.S. subsidiaries of foreign corporations or foreign-owned corporations."¹⁸ This explanation, however, cannot resolve the discrepancy between Sullivan and Sandler's accounts, as this February 1996 meeting occurred nearly three months after Sullivan alleged that the individual training session took place.

Not only is there a dispute about whether Huang received any private training from Sandler, but the DNC general counsel's office cannot even confirm that Huang received any group training about fund-raising regulations and guidelines. Neil Reiff, DNC deputy general counsel and the person who organized group training for Finance Division employees, testified, "I can't recall ever being involved in a training session with Mr. Huang. I couldn't even tell you whether he attended one of our training sessions. I cannot tell you right here I know that he ever participated in any training that I was involved in."¹⁹ Sandler pointed to a copy of DNC fund-raising guidelines found in Huang's files, but otherwise could not confirm any training of Huang. He testified that he was not aware of any particular training that Huang received.²⁰

CONCERNS ABOUT HUANG MATERIALIZE: DNC RETURNS CHECKS FROM HIS FIRST EVENT

As mentioned above, Huang's first event was an Asian-American fund-raiser at the Hay-Adams Hotel in Washington, D.C. on February 19, 1996. The event raised a significant amount of money (over \$700,000, though budgeted for \$500,000) and was considered a success. Nevertheless, the event also raised early warning signs which should have put DNC officials on notice that their initial concerns about Huang were not misplaced. First, a top DNC official not only noticed, but also expressed concern about, this event's potential for producing illegal contributions from foreign nationals to the DNC. Second, two checks raised in connection with the event were returned a month later, apparently because the checks were from foreign sources and thus violated campaign laws.

¹⁵ Deposition of Joseph E. Sandler, August 21, 1997, pp. 13-14.

¹⁶ *Id.* at pp. 14-15.

¹⁷ *Id.* at p. 15.

¹⁸ *Id.* at p. 17.

¹⁹ Deposition of Neil Paul Reiff, June 20, 1997, pp. 111-112.

²⁰ Deposition of Joseph E. Sandler, May 30, 1997, p. 129.

Following this February event, DNC Treasurer Scott Pastrick approached Sandler and requested that Sandler meet with Huang to review checks from the event. Asked why Pastrick recommended this meeting, Sandler testified, “I think that he had some concern to make about the foreign national—potential foreign national issues in this group because it had not been well known to the DNC.”²¹ In his deposition, Pastrick never mentioned anything about this conversation with Sandler or about any concerns that he had about Huang. Asked if he participated in or overheard any conversations regarding concerns about Huang, Pastrick pointed to an “odd” comment by Rosen in mid to late October 1996 that Huang’s activities were being checked by the DNC General Counsel’s office.²² Otherwise, Pastrick testified, he had no other such conversations.²³

As for the actual meeting, Sandler explained that he sat down with Huang for about 45 minutes and systematically discussed the checks that Huang had brought with him. Sandler stated that Huang had “firsthand knowledge” of the donors, and so Sandler felt that there was no need to do any additional review of the particular checks.²⁴ Sandler said that he relied on Huang’s explanation about the citizenship status of individuals or the ownership of a corporation.²⁵ According to Sandler, there was no request at that time for him to go over general fund-raising guidelines with Huang, nor did he do so.²⁶ Sandler admitted that he took some notes of his meeting with Huang, but stated that he had looked for the notes and could not find them.²⁷

Sandler testified that “he could not recall any other occasion where he [Huang] came to me with a group of checks.”²⁸ Sandler’s testimony differs from the testimony of his deputy, Neil Reiff, who explained that he passed by Sandler’s office “on a couple of occasions” in the spring of 1996, and saw Huang meeting with Sandler.²⁹ While Reiff did not participate in these meetings, he understood them to be for the purpose of reviewing specific contributions, “because I saw John with checks in his hands when I walked by Joe’s office. You could see him holding checks.”³⁰

In fact, the DNC soon returned checks that Huang raised from the Hay-Adams event. A few days before the start of the Committee’s public hearings in July 1997, the Committee received documents showing that some of the Huang-solicited contributions had been returned as early as March 1996. The documents received reflected that, in connection with the Hay-Adams event, Huang had collected two separate \$12,500 checks made payable to the Democratic National Committee. Both checks were dated February 26, 1996, and were written on an account at General Bank in California. According to DNC check tracking forms, which appear to have been filled out by Huang, one contribution is attributed to Shu-Lan

²¹ *Id.* at p. 101.

²² Deposition of Robert Scott Pastrick, May 7, 1997, pp. 97–98.

²³ *Id.* at p. 98.

²⁴ Deposition of Joseph E. Sandler, May 30, 1997, pp. 102–103.

²⁵ *Id.* at p. 103.

²⁶ Deposition of Joseph E. Sandler, August 21, 1997, p. 19.

²⁷ Deposition of Joseph E. Sandler, May 30, 1997, pp. 133–134.

²⁸ *Id.* at p. 127.

²⁹ Reiff deposition, p. 113.

³⁰ *Id.* at p. 114.

