

105TH CONGRESS }
2d Session }

SENATE

{ REPT. 105-167
{ Vol. 5

**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 5 of 6



MARCH 10, 1998.—Ordered to be printed

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PART 2 INDEPENDENT GROUPS

Chapter 12: Triad

Triad Management, Inc., is a for-profit corporation owned by Republican fundraiser Carolyn Malenick. Malenick incorporated Triad in the spring of 1996 but appears to have operated the business as an unincorporated entity since at least early 1995. Triad holds itself out as a consulting business that provides advice to conservative donors about how to maximize their political contributions. Triad oversaw advertising in 26 campaigns for the House of Representatives and three Senate races. Triad's spending may have affected the outcome of some elections. Because Triad is an unusual corporation directly involved in federal campaigns, the Committee investigated its work. Despite the refusal by Triad and its lawyers to comply fully with the Committee's subpoenas for both documents and testimony, the Minority developed substantial evidence of wrongdoing by Triad.

Based on the evidence before the Committee, we make the following findings with respect to Triad and the two non-profit organizations that it established:

FINDINGS

(1) The evidence before the Committee suggests that Triad exists for the sole purpose of influencing federal elections. Triad is not a political consulting business: it issues no invoices, charges no fees, and makes no profit. It is a corporate shell funded by a few wealthy conservative Republican activists.

(2) Triad used a variety of improper and possibly illegal tactics to help Republican candidates win election in 1996 including the following:

(A) Triad provided free services to Republican campaigns in possible violation of the federal prohibition against direct corporate contributions to candidates. These services included raising funds for candidates, providing consulting advice on fundraising and political strategy, and providing staff to assist candidates,

(B) The evidence before the Committee suggests that Triad was involved in a scheme to direct funds from supporters who could not legally give more money directly to candidates, through political action committees ("PACs"), and back to candidates. Triad obtained from Republican candidates names of supporters who had already made the maximum permissible contributions and solicited those supporters for contributions to a network of conservative PACs. In many instances, the PACs then made contributions to the same candidates.

(C) Triad operated two non-profit organizations—Citizens for Reform and Citizens for the Republic Education Fund—as al-

legedly nonpartisan social welfare organizations under 501(c)(4) of the tax code and used these organizations to broadcast over \$3 million in televised ads on behalf of Republican candidates in 29 House and Senate races. Using these organizations as the named sponsors of the ads provided the appearance of nonpartisan sponsorship of what was in fact a partisan effort conducted by Triad. Neither organization has a staff or an office, and both are controlled by Triad. Over half of the advertising campaign was paid for and controlled by the Economic Education Trust, an organization which appears to be financed by a small number of conservative Republicans.

INTRODUCTION

Triad Management, Inc. (“Triad”) is a corporation which appears to exist primarily to make contributions to conservative Republican candidates in an attempt to help them win election to Congress. Triad claims to be a legitimate business, but this is mainly so that it can evade the disclosure and contribution limits of the campaign finance laws. Triad also created and ran two other shell companies—Citizens for Reform and Citizens for the Republic Education Fund (“Citizens for the Republic”)—for the sole purpose of funneling millions of dollars into political advertising. Even more troubling is that Triad’s nonprofits were, in turn, largely funded by money from two trusts: the Personal Trust and the Economic Education Trust. The Minority believes that these two trusts were controlled by a very small number of wealthy individuals who sought to keep their identity unknown. The facts suggest that these individuals spent millions of dollars to affect over two dozen federal elections despite operating completely outside of federal election laws.

In the 1996 elections, Triad operated in 26 campaigns for the House of Representatives and three Senate races. Triad’s spending alone appears to have changed the outcome of some of those elections. In Kansas, where Triad was particularly active, it may have changed the results in four of six federal races, including a Senate race where the Republican candidate received significant support from Triad.

Most disturbing, Triad is poised to become a model for future elections. A fundamental premise of the 1976 campaign law is that voters are entitled to know who is funding candidates’ campaigns. As the Supreme Court noted in upholding that law: “[D]isclosure requirements deter actual corruption and avoid the appearance of corruption by exposing large contributors to the light of publicity. This exposure may discourage those who would use money for improper purposes.”¹ The ability of wealthy contributors to finance million-dollar advertising blitzes without disclosing their identity to voters fundamentally undermines the spirit and letter of current campaign finance laws.

BACKGROUND

Carolyn Malenick, the sole owner of Triad, is a graduate of Jerry Falwell’s Liberty University, and press reports have indicated that

Footnotes appear at end of chapter 12.

she has remained personally close to Falwell and his family.² Malenick appears to have spent her entire professional career in conservative Republican politics, primarily in the fundraising arena. Malenick initially worked for the “conservative direct mail king” Richard Viguerie.³ Subsequently, she raised funds for Oliver North’s Freedom Alliance, a nonprofit organization founded by North in the wake of the Iran-Contra scandal that has been criticized for raising millions of dollars in undisclosed funding for North’s political activities.⁴ Malenick went on to raise funds for North’s losing 1994 bid for U.S. Senate.⁵ Malenick is also a member of the Council for National Policy, an organization of ultra-conservative political activists who work to further their agenda within the Republican Party.⁶

According to Malenick’s public statements, she personally conceived the idea for Triad and started the business from her home, most likely in 1995.⁷ The stated purpose of Triad is to provide advice to maximize the effectiveness of contributions from conservatives.⁸ In 1996, Malenick incorporated Triad and established an office on Capitol Hill.⁹ Triad is ostensibly a political consulting firm that simply works for contributors rather than candidates. Purportedly, Triad generates income from yearly subscription fees for a fax service, percentage fees for contributions made at Triad’s advice, and management fees for overseeing the two nonprofits it created, Citizens for Reform and Citizens for the Republic.¹⁰ Triad then employs consultants to determine which candidates have the best chance of winning and are thus deserving of financial support from Triad’s clients.¹¹

THE COMMITTEE’S INVESTIGATION OF TRIAD

On April 9, 1997, the Committee initiated its investigation of Triad and its linked entities, Citizens for Reform and Citizens for the Republic, by issuing subpoenas requiring production of documents to the Committee. Virtually no substantive documents were produced for three months, until July. Further, documents which would ordinarily be retained in the course of business, including scripts and invoices for advertising by one of the nonprofit shells, were not produced and appear not to exist. A February 22, 1997, memo from Malenick to her employees refers to the completion of the “cleaning” of computer hard drives.¹² The memo is dated less than two weeks prior to publication of a *Washington Post* article on the subject of Triad and the shell companies.¹³

After delays in document production and protracted refusals to consent to voluntary interviews or depositions, on July 11, Chairman Thompson signed deposition subpoenas for 11 individuals associated with Triad.¹⁴ On September 8, after only two-and-a-half depositions of people with knowledge of the events under investigation had been completed, the Committee received a letter from Triad’s counsel.¹⁵ He wrote: “[f]rom press accounts, our clients have been substantially more cooperative than other organizations. Accordingly, we will not permit additional depositions . . .”¹⁶ Not only was the assertion of cooperation dubious at best, but counsel set forth no valid basis for Triad’s obstruction. In a traditional litigation setting, such a refusal to appear and answer pursuant to

subpoena would likely result in a finding of contempt and sanctions against these individuals.¹⁷

At the time Triad employees and consultants defied the personal subpoenas issued by the Committee, ten individuals—including all senior-level decision-makers—were under personal subpoenas to appear and answer questions. Also refusing to appear for deposition was Triad attorney Mark Braden. Braden is a former general counsel to the Republican National Committee who advised Triad throughout the period in which it carried out many of its apparently illegal activities. Although three individuals subsequently appeared for deposition, none answered any substantive questions. Carolyn Malenick herself, for example, eventually appeared for deposition and then refused to answer any substantive questions posed by Committee staff.¹⁸ Prior to the blanket refusal to appear, the Committee had already established that Triad had made significant corporate contributions to Republican candidates; found evidence of illegal earmarking of political action committee contributions; found evidence that Triad coordinated its advertising campaign with Republican candidates; and found evidence that the nonprofit shells had no independent existence apart from Triad.

Malenick and her backers and associates joined officials from the RNC and other pro-Republican groups as the only individuals to blatantly defy deposition subpoenas issued by the Committee. No individuals associated with Democratic entities who received personal subpoenas to appear before this Committee and answer questions either refused entirely to appear, or issued a blanket refusal to answer.¹⁹ Yet, no order was ever issued to enforce the subpoenas or to hold Triad, its employees, officers, and directors in contempt of the Senate.

Not only were the Committee's subpoenas not enforced, the Majority reneged on its commitment to allow three days of hearing time on the subject of abuses by Republican organizations, including Triad, despite overwhelming evidence that these groups had engaged in improper, and likely illegal, conduct. Further, in possibly the most telling failure of this investigation, no subpoena was issued for records of the Economic Education Trust, a secret entity that provided over half of the funding for Triad's advertising campaign. As a result, the identity of the figures behind the Economic Education Trust and the amount of money they spent funding secret advertising campaigns through groups like Triad in the 1996 election remains unconfirmed.

Two Republican members of the Senate had links to Triad. One Senator received the benefit of more Triad advertising dollars than any other candidate in 1996. He also had several meetings with Malenick and Triad staff, and his campaign was involved in receipt of PAC contributions involving Triad. Another Senator appeared in a Triad marketing video that was intended to help Triad raise funds for federal candidates. The video was filmed in his Senate office, possibly violating prohibitions on the use of Senate offices for fundraising and commercial purposes. In late 1997, a spokesman for that Senator said the video was a mistake.²⁰

Despite the obstruction by Triad and its lawyers, and despite the lack of enforcement by the Committee, the Minority developed substantial evidence of wrongdoing by Triad and its nonprofit shell or-

ganizations. The evidence shows that Triad carried out an audacious plan to pour millions of dollars in contributions into Republican campaigns nationwide without disclosing the amount or source of those contributions.

THE POLITICAL OPERATION OF TRIAD MANAGEMENT

Triad is not a business

The Committee's investigation has shown that Triad is not a business in the conventional sense, because it charges no fees and generates no profit. Triad did not produce a single client bill or invoice to the Committee, nor were any marketing materials produced which mentioned fees or discussed a fee structure.²¹ Neither the bookkeeper nor the finance director of Triad could tell the Committee how Triad billed its clients. While Triad finance director Meredith O'Rourke recalled seeing a sheet of paper with a fee structure on it, she could not recall if fees were paid on a monthly, weekly, or yearly basis.²² She could not explain how fees were calculated and could only say that clients were paying for "advice" but could not recall the "specifics" of it.²³ Triad bookkeeper Anna Evans, when asked about the fee structure, said she could not state how clients were billed or on what basis. Asked about whether clients were billed for travel by Triad staff, she responded, "I'm not involved in agreements that are reached between Carolyn and the clients."²⁴

In telephone interviews, a number of people who confirmed that they contributed to PACs at the advice of Triad made no mention of paying fees.²⁵ At least one individual, Floyd Coates, stated that he did not pay Triad for the contribution advice he received.²⁶ Another person who made contributions at Triad's advice stated he had learned of Triad from his friend Robert Cone and that he regarded Malenick as the organization's executive secretary.²⁷

Robert Cone's financial support of triad

The evidence shows that at least through the second half of 1995, and into 1996, Triad was largely a vehicle for a single conservative activist, Robert Cone. According to Triad bookkeeper Evans, money was given to Triad from a single principal donor "so it could proceed with its work."²⁸ Bank records show that between June 1995 and January 1996, Triad received a total of \$196,000 in deposits.²⁹ Of this total, Cone provided \$175,000, or 89 percent of Triad's funding.³⁰ Through the end of 1995, Cone's payments were made in increments of approximately \$25,000 per month.³¹ During this period, Triad received only \$1,376 from sources other than Cone or fellow conservative Lorena Jaeb.³² Between January and September 1996, Triad received a total of \$1.1 million. Of this amount, at least \$150,000 was received from Robert Cone, while \$900,000 was received from unknown sources in wire transfers of \$50,000 or more. Only \$17,000 is known to have come from non-Cone sources.³³ The total amounts received by Triad from Cone may be even larger. Asked to estimate the cumulative amounts received from its principal donor, Triad bookkeeper Evans estimated that Triad had received between \$600,000 and \$700,000 from this

source, while one of the two nonprofits received \$900,000, and the other received between \$400,000 and \$500,000.³⁴

Cone, a businessman based in Elverson, Pennsylvania, is a well known social conservative who backs anti-abortion causes.³⁵ However, it was not until the last few years that he began devoting large sums of money to political causes. Cone, who together with his brother, Edward, formerly owned Graco Children's Products, initially made political contributions to a number of candidates who supported tort reform shortly after Graco was sued in a series of product liability cases.³⁶ In 1996, Cone created a state-level political action committee in Pennsylvania, which has come under media scrutiny because he is the committee's only contributor.³⁷ It was reported as early as October 1996 that Cone along with Malenick visited staff in a Republican Senator's office to promote Triad.³⁸ Cone also appears in Triad's marketing video and attended a presentation of the results of a national poll commissioned by Triad he attended.³⁹

While Triad holds itself out as a for-profit consulting business, the evidence before the Committee indicates that it charges no fees and is primarily funded by Cone. As discussed below, Triad's business activities were confined to activities designed to affect the outcome of federal elections.⁴⁰ In effect, Cone used Triad as a vehicle to provide in-kind contributions to Republican candidates nationwide, contributions that in many instances he would have been prohibited from making himself, as he had already reached his personal annual contribution limit with contributions to PACs and to individual candidates.⁴¹ Because Triad's sole purpose is to influence the election of conservative Republican candidates, legally it should publicly disclose its activity to the Federal Election Commission, like any other political party or political action committee that exists to influence federal elections.⁴²

Corporate contributions by Triad

As a corporation, Triad is prohibited from making contributions to the campaigns of political candidates.⁴³ When providing services to campaigns, corporations such as Triad are required to charge commercially reasonable rates. Any failure to charge such market rates can result in the services being deemed illegal "in-kind" corporate campaign contributions.⁴⁴ Triad, generously funded by Cone and others, apparently never charged fees. Instead, Triad provided political consulting services to numerous Republican campaigns free of charge. Triad raised funds for candidates from PACs and from individuals and advised candidates on fundraising and on matters of political strategy, often sending consultants to meet with candidates and observe the campaign structure. These free services would appear to constitute illegal corporate contributions from Triad to the campaigns.

While Triad publicly claimed to act as a consultant only to contributors, its activities were, in fact, more broadly based. From Triad's offices, Malenick provided advice to candidates on subjects as varied as raising funds from PACs, to where to live if elected.⁴⁵ Triad finance director Meredith O'Rourke, who was based in Triad's Washington office throughout 1996 and shared an office with Malenick, testified that Malenick spoke to dozens of Republican

candidates in 1996 and that she herself frequently spoke to candidates about fundraising, polling, and how their campaigns were going in general.⁴⁶ Robert Riley, Jr., son of a successful candidate for the House of Representatives in 1996, told a Committee investigator that he was initially put in touch with Malenick as a person who could secure financial support from PACs for his father.⁴⁷ Representative John Thune of South Dakota, when asked about Malenick's receipt of a check from his campaign committee, explained that he had traveled to Washington, and Malenick had spent a couple of days showing him around and introducing him to people.⁴⁸

Triad also made in-kind contributions to candidates in the form of advice from experienced political consultant Carlos Rodriguez. Prior to becoming a consultant for Triad, Rodriguez was known primarily for his work on behalf of California Republicans. In one incident, while he was working for Republican State Assembly candidate Curt Pringle, he was reportedly responsible for posting uniformed guards outside Orange County, California, polling places to discourage Latino voters.⁴⁹ Through November 1996, Rodriguez traveled the country assessing the chances of various conservative Republican candidates and offering advice to candidates and campaigns along the way. Paid \$20,000 a month by Triad, Rodriguez wrote reports of his visits to at least 53 congressional districts and campaigns.⁵⁰ At the same time, Rodriguez advised the campaigns on issues from the hiring of particular consultants, to the utility of phone banks, to the effectiveness of advertising, and how to develop fundraising plans.⁵¹ The assessments performed by Rodriguez also document the high level of personal contact between candidates and Triad. Many reports indicate a personal meeting with the candidate, or, at a minimum, a meeting with senior campaign staff. Many reports were also executed just prior to the final decision-making period on advertising buys in September and early October. In addition to these visits, according to Triad's attorneys, Triad may have actually funded visits to as many as 250 Republican campaigns during 1996.⁵² Thus, there is no doubt that candidates were aware of Triad's activities, and in most cases at least appear to have welcomed the activity.

The ostensible purpose of the Triad campaign site visits was for Triad to assess each candidate's viability and thus determine if the campaign was deserving of Triad-generated financial support. Triad also used the site visits as occasions to give strategic advice on such issues as selection of vendors, and advisability of polling, mailings, and phone banks.

For example, Rodriguez strongly encouraged the campaign of Jay Mathis, a House candidate in Texas, to engage a phone bank operation.⁵³ Another site visit report by Rodriguez described the particulars of his campaign-consulting activities: "I gave them a plan to work out with regards to fundraising, establishing specific goals and programs to meet those objectives."⁵⁴ In the case of Christian Leinbach, a House candidate from a Pennsylvania district near Robert Cone, Rodriguez wrote: "I have suggested to Christian Leinbach specific steps that need to be taken regarding his fundraising. I have asked the campaign chairman to inform me if Christian Leinbach does what he has been told he needs to do."⁵⁵

In other instances, Rodriguez advised campaigns to hire vendors with whom Triad, or at least Rodriguez, already had relationships. For example, in the report on Jim Ryun, a House candidate in Kansas, Rodriguez wrote that the bad points about the campaign included the lack of a campaign structure. He noted that he had recommended Chris Wilson of Fabrizio & McLaughlin as “they are already doing Snowbarger next door and Todd Tiahr’s reelect and as such have a good knowledge of the state.”⁵⁶ Fabrizio and McLaughlin also worked directly for Triad in 1996 and had previously worked with Rodriguez on the 1994 campaign of Indiana Representative David McIntosh.⁵⁷ Wilson was also Rodriguez’s choice for Steve Stockman’s House campaign in Texas: “Should [the existing pollster] not be ready to go into the field, I have suggested in very strong terms to Steve Stockman that he consider replacing [him] with Chris Wilson from Fabrizio McLaughlin who has intimate knowledge of Texas and Stockman’s own district.”⁵⁸ For House candidate Mark Sharpe of Florida, Rodriguez recommended his own former partner David Gilliard as a paid consultant: “In addition I recommended . . . that Gilliard do their advocacy direct mail to add punch to their campaign.”⁵⁹

Triad also provided staff to assist directly at least one candidate in raising funds. O’Rourke testified that on two occasions she went to the National Republican Congressional Committee to assist a member of the House of Representatives who was a candidate for the Senate in “dialing for dollars.”⁶⁰ Although Triad counsel Mark Braden has publicly insisted that O’Rourke was not acting as an employee of Triad when she assisted that candidate,⁶¹ O’Rourke (with Braden present) testified that Malenick arranged her initial meeting with that candidate:

Q: The first time you met with [the Senate candidate] was at the NRCC and I think you said Carolyn [Malenick] had set it up, is that correct?