Liu and one is attributable to Yun-Liang Ren. The address and telephone number is the same for both: 410 S. San Gabriel Blvd. Suite 10, San Gabriel, CA 91776 and (818) 821-5338.³¹

About one month later, on March 26, someone at the DNC filled out two expenditure request forms to have the DNC issue checks refunding these contributions.³² While it is unclear who actually filled out the forms, they indicate that the two separate \$12,500 expenditures were requested by Huang. On the line for “purpose of expenditure,” the same description is written for both—“Contribution Refund (see attached).”³³ It is unclear, however, what may have been attached to these requests. Photocopies of the checks and check tracking forms are numbered consecutively, but there also may have been a written internal note or other document explaining why the contributions were to be refunded.³⁴ Nothing of the sort was produced to the Committee. On the expenditure request for Ren, there is a handwritten notation “Neil” which likely refers to DNC deputy general counsel Neil Reiff. It is unknown who made that notation, and, because the documents had not been produced before Reiff’s deposition, he was not asked about the forms.

The Committee also obtained the relevant DNC report to the Federal Election Commission. On the Itemized Disbursements Schedule B page of the report, which was for the first quarter of 1996, the DNC listed both of these returned contributions.³⁵ “Contribution refund” is listed as “purpose of disbursement.” However, there is no further explanation. The DNC also listed seven other contribution refunds on the Schedule. These two \$12,500 refunds clearly stand out from the seven other entries. One of the seven was for \$2,000 and the remaining were all for under \$500.³⁶

The Committee learned that Ren and Liu are a married couple, and that they run an international trading group based in China. According to a family member in California, both Ren and Liu are currently living in China. Attempts to reach them by telephone in California and China were unsuccessful.

Until July 1997, the Committee was under the impression that the first check raised by Huang and returned by the DNC was the Cheong Am contribution, which was solicited in April 1996 and returned in September 1996. In its public statements, the DNC had never made reference to any Huang-solicited contributions that were returned earlier. Moreover, in all the interviews and depositions conducted by the Committee until the Committee’s receipt of the documents—and these depositions included almost all of the major DNC officials—no witness had made any reference whatsoever to any Huang-solicited contributions that were returned before the widely reported return of the Cheong Am contribution.

During the first two sessions of Sandler’s deposition in May 1997, for instance, he described the meeting that he had with Huang after Huang’s first event. In his testimony, Sandler ex-

³¹ DNC check tracking forms for Shu-Lan Liu for \$12,500 and Yun-Liang Ren for \$12,500 (Ex. 1).

³² DNC Expenditure Request Forms, March 26, 1996 (Ex. 2).

³³ *Id.*

³⁴ *Id.*

³⁵ FEC Schedule B (Ex. 3).

³⁶ *Id.*

plained that Huang had firsthand knowledge of the donors, and Sandler did not ask Huang to return any of the checks that they discussed. During those sessions of his deposition, Sandler did not identify any contributions from the event that the DNC returned before the Debevoise & Plimpton review of all DNC contributions in the fall of 1996.³⁷

The Committee deposed Reiff on June 20, 1997, before the Committee had received the Ren and Liu documents, so Reiff was not asked directly about them; however, Reiff was asked numerous questions about his interaction with Huang, and all of his answers suggested that he had no involvement in the Ren and Liu contributions. Reiff testified, “Other than passing him [Huang] in the hall politely, I had pretty much no interaction with Mr. Huang direct [sic],” and “[o]ther than the social interaction, I never provided any legal advice to Mr. Huang.”³⁸ Reiff also stated that he never participated in any meetings with Huang, nor could he recall ever being involved in a training session with Huang.³⁹ Moreover, Reiff acknowledged in his deposition that he had primary responsibility for the final preparation of FEC reports.⁴⁰ The fact that these two contributions stand out on the FEC report and that Reiff’s name (“Neil”) is listed on the documents leave the Committee to wonder what Reiff may have known about these returned contributions.

During the third session of his deposition, which took place on August 21, 1997, and thus after the Committee received the documents, Sandler was confronted with the Ren and Liu returned contributions. After acknowledging that he had reviewed these particular documents in preparation for this session of his deposition, Sandler testified, “I don’t know much about the circumstances surrounding these, but it is apparent that from the face of the documents that they were checks that Mr. Huang attributed to the Hay-Adams event; that they were initially deposited, but then within a month, maybe three weeks, Mr. Huang requested that the checks be refunded.”⁴¹

Asked whether the Ren and Liu checks were among the checks that Sandler reviewed after the Hay-Adams event, Sandler responded, “I don’t specifically recall. It’s possible, but I don’t specifically recall. It’s very possible that it was.”⁴² Sandler also said that he did not remember whether Huang had consulted with him in March 1996 about the Ren and Liu contributions.⁴³

While no one at the DNC admitted to having contemporaneous knowledge of these returned contributions, the fact remains that these Huang-solicited contributions were returned by the DNC in March 1996, only a few months after Huang had arrived at the DNC, and within a month of Huang’s first fund-raising event. Nevertheless, DNC officials did not institute any closer monitoring of Huang’s fund-raising, allowing him to continue to raise money unabated until the fall of 1996. Because of the intense pressure

³⁷ Debevoise & Plimpton was the principal outside law firm retained by the DNC to defend it in this investigation.

³⁸ Reiff deposition, p. 111.

³⁹ *Id.*

⁴⁰ *Id.* at p. 12.

⁴¹ Deposition of Joseph E. Sandler, August 21, 1997, p. 23.

⁴² *Id.* at p. 24.

⁴³ *Id.*

emanating from the White House to raise money, the DNC ignored these early indications and failed to screen subsequent Huang-solicited contributions until it was too late. In fact, within weeks of the return of these contributions, Huang solicited another illegal contribution—\$250,000 from Korean citizen John K.H. Lee, a topic that will be discussed next.

Additionally, these Ren and Liu contributions tie into another aspect of the Committee's investigation—the coordination between the DNC and various nonprofit groups.⁴⁴ The Committee subpoenaed bank records for Ren and Liu, which show that on May 13, 1996, they jointly wrote a \$25,000 check to a non-profit group, Vote '96.⁴⁵ It seems more than just coincidental that the check is not only for \$25,000, which is the total of the two returned contributions, but it is dated May 13, which is the date of Huang's second major fund-raiser—an event at the Sheraton Carlton Hotel.

THE RETURN OF THE CHEONG AM CONTRIBUTION

On April 8, 1996, Huang collected for the DNC a \$250,000 contribution from John K.H. Lee, a South Korean businessman. The contribution technically came from Lee's newly incorporated U.S. company, Cheong Am America, Inc. The intermediary between Huang and Lee was Michael Mitoma, an international business consultant and, at the time of the contribution, the mayor of Carson, California.

After the *Los Angeles Times* inquired about the legality of the Cheong Am contribution in September 1996, the DNC acknowledged that it was illegal, and returned it. The return of this contribution led to additional press attention, and is generally noted as the beginning of the 1996 campaign finance scandal that triggered the Committee's investigation.

The DNC has pointed to the return of this contribution as an example of how it swiftly reacted to any indicia of illegal contributions. At the time of the return, a DNC spokesperson also explained the illegal contribution by commenting, "Our fund-raiser understood that the company had been in existence in the U.S. for some time, and was led to believe that the company's principals, including its chairman, were U.S. citizens or permanent residents."⁴⁶

The actual facts reveal a much different story. It was obvious to anyone who cared to look that Cheong Am America, Inc. was a newly-formed U.S. company with no current operations. It was also obvious that the company's chairman, John K.H. Lee, was a Korean citizen. Nevertheless, the acceptance of this contribution, and the way the DNC both solicited and vetted it, reveals the DNC's standard operating procedure. In their zeal to raise money, DNC officials at best neglected to ask the obvious questions, and at worst deliberately looked the other way. Furthermore, the Cheong Am contribution provides a good overview of the selling of the President, as John Huang and his colleagues at the DNC shame-

⁴⁴ See the section of this report on misuse of nonprofit organizations.

⁴⁵ Check to Vote '96 from Shu-Lan Liu and Yun-Liang Ren, May 13, 1996 (Ex. 4).

⁴⁶ Alan C. Miller, "Democrats Return Illegal Contribution," *Los Angeles Times*, September 21, 1996, p. A16.

lessly arranged a photo-op with the President in exchange for a \$250,000 contribution from a foreign national.

This contribution had its genesis in the desire of an elected official to provide economic development for his community. In March 1996, Michael Mitoma heard from a friend about a South Korean businessman who was thinking about opening an electronics factory in California. As the mayor of Carson, California, a small city located adjacent to Los Angeles, Mitoma saw an opportunity to bring much needed jobs to his city. Mitoma traveled to South Korea and met with the Korean businessman, John K.H. Lee. According to Mitoma, Lee “constantly talked about meeting the President, asked if I knew the President personally, and if I could assist in arranging a meeting between he and President Clinton.”⁴⁷ Mitoma needed an interpreter to speak to Lee, as Mitoma did not speak Korean and Lee did not speak English.

Mitoma realized that successfully arranging a meeting with President Clinton would enhance the chances of convincing Lee to locate a factory in Carson. Accordingly, upon his return to the U.S., Mitoma tried the direct approach. He called the White House three times, but never received a return call.⁴⁸ Faced with this lack of response, Mitoma began to explore other avenues. Mitoma explained, “One of the suggestions was why don’t you talk to the DNC because there’s a series of fund-raisers that are being held, and that might be a way to meet the President. So I did call the DNC to see about that possibility.”⁴⁹ Mitoma was referred to Huang.

Mitoma explained to Huang that he had a South Korean businessman who was interested in meeting the President. Huang responded by listing a “menu” of events, from large dinners of several hundred people at \$5,000 per person to “exclusive” dinners at “\$50,000 a plate.”⁵⁰ When Mitoma relayed this information to Lee, Lee stated that he wanted to buy all the seats, even at \$50,000 each, so that he could have a one-on-one dinner with the President.⁵¹ Huang rejected this proposal, telling Mitoma that others would need to attend the dinner.⁵² At that time, Huang also explained that he was working on setting up a small dinner and that there were five seats remaining. After checking with Lee, Mitoma confirmed to Huang that Lee would pay \$250,000 for the five seats.⁵³ Eventually, Huang informed Mitoma that the date of the dinner would be April 8, 1996.

In early April, Huang asked for, and Mitoma sent him, information on the five attendees.⁵⁴ Besides Lee and Mitoma, the other three attendees were Won Ham, Lucy Ham and Young Chull Chung. Lucy Ham was the friend who had put Mitoma in touch with Lee. She and her husband, Won, were both U.S. citizens living in Los Angeles. Chung was Lee’s partner and lived in South Korea. Mitoma explained that he was concerned at that time because he

⁴⁷ Testimony of Michael Mitoma, September 5, 1997, p. 126.

⁴⁸ *Id.* at pp. 126–127.