A: Correct.⁶²

In addition to providing advice and fundraising assistance to candidates, Triad worked to raise funds for individual candidates.⁶³ One common means that Triad used to solicit contributions was a sophisticated system of fax messaging that could simultaneously send information to many persons. The faxes, written by Malenick, were sent to conservative Republicans and contained general information on a number of campaigns. Triad also used its fax system to urge support or defeat for particular candidates. For example, a November 15 fax discussing run-off elections exhorts: “Stockman needs our help and we must answer the call.”⁶⁴ A July 18 fax, sent just before the Kansas primary, claims: “The election of Brownback will send shock waves through the Republican national convention! Sheila Frahm must be defeated.”⁶⁵ By expressly advocating the election and defeat of candidates, these faxes by Triad appear to be illegal corporate contributions to the campaigns.⁶⁶ While no witness could tell the Committee how many people received the faxes, one fax alert notes that “over 160 businessmen and women have been added to the Fax Alert in the last 18 months.”⁶⁷ In one fax sent shortly before the November 5 election, entitled “TOP TIER RACES IN NEED OF CASH \$\$,” Triad solicited contributions for

26 candidates.⁶⁸ Of the 26 candidates, 19 also benefitted from advertising, mail, or telephone attacks on their opponents from Triad's affiliated organizations, Citizens for Reform or Citizens for the Republic. Essentially, Triad acted as a volunteer fundraising consultant for Republican campaigns, illegally facilitating contributions to the candidates.⁶⁹

These services—the solicitation of contributions, visits to and assessment of campaigns, general advice, introductions to PAC funding sources, and express advocacy on behalf of specific candidates—summarize the day-to-day activities of Triad up to September 1996. While these activities do not significantly differ from the day-to-day business of other political consultants, Triad's activities are fundamentally problematic because Triad was not paid by the candidates but was largely financed by a single individual. Triad's activities, therefore, appear to have constituted illegal corporate contributions from Triad to the candidates it assisted.

Triad and political action committees

Triad also worked to generate contributions to conservative political action committees. Moreover, PACs for which Triad solicited contributions frequently gave to candidates who had received contributions from the same PAC contributors. If these contributions were merely coincidental, no violation of federal law occurred. However, if either the contributor or Triad suggested or implied to anyone at the PAC that contributions should be made to a particular candidate, and the contributor had also made the maximum contribution to the candidate, the contribution is considered illegally "earmarked."⁷⁰

The pattern of candidate contributions made by PACs receiving Triad-solicited contributions suggests that earmarking did occur. An examination of the public records of approximately ten conservative political action committees shows that on a number of occasions multiple PACs received checks from the same individual within a matter of days. All of the PACs receiving the contributions then made contributions to one candidate within days of one another. In most cases the individual contributor had already made the maximum permissible contribution ("maxed-out") to the candidate benefitting from the PAC contribution.

One example of this pattern is the contribution of Robert Riley, Jr., an Alabama lawyer and the son of congressional candidate Robert Riley. Between May 9 and May 23, 1996, Riley, Jr. made four contributions to PACs, which appear on an internal Triad PAC list.⁷¹ Between May 23 and May 29, the same four PACs made contributions to the Riley campaign, two of the PACs within 48 hours of reporting receipt of the Riley contribution.⁷² On June 4, Riley, Sr. won the Republican primary. On November 14, the newly elected Representative Riley was quoted in a Triad fax stating, "Triad came to our aid in crucial times when we were desperately in need of funds."⁷³

Another series of contributions was made by John and Ruth Stauffer. Between July 5 and July 29, the Stauffers made contributions to seven PACs. Between July 12 and July 29, all seven PACs contributed to the Senatorial campaign of the Stauffer's son-in-law. At least one of the checks delivered stated, "c/o Triad."⁷⁴ Shortly

after winning the August 6 primary, the same candidate sent Triad a personally signed thank-you note which read, "I cannot even begin to thank Triad enough for its help in my Senate primary campaign."⁷⁵

In her deposition, O'Rourke confirmed that Triad was in regular contact with individuals who worked for the PACs receiving the Riley and Stauffer contributions. O'Rourke testified that either she or Malenick was in contact with people at the Faith Family and Freedom PAC, the Conservative Victory Committee, the Eagle Forum, the Conservative Campaign Fund, Citizens United, the Republican National Coalition for Life, the Madison Project, and the Sacramento-based Citizens Allied for Free Enterprise and Americans for Free Enterprise.⁷⁶

Malenick had long-term relationships with many of the people in charge of making the PACs' contributions. Peter Flaherty, who is responsible for making contributions for the Conservative Campaign Fund, testified that he had known Malenick for a number of years.⁷⁷ The relationship with Flaherty is particularly important as he not only oversees the Conservative Campaign Fund, which made a number of questionable contributions, but also acts as spokesperson for one of the nonprofit organizations created by Triad, Citizens for Reform.⁷⁸ David Gilliard, the contact for Citizens Allied for Free Enterprise, is also a director of the second Triad shell, Citizens for the Republic.⁷⁹ In addition, Gilliard produced mailings for Citizens for Reform and is the former business partner of Carlos Rodriguez.⁸⁰ Rodriguez himself worked for the 1994 election campaign of Representative David McIntosh, who is associated with the Faith, Family and Freedom PAC.⁸¹ All of the PACs identified above as well as additional political action committees implicated in patterns of suspicious contributions appear on an internal Triad list along with names and telephone numbers of contacts at each organization.⁸²

The Committee found evidence that Triad was involved in each step of the contribution process, from the time a PAC contribution was solicited from a contributor to the time the PAC contributed to a candidate. Robert Riley, Jr. told a Committee investigator that he made his contributions on the advice of Malenick and that Malenick had held the checks for a period of time before they were cashed by the PACs.⁸³ Riley also told the agent that when the campaign received the contributions from the PACs, the checks were received not from the PACs themselves, but from Triad.⁸⁴ O'Rourke confirmed that, on occasion, she personally delivered checks to PACs; that she always called a PAC to let it know that a Triad-solicited check would be arriving; and that as a general matter people at the PACs knew when checks they received were the result of Triad involvement.⁸⁵

Documents produced to the Committee, along with the testimony of O'Rourke, also established that Triad had a regular pattern of soliciting Republican candidates for names of their supporters who had already contributed the maximum amounts to their campaigns permitted by law, so that the supporters could be solicited by Triad for PAC contributions. O'Rourke confirmed that, on multiple occasions, she solicited names from Republican candidates and campaign staff of supporters who might be good "potential Triad cli-

ents.”⁸⁶ Candidates who provided names of such potential contributors included the Senate candidate who received contributions from the Stauffers, Representative Riley, and Representative Gutknecht.⁸⁷ Carlos Rodriguez’s reports also reflect this pattern. In the campaign report of Texas House candidate Pete Sessions, Rodriguez states: “[b]oth Sessions and [the campaign manager] clearly understood the Triad concept and will have a list of their maxed out donors for our inspection as soon as there is a call from Washington.”⁸⁸ In another Texas campaign report, Rodriguez notes, “Ed Merritt has a number of maxed out donors who might want to be introduced to Triad. Towards that end, I have recommended over the telephone to Meredith O’Rourke that we check their receptance.”⁸⁹

Triad’s pattern of soliciting candidates for the names of maxed-out contributors was so well-established that Triad used standard “phrases” approved by counsel. A June 13, 1996, memo from O’Rourke to Triad counsel Mark Braden queries, “Is this phrase okay for candidates to use to refer potential clients to Triad? ‘There is a business in Washington—whose clients are donors to conservative causes and campaigns. Call them.’”⁹⁰ Handwriting in the top corner of the memo indicates that on June 13 “Braden OK’d quotes.”⁹¹ Reports of visits to the campaigns by Rodriguez also routinely note that O’Rourke should get in touch with the campaign staffer in charge of fundraising after his visit. For example, in the report on the Rick Hill campaign for the House in Montana, Rodriguez notes, “I have advised Betty Hill (the wife of the candidate and an accomplished campaigner herself) that she should be receiving a call from Meredith [O’Rourke] in the days to come to discuss possible Triad clients [who] might be able to help.”⁹²

The public disclosure records of the PACs that appear on Triad’s internal list also indicate that Triad’s network of contributors had relationships with one another and with Malenick through membership in the Council for National Policy. For example, the public records for a Sacramento-based PAC, Citizens Allied for Free Enterprise, which is administered by David Gilliard, show a number of contributions by Council for National Policy Members.⁹³ The PAC, established in November 1995, received a total of 21 contributions. Nine contributors were members of Robert Cone’s family, while four additional contributors were, like Cone and Malenick, members of the Council for National Policy.⁹⁴

Besides the Riley and Stauffer incidents, other contribution records reveal a pattern whereby contributions found their way from supporters of particular candidates through PACs associated with Triad to the candidates the contributors supported. The records show:

- Steve Stockman received three \$5,000 contributions from PACs on Triad’s internal list. All three PACs received \$5,000 contributions from Richard Eckburg. Eckburg also made a \$1,000 contribution to Stockman.⁹⁵
- Foster Freiss of Wyoming made a \$4,000 contribution to Peter Flaherty’s Conservative Campaign Fund on November 1, 1996. On the same day, the Conservative Campaign Fund made a \$4,000 contribution to Ray Clatworthy, a Senate candidate in Delaware. The Conservative Campaign Fund made no other contributions in

the amount of \$4,000. Freiss also contributed directly to Clatworthy. On October 31, Freiss made a \$25,000 contribution to Citizens for Reform, for which Flaherty was spokesman. Citizens for Reform spent \$18,000 on advertising for Clatworthy.⁹⁶

- Peter Cloeren of Orange, Texas, made a contribution to Texas House candidate Brian Babin in September 1996. On October 14, Cloeren made a \$5,000 contribution to Citizens United. On the same day, Citizens United made a \$5,000 contribution to Babin. On October 1, Cloeren made a \$20,000 contribution to Triad-affiliated Citizens for Reform. Citizens for Reform spent an unknown amount on television commercials attacking Babin opponent Jim Turner.⁹⁷

- Lorena Jaeb of Florida contributed \$20,000 to Triad in 1995. On April 22, 1996, she made a contribution of \$2,500 to Citizens United. On April 28, Citizens United made a \$2,500 contribution to Representative J.C. Watts of Oklahoma. Jaeb also made a \$1,000 contribution to the Watts campaign. Representative Watts was quoted in a Triad fax stating, "My thanks to TRIAD's clients who had the backbone to answer the call—putting their money where their mouths were. . ."⁹⁸

Meredith O'Rourke and Peter Flaherty, the only individuals with knowledge who answered any substantive questions in deposition, refused to answer questions on the subject of specific PAC contributions. Asked about the Riley contributions, O'Rourke responded, "I don't think I want to answer that question." Triad counsel Mark Braden then added, "No, we're not going to answer any questions in regards to Bob Riley, Jr."⁹⁹ Asked whether any "clients" of Triad made contributions to Riley's PAC, the Conservative Campaign Fund, Flaherty responded, "It's none of your business."¹⁰⁰ While a spokesperson for another candidate has insisted that O'Rourke obtained names from that candidate's public FEC reports, O'Rourke testified that she received the names directly from a campaign staff member.¹⁰¹ Asked about the Stauffers, O'Rourke confirmed that she knew them, but when asked if she had gotten their names from a specific Senate candidate, she was instructed by her attorney, Mark Braden, not to answer.¹⁰² Among the questions that Malenick refused to answer was, "Did Triad ever make suggestions to any political action committee relating to the candidates that the committee intended to contribute to?"¹⁰³

Triad has tried to make the case publicly that these situations are simply coincidences that occur in any campaign where a candidate receives funds from individuals and PACs with similar ideology. However, the Committee is aware of no other situation where an entity acted as an intermediary, soliciting candidates for potential contributors, and directing the flow of the contributions from contributors to multiple PACs on the one hand, while being involved in the subsequent distribution of the PAC funds on the other. It strains credulity that Malenick repeatedly accomplished each of these steps without ever implying to the candidate, the contributor, or the PAC representative that a particular candidate might be a good selection for a particular PAC contribution. While, according to Robert Riley, Jr., Malenick told him she could not guarantee that his father would benefit from his PAC contributions, evidence gathered by the Committee strongly suggests that Malenick made implied representations that particular contribu-

tions should go to particular candidates, thus illegally earmarking contributions for particular candidates.¹⁰⁴

THE ADVERTISING CAMPAIGN

The primary means by which Triad assisted in the election of conservative candidates was by overseeing millions of dollars' worth of advertising placed by two nonprofit organizations, Citizens for Reform and Citizens for the Republic. The advertising funded through these groups cost between \$3 and \$4 million and aired in 26 House and three Senate races.¹⁰⁵ The sole purpose of the advertising was to influence voters in favor of conservative Republican candidates in those races.

Creation of Citizens for Reform and Citizens for the Republic

Like other organizations that aired advertising in the 1996 campaign, Triad took advantage of a series of court cases decided as recently as 1996. The cases hold that if a political advertisement or other communication (such as a mailing or telephone call) is paid for by an individual or corporation that is not a candidate or a political party, and the advertisement does not use words that expressly advocate the election or defeat of a candidate (such as "vote for," "elect," or "defeat"), then the advertiser is exempt from the campaign-finance laws.¹⁰⁶ The ad may be paid for with corporate or union funds, and neither the source of the funds nor the cost of the advertisement need be publicly disclosed. However, if groups preparing such advertising campaigns consult with or collude with candidates or campaigns, then the cost of the advertisements will be viewed as a contribution from the organization to the campaign.¹⁰⁷

In the 1996 election cycle, the use of "issue advocacy" advertising exploded, and many groups began airing advertisements that were unmistakably political advertising clearly favoring one candidate over another and intending to influence the views of potential voters.¹⁰⁸ The majority of groups that aired such advertisements, produced mailings, and made telephone calls in 1996 were well-established membership organizations committed to particular issues. Such groups included the AFL-CIO, the U.S. Chamber of Commerce, the Christian Coalition, and the Sierra Club.

In contrast to these groups, Triad conceived of the idea, apparently in early 1996, of creating two nonprofit corporations—Citizens for Reform and Citizens for the Republic—solely for the purpose of airing advertisements without disclosing their sources of funding. The two groups were incorporated on May 5 and June 20, 1996, respectively, within weeks of Triad itself.¹⁰⁹ In post-election marketing material, Citizens for the Republic boasted that it had "no endowed chairs, no fellowship programs, no committees and no departments."¹¹⁰ In fact, neither Citizens for Reform nor Citizens for the Republic had committees, programs, or chairs. They had no chairs of any sort, nor desks, offices, staff, or even telephones. Instead, Citizens for Reform and Citizens for the Republic each consists of a set of articles of incorporation, a post office box, and a bank account. Neither organization has ever engaged in any service or activity other than paying for the production and airing of political advertising. They are justifiably characterized as shell compa-

nies created as mechanisms for funding million-dollar political advertising campaigns and to create of a patina of credibility for the advertisements.

In 1996, both Citizens for Reform and Citizens for the Republic claimed to be tax-exempt "social welfare organizations" pursuant to section 501(c)(4) of the U.S. tax code, with a public purpose: respectively, to "develop greater participation on a non-partisan basis, in the debate on the size, scope, growth and responsibility of government" and to focus on "public policy issues concerning the American worker." Despite holding themselves out as social welfare organizations throughout the election, and despite the fact that Citizens for the Republic obtained IRS approval, both organizations apparently now have conceded that they do not fit the requirements of section 501(c)(4) status but are instead political organizations governed by section 527, the same IRS section that applies to the Democratic National Committee and the Republican National Committee.¹¹¹ While a 501(c)(4) organization may lobby and may even engage in campaign activities, such activities may not be the primary activity of the organization. Yet, campaign activity was not just the *primary* but the *exclusive* activity of both Citizens for Reform and Citizens for the Republic. While counsel Mark Braden claimed that the change of tax status was "just a question of what forms you file," in fact Citizens for Reform and Citizens for the Republic have conceded that they exist to influence the outcome of elections, coming perilously close to an admission that they are subject to the disclosure requirements and contribution limits of the campaign-finance laws.¹¹²

Carolyn Malenick has insisted that Citizens for Reform and Citizens for the Republic are independent organizations that Triad simply "manages." In fact, the organizations were created at Malenick's instigation and have always essentially been run by Triad. In his deposition, Citizens for Reform director Peter Flaherty was able to recall that he discussed the creation of a non-profit organization with Malenick between one and ten times prior to incorporating Citizens for Reform, but he insisted he could not recall any single discussion or the specifics of any discussion.¹¹³ Triad's role in the creation of Citizens for the Republic is even more clear, in that it was incorporated by Triad's law firm, and Rodriguez, Malenick, and O'Rourke were all appointed as either officers or directors of the organization.¹¹⁴

Triad was also responsible for all financial arrangements of both organizations from their creation. In July 1996, Citizens for the Republic paid for a series of "test advertisements" in a variety of congressional districts. All funding for this campaign originated with Triad, which simply made transfers into Citizens for the Republic's bank account.¹¹⁵ In fact, while Flaherty insisted under oath that he signed all checks for Citizens for Reform, bank records show that financial transactions for both Citizens for Reform and Citizens for the Republic consisted only of wire transfers that were handled exclusively by Triad bookkeeper Anna Evans.¹¹⁶

On September 27, 1996, six weeks prior to the election, Malenick on behalf of Triad entered into a formal consulting agreement with both Citizens for Reform and Citizens for the Republic. The consulting agreements granted to Triad *carte blanche* authority to act

on behalf of both organizations. The agreements gave all authority for decision-making and hiring of consultants to Triad—destroying any semblance of separation between Triad and the two other organizations. The consulting agreements read in part:

TRIAD will be free to decide the means by which it will provide the Services. To the extent that TRIAD requires assistance in providing the Services, it shall be responsible for hiring the necessary individuals or firms. All work done by TRIAD and its agents servants and employees and all employment and other contracts made by TRIAD in the performance of this agreement shall be as principal and not as agent of [either organization].”¹¹⁷

Prior to execution of its agreement, Citizens for Reform did not even have a bank account. Yet, between the time an account was opened on October 11 and the November 5 election, Citizens for Reform received 12 deposits totaling \$1.79 million.¹¹⁸ Of these funds, \$1.69 million was spent by November 7.¹¹⁹ Between October 1 and November 15, Citizens for the Republic received eight deposits totaling \$1.84 million while spending \$1.68 million.¹²⁰ Funds were also freely transferred between accounts held by Citizens for Reform, Citizens for the Republic, and Triad.¹²¹ In December 1996, Citizens for Reform received \$127 in deposits and spent only \$17.¹²²

While Citizens for Reform and Citizens for the Republic each had a spokesperson, neither person appears to have played a substantive role in the advertising campaign. Lyn Nofziger, spokesperson and director of Citizens for the Republic, refused to answer questions at his deposition but has stated publicly that “Malenick handled most of the work.”¹²³ This statement is certainly supported by the documents produced to the Committee, since Nofziger’s name appears on only official documents bearing his signature, talking points for a single meeting, and his letter of resignation dated April 3, 1997, one week prior to the issuance of subpoenas by this Committee.¹²⁴ Peter Flaherty confirmed that, despite his title as director, he viewed Malenick as the person in charge of fundraising, retaining vendors, and deciding on the content and placement of advertising for Citizens for Reform.¹²⁵

The fact that the Citizens for Reform and Citizens for the Republic advertising was financed by so few deposits so close to the election suggests that a handful of wealthy contributors were financing the huge political advertising campaign. The creation of the companies allowed these contributors to contribute enormous sums of money without public disclosure. Contributors were also free to use corporate funds, which they could not otherwise legally contribute to candidates. Besides protection from disclosure, the Triad companies also offered contributors another huge advantage: control of the substance, timing, and location of advertising. Triad essentially allowed contributors to launder funds through these entities for their own political purposes.