⁴⁹ *Id.* at p. 127.

⁵⁰ *Id.* at p. 128.

⁵¹ *Id.* at p. 129.

⁵² *Id.*

⁵³ *Id.* at pp. 129–130.

⁵⁴ Faxes to John Huang from Michael Mitoma, April 3, 1996 (Ex. 5).

had received no written materials for this event, and had also not been informed about the time, place, or dress code.⁵⁵ Since Lee was flying from Korea to Washington, D.C. for the sole purpose of meeting the President, Mitoma wanted to make sure that the event was actually going to happen.⁵⁶ Even without the final details or confirmation, Lee, Chung, the Hams, and Mitoma all met in Washington, D.C. on April 7, 1996. Mitoma finally succeeded in contacting Huang during the morning of April 8, 1996, which was the same day as the planned dinner. After telling Mitoma to be at the Sheraton Carlton Hotel at 6:00 p.m., Huang began “hedging on the dinner” and suggested that instead of dinner, Lee may just have a private meeting with the President.⁵⁷ In any event, Mitoma, Lee, and the others arrived at the Sheraton Carlton at about 5:45 p.m. There was no one there to greet them, nor were there any signs announcing the event. Lee’s group waited in the lobby for over an hour, unclear about what was happening, before Huang arrived to greet them.⁵⁸ After some brief pleasantries, Huang collected the \$250,000 check and said that he would return. About 15 minutes later, Huang brought over Fowler, Sullivan, and Peter Knight to meet Lee.⁵⁹ Lucy Ham translated, as Lee spoke no English.

After another 15 minute wait, Lee’s group was ushered into a smaller room, and then, all of a sudden, the President appeared.⁶⁰ Mitoma testified, “[The President] was being briefed by John Huang and several other people. And then he came over to our group and we chatted briefly with the President. You know, I explained to him the same thing, you know, that Chairman Lee is going to establish a factory . . . in Carson.”⁶¹ A photographer then took a series of pictures.⁶²

After the President moved along, Huang told Mitoma that they had just had their private meeting with the President and that there would be no dinner. As Mitoma explained, he was able to convince Lee that “it was not such a great idea to eat American food and sit with a bunch of stuffy people for 45 minutes in a conversation that he would not understand.”⁶³ Mitoma, Lee, and the others left the hotel and went out for dinner by themselves.

While Lee seemed content with his brief conversation and picture with the President, Mitoma was deeply disappointed by the way that he had been treated. He described the experience to the Committee as “the most unprofessional thing I’ve ever seen,” and added that he felt that Huang had been “unscrupulous” and had strung him along simply to get Lee’s \$250,000 check.⁶⁴

A review of relevant documents confirms Mitoma’s view of the haphazard nature of the Lee event. On April 8, the day of the scheduled dinner, Huang faxed Sullivan two pages of handwritten notes about Lee, Cheong Am, and the other participants.⁶⁵ Sullivan

⁵⁵ Mitoma testimony, p. 132.

⁵⁶ See Fax to John Huang from Mike Mitoma, April 4, 1996 (Ex. 6).

⁵⁷ Mitoma testimony, p. 134.

⁵⁸ *Id.* at p. 137.

⁵⁹ *Id.* at p. 138.

⁶⁰ *Id.* at p. 139.

⁶¹ *Id.*

⁶² *Id.* at p. 140.

⁶³ *Id.*

⁶⁴ Interview of Michael Mitoma, September 4, 1997.

⁶⁵ Fax from John Huang to Richard Sullivan, April 8, 1996 (Ex. 7).

then wrote a memo from himself and Huang to Doug Sosnik and Karen Hancox at the White House. Sullivan wrote, “Mayor Michael Mitoma, Mayor of Carson, California, and the following would like to meet with POTUS this evening before our first dinner.” After identifying the others and explaining that the purpose of the meeting was to discuss the possibility of Cheong Am establishing a factory in Carson, Sullivan concluded, “Mayor Mitoma has requested five minutes.”⁶⁶ In addition to demonstrating that the DNC was aware that Cheong Am was merely considering establishing a factory in the U.S., Sullivan’s memorandum also shows that as of the day of the “dinner,” the DNC had not even cleared any meeting with the White House. Moreover, there is no mention of an exclusive dinner with the President—there is just a request for “five minutes.”

It is also clear that the DNC simply tried to fit the Lee meeting into a evening already crowded by two fund-raising dinners. According to Fowler’s schedule for April 8, 1996, there were two scheduled dinners at the Sheraton Carlton that night—an earlier Presidential dinner for Gala co-chairs and vice chairs, and a later Presidential dinner with a smaller group of contributors.⁶⁷ The schedule allotted a ten minute travel break, from 7:40 to 7:50 p.m., between the two dinners.⁶⁸ While Sullivan’s memo asked for a meeting before the first dinner, it appears that Mitoma and Lee were shoe-horned into this ten minute period between the two dinners.

The Cheong Am contribution also demonstrates that Huang and others at the DNC never raised any questions about the contribution’s foreign origin. Mitoma had explained to Huang that Lee was a Korean businessman who was considering starting a business in Carson. Mitoma explained further that his efforts to arrange for a meeting between Lee and the President were directly connected to his larger endeavor to secure Lee’s investment in Carson. Mitoma told the Committee that he was certain that Huang understood that Lee was both a foreign national and had not yet begun to conduct business in the United States.⁶⁹ Moreover, the information that Mitoma sent to Huang on April 4, 1996, also should have cast doubt on the legality of the contribution. While the information on Won and Lucy Ham specifically indicates that they are American citizens, Lee’s resume gives a Korean address and makes no mention of citizenship or U.S. immigration status.⁷⁰ Huang, however, raised no questions at the time.

Huang’s knowledge of Lee’s citizenship, and therefore his inability to contribute legally to the DNC, is further demonstrated by Huang’s record keeping on the contribution. In filling out the DNC’s check tracking form for the \$250,000 contribution, Huang does not include any reference to Lee, despite the fact that Lee was clearly the principal of Cheong Am, and signed the check to the

⁶⁶Memorandum to Doug Sosnik and Karen Hancox from Richard Sullivan and John Huang, April 8, 1996 (Ex. 8).

⁶⁷April 8, 1996 schedule of Donald L. Fowler, p. 3 (Ex. 9).

⁶⁸*Id.*

⁶⁹Mitoma interview, September 4, 1997.

⁷⁰Ex. 5.

DNC.⁷¹ Instead, Huang listed Won Ham—someone he knew was an American citizen—as the contributor.⁷²

Besides these indications, a simple check of the California incorporation records would have shown that Cheong Am was incorporated at the end of February 1996.⁷³ Thus, even without the bank records showing that the Cheong Am America bank account was funded by a transfer of \$1.3 million from Korea on March 26, 1996,⁷⁴ it was obvious that Cheong Am America had not been in operation long enough to generate the U.S. income needed to make a U.S. political contribution.

A few days after the April 8 event, Huang showed the \$250,000 Cheong Am check to Sullivan. Sullivan was surprised, since he had been expecting personal contributions from the Hams, who were American citizens, and not a corporate check.⁷⁵ Sullivan testified: “I remember looking at it with him [Huang] and saying, are you okay with this and have you vetted this with Sandler and he responded, yes.”⁷⁶ In the fall of 1996, after the news accounts of the Cheong Am contribution broke, Sullivan called Huang again and asked him the same question. According to Sullivan, Huang reiterated that he had vetted the check with Sandler immediately after receiving it in April 1996.⁷⁷

Sullivan testified that he did not speak to Sandler about the Cheong Am check in April 1996. It was not until November 1996 that Sullivan and Sandler discussed it. At that time, Sullivan asked Sandler if he had vetted the Cheong Am check, and Sandler responded no. Moreover, in something that Sullivan “found odd,” Sandler told Sullivan that he was not even aware of the Cheong Am check.⁷⁸ When Sullivan asked Sandler whether he had seen the check on the FEC report, Sandler, in Sullivan’s words, “just shorted it off. He [Sandler] said, you know, I just don’t recall ever knowing about Cheong Am . . . John never brought it to my attention and I was never aware of Cheong Am America, Inc.”⁷⁹

Asked whether he believed Sandler or Huang was telling the truth, Sullivan was reluctant to accuse either one of lying. “I’d rather not have to answer that question directly. . . .”⁸⁰ Without being direct, however, Sullivan did make it clear which person he believed. He stated, “I guess I want to think about why John would lie at the time, given the concerns that had been expressed earlier in the year. Let me state that. I can’t think of—I am also perplexed by why John would have lied at the time. Let me also state that,

⁷¹ Copy of check and check tracking form for donation by Cheong Am America to DNC, April 8, 1996, (Ex. 10).

⁷² *Id.*

⁷³ State of California Certificate of Incorporation for Cheong Am America, February 28, 1996 (Ex. 11).

⁷⁴ Assorted bank records of Cheong Am America. (Ex. 12). Bank records reflect the following money trail: On March 26, 1996, Cho Hung Bank in Seoul, South Korea wired \$1.3 million to the California Cho Hung Bank. On April 4 & 5, it appears that the \$1.3 million was deposited into a newly opened Cheong Am America, Inc. account at California Cho Hung Bank. On April 5, \$300,000 (minus a \$3 service fee) was wired into a new Cheong Am America, Inc. account at Hanmi Bank in Los Angeles. The \$250,000 contribution to the DNC, as well as other related checks such as payment for the group’s stay at the Four Seasons and for photos, came from this account.

⁷⁵ Deposition of Richard Sullivan, June 5, 1997, p. 52.

⁷⁶ *Id.*

⁷⁷ *Id.* at p. 53.

⁷⁸ *Id.* at p. 54.

⁷⁹ *Id.*

⁸⁰ *Id.* at p. 58–59.

I am perplexed why Joe would not acknowledge the existence of this contribution, given the fact that it was reported on the Federal Election Committee report.”⁸¹

JULY 1996—EVEN MORE WARNING SIGNALS

As with all DNC fund-raisers, there was constant pressure on Huang to raise additional money. On July 4, 1996, Fowler wrote a handwritten note to Huang, stating, “John, We’re making progress, *but we have to do better*. Thank you for your good work. Best Wishes, Don.”⁸² In his deposition, Fowler stated that he could not recall why he wrote this note to Huang, and that the phrase “we’re making progress but we have to do better” was “just a general admonition.”⁸³ Fowler also maintained that it was not unusual for him to write this type of note, and that at the time, he still believed that Huang “was better than an average fund-raiser for the DNC.”⁸⁴

During the month of July 1996, Huang was responsible for organizing two different DNC fund-raising events—a July 22 event at the Century City Hotel in Los Angeles and a July 30 dinner at the Jefferson Hotel in Washington D.C. Neither of these events turned out the way DNC officials had hoped. In fact, DNC officials were so troubled by the latter event—including the list of guests at the event—that they made a decision not to give Huang any more events with the President.