Improper coordination of Triad's advertising with political candidates

Citizens for Reform and Citizens for the Republic spent a combined total of between \$3 million and \$4 million on advertising in 29 races.¹²⁶ The total amount remains unknown, because the documents produced to the Committee contain inexplicable gaps. It appears that Citizens for Reform and Citizens for the Republic spent money for television, radio, mail, and telephone calls in three Senate and 26 House races. The Senate races were in Kansas, Arkansas, and Delaware, while House races included four in Texas, three in Kansas, three in California, two each in Pennsylvania and Oklahoma, and one each in Minnesota, Hawaii, Montana, South Dakota, Washington, Oregon, Ohio, Illinois, Tennessee, Arkansas, New York, and North Carolina. Of the 29 Republican candidates who benefitted from advertising "managed" by Triad, 22 are known to have received campaign visits from Carlos Rodriguez, while at least three others spoke personally to Malenick.¹²⁷

Like other groups running so-called issue advertisements in the 1996 campaign, Triad carefully avoided the words "vote for," "support," or "defeat," in the advertisements it funded, but otherwise attacked the positions, ideology, and, frequently, the character of candidates. The advertising created by Triad focused on no single set of issues. It more closely resembled negative attack advertising aired by an opposing candidate. The candidates benefitting from the advertising were the same candidates for whom Triad had solicited contributions and advised on campaign and fundraising strategy.

When a candidate and an organization exchange information, and the organization subsequently spends funds to encourage voters to support the candidate, it raises questions about whether the expenditures were undertaken in coordination with the candidate, thereby making the advertising expenditures a disguised contribution to the campaign. One court has said that organizations may legally have contact with candidates, but noted that the level of contact and coordination was important and that the "government has an interest in unearthing disguised contributions," and "the FEC is free to investigate any instance in which it thinks the inquiry (between representatives of a corporation and a campaign) has become collaboration."¹²⁸ The Committee's investigation of Triad has shown that representatives of Triad and its shell corporations had contact with the campaigns that went far beyond the making of inquiries, and that Triad and campaign representatives collaborated on plans, strategies, and the needs of the campaigns. Both the content of the advertising and the determination of where to air advertising was clearly influenced by Rodriguez's conversations with the candidates and the campaigns.

For example, Rodriguez visited the campaign of Rick Hill, a Republican running against Democrat Bill Yellowtail for Montana's at-large seat in the House of Representatives. In a report dated September 24, 1996, Rodriguez wrote that the number-one item the Hill campaign needs is a "3rd party to 'expose' Yellowtail."¹²⁹ Rodriguez also noted that three "key issues—anti Yellowtail" are "wife beating," "robbery of camera store in college," and Yellowtail's record as a "deadbeat dad."¹³⁰

On October 22, Citizens for Reform commenced a \$109,500 television advertising campaign attacking Yellowtail.¹³¹ The television advertisement exactly followed the issues laid out in Rodriguez's report, with the announcer intoning:

Who is Bill Yellowtail? He preaches family values but took a swing at his wife. And Yellowtail's response? He only slapped her. But "her nose was not broken." He talks law and order . . . but is himself a convicted felon. And though he talks about protecting children, Yellowtail failed to make his own child support payments—then voted against child support enforcement. Call Bill Yellowtail. Tell him to support family values.¹³²

Although polling in September showed Yellowtail ahead by three points, on November 5, Rick Hill won by a margin of 52 to 43.¹³³

In other cases Rodriguez made no secret of the fact that he was using information gained in the audits to determine where Triad would run advertising and what it would say. On September 25, after visiting the South Dakota campaign of Republican House candidate John Thune, Rodriguez wrote, "This campaign is well on its way to winning. If there is anything we can do to help it would probably be in the area of 501(c)(4) education with regards to the liberal tendencies of his opponent."¹³⁴ The report also noted Democrat Steve Weiland's "union ties" as a key issue in the race.¹³⁵ Citizens for Reform subsequently spent \$21,000 on television advertisements focusing on Weiland's support for organized labor.¹³⁶

On September 3, Rodriguez noted in a report on the Texas campaign of Steve Stockman: ". . . we ought to place Steve Stockman among the top ten races for TRIAD to watch. We should also give some very serious thought to the possibility of engaging in an educational effort to bring into focus what Steve Stockman has done for the district and to expose some of the shortcomings that his Democratic opponent brings to this campaign."¹³⁷ In the two weeks before the election, both Citizens for Reform and Citizens for the Republic aired advertisements totaling \$142,000 attacking Stockman opponent Nick Lampson.¹³⁸ One advertisement stated:

Can we trust Nick Lampson? As Jefferson County tax assessor, Lampson was criticized as inefficient and disorganized by the county auditor. . . . And the *Houston Chronicle* reported that Lampson was accused of Medicare fraud by a home health care worker from his family business. Call and tell Nick Lampson to support ethics in government.¹³⁹

Other excerpts from Rodriguez's reports demonstrate how Triad's extreme conservatism led it to spend money to target even moderate Republicans. For example, Sue Wittig, who ran against Representative Maurice Hinchey in New York state during the Republican primary, benefitted from \$111,000 in television and radio advertising placed by Triad through Citizens for Reform.¹⁴⁰ On September 29 Rodriguez wrote:

During the entire primary season, we have encountered Republican women who represented the more moderate to liberal philosophy in the Republican party. We have been

successful, in most cases, in defeating those Republican women. Here is an opportunity for TRIAD clients to play a leading role in helping elect a conservative woman to show that conservative women have a better chance of winning than liberal women.¹⁴¹

In a two-week period, Triad spent \$111,000 for Wittig—not much less than the \$141,000 the Wittig campaign itself spent in the same period.¹⁴²

These advertisements were the functional equivalent of campaign ads. The ads were run in specific districts. Faxes sent by Triad indicate that the timing of the ads was carefully planned for when advertising was likely to have its greatest impact on voters.¹⁴³ The advertisements seldom if ever dealt with “issues” but were instead attacks motivated by partisan intent. Asked about the ads run by Citizens for Reform attacking Democratic candidate Yellowtail, Peter Flaherty of Citizens for Reform reportedly stated: “If more wife beaters are out there as public figures, we are going to expose them, and they better watch out.”¹⁴⁴ Asked whether his group would attack any Republican wife beaters who might turn up, Flaherty said “Its not up to us to do the job of people who have a liberal ideology.”¹⁴⁵ Even Lyn Nofziger, spokesperson for Citizens for the Republic, has said that it is “outrageous” that groups like this can “go and run political ads and call them educational.”¹⁴⁶

Given the level of coordination with the campaigns and the content of the ads, Triad’s advertising expenditures constituted disguised contributions to the candidates. Triad collaborated with campaigns to determine what issues and strategies would most benefit the candidates. Because Rodriguez was among those refusing to answer questions at his deposition, the Committee was not able to expand on the documentary evidence concerning the extent to which the advertising campaign was discussed with the campaigns and candidates. While campaigns may not have been familiar with the names Citizens for Reform and Citizens for the Republic when the Triad-managed advertising appeared in their districts, it seems highly unlikely that neither candidates nor campaigns ever anticipated or discussed potential advertising campaigns in the course of consultations with Rodriguez.

No comparison between Triad and the AFL-CIO

Malenick has repeatedly asserted that Triad—through Citizens for Reform and Citizens for the Republic—was simply trying to respond to the issue advertising effort launched by the AFL-CIO in March 1995. However, the advertising aired by Triad rarely mentioned labor as an issue. Further, the majority of races where Triad aired advertising were not in districts where the AFL-CIO was active. In fact, of 26 House races in which Triad advertised, only ten were targets of the AFL-CIO. Triad also spent over \$800,000 on advertising in three Senate races even though the AFL-CIO was not active in any Senate race. Of the six House races where Triad spent over \$100,000 on advertising, the AFL-CIO was active in only one district. The evidence suggests that two criteria that appear to have determined where Triad ran advertising were whether a conservative Republican candidate was running in the district

and whether one of Triad's contributors wanted advertising aired in that particular district.

Additionally, while Triad ran a covert advertising campaign through unknown groups funded by secret contributors, the AFL-CIO campaign was publicly announced in 1995 along with the 25 freshman House races the AFL-CIO intended to target. Unlike Triad, the AFL-CIO is a bona-fide membership organization whose member unions are backed by millions of American workers, most of whom support the labor federation's public policy positions. Hence, advertising paid for by unions is an open and legal attempt to promote the interests and views of union members. In contrast, Triad received funds from people who went to extraordinary lengths to conceal their identity and purpose from voters.

Financing the advertising campaign

When the Minority began the Committee's investigation into Triad Management, it already suspected that Robert Cone was a major source of Triad financing. Press reports had linked him to Malenick and had noted Cone's increased financial involvement with political organizations.¹⁴⁷ As the Committee's investigation progressed, it became increasingly clear that whoever was funding Triad and the shell companies was also playing a role in determining the content and the location of advertising prepared by Triad. The investigation clearly showed that Triad and both Citizens for Reform and Citizens for the Republic were largely financed by a single backer, and that neither Citizens for the Republic nor Citizens for Reform had done anything other than create and air advertising with direction from that backer.

As the Minority became more convinced that understanding the role of Triad's backers was essential to the investigation, resistance from several quarters to the investigation began to build. Nevertheless, in August, the members of the Committee agreed that an *in camera* review of the funding sources of Triad was warranted.¹⁴⁸ On August 20, the Committee also issued a bank subpoena requiring production of financial records of Triad, Citizens for Reform and Citizens for the Republic. The subpoena permitted the attorneys for the parties only to redact certain depositor information from the records produced to the Committee.¹⁴⁹ Informed of the decision to perform an *in camera* review of Triad's records, and the issuance of the bank subpoena, on September 8 attorneys for Triad notified the Committee that they would not submit to an *in camera* review and would not produce subpoenaed witnesses for depositions.¹⁵⁰

On August 21, attorneys for Triad were notified of the bank subpoena, provided a copy of the subpoena, and informed that records needed to be produced to the Committee within two weeks.¹⁵¹ The Committee subpoena stated that the bank holding the records "shall permit" representatives of the organizations to make redactions, and that representatives of the organization "may" remove certain information from the records.¹⁵²

In early September, records including account statements and expenditure records were produced to the Committee by the bank. The bank records for Triad, Citizens for Reform, and Citizens for the Republic showed that:

- Citizens for the Republic was entirely financed by Triad from its creation through September 1996;
- Citizens for Reform had no bank account until less than one month prior to the 1996 election;
- both nonprofit organizations received fewer than a dozen deposits of large amounts of money;
- between \$1 million and \$2 million dollars passed through the accounts of both Citizens for Reform and Citizens for the Republic in the weeks around the 1996 election, while the accounts were virtually inactive in other months; and
- money was freely transferred among the three entities.

However, in its September production, the bank did not provide the account deposit records for any of the organizations under subpoena. On September 30, six weeks after the bank subpoena was served, Minority Chief Counsel sent an inquiry to the bank holding Triad's records, noting that these records had not been produced and requesting production. The letter specifically noted that the subpoena required that attorneys for the account holders be offered the opportunity to redact information. Two weeks later, the Committee received from the bank unredacted account deposit records identifying contributors to Triad, Citizens for Reform and Citizens for the Republic.¹⁵³ The records had been sent without redactions, presumably because the bank had determined that it had provided Triad's attorneys with sufficient opportunities to redact the records during the eight weeks between service of the subpoena and production.¹⁵⁴ At the same time, attorneys for Coalition for Our Children's Future, who had been similarly notified of issuance of an identical subpoena for the bank records of their client, produced records which redacted the identity of depositors to the account as permitted by the subpoena.

It is unclear why Triad's attorneys failed to exercise their option to redact their client's records, leading to the production of records identifying contributors. The circumstances of the production and the history of Triad's non-cooperation with the Committee support the inference that Triad's counsel declined to take steps to redact the subpoenaed bank records based on the incorrect assumption that the bank would not produce the unredacted records. Seen in this light, the failure of Triad's counsel to redact the records was consistent with a general course of conduct in seeking to obstruct the Committee's investigation of Triad's activities. When Triad attorney Mark Braden learned that the bank had produced the records without redactions, he demanded the immediate return of the records. Braden offered no explanation of why he did not exercise his option to redact the documents. He not only failed to redact the documents by the September 2 deadline, but also failed to redact them at any point in the six weeks prior to the October 16 production by the bank. The Minority retained its copy of the documents because, as Senator Glenn has explained, the records are relevant to the investigation and were properly received pursuant to a valid Committee subpoena.¹⁵⁵

The trusts behind Triad

When the Committee received the unredacted documents identifying contributors to Triad and the shell companies, it became clear

why Triad and its attorneys had been so anxious to prevent the records from coming to light. The documents contain further proof that Triad was used as a tool to evade the contribution limits and disclosure provisions of the campaign finance laws. Most notably, the bank records revealed that yet another layer of dummy organizations existed behind Triad. Two secret trusts together contributed \$2.34 million to Citizens for Reform and Citizens for the Republic, over 83 percent of the total money received by the organizations. The trusts appear to have given the funds with the specific intent that the trusts' existence never come to light. In fact, Triad's attorneys have publicly confirmed that Triad entered into written agreements to keep the identity of funding sources secret.¹⁵⁶

The first trust, identified in bank records only as "Personal Trust," contributed \$600,000 to Citizens for Reform and Citizens for the Republic from an account at CoreStates Bank in Philadelphia.¹⁵⁷ Based on the testimony of Triad bookkeeper Evans that Triad's backer provided hundreds of thousands of dollars to the two nonprofits, the Minority believes that the Personal Trust is, in all probability, controlled by Robert Cone. The trust's account is at the same bank where Robert Cone's brother Edward, who also contributed \$300,000 to Citizens for the Republic and \$100,000 to Citizens for Reform, has a personal account, and the wire transfers from the Personal Trust to Citizens for Reform and Citizens for the Republic began at the same time that Robert Cone stopped making contributions to Triad from his personal account. The only public statement Robert Cone has ever made on the subject of Triad is, "I'm not confirming or denying anything at the moment."¹⁵⁸

Economic Education Trust

Still unresolved by the Committee is the identity of the backer or backers of the Economic Education Trust. This Trust provided \$1.79 million to the Triad nonprofits in October 1996. Evidence suggests that these funds were given to Triad's two nonprofits with the contingency that the trust's own consultant oversee the advertising campaign, including selection of where ads would air. Even without the benefit of a subpoena for the financial records of the Economic Education Trust, circumstantial evidence developed by the Minority suggests that the trust was financed in whole or in part by Charles and David Koch of Wichita, Kansas. The Koch brothers control Koch Industries, an oil company with revenues of about \$30 billion per year. It is believed to be the second-largest privately-held company in the United States. The Committee's evidence of the Koch brothers' involvement includes:

- Many of the candidates who benefitted from attack ads run by Triad also received campaign contributions from Charles Koch, David Koch, and/or their company's political action committee.¹⁵⁹
- The Koch brothers have a history of channeling money through nonprofit organizations in order to advance their political interests, including think tanks and term-limits groups.¹⁶⁰ In 1996, a term-limits group with possible Koch funding ran attack ads under the guise of "issue advocacy" (See Chapter 15). Some of the candidates attacked by the term-limits group were also targeted by Triad.¹⁶¹

- A disproportionate amount of the money spent on the attack ads by Triad and by a second group, Coalition for Our Children's Future, benefitted candidates in states where Koch Industries does significant business, most notably Kansas, where the company is headquartered; Minnesota, where Koch Industries owns a major oil refinery; and Arkansas, Louisiana, and Oklahoma, where Koch Industries has refineries and pipelines.¹⁶²

- Koch Industries gave at least \$2,000 directly to Triad in October 1996.¹⁶³

Koch Industries has refused to say whether it funded the Triad-controlled tax-exempts or any other organizations that ran attack ads in 1996. A September 30, 1997, letter to Koch Industries Chairman Charles Koch from the Committee's Minority Chief Counsel, produced no response.¹⁶⁴ Questions from journalists have been met with "no comment." After the Minority learned of the existence of the Economic Education Trust, Senator Glenn, the ranking Minority member, asked Chairman Thompson to issue a subpoena to the Riggs National Bank of Washington, D.C., where the Trust maintained the account from which money was wired to the Triad organizations. On November 24, Senator Glenn renewed his request for issuance of the subpoena. No subpoena was issued.

Whoever is behind the trust played an active role in the crafting of the Triad advertising campaign, as well as advertising aired through other organizations. Evidence strongly suggests that the trust was also the "secret contributor" that required a confidentiality agreement from Coalition for Our Children's Future, a nonprofit group that also ran ads attacking Democrats (see Chapter 13).

The trust appears to have hired its own vendors to handle its advertising campaigns. Documents produced by Triad show that Triad's eight most heavily-funded races were handled by a New York-based consultant named Dick Dresner, of the political consulting firm Dresner Wickers & Associates. The amount contributed to the Triad groups by the Economic Education Trust roughly corresponds to the amount spent on the production and airing of the eight projects overseen by Dresner.¹⁶⁵ Documents produced to the Committee indicate that Dresner was not retained by Triad, but by a major contributor who controlled the Dresner portion of the advertising. The evidence includes:

- An October 22 memorandum from Malenick to Dresner stating, "the market buys that are being handled by Dresner Wickers & Associates were pre-determined before TRIAD was contracted to oversee the projects end."¹⁶⁶

- An October 24 memorandum from Triad administrator Kathleen McCann to Peter Flaherty noting that "based on a client's request, additional vendors have been used to run ads through Citizens for Reform in . . . [the 1st, 2nd, and 3rd districts of Kansas and Montana at large];"¹⁶⁷

- An October 28 memorandum from Triad bookkeeper Anna Evans to Dick Dresner's assistant Joanne Banks noting, "After my conversation with you this morning, I spoke with [redacted]. He has requested that to get the media time bought, to separate the media time amounts from production and re-

tainer and other costs. Carolyn and Mr. Braden have agreed to this;"¹⁶⁸

- A January 21 memorandum from Evans to Banks stating, "Has Mr. Dresner never informed you of his agreement of a 12% and not 15% commission that he made directly with Triad's client, who preferred using DW&A as a vendor. Let me assure you that this arrangement of vendor selection was an exception, and plans do not call for a repeat;"¹⁶⁹ and

- A February 7 memorandum from Evans to Banks stating, "The commission taken based on these affidavits is at 15% instead of the originally agreed 12%. The agreement was requested by CFTR and agreed upon by DW&A through an intermediary."¹⁷⁰

Dresner, Malenick, and Braden all either refused to appear for deposition or to answer questions. The Committee's understanding of the arrangements is, therefore, less than complete. However, Dresner also played a role in advertising prepared for Coalition for Our Children's Future ("CCF"). On September 18, 1997, the Committee deposed Denis Calabrese, a political consultant who oversaw the CCF ad campaign. Calabrese testified that in mid-1996, he was retained by an individual he refused to name, who was a representative for an organization he refused to name, for the purpose of overseeing an issue advertising campaign consisting of political advertisements.¹⁷¹ Calabrese testified that as part of his duties he hired a number of other political consultants to act as vendors including Dresner, and Dresner's Triad subcontractors James Farwell and Steve Sandler.¹⁷² He testified that he initially met Dresner at a meeting with the anonymous donor representative and that he attended meetings with a variety of organizations, including CCF and Triad, in order to determine if they were "appropriate vehicles" for the issue ad campaign.¹⁷³ He also testified he oversaw a second ad campaign for the anonymous donor through another organization which was not Triad.¹⁷⁴

Although he failed to appear for a sworn deposition, in a January 1998 roundtable discussion, Dick Dresner admitted that he helped to coordinate a number of issue advertising campaigns in the 1996 election cycle. Dresner said that "many of the people he worked with were most concerned with remaining anonymous, while still having a major impact on federal elections."¹⁷⁵ Dresner confirmed that "his wealthy clients set up a series of foundations, trusts and other "shells" to pump money into subterranean issue-ad campaigns. They use three or four or five or six different ways so they aren't discovered."¹⁷⁶ He went on to note that "his clients seemed to have success with that tactic, and most have remained anonymous even now: Even if their names came up once or twice, the extent of their activities is underestimated."¹⁷⁷

Other evidence besides the involvement of the same consultants suggests that the donor behind the Economic Education Trust whose identity has been concealed from the Committee funded not only the Triad advertising campaign but also the CCF advertising campaign. In addition:

- Both Triad and CCF representatives confirmed that both organizations executed written confidentiality agreements with a secret contributor.¹⁷⁸

- An unnamed former employee of CCF stated in a news article that the entity that funded the CCF advertising campaign was a trust.¹⁷⁹
- The funds for the CCF ad campaign were wired from an account at Riggs Bank in Washington, D.C., the same bank where the Economic Education Trust has an account.¹⁸⁰
- Barry Bennett, executive director of CCF stated that the confidentiality agreement was drafted by former RNC General Counsel Benjamin Ginsberg. Ginsberg was also consulted on the substance of CCF advertising, and represents both Dick Dresner and James Farwell, both of whom failed to appear for deposition on any of the numerous dates offered to them.¹⁸¹

Triad's impact on the 1996 elections

While it is impossible to know the full extent of the Economic Education Trust's advertising campaign absent a full investigation, the election results in Kansas (the home state of the Koch brothers) suggest that Dresner was correct in noting that his clients had been successful in their attempts to covertly influence the outcome of particular federal races. Triad advertising aired in four of six federal races in Kansas. Two were for open House seats, the third was held by a vulnerable freshman Republican, and the fourth was an open Senate seat in which a bitter and disruptive Republican primary battle had been waged.

Using television advertising, mailings, telephone calls, and radio ads all prepared under the supervision of Dick Dresner, Triad spent over \$1 million on the four races: \$420,000 in television advertising in the Senate race between Republican Representative Sam Brownback and Democrat Jill Dockett; \$287,000 on television and radio advertising and phone calls in the race between Republican Vince Snowbarger and Democrat Judy Hancock; \$131,000 on phones, mail, and television advertising benefitting freshman Republican Representative Todd Tiahrt in his campaign against Randy Rathbun; and \$133,000 on television, radio, phones, and mail in the race between Republican Jim Ryun and Democrat John Freidan.¹⁸² Triad's two-week spending spree on behalf of the Republican Senate candidate totaled almost a quarter of the amount the candidate spent on his own campaign throughout 1996.¹⁸³ Triad's two weeks of spending on behalf of Vince Snowbarger totaled over half of what he himself spent in 1996.¹⁸⁴ Republican candidates were victorious in all four races. Representative Tiahrt was re-elected by a margin of less than two percentage points. Vince Snowbarger and Jim Ryun were elected by margins of less than five points.¹⁸⁵

Advertising by other Triad contributors

Although the multimillion-dollar advertising campaigns appear to have been funded largely by Cone and the Koch families, the Committee also found evidence that smaller contributors made contributions with the intent of financing advertising campaigns that targeted specific candidates. For example, California agribusinessman Dan Gerawan contributed \$50,000 to Citizens for Reform. In the primary, Gerawan had funded a publicly disclosed advertising campaign attacking one of the candidates in the 20th

Congressional District in California for supporting the Legal Services Corporation, a government-funded agency that provides legal services to the indigent. In the general election, Citizens for Reform aired an advertisement attacking Representative Calvin Dooley's views on the Legal Services Corporation.¹⁸⁶ After the election, Gerawan admitted he paid for the ads.¹⁸⁷ Although the Minority requested a subpoena for Gerawan's deposition, no subpoena was ever issued.

The Committee also found evidence suggesting a direct link between a Triad-sponsored advertising campaign and eight checks totaling \$11,500 received by Citizens for Reform on a single day in October 1996. The checks, among the lowest contributions received by either nonprofit, all came from people or businesses based in the 6th District of Pennsylvania, where Republican Christian Leinbach was challenging Representative Tim Holden.¹⁸⁸ Seven of the eight families who contributed to Triad had already made the maximum permissible contribution to Leinbach's campaign.¹⁸⁹ On September 11, Carlos Rodriguez had written a report of the Leinbach campaign complaining: "the problems with the campaign became obvious once I visited the campaign headquarters. Leinbach has been unwilling to make the fund raising calls necessary. . . . We should wait for marked improvements on the part of the candidate and the consultant before providing them with any financial assistance."¹⁹⁰ Yet less than a month later, Citizens for Reform funded a \$17,000 radio campaign against Leinbach's opponent.¹⁹¹ Presumably, the funds received from Leinbach's supporters were used to pay for advertising in a campaign to which Triad consultants were unwilling to devote existing resources.

CONCLUSION

In the end, Triad succeeded in pouring millions of dollars into televised advertisements designed to attack particular candidates in hotly-contested races, while concealing the identities of the individuals and companies that provided the monies. Triad's secrecy about its sources of funding, which is one of the principal benefits it offers its contributors, was accomplished through several means, including its disingenuous incorporation as a for-profit business and the establishment of sham nonprofit corporations. This secretiveness undermines our system of campaign-finance laws. If, as the Minority strongly believes, Triad violated campaign-finance laws, it has done so with impunity. If, as Triad contends, its activities fell within the limits of the law, then the disclosure requirements of the campaign-finance laws have proven to be so easily circumvented by individuals with wealth that they are essentially meaningless. Triad is important not just for the ways it bent or broke existing laws, but for the pattern it has established for future groups, which will take comfort in Triad's successful defiance of this Committee.

FOOTNOTES

¹*Buckley v. Valeo*, 426 U.S. 1, 9 (1976).

²*Roll Call*, 12/4/97.

³*Roll Call*, 12/4/97; *Austin-American Statesman*, 8/16/95.

⁴*Roll Call*, 12/4/97; *U.S. News and World Report*, 6/6/94.

⁵*Roll Call*, 12/4/97.

⁶See Council for National Policy Unofficial Information Page, <http://apocalypse.berkshire.net/~ifas/cnp/index/html>.

⁷*Roll Call*, 12/4/97.

⁸*National Journal*, 9/28/96.

⁹Triad records of incorporation TR1 1–5: Anna Evans deposition, 8/19/97, p. 20.

¹⁰*The Hill*, 10/8/97.

¹¹*Roll Call*, 12/4/97.

¹²Memorandum from Carolyn Malenick to Triad employees, 2/22/97, TR 20 5.

¹³*Washington Post*, 3/9/97.

¹⁴Committee subpoenas 247–257 for: Cleta Mitchell, Lyn Nofziger, Carlos Rodriguez, David Gilliard, Padraic Buckley, Kenneth Boehm, Peter Flaherty, Meredith O'Rourke, Carolyn Malenick, Mark Braden, Anna Evans. See also subpoena number 346 for Kathleen McCann, 375 for Richard Dresner, and 377 for James Farwell.

¹⁵Letter from Richard Hauser to Majority Chief Counsel and Minority Chief Counsel, 9/8/97. Those deposed at that point were Peter Flaherty and Anna Evans. The deposition of Meredith O'Rourke had been adjourned but not completed. Two other directors of Citizens for Reform, Kenneth Boehm and Padraic Buckley, had also been deposed to establish they had almost no role in the organization.

¹⁶Letter from Richard Hauser to Committee staff, 9/8/97.

¹⁷See 18 U.S.C. sections 1503, 1505.

¹⁸Carolyn Malenick deposition, 9/16/97.

¹⁹Three subpoenas for deposition for individuals involved in the AFL–CIO advertising campaign were issued in September but never taken. Contrary to public statements, these individuals only refused to appear on the date contained in the subpoena because they were given short notice and had conflicts. The Majority staff never contacted these individuals to reschedule deposition dates. See Committee subpoenas 399–401; letter to Committee staff from counsel for the AFL–CIO, 9/22/97. Another individual affiliated with the AFL–CIO did appear pursuant to a deposition subpoena. Deposition of Geoffrey Garin, 9/5/97. See Chapter 39 of this Minority Report.

²⁰*Associated Press*, 11/4/97.

²¹The only invoices produced were for “fees” Triad charged the shell companies, Citizens for Reform and Citizens for the Republic. TR 8 26, CR 13 1956.

²²Meredith O'Rourke deposition, 9/3/97, pp. 30–33.

²³Meredith O'Rourke deposition, 9/3/97, pp. 30–33.

²⁴Anna Evans deposition, 8/19/97, pp. 45–46.

²⁵Staff interviews with PAC contributors, 5/97.

²⁶Staff interviews with PAC contributors, 5/97.

²⁷Staff interviews with PAC contributors, 5/97.

²⁸Anna Evans deposition, 8/19/97, p. 175.

²⁹Bank statements of Crestar account of Triad Management, 5/31/95–1/31/96.

³⁰Deposit records of Crestar bank account of Triad Management.

³¹Deposit records of Crestar bank account of Triad Management.

³²See financial records of Crestar account of Triad Management.

³³See financial records of Crestar accounts of Triad Management and Triad Management, Inc.

³⁴Anna Evans deposition, 8/19/97, p. 177.

³⁵*Morning Call*, 10/3/93.

³⁶*Boston Globe*, 8/23/96.

³⁷*Morning Call*, 10/3/93.

³⁸*National Journal*, 9/28/96.

³⁹James McLaughlin deposition, 9/17/97, p. 16.

⁴⁰See 2 U.S.C. sections 433 and 434.

⁴¹See 2 U.S.C. section 441 (a)(3); see also FEC public disclosure records for federal contributions of Robert Cone. Contribution records are available at www.tray.com.

⁴²See 2 U.S.C. sections 433 and 434.

⁴³2 U.S.C. section 441b.

⁴⁴11 C.F.R. section 116.1 (a)(c).

⁴⁵Meredith O'Rourke deposition, 9/3/97, p. 53: staff interview with Robert Riley, Jr., 9/16/97; *Rapid City Journal*, 9/20/97.

⁴⁶Meredith O'Rourke deposition, 9/3/97, pp. 46, 50.

⁴⁷Staff interview with Robert Riley, Jr., 9/16/97.

⁴⁸*Rapid City Journal*, 9/20/97.

⁴⁹*Los Angeles Times*, 11/12/97.

⁵⁰Triad invoices, TR 8 35; TR 8 112–114.

⁵¹See Rodriguez reports identified in footnotes 52–58, *infra*.

⁵²*Minneapolis Star Tribune*, 10/29/97.

⁵³Report of Jay Mathis campaign, TR 15 1170–1172.

⁵⁴Report of Vince Snowbarger campaign, TR 15 1206–1207.

⁵⁵Report of Christian Leinbach campaign, TR 15 1163–1166.

⁵⁶Report of Jim Ryun campaign, TR 15 1197–1199.

⁵⁷James McLaughlin deposition, 9/17/97, pp. 13–14.

⁵⁸Report of Steve Stockman campaign, TR 15 1210–1212.

⁵⁹Report of Mark Sharpe campaign, TR 15 1186–1188.

⁶⁰Meredith O'Rourke deposition, 9/3/97, p. 95.

⁶¹“My understanding of what happened is Meredith [O'Rourke] asked Carolyn [Malenick] whether she could go over and help [the Senate candidate] dial for dollars.” *Washington Post*, 12/12/97; “O'Rourke was simply doing a favor for Brownback, not on Triad's time.” *Kansas City Star*, 12/5/97.

⁶²Meredith O'Rourke, deposition, 9/3/97, pp. 94–95.

- ⁶³ Triad solicitation TR 10 146–147; *Rapid City Journal*, 9/20/97.
- ⁶⁴ Triad 10 0079–10 0081.
- ⁶⁵ “’96 Primary Alert” Triad Fax Alert 7/18/97, TR 10 218.
- ⁶⁶ *Massachusetts Citizens for Life v. FEC*, 479 U.S. 238 (1986), *Faucher v. FEC*, 928 F. 2d 468 (1st Cir. 1991), *Maine Right to Life v. FEC*, 98 F. 3d 1 (1st Cir. 1997), 11 C.F.R. section 114.4.
- ⁶⁷ Triad “fax alert,” 10/10/96, TR 10 160–161.
- ⁶⁸ Triad fax solicitation, TR 10 146–147.
- ⁶⁹ Federal election law severely limits the volunteer activities that corporations may engage in, and limits the group of people that corporations may solicit for contributions to political campaigns to a restricted class of officers and executive employees. In a corporation like Triad the restricted class Triad could properly solicit would consist only of Carolyn Malenick herself. See 11 C.F.R. section 114.2(f); 114.1(e)(2).
- ⁷⁰ 2 U.S.C. section 441a(a)(8); 11 C.F.R. section 110.6.
- ⁷¹ Triad internal PAC list, TR 15 105–1052.
- ⁷² FEC public disclosure reports of: Robert Riley, Jr., Conservative Campaign Fund, Americans For Free Enterprise, Citizens Allied for Free Enterprise, and Faith, Family, and Freedom. See also *Wall Street Journal*, 4/10/97.
- ⁷³ Triad “fax alert,” 11/14/96, TR 10 83.
- ⁷⁴ *Kansas City Star*, 5/2/97: FEC Public Disclosure records of John and Ruth Stauffer.
- ⁷⁵ Handwritten note to Triad, TR 15 678.
- ⁷⁶ Meredith O’Rourke deposition, 9/9/97, pp. 60–77.
- ⁷⁷ Peter Flaherty deposition, 8/22/97, p. 13.
- ⁷⁸ Peter Flaherty deposition, 8/22/97, pp. 11, 15.
- ⁷⁹ Citizens for the Republic Education Fund Unanimous Consent in Lieu of Meeting, CREF 1 4–8.
- ⁸⁰ Triad invoices from Gilliard and Associates, CREF 13 1934.
- ⁸¹ James McLaughlin deposition, 9/17/97, p. 13: records of incorporation for Huckaby, Rodriguez, Gilliard, Inc.
- ⁸² Triad internal PAC list, TR 15 1050–1052.
- ⁸³ Staff interview with Robert Riley, Jr., 9/16/97.
- ⁸⁴ Staff interview with Robert Riley, Jr., 9/16/97.
- ⁸⁵ Meredith O’Rourke deposition, 9/9/97, pp. 66, 72.
- ⁸⁶ Meredith O’Rourke deposition, 9/9/97, pp. 51, 53, 90.
- ⁸⁷ *Minneapolis Star Tribune*, 10/29/97.
- ⁸⁸ Report of Pete Sessions campaign, TR 15 1176.
- ⁸⁹ Report of Ed Merritt campaign, TR 15 1183–1185.
- ⁹⁰ Memo from Meredith O’Rourke to Mark Braden, 6/13/96, TR 15 1054.
- ⁹¹ Memo from Meredith O’Rourke to Mark Braden, 6/13/96, TR 15 1054.
- ⁹² Report of Rick Hill campaign, TR 15 1143–1145.
- ⁹³ In addition to acting as administrator of the PAC and director of Citizens for the Republic, Gilliard was also a paid consultant of California candidate Linda Wilde. Wilde benefitted from \$100,000 in mailings and \$25,000 in phone calls against Representative George Brown funded by Citizens for Reform, over half the amount Wilde spent on her own campaign throughout 1996. Wilde also received \$6,000 of \$21,000 raised by Citizens Allied for Free Enterprise (“CAFE”). No other candidate received more than \$1,000. See FEC disclosure reports of CAFE. In addition to working directly for Wilde, the PAC and Citizens for the Republic, Gilliard was also a paid vendor of Citizens for the Republic, and produced at least \$75,000 worth of mailings in Representative Randy Tate’s Washington district.
- ⁹⁴ Disclosure reports for Citizens Allied for Free Enterprise; see also <http://apocalypse.berkshire.net/~ifas/cnp/index.html>.
- ⁹⁵ FEC public disclosure records of Richard Eckburg, available at www.tray.com.
- ⁹⁶ FEC disclosure records of Foster Freiss and the Conservative Campaign Fund available at www.tray.com; deposit records of Citizens for Reform.
- ⁹⁷ FEC disclosure records of Peter Cloeren available at www.tray.com; bank deposit records of Citizens for Reform.
- ⁹⁸ FEC disclosure records of Lorena Jaeb and Citizens United available at www.tray.com.
- ⁹⁹ Meredith O’Rourke deposition, 9/3/97, p. 102.
- ¹⁰⁰ Peter Flaherty deposition, 8/22/97, p. 13.
- ¹⁰¹ *Kansas City Star*, 5/5/97: Meredith O’Rourke deposition, 9/3/97, pp. 91–92.
- ¹⁰² Meredith O’Rourke deposition, 9/3/97, pp. 99–100.
- ¹⁰³ Carolyn Malenick deposition, 9/16/97, p. 20.
- ¹⁰⁴ A disclaimer such as that contained in letters from Triad to the PACs does not negate fact. *Massachusetts Citizens for Life*, 479 U.S. 238, 249 (1986).
- ¹⁰⁵ Committee list of races where Citizens for Reform and Citizens for the Republic were active and the amounts spent.
- ¹⁰⁶ *Faucher v. FEC*, 928 F. 2d 468 (1st Cir. 1991); 743 F. Supp 64 (1990); *FEC v. Christian Action Network*, 92 F.3d 1178 (4th Cir. 1996), 894 F. Supp 946 (S.D.Va. 1995); *Maine Right to Life v. FEC*, 98 F.3d 1 (1st Cir. 1997).
- ¹⁰⁷ *Clifton v. FEC*, 114 F.3d 1309 (1st Cir. 1997); see also Chapter 20: Legal Analysis and Overview.
- ¹⁰⁸ Annenberg Public Policy Center, “Issue Advocacy Advertising During the 1996 Campaign: A Catalog,” Report Series No. 16, 9/16/97, p. 7.
- ¹⁰⁹ Certificate of Incorporation for Citizens for the Republic, CREF 1 32: Articles of Incorporation for Citizens for Reform, CR 1 61–64.
- ¹¹⁰ Citizens for the Republic marketing brochure, CREF 1 100.
- ¹¹¹ Citizens for Reform stated in its application for (c)(4) status that it had not spent and did not plan to “spend any money attempting to influence” an election. IRS Form 1024, item 15, 6/7/96. This may be a false statement in violation of 26 U.S.C. § 7206.