The July 22 event was designed to be a large fund-raising event with Vice President Gore as the featured guest. The ticket price was approximately \$500 or \$1,000. Many of the attendees were the same people who attended the Hsi Lai Temple fund-raiser in April 1996.⁸⁵ Huang had predicted that the event would raise about \$1 million. In fact, in response to Harold Ickes asking in late June how fund-raising looked for July, Sullivan responded, “We’ve got a couple of things going. One of them is big. John Huang said that he’s real excited about raising \$1 million through a big Asian community event in Los Angeles.”⁸⁶

Despite Huang’s predictions, the Century City event turned out to be much less successful. According to Sullivan, by the end of July, the DNC had only collected \$200,000 to \$300,000 from it.⁸⁷

Huang also had agreed to organize another fund-raiser scheduled for July 30. Sullivan recalled that Karen Hancox of the White House had called with some dates for fund-raising dinners with the President, and Sullivan and Rosen approached Huang. They asked him, “Do you think you want to take on another dinner? Do you think you can pull together another four to 500 [thousand dollars]?”⁸⁸ Huang replied that he could “do another dinner.”⁸⁹

Based on his conversation with Huang, Sullivan expected a dinner “along the lines of [Huang’s] previous ones, about five, \$10,000

⁸¹*Id.* at p. 55.

⁸²Handwritten note from Don Fowler to John Huang dated July 4, 1996 (Ex. 13) (emphasis added).

⁸³Deposition of Don Fowler, May 21, 1997, p. 207.

⁸⁴*Id.* at p. 208; *see also id.* at p. 198.

⁸⁵Another chapter of this report provides a detailed discussion of the Hsi Lai Temple event.

⁸⁶Deposition of Richard Sullivan, June 5, 1997, p. 88.

⁸⁷*Id.* at p. 70.

⁸⁸*Id.* at p. 66.

⁸⁹*Id.* at p. 67.

a couple.”⁹⁰ However, that is not what occurred. A few days before the July 30 dinner, Huang gave Sullivan the invitation list. Dismayed to see that it only included a small group of people, many of whom appeared to be foreign nationals, Sullivan showed the list to Rosen. According to Sullivan, Rosen looked at the list and then stated, “That’s fine. It’s kind of too late to do anything else. Make sure you send the list over to the White House.”⁹¹ It is clear that, despite DNC officials’ concerns about potential illegalities, they opted to proceed with the Jefferson Hotel dinner, apparently in the belief that raising some amount of money was better than none. Sullivan recalled that there was not enough time to cancel the Huang event and to organize another event in its place.⁹² Apparently, White House officials felt the same way. Sullivan recounted that he did, in fact, send the attendee list to the White House.⁹³ Hancox then called Sullivan back and said that the list was fine.⁹⁴

While the Committee has not received copies of any correspondence between the White House and the DNC with respect to this event, the DNC has produced the list of attendees at the event.⁹⁵ Besides President Clinton and DNC officials Fowler, Sullivan, Rosen, and Huang (and Mrs. Huang), four businessmen and their families attended. They were Mr. Ken Hsui, along with his wife Betty and daughter Dorothy; Dr. James L.S. Lin, along with his wife Zuying and son Thomas; Mr. James Riady and his wife Aileen; and Mr. Eugene Tung-Chin Wu, and his wife Shirley.⁹⁶

Sullivan and Rosen both made brief appearances at the dinner. Sullivan said that he went for about five minutes, said hello to Huang, and made sure that everything was okay. Sullivan believed that he may also have met James Riady at the event.⁹⁷ Rosen recounted that he also was introduced to Riady at this event.⁹⁸

Either the next day, or within a few days of the event, Sullivan and Rosen discussed their displeasure with Huang. First, they were upset because the dinner was not “productive.”⁹⁹ Instead of a larger dinner at five or ten thousand dollars per couple, the Jefferson Hotel event had been a private gathering that could not satisfy the party’s need for federal money. Sullivan explained, “The fact that it was a small dinner meant that it was our sense that John would not produce a lot of—I didn’t think a lot of dollars were going to come out of that event anyway just by the nature of who was there. It wasn’t along the lines of what we were really pushing for in July and August of 1996.”¹⁰⁰ Compounding their distress that the Jefferson event simply would not generate enough money, Rosen and Sullivan felt that Huang had let them down. Both men believed, according to Sullivan, that “John is not living up to what he had voluntarily come to us and said he could do.”¹⁰¹ Sullivan elaborated, “[Huang’s] about \$700,000 down on what he said he’d

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.* at p. 72.

⁹³ *Id.* at p. 68.

⁹⁴ *Id.* at p. 83.

⁹⁵ DNC list of attendees for July 30 event at The Jefferson Hotel (Ex. 14).

⁹⁶ *Id.*

⁹⁷ Deposition of Richard Sullivan, June 5, 1997, p. 69.

⁹⁸ Rosen deposition, p. 97.

⁹⁹ Deposition of Richard Sullivan, June 5, 1997, p. 70.

¹⁰⁰ *Id.* at p. 60.