- ¹¹² *Roll Call*, 10/20/97.
- ¹¹³ Peter Flaherty deposition, 8/22/97, pp. 19–21.
- ¹¹⁴ Incorporation documents of Citizens for the Republic, CREF 1 13–14, 33–35.
- ¹¹⁵ The Citizens for the Republic bank account received \$302,548 in deposits in July and spent \$273,114. All the deposits into the account were made by transfer from Triad's account at the same bank. See bank records of Crestar accounts held by Citizens for the Republic and Triad Management, Inc.
- ¹¹⁶ For example, Evans would generate an invoice for "management fees due to Triad from either Citizens for Reform or Citizens for the Republic." The invoices (the only ones Triad ever seems to have issued) are printed on Triad letterhead, are addressed to the respective groups in care of Triad, then seek payment made to Triad—all at the same address. To actually pay Triad's bill, Evans would simply make a bank transfer from one account to another. Invoices from Triad to Citizens for Reform and Citizens for the Republic, TR 8 26, TR 8 22.
- ¹¹⁷ Consulting agreements between Triad and Citizens for Reform and Citizens for the Republic, CREF 1 94–95; CR 1 38–39.
- ¹¹⁸ October and November 1996 bank statements of Citizens for Reform.
- ¹¹⁹ October and November 1996 bank statements of Citizens for Reform.
- ¹²⁰ October and November 1996 bank statements of Crestar bank accounts of Citizens for the Republic.
- ¹²¹ See note 113 *infra*; see also bank statements of Citizens for Reform and Citizens for the Republic for October and November 1996.
- ¹²² December 1996 bank statement of Crestar Bank accounts of Citizens for the Republic.
- ¹²³ *Los Angeles Times*, 5/5/97.
- ¹²⁴ Documents bearing signature of Lyn Nofziger, CREF 1 56, 66, 94–95.
- ¹²⁵ Peter Flaherty deposition, 8/22/97, pp. 54, 62, 70, 83.
- ¹²⁶ Committee list of races where Triad was active.
- ¹²⁷ Meredith O'Rourke deposition, 9/3/97, pp. 46, 87; See Appendix C for reports of Rodriguez visits.
- ¹²⁸ *Clifton v. FEC*, 114 F.3d at 1309, 1316–19 (1st Cir. 1997).
- ¹²⁹ Report of Rick Hill campaign, TR 15 1143–1145.
- ¹³⁰ Report of Rick Hill campaign, TR 15 1143–1145.
- ¹³¹ Invoice for Yellowtail advertising, CR 13 1179.
- ¹³² Script of Yellowtail advertisement, CR 13 0713.
- ¹³³ *Congressional Quarterly* 1996 Election Results: report of Rick Hill campaign, TR 15 1143–1145.
- ¹³⁴ Report of John Thune campaign, TR 15 1141–1142.
- ¹³⁵ Report of John Thune campaign, TR 15 1141–1142.
- ¹³⁶ Invoice showing funds spent for Thune by Citizens for the Republic, CREF 13 0512.
- ¹³⁷ Report of Steve Stockman campaign, TR 15 1210–1212.
- ¹³⁸ Invoices showing funds spent by Citizens for Reform and Citizens for the Republic, CREF 13 512, CR 13 1272.
- ¹³⁹ Videotape advertisement produced by Citizens for the Republic.
- ¹⁴⁰ Invoice showing funds spent for Wittig race, CR 13 12792.
- ¹⁴¹ Report of Sue Wittig campaign, TR 15 1136–1139.
- ¹⁴² FEC disclosure reports of Friends of Sue Wittig.
- ¹⁴³ Triad fax alert "The Time for Battle Is Now," 9/27/97, TR 10 191.
- ¹⁴⁴ *Los Angeles Times*, 5/5/97.
- ¹⁴⁵ *Los Angeles Times*, 5/5/97.
- ¹⁴⁶ Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report Series No. 16, 9/16/97, p. 5.
- ¹⁴⁷ *National Journal*, 9/28/96; *Boston Globe*, 8/23/96.
- ¹⁴⁸ Letter of 8/27/97 from Majority and Minority Chief Counsels to Triad Counsel Richard Hauser.
- ¹⁴⁹ Subpoena of 8/21/97 to Crestar Bank.
- ¹⁵⁰ Letter from Richard to Hauser to Alna Baron and Michael Madigan, 9/8/97.
- ¹⁵¹ Letter of 8/22/97 from Minority Staff Counsel to Mark Braden.
- ¹⁵² Subpoena of 8/21/97 to Crestar Bank.
- ¹⁵³ Staff also followed up with the bank holding the Triad records leaving two voice mail messages seeking to determine when records would be produced. At the same time, the bank holding records of Coalition for Our Children's Future, which had received an identical subpoena for records that had not yet been produced, was contacted for the same purpose. Letter from Minority Chief Counsel to Crestar General Counsel John Clark, 10/30/97.
- ¹⁵⁴ Committee staff reviewed such records when they were received. Documents revealed the existence of a second account held by Triad which was clearly covered in the subpoena. Records for this account were also requested and were forwarded without redactions.
- ¹⁵⁵ Letter of 11/24/97 from Senator Glenn to Senator Thompson.
- ¹⁵⁶ *New York Times*, 10/24/97.
- ¹⁵⁷ Wire transfer receipts of Crestar Bank accounts of Citizens for Reform and Citizens for the Republic.
- ¹⁵⁸ *Associated Press*, 10/29/97.
- ¹⁵⁹ FEC public disclosure records for Charles Koch, David Koch and Koch Industries PAC.
- ¹⁶⁰ *National Journal* 5/16/97: Lewis Charles and the Center for Public Integrity, *The Buying of the President*. New York: Avon Books, 1996, p. 127.
- ¹⁶¹ *Roll Call* 1/26/98.
- ¹⁶² *Wichita Business Journal* 10/24/97: *Minneapolis Star Tribune*, 10/29/97.
- ¹⁶³ Deposit records of Crestar account of Triad Management, Inc., 10/29/96.
- ¹⁶⁴ 9/30/97 Letter from Minority Chief Counsel to Charles Koch.

- ¹⁶⁵The eight races were: Brownback v. Docking (Kansas Senate); Hutchinson v. Bryant (Arkansas Senate); Hill v. Yellowtail (Montana House); three Kansas House races: Snowbarger v. Hancock; Tiahr v. Rathbun; and Ryun v. Freidan; Brown v. Wilde (California House); and Coburn v. Johnson (Oklahoma House). Invoices for Dresner Wickers & Assoc., CR 13 1751, 1755, 1759, 1179, 1017; CREF 13 0009, 0150.
- ¹⁶⁶10/22/96 Memo from Malenick to Dresner, CR 13 1748–49.
- ¹⁶⁷Memo from Triad staff to Peter Flaherty 10/24/96, CR 13 1659.
- ¹⁶⁸Memo from Triad bookkeeper Anna Evans to Dresner Wickers staff Joanne Banks, 10/28/96, CR 13 1780.
- ¹⁶⁹Memo from Evans to Banks, 1/21/97, CR 13 1819.
- ¹⁷⁰Memo from Evans to Banks, 2/7/97, CREF 13 0308.
- ¹⁷¹Denis Calabrese deposition, 9/18/97, pp. 10–12.
- ¹⁷²Denis Calabrese deposition, 9/18/97, pp. 41–44.
- ¹⁷³Denis Calabrese deposition, 9/18/97, pp. 44, 18–19, 35–37, 11.
- ¹⁷⁴Denis Calabrese deposition, 9/18/97, pp. 18–19.
- ¹⁷⁵*Roll Call*, 2/2/98.
- ¹⁷⁶*Roll Call*, 2/2/98.
- ¹⁷⁷*Roll Call*, 2/2/98.
- ¹⁷⁸*New York Times*, 10/24/97: *Minneapolis Star Tribune*, 10/29/97.
- ¹⁷⁹*Minneapolis Star Tribune*, 10/29/97.
- ¹⁸⁰Wire transfer records for deposits received by Coalition for Our Children's Future, Citizens for Reform, and Citizens for the Republic.
- ¹⁸¹*Minneapolis Star Tribune*, 10/29/97: Letter to Benjamin Ginsberg 11/5/97.
- ¹⁸²Invoices from Dresner Wickers to Triad, CREF 13 9, 150; CR 13 1017, 1735.
- ¹⁸³FEC disclosure report of Sam Brownback for U.S. Senate. Senator Brownback's 1996 spending totaled \$2.2 million.
- ¹⁸⁴FEC disclosure report for Snowbarger for Congress. Snowbarger's spending totaled \$443,000.
- ¹⁸⁵*Congressional Quarterly*, 1996 Election Results, 11/9/96 pp. 3250–57.
- ¹⁸⁶*Cox News Service*, 7/11/97.
- ¹⁸⁷*Cox News Service*, 7/11/97.
- ¹⁸⁸Deposit records of Crestar account of Citizens for Reform.
- ¹⁸⁹FEC public disclosure reports for Robert Harris, Gaspari, Gensemer, Duquette, Weaber, Doblin, available at www.tray.com.
- ¹⁹⁰Campaign Report of Christian Leinbach, TR15 1163–1166.
- ¹⁹¹Committee list of races where Triad was active.

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PART 2 INDEPENDENT GROUPS

Chapter 13: Coalition for Our Children's Future

Coalition for Our Children's Future ("CCF") is a nonprofit, tax-exempt organization under section 501(c)(4) of the tax code, created in mid-1995. Between its 1995 creation and the November 1996 election, CCF spent over \$5 million dollars on advertising in targeted Congressional districts.

Based on the evidence before the Committee, we make the following findings with regard to CCF:

FINDINGS

(1) Haley Barbour and others associated with the RNC created Coalition for Our Children's Future ("CCF"), as a purportedly non-partisan, tax-exempt social welfare organization under 501(c)(4) of the tax code and used CCF to carry out issue advocacy campaigns on behalf of Republican candidates and against Democratic candidates in 1995 and the first part of 1996.

(2) The evidence before the Committee suggests that several Republican candidates solicited contributions for CCF from their own supporters and coordinated with CCF to secure issue ads that they believed would help their candidacy.

(3) The evidence before the Committee suggests that in October 1996, CCF funded televised ads attacking Democratic candidates with money donated by a contributor who obtained a confidentiality agreement and oversaw development of the ads. Based on the evidence before the Committee, it is likely that this contributor was the Economic Education Trust, the same entity that funded and perhaps controlled the development and placement of ads through two tax-exempt organizations operated by Triad.

BACKGROUND

Coalition for Our Children's Future is a nonprofit organization pursuant to section 501(c)(4) of the Internal Revenue Code. As a 501(c)(4) organization, CCF may engage in lobbying and other direct political activities so long as direct political activity is not the organization's primary activity. In fact, CCF, which was incorporated in June 1995, was conceived and operated as a political organization. Essentially, in 1995 and early 1996, CCF operated as a shadow campaign for the Republican National Committee ("RNC"), airing advertising in support of the Republican Balanced Budget and Medicare legislation at the same time the Democratic National Committee ("DNC") was airing advertising on the same subjects. The idea for CCF appears to have been conceived within the RNC, and people who either worked for, or with, the RNC controlled decision-making by CCF throughout 1995 and 1996. In the one-year period between September 1995 and October 1996, CCF spent over \$5 million on advertising.¹ CCF has never engaged in any activity other than the creation and airing of advertising. CCF has no grassroots support but exists largely as a project of Republican fundraising consultants Odell Roper & Simms.

¹Footnotes appear at end of chapter 13.

In 1995 alone, CCF spent \$3.18 million on advertisements supporting the Republican positions on the Balanced Budget Amendment and Medicare.² Even after the demise of the Republican Balanced Budget legislation prior to the government shut-down in 1995, CCF continued to air advertising in key congressional races. In several instances, advertising appears to have been aired at the request of particular members of Congress or their staff, and paid for with funds raised by those members.

In mid-1996, representatives of CCF were approached by a “secret” contributor who required that CCF execute a confidentiality agreement before making a contribution. CCF witnesses testified that the purpose of the contribution was to fund an advertising campaign in the weeks before the 1996 election. CCF witnesses uniformly refused to disclose the identity of this secret contributor, or even the amount of the contribution, although they were appearing before the Committee pursuant to subpoena. Despite repeated Minority requests, the Committee never issued an order compelling witnesses to reveal this information.

RNC TIES TO CCF

Documents produced to the Committee and the testimony of various witnesses indicate that Haley Barbour, then-chairman of the RNC, together with his close aide Donald Fierce, who held the title director of strategic planning, were instrumental in the creation of Coalition for Our Children’s Future. The purpose of CCF was to raise funds from corporate interests to fund a media campaign in support of Republican legislation on the balanced budget and Medicare reform.³ Barbour had publicly insisted that he would not commit RNC funds to advertising in support of the legislation, preferring to conserve the party’s resources for the 1996 election.⁴ Instead, the RNC simply created CCF to pay for an advertising campaign with undisclosed corporate funds. This allowed the RNC to respond to Democratic advertising while conserving hard money and permitting business interests, including tobacco companies, to fund the advertising free from public scrutiny.

A memo produced to the Committee by the RNC, and written by RNC staffer Barry Bennett, makes clear the RNC’s involvement in creating CCF and other similar groups.⁵ The undated memo states:

We have three options on placing a USA Today ad. First the Coalition for Our Children’s Future can place the ad. The resources and legal structure are in place. The name sounds a little goofy. The existence of such a structure does give us limited protection from a press attack. Second, we can formalize the Committee to Save Medicare. It will take a few days lead time to file the corporate paperwork. If the Seniors Coalition joins the board this entity will have appropriate cover.⁶

Bennett subsequently left the RNC to become CCF’s executive director and oversee the CCF advertising campaign. Besides Bennett, the RNC also turned to other consultants and to staff to get CCF up and running. Documents produced to the Committee reflect that the RNC also hired its own fundraising firm, then known as Odell Roper & Simms (“ORS”), to oversee the creation of and fundraising

for CCF. The RNC produced an unsigned copy of a contract dated May 1, 1995 from Robert Odell to Haley Barbour.⁷ The cover memo, directed to Barbour, states: “per our conversation Saturday,” “Re: Agreement for Coalition for America’s Future,” which Odell conceded was the same organization that became Coalition for Our Children’s Future.⁸ ORS, known primarily for direct mail fundraising, also worked directly for the RNC and the Dole presidential campaign, and Odell also personally handled fundraising for the RNC’s annual “Republican Gala” fundraiser.⁹

Barry Bennett testified that he was working for Chuck Greener in the RNC’s communications office when he was approached by the RNC’s Donald Fierce about working for CCF.¹⁰ Two of the individuals who ultimately acted as directors of the organization, Gary Andres and Dirk Van Dongen, also testified that Fierce had asked them to join the board.¹¹ The third director, Deborah Steelman, was asked by Barbour to join the Board.¹² Van Dongen also testified that it was his general understanding that the RNC was overseeing the creation of CCF.¹³ The media vendor retained by CCF was Greg Stevens & Co., which, like ORS, also worked directly for the RNC.¹⁴ Thus, the RNC turned to its own fundraising and media consultants, and a member of its own staff to run CCF, and to individuals personally chosen by high-ranking RNC officials to sit on the board of CCF.

Asked about the May 1, 1995 contract produced by the RNC, Odell testified that, while he had no reason to believe that such conversations did not occur, he was unable to recall ever seeing the document, did not recall having the conversation referenced in the cover memo with Barbour, and did not recall any discussions of entering into a contract with the RNC for CCF.¹⁵ Odell did concede that throughout the spring of 1995 he was in regular contact with officials at the RNC, including Barbour, Fierce, and Greener, as often as two or three times a day.¹⁶ Sarah Fehrer, Odell’s assistant who was responsible for the administrative start-up of CCF, testified that she received telephone calls from Barbour and his assistant Kirk Blalock who were making “general inquiries” about “how things were going.”¹⁷ She testified that on at least one occasion Barbour personally called her, “not [about the] creation, just in general once we got going with the project.”¹⁸ While Odell confirmed that a contract for the provision of services from ORS to CCF probably existed, no contract was produced to the Committee.¹⁹

In late May 1995, a few weeks after the date of the contract sent from Odell to Barbour, CCF was incorporated by attorneys for ORS.²⁰ Documents produced to the Committee indicate that CCF may have already had a name before it was incorporated. A March 13, 1995 memo, produced by the RNC, is directed to the “Coalition to Save Our Children’s Future Media and Message Working Group.” The memo, written on Americans for Tax Reform letterhead, contains a series of “messages” built around the theme of “preserving the American dream for our children.”²¹ The RNC also produced a number of other documents reflecting an active role in CCF. The documents include a memo dated May 23 to Barbour and Odell from Barbour’s former law partner, Ed Rogers, discussing a plan to contact Republican Governors to host meetings for Barbour

with potential CCF contributors.²² Odell testified he could not recall seeing this document, although he is certain he did if it was directed to him.²³ The memo, which bears Barbour's handwritten "Good" across the top, also appears to have been forwarded by Barbour to Fierce and Greener. Questions about these documents were never posed to Barbour, Greener, or Fierce because, although the Minority requested subpoenas for all three, no subpoenas were issued.²⁴

The RNC also produced two 1995 agendas for "Coalition Meetings" on July 17 and 19 of 1995 that clearly demonstrate RNC control and direction of CCF's creation.²⁵ The two agendas, one on ORS letterhead and the other on CCF letterhead, include references to fundraising and organizational plans such as:

- A. Structure:
 1. Coalition Board
 2. Coalition Advisory List
 3. 501(c)(4) status
- B. Organization (Staff/RNC):
 1. Roles/Authority/Responsibility
 2. Schedule coordination.²⁶

The second agenda also contains a reference under the heading "Administration:" "approval of updated Coalition briefing materials? Haley's approval."²⁷ The agendas also discuss fundraising plans for CCF, including redirecting tobacco company contributions from Dole's Better America Foundation to CCF, and calls by House Speaker Newt Gingrich to Merck Pharmaceutical company.²⁸ Speaker Gingrich and Haley Barbour also attended fundraising events for CCF in the summer of 1995.²⁹ Other documents produced by the RNC include a fax from Sarah Fehrer to Greener about a June 2, 1995 meeting with representatives of five tobacco companies, and fundraising material provided by Odell to Philip Anschutz that was copied to Greener.³⁰

CCF's 1995 Advertising Campaign

After a very active fundraising campaign through the summer of 1995, CCF commenced its advertising campaign. Between August and December 1995, CCF funded four waves of advertising totaling at least \$3.18 million.³¹ The advertisements aired during this period include a Medicare advertisement featuring one Senator, a Balanced Budget ad featuring a second Senator, an advertisement entitled "Meet Priscilla," which focused on the federal debt and the need for a balanced budget for the future, and a fourth advertisement urging support for the Republican Medicare plan.³²

Consistent with the plan outlined in Bennett's earlier memo referencing the creation of a second group, the Save Medicare Project, under the auspices of the Seniors Coalition, Bennett testified that both the Medicare ad featuring the Senator and the second Medicare ad were paid for by Coalition for Our Children's Future but aired with a disclaimer that they were paid for by "the Seniors Coalition: Save Medicare Project."³³ Bennett testified that he worked with staff at Greg Stevens & Co, ("Stevens & Co."). to create the advertisements, and that CCF paid for the media time rather than contributing the money directly to the Seniors Coalition in order to

maintain control over the advertising.³⁴ Bennett also testified that it was Greg Stevens's idea to have a seniors group air the Medicare advertising.³⁵

Most decision-making with regard to advertising appears to have been handled by Stevens & Co. According to Bennett, Stevens & Co. staff was responsible for recruiting both Senators to appear in the CCF advertisements, and Stevens, together with Barry Bennett, made the decisions regarding where advertising would air.³⁶ Bennett also testified that together with Stevens & Co. he prepared another advertisement that he could recall only as "screaming granny" which aired in the spring of 1996.³⁷ This advertisement appears to have been financed by two wire transfers from CCF to the Seniors Coalition totaling \$140,000.³⁸ A memo produced by a Stevens & Co. employee contains a list of media markets where CCF's 1995 advertising aired. The memo shows that ads were targeted to air in particular congressional districts, many of which were the districts of vulnerable Republican freshman.³⁹

Essentially, at least at its creation, CCF was largely a front for the RNC's advertising in support of the balanced budget and Medicare package. Gary Andres, who served as president and a director of CCF, testified that the RNC's Donald Fierce told him the initial purpose of CCF was to run advertisements in support of the Republican Balanced Budget plan.⁴⁰ The purpose of creating an entity like CCF is three-fold. First, paying for advertising through a non-profit organization permits the conservation of the party's hard dollars. Had advertising created by CCF been aired by the RNC itself, in 1995 it would have had to have been paid for with a combination of hard and soft dollars.⁴¹ DNC advertising aired during this period on these same subjects was funded partially with hard money. Running the advertising through a nonprofit front also allows the party to offer contributors freedom from public disclosure while still earning the contributors goodwill with members of Congress and party officials. And finally, running advertising through an apparently autonomous organization also lends more credibility to the message. As RNC Coalition Director Curt Anderson explained in the Coalition Building Manual used by the RNC in the 1996 election cycle, "Always remember, 'What we say about ourselves is suspect, but what others say about us is credible.'" ⁴²

CCF and its Exempt Organization Status

In September 1995, four months after it was incorporated, Coalition for Our Children's Future applied for tax-exempt status, claiming to be a social welfare organization pursuant to section 501(c)(4) of the tax code.⁴³ While a 501(c)(4) organization is permitted to lobby, the primary purpose of the organization must be to promote social welfare rather than directly or indirectly participate in political campaigns.⁴⁴ Despite this limitation on political activity, as a result of carefully crafted application papers and follow-up responses to the Internal Revenue Service ("IRS"), on July 30, 1996 CCF was approved by the IRS as a 501 (c)(4) organization. The approval of CCF for this status points to inherent problems in the application process for section 501(c)(4) status, and shows how organizations may easily disguise their true nature from the IRS. CCF concealed information about its ties to political candidates, parties

and consultants and concealed the partisan nature of its advertising from the IRS.

In the September 1995 application, CCF stated that its purpose was to produce non-partisan educational material about budget deficits and Medicare reform. It listed the only employee of the corporation as Executive Director Barry Bennett and placed a great deal of emphasis on the appointment of directors Gary Andres, Deborah Steelman and Dirk Van Donegan. No mention is made in the application of the Odell fundraising firm even though CCF was essentially run out of ORS's offices. According to the testimony of ORS employee Sarah Fehrer, in the first half of 1995, she handled tasks including ordering stationary and a phone line for CCF; that the CCF phone line rang at her desk; that she believed ORS also rented a post office box for CCF; and that she retrieved mail for CCF.⁴⁵ Fehrer also testified that ORS established a separate fundraising office for CCF in the ORS building for a short period in 1995.⁴⁶ The application makes no mention of the fact that Barbour and Speaker Gingrich were actively raising funds for CCF, or that Senator Dole and Speaker Gingrich were honorary co-chairs of CCF.⁴⁷

Barry Bennett testified that he worked for CCF only periodically when advertising buys were being prepared.⁴⁸ When he was not working for CCF, Bennett worked for Representative Frank Cremeans, an Ohio Republican.⁴⁹ Many documents produced to the Committee bear the fax line of Congressman Cremeans's office, and Fehrer testified that she contacted Bennett at that office when she could not reach him at the CCF office he maintained.⁵⁰ Bennett also testified that he first learned that he was the executive director of the organization when he received his business cards and that he regarded Odell as having the authority for all financial decisions pertaining to CCF.⁵¹

The three CCF directors also testified that they played no role in the organization. Steelman, Van Donegan, and Andres each testified that from the time they signed paperwork becoming directors of the organization in July 1995 until the end of 1996, they did not recall attending a board meeting or a CCF meeting of any sort, never saw proposed advertising for the organization, and never spoke to representatives of CCF.⁵² None of the three ever personally met Barry Bennett until 1997, and none of the three was aware of ORS's role in running CCF.⁵³ Andres, who was ostensibly the president as well as a director of CCF, additionally testified that he thought that someone had just designated him president, and that he never discussed becoming president with anyone.⁵⁴ When shown the Articles of Incorporation of CCF that provide that "the President shall be the CEO of the Corporation and shall in general supervise and conduct the daily affairs of the Corporation," Andres testified that he had never seen the document before.⁵⁵ When asked what he understood his role in CCF to be, he testified that the RNC's Donald Fierce "never really went into that in any detail . . . he just said there would be a board—and we didn't really need to go into it."⁵⁶

In November 1995, CCF received a follow-up inquiry from the IRS seeking additional information about current CCF advertising, about CCF's relationship to its media consultants, and about its

proposed “programs.” CCF responded on December 19, 1995, stating that the only written agreements into which CCF had entered were with its law firm, accounting firm, and auditors. Thus, CCF once again failed to inform the IRS that it retained ORS, a political fundraising firm also employed by the RNC and political campaigns, to administer and raise funds for the organization, and that Robert Odell exercised decision-making authority for the organization. While the follow-up response forwarded tapes of additional CCF advertising, it did not include a memo dated one day earlier outlining 48 media markets where advertising buys had been placed and which coincided with politically vulnerable Republican districts. The response also contained a biography of Barry Bennett which noted that prior to CCF he had worked for Representative Cremeans. The biography omitted Bennett’s brief tenure at the RNC in 1995, and also failed to mention that in the three months between the filing of the application and the response, Bennett had once again been working for Representative Cremeans.

The ability of CCF to obtain section 501(c)(4) status despite the fact that it was created by the RNC, run by political consultants, and existed to air targeted political advertising at least partially in response to DNC advertising, highlights the deficiencies of the section 501(c)(4) process. The application process completely failed to discover that CCF was essentially a name and a bank account through which corporate funds were sent for the purpose of airing targeted political advertising. The organization has never had a staff of its own, has no defining ideology, and is financed not by people who believe in CCF’s cause, but by large corporate contributors solicited by Republican Party fundraisers or Republican Party leaders

In 1996, CCF also made contributions to other Republican groups, including a \$10,000 contribution to Americans for Tax Reform in August 1996, a \$150,000 contribution to the National Right to Life Committee in October 1996, and the \$140,000 transferred to the Seniors Coalition.⁵⁷ That CCF was able to form and operate under the guise of a social welfare organization points to fundamental flaws in the tax-exempt application process and the campaign-finance laws that allow groups like CCF to evade public disclosure requirements by using artfully worded political advertisements.

CCF 1996 ADVERTISING FOR REPUBLICAN CANDIDATES

In December 1995, CCF aired an advertisement that featured clips of President Clinton talking about his plan to balance the budget. The advertisement ran:

Voice over: You’ve heard a lot of talk from Bill Clinton about balancing the budget. CLINTON: “I would present a five year plan to balance the budget . . . we could do it in seven years . . . I think we can reach it in 9 years . . . balance the budget in 10 years . . . I think we could reach it in 8 years . . . so we’re between 7 and 9 now. . . . 7, 9, 10, 8, 5” Voice over: No more double talk. Balance the budget.⁵⁸

Produced by Stevens & Co., the advertisement was almost identical to an advertisement produced by Stevens & Co. and aired by the RNC.⁵⁹ A memo from a Stevens staffer to Sarah Fehrer of the Odell fundraising firm specifically notes: “The spot which ran [last week] was an edited version of Clinton spot the RNC ran last month which shows various clips of Clinton commenting on the balanced budget. (10 years, 7 years, 9 years, etc . . .)”⁶⁰ Hence, Stevens & Co. produced two virtually identical advertisements aired almost back to back by the RNC and CCF, at the same time that CCF was filing its response to the IRS seeking status as a social welfare organization not primarily engaged in political activity.

Documents suggest that in January 1996, CCF also aired the Clinton advertisement in a few districts at the request of particular Republican candidates. Apparently, from the time it began its advertising campaign, CCF expected that Republican members of Congress would make such requests. In a September 5, 1995 memo to Coalition Leaders, Barry Bennett stated:

Our members need to feel that someone is protecting them during this struggle. It is vitally important that we go up soon after their return . . . Undoubtedly many will call in the coming week and ask for broadcast in their districts. Those that are not covered might be motivated to make a few solicitations to raise the funds for airing these spot in their districts.⁶¹

No evidence indicates that members of Congress raised funds for the September Medicare advertisements that were ultimately aired, although CCF did receive \$500,000 from the National Republican Congressional Committee on September 15.⁶² In January 1996, however, evidence suggests that at least four members of Congress or their staff actively worked to secure CCF advertising in their districts.

Documents show that in late December 1995, Alex Ray of Chesapeake Media—Representative Bill McCollum’s media person⁶³—was working with CCF to put together a \$30,800 advertising buy in Representative McCollum’s Orlando, Florida district.⁶⁴ A December 27 memo from Ray to David Bennett, the ORS staffer responsible for administering CCF, notes, “I just hope Bill raises another \$280.”⁶⁵ In another memo to Bennett two days later, Ray exclaims, “I think its over. Bill McCollum raised another \$1,000 yesterday and the check is in the mail to Doyle’s [Congressman McCollum’s administrative assistant⁶⁶] home as is the \$5,000. . . . This should cover the shortages the Coalition advanced towards the buy.”⁶⁷ In a third memo to David Bennett upon completion of the buy, Ray noted, “Every adult in central Florida should have seen your spot 3.5 times over the five day period.”⁶⁸ Although Barry Bennett initially testified that he had no knowledge of any member of Congress raising funds to air CCF advertising in his or her district, when he was shown the memos, he admitted that he had spoken to McCollum staffer Doyle because they “wanted to either donate or raise money I think, for—to run the ad, one of our ads in Orlando or something like that.”⁶⁹

Documents produced by CCF also indicate that Representative Jim Kolbe of Arizona raised money for CCF to air ads in his dis-

trict. A letter dated January 18, 1996, to Barry Bennett from Representative Kolbe's campaign manager Tori Hellon states:

I am sending \$9,750 today so that you can begin the buys. Three of our contributors are out of town and will return this weekend. I will send the balance of \$12,000 on Monday. I have not heard back on the availability of RNC funds to be added to this money in order to increase our exposure. I hope you were successful in your efforts to secure additional funding.⁷⁰

A note handwritten at the bottom adds: "Please fax a copy of the buy immediately so our contributors can know when the ads will run."⁷¹ Invoices produced to the Committee by CCF indicate that CCF made a \$12,000 television buy in Tucson, Arizona for January 25 to 31.⁷² Asked about the letter, Bennett testified that he recalled having a conversation with Kolbe's campaign manager "about how to go about raising money and what kind of money the coalition could take." He testified that he did not recall ever seeing the letter from the campaign manager.⁷³

CCF documents also indicate similar contacts with Representative Van Hilleary of Tennessee. A printout of a January 12 telephone message for Barry Bennett from Representative Hilleary reads, "We really need the info on your bye [sic] in Nashville for the ad. When and how much?"⁷⁴ Documents indicate that CCF funded a \$20,000 television buy in Nashville between January 6 and 12, 1996.⁷⁵ Asked about the message, David Bennett, an ORS staffer, testified that he retrieved it and immediately forwarded it to Barry Bennett. Barry Bennett initially testified that he had never spoken to a Member of Congress on the subject of CCF, but later recalled having spoken to Representative Hilleary.⁷⁶ Documents also reflect that Representative Joe Barton of Texas was soliciting contributions for CCF in December and January 1996. At least one of the contributors, to whom Barton sent a solicitation on CCF letterhead, Louis Beecherl, contributed directly to Barton's campaign at about the same time he received the solicitation.⁷⁷

By directing their personal supporters to contribute to CCF, these Republican candidates appear to have been engaged in an attempt to circumvent contribution limits to their own campaigns. Republican Party organizations also appear to have been involved in this effort to run ads with the Republican message in congressional districts during this period. On January 19, CCF received an \$85,000 contribution from the National Republican Senatorial Committee.⁷⁸ The coordination of the fundraising and strategy for airing CCF advertisements between the candidates, the Republican Party, and CCF appears to make the cost of the advertising corporate contributions from CCF to these candidates. Creation of a supposedly nonprofit organization in the anticipation that it will be contacted by Members of Congress anxious for the organization's advertising dollars shows that undisclosed funds from nonprofits are used to influence particular races with the full knowledge and cooperation of the candidates who benefit from this advertising.