¹⁰¹ *Id.* at p. 73.

do from Los Angeles . . . as the days stretched on from that event and the funds didn't come in as they normally do, I became more and more dubious as to whether that would come anywhere near to what he said he could do.”¹⁰²

Second, Sullivan and Rosen were concerned by the actual attendees at the dinner. As Sullivan explained, “[W]e are not all that pleased with the fact that he put a couple of foreign nationals into a small dinner with the President . . . we were not happy with that because of the possible perception. The press has made a big deal about, oh, you know, why did you have them in when you knew you weren't going to get money from them. Well, we knew that too, but we were just worried about the perception.”¹⁰³ This was not the first time that Rosen and Sullivan had such a discussion. Sullivan testified that after Huang's second major event, the May 13, 1996 fund-raising dinner at the Sheraton Carlton Hotel in Washington, D.C.,¹⁰⁴ Rosen and he had a conversation about the fact that “there may have been some foreign nationals in the room.”¹⁰⁵ According to Sullivan, “I think there was a little concern from the May dinner, but we said . . . people have the right to bring a guest with them to the dinner if they are making the contribution. The important thing is that John is vetting his checks with Joe.”¹⁰⁶

In the light of these concerns, Sullivan said that Rosen made the decision after the July 30 Jefferson Hotel event not to give Huang any additional events with the President.¹⁰⁷ Rosen, who was deposed before Sullivan, provided the Committee with much less detail about the conversations surrounding the Jefferson Hotel event. While he recalled having a conversation with Sullivan after the dinner, Rosen did not mention any concern about foreign nationals or any decision to stop giving Huang events with the President. For instance, when asked if he recalled any concerns being expressed before the dinner, Rosen said no. When asked if he recalled any concerns after the event, Rosen stated that the press coverage tended to “cloud” his memory. He then went on to testify, “I can remember discussing the fact that what struck me at the event, there were a number of—two or three young children there, and talking to Richard after the event that we needed to reach out a little more and get more involvement of various people and I remember that discussion. That was the sum and substance of it.”¹⁰⁸ Rosen agreed with the metaphor that the DNC would have hoped to get “more bang for the buck” out of a fund-raising event attended by the President.¹⁰⁹

HUANG SEEKS TO LAUNDER DNC CONTRIBUTIONS

It is unclear whether Huang knew that he was being restricted from handling more Presidential events. It is likely, however, that Huang knew at a minimum that his Century City and Jefferson

¹⁰² *Id.* at p. 72.

¹⁰³ *Id.* at p. 73.

¹⁰⁴ See the section of this report on Yogesh Gandhi.

¹⁰⁵ Deposition of Richard Sullivan, June 5, 1997, p. 62.

¹⁰⁶ *Id.* at p. 63.

¹⁰⁷ *Id.* at p. 70.

¹⁰⁸ Rosen deposition, p. 98.

¹⁰⁹ *Id.* at p. 99.

Hotel events were not generating the predicted amounts of money. Accordingly, Huang either knew, or could readily surmise, that his DNC superiors were not pleased with his recent performance. Moreover, at this time period, there was increasing pressure on DNC fund-raisers to raise hard money. Without discussing the specifics of election financing, the fact that it was getting closer to election day meant that hard money was becoming much more valuable than soft money. DNC staffers certainly knew about that priority. As Sullivan explained, Huang was as “aware as anybody on the staff about our federal dollars, about our federal dollar push. Marvin and I had held staff meetings and talked about it.”¹¹⁰

It is in this environment that Huang had lunch with Rawlein Soberano, a Washington, D.C. businessman and the head of the Asian American Business Roundtable (“AABR”), a group in Washington that assisted Asian-Americans in procuring contracts with the federal government. At a lunch in late July or early August 1996, Huang asked Soberano to launder campaign contributions through his association (and its members) in exchange for a fifteen percent kickback. If successfully laundered, these contributions could be turned into the much desired hard money or federal contributions. In any event, Soberano quickly terminated the conversation and never took up Huang on his offer.

Soberano provided background in his testimony to the Committee. He stated that he had met Huang on a few occasions before 1996.¹¹¹ Then, in late June 1996, at an Organization of Chinese Americans conference in San Francisco, Soberano saw Huang and learned that Huang had moved from the Commerce Department to the DNC.¹¹² During the summer of 1996, Soberano was in the process of trying to identify sponsors or people who could provide names of potential sponsors for the upcoming AABR annual event.¹¹³ In connection with that responsibility, Soberano called Huang and set up a lunch with him at the Mayflower Hotel in Washington, D.C. Soberano could not identify the exact date of the lunch, but recalled that it was either the last week of July or early August 1996. This range of dates is supported by Huang’s travel schedule. DNC records indicate that Huang was in California from July 10 through July 23 and in New York City from August 10 through August 19.¹¹⁴ During the interim few weeks, Huang was likely in Washington, D.C., especially since he planned and attended the Jefferson Hotel event on July 30, 1996.

Soberano testified that the conversation at the lunch centered around the AABR. In response to questions from Huang, Soberano described the organization’s purpose and membership, which at that time numbered approximately 360.¹¹⁵ Huang then asked about AABR’s budget, to which Soberano responded, “[Y]ou won’t believe this. We are on a shoestring budget.”¹¹⁶ Soberano explained to Huang, for instance, “We really did not have a budget, per se, because we all depended on the volunteer work of our membership.

¹¹⁰Deposition of Richard Sullivan, June 5, 1997, p. 67.

¹¹¹Testimony of Rawlein Soberano, September 16, 1997, p. 199.

¹¹²*Id.* at p. 200.

¹¹³*Id.* at p. 201.

¹¹⁴DNC expense reports and receipts (Ex. 15).

¹¹⁵Soberano testimony, pp. 202 & 225.

¹¹⁶Deposition of Rawlein Soberano, May 13, 1997, p. 33.

As a matter of fact, the location of the organization moves regularly on the generosity of the members to provide it space.”¹¹⁷

Near the end of the lunch, Huang made his money laundering proposal. Soberano testified, “I remembered that it was during the discussion about the budget when he mentioned—and I remember this as if it was yesterday. He said, ‘Perhaps we can help you out,’ and that’s when I looked at him and I said, ‘How?’, and he said categorically and plainly, “We can give you \$300,000 and you can give it back to us later, and you can give 15 percent for the organization,” but that is when I told him, “John, this conversation never took place.”¹¹⁸

At first, Soberano testified, he thought that Huang was kidding. But as Huang continued, and when Soberano told him that the conversation never took place, Soberano saw Huang’s “face drop” and knew that Huang was serious.¹¹⁹ Soberano explained to the Committee, “In the Asian culture, we have what we call the non-verbal communication, and sometimes—and we are very concerned about people losing face. I made him to lose face when I turned him down.”¹²⁰ Soberano and Huang had no further conversation about Huang’s proposal and they awkwardly ended the lunch a few minutes later. Soberano has not spoken to Huang since their lunch.¹²¹

Soberano cut off the conversation immediately, and thus he never asked Huang to elaborate on his offer. In his deposition and hearing testimony, Soberano resisted making any assumptions about Huang’s reference to “we,” particularly since Huang never explicitly mentioned the DNC or the Democratic Party.¹²² At the same time, however, Soberano conceded the obvious. He testified, “But when you look at it, I mean I know what he meant, but I wouldn’t want to put words in his mouth.”¹²³ Soberano acknowledged that he knew that at the time of the lunch, Huang was working as a “major fund-raiser” at the DNC.¹²⁴

The fact that Soberano had lunch with Huang is corroborated by Jerry Parker, the Vice-President of the PrinVest Corp. During the relevant time period, Soberano was consulting for PrinVest, and working in its office, which is located near the Mayflower Hotel. During an interview with Committee staff, Parker stated that there is *no doubt* in his mind that Soberano walked by his office one day and mentioned a meeting with John Huang. Parker was less sure about whether Soberano’s comment took place before or after the meeting with Huang, but he thinks that it was before, and that Soberano said *he was going* to a meeting with Huang. Soberano’s comment stuck in Parker’s memory, because Parker knew Huang, having trained him at a local Washington, D.C. bank during the 1970’s.¹²⁵

¹¹⁷ Soberano testimony, p. 203.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at p. 204.

¹²⁰ *Id.*

¹²¹ *Id.* at p. 205.

¹²² Soberano deposition, p. 116.

¹²³ *Id.*

¹²⁴ Soberano testimony, pp. 200 & 225.

¹²⁵ Interview of Jerry Parker, July 1, 1997.

CONCLUSION

Huang's approach to Soberano should not be viewed with surprise—it is the logical outgrowth of his fund-raising odyssey. Huang came to the DNC amid curious circumstances, and his tenure at the DNC was rife with warning signs—which were recognized but then ignored. These signs were ignored because DNC officials were consumed by raising an unprecedented amount of money under pressure from the White House.

The evidence shows that at the same time that the President of the United States was prodding DNC officials to hire Huang, Huang was already raising money in violation of the Hatch Act. DNC officials apparently recognized the illegality and took steps to cover the paper trail by substituting Jane Huang's name for John Huang's on DNC check tracking forms.¹²⁶ Moreover, DNC officials expressed concern about Huang right from the start. They were nervous that Huang did not understand, and would not comply with, the various fund-raising laws. Accordingly, they insisted that he have a private training session with DNC general counsel Joe Sandler. Nevertheless, they also offered Huang an incentive arrangement for raising money.

Once Huang arrived at the DNC, DNC officials continued their schizophrenic behavior. On the one hand, they were worried about the large number of foreign nationals that Huang seemed to have at his events. On the other hand, they recognized that Huang was raising a large amount of contributions and so they were reluctant to take any actions—until it was too late. The Cheong Am contribution is a good example of how the DNC had to know that the contribution was from a foreign source, and thus illegal, but still accepted it because it was too easy to pass up—\$250,000 for a five minute photo-op with the President.

Finally, the Committee is troubled by the discrepancies in testimony from DNC officials. Senior DNC officials directly contradict each other on such important points as whether Huang ever received individualized training. Moreover, there are various examples, including the return of Huang-solicited contributions in March 1996, where DNC officials did not provide the Committee with highly relevant information in a timely manner. Even recognizing that memories fade over time, it would seem that DNC officials who were closely involved in the events the Committee was investigating should have a greater command of detail than they claim to have. Huang's assertion of his fifth amendment privilege against self-incrimination made the Committee's investigation of his activities difficult, and this difficulty was magnified by DNC officials' conflicting accounts and alleged failures of memory.

¹²⁶ See the section of this report on Huang's fund-raising at the Department of Commerce.

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