THE SECRET TRUST AND CCF'S 1996 ELECTION ADVERTISING

In the summer of 1996, Robert Odell, of Odell, Roper and Simms, was approached by Denis Calabrese, a political consultant he knew from previous work.⁷⁹ In conversations with Odell and his partner John Simms, Calabrese inquired whether CCF would be interested in receiving a contribution for an advertising campaign.⁸⁰ Calabrese testified that before approaching CCF, he had been retained by an individual he refused to identify to the Committee who represented an organization he refused to identify, to oversee an advertising campaign in the weeks prior to the 1996 election.⁸¹ Sometime in late August of early September 1996, the secret contributor provided funds to CCF that were used to run advertisements in several parts of the country in the weeks prior to the 1996 election.⁸² At the request of the contributor, the campaign was overseen by Calabrese, and the contributor required that a confidentiality agreement be executed by CCF prior to making the contribution.⁸³ Amazingly, ORS never informed the CCF's board of directors of the impending advertising campaign, the confidentiality agreement, the source of the funding, or the relationship with Calabrese.⁸⁴ In fact, when questioned in early 1997 by reporters about those ads, at least one director, Deborah Steelman, stated that she thought that the organization had disbanded.⁸⁵

Advertising funded through CCF in the weeks prior to the election included at least \$280,000 in television advertising in the Louisiana Senate race between Democrat Mary Landrieu and Republican Woody Jenkins, \$81,000 in advertising and \$51,000 in phone calls and mail in the Louisiana House race between Cooksey and Thompson, an unknown amount for advertising and \$28,500 on phone calls in a California House race between Democrat Representative Cal Dooley and Republican Trice Harvey, \$35,000 on television advertising and \$37,000 on telephone calls and mailings in the Oklahoma House race between Republican Tom Coburn and Democrat Glen Johnson, and \$35,000 on radio advertisements and \$89,000 on mail and telephone calls in seven Minnesota state legislative races.⁸⁶

Calabrese testified that in addition to overseeing the advertising campaign for CCF, he also oversaw an advertising campaign financed by the same contributor through a second organization that he refused to name.⁸⁷ In addition to these two organizations, Calabrese testified that he also attended meetings with other organizations including Triad (See Chapter 12) in order to determine if they were "appropriate vehicles" for ad campaigns.⁸⁸ Calabrese almost completely controlled the advertising campaign funded through CCF. While CCF required that all advertising be approved by counsel, and ORS staff provided bookkeeping services and acted as a liaison with counsel, Calabrese testified that he hired vendors, determined where ads would run, and had general oversight for the ad campaign. He also testified that he began hiring vendors and getting the advertisements started prior to the time a final decision was made by the secret contributor to contribute to CCF.⁸⁹ Among the vendors hired for the advertising campaigns of CCF and the unknown organization were Dick Dresner, James Farwell, and

Steve Sandler, consultants who also worked on the Triad advertising campaign.⁹⁰

Did CCF's secret contributor fund triad attack ads?

The fact that the three political consultants, two of whom are relatively unknown in Washington, D.C., worked on both the Triad and CCF advertising campaigns suggests that the two ad campaigns were funded by the same contributor, and that the contributor, not CCF or Triad, hired the consultants. Bank records show that a portion of Triad's advertising campaign roughly equivalent to the advertising handled by these consultants was provided by a secret entity known as the Economic Education Trust. The identity of the persons behind this trust, and even the existence of the trust itself, was disclosed to the Committee when Triad's attorneys failed to redact bank records which were produced to the Committee. Evidence also suggests that the Economic Education Trust funded the CCF ad campaign.

Evidence includes the public statement by an unnamed CCF employee that the organization that provided the funding for the ad campaign was a trust.⁹¹ Bank records produced by CCF also show that the money for the CCF ad campaign was wired to CCF from a branch of Riggs Bank in Washington D.C., the same bank where the Economic Education Trust has an account.⁹² Witnesses for CCF admitted that CCF had entered into an agreement to keep the identity of the contributor secret, but refused to produce a copy of the agreement. Barry Bennett stated publicly that this agreement was drafted by former RNC General Counsel Benjamin Ginsberg.⁹³ Documents produced by CCF indicate that counsel for CCF was also in contact with Ginsberg on the subject of the CCF advertising campaign.⁹⁴ Ginsberg also represented Dresner and Farwell before the Committee, both of whom failed to appear for deposition despite multiple attempts to schedule dates with Ginsberg. Moreover, the Committee learned that when the Economic Education Trust opened its account at Riggs bank, the address provided was in care of Ben Ginsburg.

In addition, although he failed to appear for a sworn deposition, Dick Dresner admitted that he helped to coordinate a number of issue advertising campaigns in the 1996 election cycle during a January 1998 meeting of political consultants. Dresner said that "many of the people he worked with were most concerned with remaining anonymous, while still having a major impact on federal elections."⁹⁵ Dresner confirmed that "his wealthy clients set up a series of foundations, trusts and other 'shells' to pump money into subterranean issue-ad campaigns. 'They use three or four or five or six different ways so they aren't discovered,'" Dresner said.⁹⁶ He went on to note that "his clients seemed to have success with that tactic, and most have remained anonymous even now: 'Even if their names came up once or twice, the extent of their activities is underestimated.'" ⁹⁷

Despite two requests from Senator Glenn, no subpoena was ever issued for the financial records of the Economic Education Trust. Such a subpoena might have permitted the Committee to determine whether or not the trust funded the CCF and Triad advertising campaigns. Even without the benefit of a subpoena, cir-

cumstantial evidence developed by the Minority suggests that the trust was financed in whole or in part by Charles and David Koch, controlling shareholders of Koch Industries, a giant oil company (see Chapter 12). The Koch brothers have a history of channeling money through nonprofit organizations, including think tanks and term-limits groups, in order to advance their political interests.⁹⁸ In 1996, a term-limits group with possible Koch funding ran attack ads aimed at some of the same candidates who were also targeted by Coalition for Our Children's Future.⁹⁹ Some of the states in which CCF advertising was targeted are also states where Koch has financial interests. In Louisiana and Oklahoma, Koch has pipelines and oil contracts.¹⁰⁰ In Minnesota, where Calabrese testified CCF funded mailings in an attempt to win a Republican majority in the state legislature, Koch owns a huge refinery.¹⁰¹ Some of the candidates who benefited from attack ads run by CCF also received campaign contributions from Charles Koch, David Koch, and/or their company's political action committee.¹⁰²

Assuming that the Economic Education Trust was behind the CCF ad campaign, the trust, through Triad and CCF, funneled at least \$2.5 million into ads designed to aid candidates in states where the Kochs have significant business interests. The trust also took calculated steps to prevent public disclosure of its existence and its activities. One of the questions that remains unanswered at the close of this investigation is how many other groups did the Economic Education Trust run advertising dollars through? Calabrese testified that the secret contributor funded an advertising campaign through at least one organization in addition to CCF and Triad. Given the remaining questions about the extent of the Economic Education Trust's activities, and lacking even definitive knowledge of who funded the CCF advertising campaign, this investigation has failed in its purpose, to expose illegal and improper activities in the 1996 campaign.

CONCLUSION

CCF sets a dangerous precedent for future elections. In 1995 and 1996, advertising through CCF allowed the RNC to conserve hard dollars while responding to Democratic-funded advertising. CCF also provided candidates an avenue to fund advertising in their districts with contributions from supporters who may have made the maximum contribution to their campaigns. Finally, CCF permitted a still unknown entity to control a high dollar political advertising campaign through CCF for still unknown purposes.

CCF remains in existence today. Robert Odell testified that in January 1997, he had a meeting with Haley Barbour, Donald Fierce and Dirk Van Dongen to discuss keeping the organization alive for future issue campaigns.¹⁰³ Subsequently, the board of CCF was reconstituted to include Barbour, Fierce, Odell, and Van Dongen.¹⁰⁴ While Van Dongen and, reportedly, Fierce have since resigned, so far as this Committee is aware, Odell and Barbour remain active members of the Coalition for Our Children's Future. Like other organizations in the 1996 election, CCF provides a model for groups and individuals interested in influencing the political process free from disclosure and free from restrictions on how much they can spend to do so.

FOOTNOTES

- ¹ CCF Profit and Loss sheet for 5/30/95–12/31/96, CCF 213–215.
- ² CCF disclosure of expenditures to Greg Stevens & Co., CCF Form 990, CCF 162–185, pp. 182–83.
- ³ *Washington Times*, 8/7/95.
- ⁴ *Washington Post*, 4/30/95; *Washington Times*, 12/7/95.
- ⁵ Barry Bennett deposition, 9/11/97, p. 228.
- ⁶ Memorandum regarding Placing Medicare Anniversary Newspaper Ad, R 061653.
- ⁷ Contract and Cover Memo from ORS to Haley Barbour, 5/1/97, R 61612–61616.
- ⁸ Contract and Cover Memo from Odell Roper & Simms to Haley Barbour, 5/1/97, R 61612–61616.
- ⁹ Robert Odell deposition, 9/5/97, pp. 31, 41.
- ¹⁰ Barry Bennett deposition, 9/15/97, pp. 5–7.
- ¹¹ Gary Andres deposition, 8/18/97, p. 6; Dirk Van Dongen deposition, 9/4/97, p. 5.
- ¹² Deborah Steelman deposition, 8/25/97, pp. 6–7.
- ¹³ Dirk Van Dongen deposition, 9/4/97, p. 6.
- ¹⁴ *The Hotline*, 10/28/94; *The Hotline*, 11/17/95; *The Hotline*, 1/6/95.
- ¹⁵ Robert Odell deposition, 9/5/97, pp. 35–37.
- ¹⁶ Robert Odell deposition, 9/5/97, pp. 39–40.
- ¹⁷ Sarah Fehrer deposition, 8/21/97, p. 18.
- ¹⁸ Sarah Fehrer deposition, 8/21/97, pp. 18–19.
- ¹⁹ Robert Odell deposition, 9/5/97, p. 37. Lawyers for CCF have claimed that the contract is not covered in the Committee subpoena which calls for all documents referring or relating to payments over \$5,000 by CCF and all documents referring or relating to formation and establishment of CCF. See Committee subpoena 73.
- ²⁰ CCF Articles of Incorporation and Unanimous Consent in Lieu of Initial Meeting, CCF 004–009 and 031–032.
- ²¹ Memo from Americans for Tax Reform to CCF Media and Message Working Group, 3/13/95, R 27449.
- ²² Memo from Ed Rogers to Haley Barbour and Bob Odell re CCF fundraising with Republican Governors, 5/23/95, R 061609.
- ²³ Robert Odell deposition, 9/5/97, pp. 57–58.
- ²⁴ Barbour appeared for deposition on the subject of the Ambrous Young loan to the National Policy Forum earlier in the investigation but was not subsequently recalled.
- ²⁵ Agendas for CCF meetings of 7/17/95 and 7/19/95, R 61650–652 and 656–658.
- ²⁶ Agenda for CCF meeting of 7/17/95, R 61650–652.
- ²⁷ Agenda of 7/19/95 CCF Meeting, R 61656–658.
- ²⁸ Agendas of 7/17/95 and 7/19/95, R 061650–652 and 656–658.
- ²⁹ *Washington Times*, 8/7/95; Agenda for Gingrich travel, CCF 260.
- ³⁰ 6/5/95 fax to Chuck Greener from Sarah Fehrer, R 61602–03; 7/20/95 fax to Chuck Greener from Sarah Fehrer, R 61654, R 5178.
- ³¹ Memo from Spring Thompson of Greg Stevens to Sarah Fehrer, 12/18/95, CCF 574–77.
- ³² Memo from Spring Thompson of Greg Stevens to Sarah Fehrer, 12/18/95, CCF 574–77.
- ³³ Barry Bennett deposition, 9/11/97, pp. 253–56; Memorandum from Spring Thompson of Greg Stevens to Sarah Fehrer, 12/18/95, CCF 574–77.
- ³⁴ Barry Bennett deposition, 9/11/97, pp. 253–256.
- ³⁵ Barry Bennett deposition, Volume II, 9/15/97, pp. 24–25.
- ³⁶ Barry Bennett deposition, 9/11/97 p. 64; Barry Bennett deposition, Volume II, 9/15/97, pp. 27, 29–30.
- ³⁷ Barry Bennett deposition, 9/11/97, p. 110.
- ³⁸ CCF 1995 IRS Form 990, CCF 162–185, p. 180.
- ³⁹ Memorandum from Spring Thompson of Greg Stevens to Sarah Fehrer, 12/18/95, CCF 574–77.
- ⁴⁰ Gary Andres deposition, 8/18/97, p. 6.
- ⁴¹ FEC Advisory Opinion 1995–25.
- ⁴² Coalition Building Manual authored by RNC coalitions director Curt Anderson, Exhibit 2367M: R 1824.
- ⁴³ CCF Application for Exempt Status, 9/12/95, CCF 69–118.
- ⁴⁴ Internal Revenue Service Publication 557, Tax Exempt Status for Your Organization, p. 43.
- ⁴⁵ CCF IRS Application for Exempt Status, 9/12/95, CCF 69–118.
- ⁴⁶ Sarah Fehrer deposition, 8/21/97, pp. 32–33, 49, 52.
- ⁴⁷ CCF IRS Application for Exempt Status, 9/12/95, CCF 69–118.
- ⁴⁸ Barry Bennett deposition, Volume II, 9/15/97, pp. 20–21.
- ⁴⁹ Barry Bennett deposition, 9/11/97, pp. 9–11.
- ⁵⁰ Draft advertising and wire transfer authorizations with Cremeans fax line at top, CCF 529, 312, 314, 316, 335, 326; Sarah Fehrer deposition, 8/18/97, pp. 57–58.
- ⁵¹ Barry Bennett deposition, 8/18/97, p. 37.
- ⁵² Gary Andres deposition, 11/18/97, pp. 16–18; Dirk Van Dongen deposition, 9/4/97, pp. 13–23; Deborah Steelman deposition, 11/25/97, p. 41.
- ⁵³ Gary Andres deposition, 11/18/97, pp. 24; Dirk Van Dongen deposition, 9/4/97 pp. 12–14; Deborah Steelman deposition, 11/25/97, pp. 13, 22.
- ⁵⁴ Gary Andres deposition, 8/18/97, p. 15.
- ⁵⁵ CCF Articles of Incorporation, CCF 22–23; Gary Andres deposition, 8/18/97, p. 15.
- ⁵⁶ Gary Andres deposition, 8/18/97, p. 15.
- ⁵⁷ Checks and wire transfers from CCF to the National Right to Life, Americans for Tax Reform and YDU, CCF 594, 423, 384.

- ⁵⁸ Draft "Go Along" script, CCF 499.
- ⁵⁹ Videotapes produced to the Committee by CCF: *The Hotline*, 11/17/95.
- ⁶⁰ Memo from Spring Thompson of Greg Stevens to Sarah Fehrer, 12/18/95, CCF 574-77.
- ⁶¹ Memo to Coalition Leaders from Barry Bennett, 9/5/95, CCF 512-513.
- ⁶² Wire transfer receipt for \$500,000 from the National Republican Congressional Committee to CCF, CCF 230.
- ⁶³ Barry Bennett deposition, 9/11/97, p. 272.
- ⁶⁴ Memo from Alex Ray to David Bennett, CCF 561-563.
- ⁶⁵ Memo from Alex Ray to David Bennett, CCF 550.
- ⁶⁶ David Bennett deposition, 9/6/97, p. 118.
- ⁶⁷ Memo from Alex Ray to David Bennett, CCF 561-563.
- ⁶⁸ Memo from Alex Ray to David Bennett, CCF 554.
- ⁶⁹ Barry Bennett deposition, 9/11/97, pp. 116-17, 271.
- ⁷⁰ Letter to Barry Bennett from Tori Hellon of Kolbe '96, 1/18/96, CCF 231-232.
- ⁷¹ Letter to Barry Bennett from Kolbe '96, 1/18/96, CCF 231-232.
- ⁷² Invoice to CCF from National Media, CCF 359.
- ⁷³ Barry Bennett deposition, 9/11/97, pp. 277-78.
- ⁷⁴ Message for Barry Bennett from Representative Van Hilleary, 1/12/96, CCF 549.
- ⁷⁵ Invoice to CCF from National Media, CCF 352.
- ⁷⁶ Barry Bennett deposition, 9/11/97, pp. 117, 123.
- ⁷⁷ Memo from Congressman Barton to Louis Beecherl, 12/22/95, CCF 559. FEC public disclosure contribution records of Louis Beecherl.
- ⁷⁸ Letter and check to CCF from the NRSC, CCF 233-234.
- ⁷⁹ Robert Odell deposition, 9/5/97, pp. 131-32. Odell testified that ORS had previously raised funds for Americans for Fair Taxation, a Texas-based group in which Calabrese was involved.
- ⁸⁰ John Simms deposition, 9/10/97, pp. 40-44.
- ⁸¹ Denis Calabrese deposition, 9/18/95, pp. 13-15.
- ⁸² John Simms deposition, 9/10/97, pp. 41-43, 49.
- ⁸³ John Simms deposition, 9/10/97, p. 48.
- ⁸⁴ Barry Bennett has insisted that he was also not aware of the advertising campaign but in fact, he signed authorizations for wire transfers of the funds for this advertising, signed the confidentiality agreement with the secret contributor and, according to documents produced to the Committee, was consulted by CCF counsel on matters related to the advertising campaign. John Simms deposition, 9/10/97 p. 48, CCF 386, 401.
- ⁸⁵ Deborah Steelman deposition, 8/25/97, p. 42.
- ⁸⁶ Invoices from Dresner Wickers & Assoc., the Farwell Group, Sandler & Innocenzi, and Omni Information, and Total Media Resources, CCF 400, 413, 402, 419, 467.
- ⁸⁷ Denis Calabrese deposition, 9/18/97, pp. 18-19.
- ⁸⁸ Denis Calabrese deposition, 9/18/97, pp. 44, 18-19, 35-37, 11. Although Calabrese testified that he did not believe the secret contributor gave money to Triad, he stated that he did not have knowledge of everything the secret contributor did in 1996.
- ⁸⁹ Denis Calabrese deposition, 9/18/97, pp. 54-55, 65.
- ⁹⁰ Invoices from Dresner Wickers & Assoc., the Farwell Group, Sandler & Innocenzi, and Omni Information, and Total Media Resources, CCF 400, 413, 402, 419, 467.
- ⁹¹ *Minneapolis Star Tribune*, 10/29/97.
- ⁹² Records for Crestar accounts of Citizens for Reform, Citizens for the Republic; Riggs Bank records of accord of Coalition for Our Children's Future.
- ⁹³ *Minneapolis Star Tribune*, 10/29/97: Letter to Benjamin Ginsberg 11/5/97.
- ⁹⁴ Bill for counsel's services in reviewing CCF ads, CCF 421.
- ⁹⁵ *Roll Call*, 2/2/98.
- ⁹⁶ *Roll Call*, 2/2/98.
- ⁹⁷ *Roll Call*, 2/2/98.
- ⁹⁸ *National Journal* 5/16/97: Lewis Charles and the Center for Public Integrity, *The Buying of the President*. New York: Avon Books, 1996, p. 127.
- ⁹⁹ *Roll Call*, 1/26/98.
- ¹⁰⁰ *Wichita Business Journal*, 10/24/97: *Minneapolis Star Tribune*, 10/29/97.
- ¹⁰¹ Denis Calabrese deposition, 9/18/97, p. 125-26.
- ¹⁰² FEC public disclosure records for Charles Koch, David Koch and Koch Industries PAC.
- ¹⁰³ Bob Odell Deposition, 9/5/97, pp. 199-200, 208.
- ¹⁰⁴ Unanimous Consent in Lieu of Meeting 1/29/97, CCF 46-47.

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PART 2 INDEPENDENT GROUPS

Chapter 14: Christian Coalition

Although the Christian Coalition (“Coalition”) holds itself out as a nonpartisan, “social welfare” organization, compelling evidence suggests that the Coalition functions primarily as a political committee by endorsing and supporting Republican candidates on the local, state, and federal levels. The Coalition has admitted spending at least \$22 million on 1996 federal races and distributing about 45 million voter guides to churches on the Sunday before election day. The information before the Committee indicates that these voter guides were manipulated to advance Republican candidates. The Federal Election Commission, in an ongoing federal lawsuit, alleges that for three election cycles, the Coalition has illegally coordinated its efforts with Republicans.

FINDING

Although the Christian Coalition has applied for status as a 501(c)(4) organization and claims to be a nonpartisan, social welfare organization, the evidence before the Committee suggests that the Christian Coalition is a partisan political organization operating in support of Republican Party candidates. The evidence of partisan activity includes: spending at least \$22 million on the 1996 elections; distributing 45 million voter guides manipulated to favor Republican candidates; and endorsing Republican candidates at organization meetings.

BACKGROUND

The Christian Coalition (“Coalition”) came to the Committee’s attention for several reasons. First, in July 1996, the Federal Election Commission (“FEC”) filed suit against the Coalition alleging that the Coalition had coordinated expenditures during the 1990, 1992 and 1994 election cycles with Republican House, Senate and Presidential candidates and their campaigns in violation of federal election law.¹ That suit is ongoing. Second, the Internal Revenue Service continued for a seventh year to delay making a final decision regarding the Coalition’s application for tax-exempt status as a social welfare organization. Third, numerous Democratic candidates complained publicly that, in the 1994 and 1996 cycles, the Coalition had distorted their positions on issues in order to favor their Republican opponents, suggesting that the Coalition was not educating voters on candidate positions, but playing a partisan role in federal elections.

On March 3, 1997, the Minority requested that a Committee subpoena be issued to the Christian Coalition for the production of documents. The Majority, however, declined to include the Coalition in the group of subpoenas issued in March 1997.² After significant effort by the Minority, the Coalition was included in a group of Committee subpoenas issued on July 30.³ However, in response to the July 30 subpoena, the Coalition produced only a few documents, thereby significantly restricting the Committee’s ability to investigate possible abuses. The Coalition then joined 25 other non-profit groups in refusing to comply with Committee subpoenas. Among the defiant entities were the National Right to Life Committee, Citizens Against Government Waste, Citizen Action, and

the AFL–CIO. The groups objected to the subpoenas on the ground that they “pose[d] a substantial threat to free speech, free association and privacy rights and the rights of other parties to have confidential communications with them.”⁴ The subpoena directed to the Coalition, however, did not seek membership or donor lists, but sought only to discover if the Coalition had violated campaign laws by coordinating with candidates or parties. Investigation of the Coalition was also hindered by the Majority’s refusal to issue deposition subpoenas to key Coalition personnel who could have provided indispensable insight into Coalition activities.

Despite these obstacles, the Minority was able to pursue its investigation by reviewing FEC documents, federal court records, a limited number of Christian Coalition and RNC documents and publications, and by conducting interviews. Although severely restricted by the lack of cooperation by the Coalition, the RNC and the Dole campaign, the Minority was able to uncover much improper and possibly illegal campaign activity by the Coalition.

The evidence before the Committee indicates that the Coalition functions primarily as a partisan political committee, rather than a social welfare organization, because it endorses and supports Republican candidates on the local, state, and federal levels. The Coalition’s election-related activities range from the distortion of candidate positions and the manipulation of issues in Coalition voter guides, to the outright endorsement of candidates at caucus meetings. The actions of the Coalition indicate that its major purpose is the election of Republican candidates to public office, and the Coalition should therefore be required to register with the FEC as a political committee subject to the FEC’s reporting and disclosure requirements, in conformance with federal election law. While the investigation focused on the 1996 campaign, it is critical to place the Coalition’s activities in the context of nearly a decade of partisan political activity.

PAT ROBERTSON AND RALPH REED

The Christian Coalition was established in 1989. The president and founder of the Coalition is the Rev. Marion G. (“Pat”) Robertson. The executive director from 1989 until 1997 was Ralph Reed. Both men have ongoing close ties to the Republican Party. In 1988, Robertson campaigned to win the Republican nomination for the presidency.⁵ Ultimately, the Republican nomination was won by Vice President George Bush, who went on to win the general election in November. At Bush’s inauguration in January 1989, Robertson first met Reed, then a young Republican activist.

Reed had a great deal of political experience.⁶ While attending college, he was elected chairman of the College Republican National Committee, part of the Republican National Committee (“RNC”). He worked closely with Grover Norquist, director of the National College Republican Committee, who went on to become a GOP activist in his own right as president of Americans for Tax Reform.⁷ From 1982 to 1984, Reed worked directly for the RNC. In 1984, Reed was active in voter registration efforts for Republican Senator Jesse Helms of North Carolina, and was a founding mem-

Footnotes appear at the end of chapter 14.

ber of a political-training group for young conservatives, Students for America. Reed also worked on Georgia Republican Matt Mattingly's successful Senate campaign, later serving in Washington as a summer intern in Mattingly's office. In 1988, he worked on Jack Kemp's presidential campaign.

At their January 1989 meeting, Robertson discussed with Reed his plans for the creation of a new political organization.⁸ Robertson saw a political vacuum being created on the religious right as the Rev. Jerry Falwell's Moral Majority lost influence. Impressed with Reed's experience and his perspective on "building bridges" within the Republican Party, Robertson asked Reed to join him in constructing the new organization. Although Reed initially declined because he was pursuing a doctorate degree at Emory University, he reconsidered and accepted Robertson's offer to work for him on the new venture, the Christian Coalition.

In the summer of 1990, officials of the National Republican Senatorial Committee ("NRSC"), a division of the RNC, apparently requested a meeting with the Coalition and offered to contribute start-up funds.⁹ The NRSC provided the Coalition with about \$64,000 in seed money. The Coalition also purchased a mailing list and office equipment from Robertson's presidential campaign.¹⁰

In spite of Reed's Republican political experience, Robertson's ties to the Republican Party, and the infusion of start-up funds from the RNC, the Coalition did not organize itself as a political committee under federal law. Instead, it applied for 501(c)(4) tax-exempt status as a "social welfare organization." Such organizations are defined as:

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare . . . the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.¹¹

While contributions to 501(c)(4) organizations are not tax deductible, such organizations are exempt from paying taxes. In addition, there are few restrictions on the entity's freedom to lobby or influence legislation.¹² An organization which has 501(c)(4) status also may engage in campaign activities, so long as its primary activities promote social welfare and its activities are nonpartisan.¹³ The evidence indicates, however, that the Coalition has engaged primarily in partisan campaign activities in disregard of the tax code's restrictions on section 501(c)(4) organizations.

CHRISTIAN COALITION VOTER GUIDES

Much of the controversy concerning the Coalition's election-related activity has centered on the printing and distribution of so-called voter guides. The voter guides typically list five to ten issues and reflect the opposing candidates' positions as either "supports" or "opposes." Among issues frequently listed are "Balanced Budget Amendment," "Term Limits For Congress," "Homosexuals in the Military," and "Repeal of the Federal Firearm Ban."¹⁴ The voter guides are distributed in selected Christian churches the weekend prior to an election and seek to provide information that the targeted voters will rely upon in casting their ballots.¹⁵ The evidence indicates that the Coalition often manipulates and distorts the can-

didates' positions, thereby providing the voters with incomplete or inaccurate information concerning the candidates.

The Committee's subpoena required the Christian Coalition to produce its voter guides for the 1996 campaign. Even though these guides were widely distributed in numerous states and districts nationally, the Coalition maintained that the guides were privileged under the First Amendment—a patently absurd proposition.¹⁶ Despite this obstruction by the Coalition, the Minority was able to obtain a number of voter guides distributed in elections around the country.

Voter guides before 1996 election cycle

The use and misuse of information included in the voter guides and the manipulation of issues to frame positions to favor the Coalition's preferred candidate over another candidate were reported by Larry Sabato, a professor at the University of Virginia, and Glenn Simpson, an investigative journalist, in their 1996 book, *Dirty Little Secrets: The Persistence of Corruption in American Politics*. Sabato and Simpson reviewed approximately 200 voter guides distributed to churches and others by the Coalition in 1994 and concluded that the guides "give every appearance of having been designed with the explicit intention of influencing voter decisions in favor of Republicans."¹⁷ The authors based their conclusion on the following observations:

- There was distortion of issues in the voter guides. This distortion was illustrated by a surprising lack of agreement between the positions of Republicans and Democrats on issues mentioned in the Coalition voter guides. In 73 percent of the Senate race voter guides and 74 percent of the House race voter guides reviewed by the authors, the nominees were shown to agree on nothing, which is unusual, even for candidates from different parties. The authors concluded, "The reason candidates were portrayed as being in almost total conflict was that the coalition manipulated the content of the guides, changing the issues from race to race."¹⁸ This form of distortion was designed to create a stark contrast between Democratic and Republican candidates.

- There was selective placement of issues in the voter guides. In almost every voter guide examined in the study, the first issue the Coalition listed was "Raising Federal Income Taxes," while the last was often "term limits," issues that do not have an obvious religious component. The authors observed that, "A longstanding dictum of marketing science holds that in printed messages, the first thing and the last thing in a list are the ones best remembered." The authors further observed that Republican candidates were almost always listed as opposed to raising income taxes and supporting term limits, while Democrats were almost always portrayed as having the opposite position.¹⁹

Supporting Simpson and Sabato's conclusions, many candidates for federal office have complained about the distortion of their positions as portrayed in the Coalition's voter guides. The distortions cover a wide variety of issues, but were often tied to the key issues in an individual race. Candidate complaints have ranged from the

distortion of issues through the use of inflammatory language to the outright misrepresentation of a candidate's position on such issues as the proposed balanced budget amendment to the Constitution.

- A compelling example of Coalition distortions occurred in the 10th Congressional District in Indiana. The Coalition's 1994 voter guide indicates that Democratic Representative Andy Jacobs opposed a balanced budget amendment, while his opponent favored it. However, Representative Jacobs was a supporter of a balanced budget amendment and has stated, "I personally started that [balanced budget] movement back in 1976." The voter guide also listed him as giving "no response" on the term limits for Congress issue, thereby giving the false impression that he had responded to the other questions. According to Representative Jacobs, he had not responded to any portion of the Coalition's questionnaire.²⁰

- In Texas, Representative Martin Frost was not only a victim of distortions of his record, but issues of interest to Coalition members that he supported were omitted from the Coalition's 1994 voter guide. Frost noted, "I voted in favor of a constitutional amendment requiring a balanced federal budget, and yet the guide falsely states that I opposed a balanced budget constitutional amendment . . . I have consistently voted in favor of voluntary school prayer and in favor of the right of parents to home-school their children, and yet those votes are not even mentioned in the guide."²¹

- Another example is the 1994 Senate race in Virginia between the Democratic incumbent Charles Robb and Oliver North. The Coalition's voter guide stated that Senator Robb favored banning ownership of legal firearms. According to Senator Robb, "I have not attempted to ban the ownership of legal firearms at all. I did vote to change the law with respect to some combat assault weapons, and the law would then require that those particular weapons not be owned, produced, whatever the case may be. But nothing that is legal have I voted to ban."²²

- Richard Fisher, a Democratic candidate for the Senate in Texas, has stated that a 1994 Coalition voter guide correctly listed his opposition to educational vouchers and his support of abortion rights. However, although he had repeatedly stated his support for term limits, a balanced budget and a line-item veto for the President, the guide reflected Fisher's answers to those questions as "no response."²³

In her book analyzing the 1996 elections, Elizabeth Drew wrote: "[T]he idea that the Coalition didn't prefer particular candidates was a fiction. It had a clear preference in most of the competitive races; the voter guides left no doubt as to the preferred candidate. The guides have been found to vary from district to district or state to state in the issues they raised, enabling preferred candidates to get high scores."²⁴

Voter guides used during the 1996 election cycle

In 1996, the Coalition admitted spending at least \$22 million on the elections and working to distribute about 45 million voter

guides in churches on the Sunday before election day.²⁵ A review of Coalition voter guides for many of the 1996 federal races indicates that much of what was reported earlier concerning Coalition abuses in the 1994 elections applied to the 1996 races. For example, rather than providing a complete list of issue positions for each candidate so that voters understood the candidates' positions on each issue, different issues often appeared in voter guides in House and Senate races in the same state. Issues appeared to have been changed in an effort to favor the Coalition's preferred candidate. Examples involving the 1996 voter guides include the following.

- In Georgia, in the Senate and 8th Congressional District races, "Abortion on Demand" was an issue listed in the Coalition's voter guides. However, that issue was replaced in Coalition voter guides for the 2nd, 4th, 10th, and 11th District races with the issue "Banning Partial Birth Abortion" and "Taxpayer Funding of Abortion."²⁶ The voter guides thus failed to provide a consistent list of issues to educate the voting public about where Georgia candidates stood on issues of concern; the voter guides instead appeared to alter the issues presented in order to present a favorable image of particular candidates in a particular race.

- In several Coalition voter guides distributed in Iowa, a question concerning a balanced budget amendment to the Constitution was included for the presidential and congressional candidates, but did not appear in the guide for the U.S. Senate race. A possible reason the issue was omitted from the Senate voter guide is that Democratic Senator Tom Harkin had supported a balanced budget amendment, voted for it, and sent the Coalition a letter stating his position on that issue. Apparently, the Coalition chose not to inform Iowa voters of Senator Harkin's position.²⁷

- Voter guides for the 1996 presidential race included the issue "Banning Partial Birth Abortion." The guide stated that President Clinton "Opposes" the ban. However, the President had repeatedly stated that he supports such a ban, provided that it includes an exception to protect the life and health of the woman.²⁸

- In Alaska, as well in some other states, the issue of firearms was included in the Coalition voter guide. In the Coalition questionnaire candidates were questioned about repeal of the federal ban on semi-automatic firearms. However, the Coalition recharacterized the issue in its voter guides, using imprecise and inflammatory language such as "Repeal of the Federal Firearm Ban" on the voter guide for the at-large congressional race. The issue was phrased in the voter guide to give the impression that the federal government had banned ownership of firearms.²⁹

- In Massachusetts, in the 4th, 6th, 7th, 8th, and 9th Congressional Districts, candidates' positions on "Homosexuals in the Military" were listed in the Coalition's voter guides, but that issue was replaced in the 10th District voter guide with "Federal Government Control of Health Care." Again, it is unclear why the same issues were not included in all districts so that voters could compare candidates' positions, but instead

issues were changed, apparently to favor one candidate over another. Also in Massachusetts, modifying language concerning the balanced budget issue was included in the voter guide regarding Representative Joe Kennedy. The guide stated that Representative Kennedy opposed the “Balanced Budget Amendment With Tax Limitations.” Other voter guides reported the issue as “Balanced Budget Amendment.” Apparently, the modifying language “With Tax Limitations” was included so that the Coalition could report that Representative Kennedy opposed the amendment, even though he was on record as supporting a balanced budget amendment.³⁰

- In a 1996 California Congressional race, Walter Stoermer, a former Christian Coalition official in California, admitted that the Coalition had misrepresented in its voter guides the abortion views of a Republican candidate to make him more acceptable to pro-life voters in comparison to the Democratic candidate. Stoermer said that the 1996 Coalition voter guides portrayed Republican Representative Sonny Bono as against abortion when he actually supported abortion rights.³¹

The evidence indicates that Coalition voter guides have also been used in Republican primaries to promote candidates favored by the Coalition. Below are examples from Republican primaries in which the Coalition appeared to be favoring a particular candidate rather than simply educating the electorate about the candidates' positions.

- On November 27, 1995, Norma Paulus, a candidate for the Senate in Oregon's Republican primary, wrote to Ralph Reed complaining that the Coalition was attempting to hide its support for another candidate and to manipulate “well-meaning church-goers seeking impartial advice” by publishing an unfair and inaccurate account of her positions in a voter guide. Paulus wrote, “For you to suggest that my positions are other than those stated in this letter is a lie. . . [I]t is outrageous and totally irresponsible of you to bear false witness in this manner.” Paulus demanded, but did not receive, a retraction.³²

- In 1997, Virginia State Senator Kenneth Stolle finished third in a Republican primary race for Attorney General. Senator Stolle, a conservative Republican, characterized the portrayal of his positions in the Coalition voter guide as “inaccurate and misleading.”³³ For instance, Senator Stolle's opponents, Mark Early and Jerry Kilgore, reportedly were listed in the Coalition voter guide as opposing off-track betting parlors, while Senator Stolle was listed as a supporter. Stolle, however, claimed to have introduced legislation to eliminate or restrict off-track betting. Senator Stolle said that the issue was not included in the Coalition's questionnaire sent to the candidates.

- Finally, in an “open letter” to the Coalition's Pat Robertson and Ralph Reed, Republican Senator Arlen Specter of Pennsylvania alleged that the Christian Coalition had excluded him from a forum of GOP presidential contenders because he supports abortion rights:

You deny the most basic American rights—the right to speak out and the right to be heard as you seek to dominate the political process and dictate the Republican nomi-

nee for president for 1996. . . . Who are you to impose a litmus test and exclude someone because he is the only pro-choice candidate challenging the Republican platform which denies women their constitutional right to choose? . . . Even in repressive Communist China, dissenting views are permitted at the World Conference on Women.³⁴

Senator Specter was later invited to address the Coalition's state and national leadership, but not the general session at which the other candidates were invited to speak. Senator Specter responded, "I'm entitled to equal treatment."³⁵

The study performed of the Coalition's 1994 voter guides together with the evidence obtained regarding the Coalition's 1996 voter guides indicate that the Coalition uses its voter guides, not to educate the electorate about the positions held by all candidates in a race, but rather to persuade the electorate to support particular candidates that the Coalition favors. In the vast majority of cases, these candidates have been from the Republican Party and from its most conservative wing.

COALITION OFFICIALS ENDORSED CANDIDATES

The Coalition engaged in openly partisan activity at its 1995 "Road to Victory" conference in Washington, D.C. The annual Coalition conference features appearances by invited Republican national political candidates who address the attendees regarding issues of importance to Coalition supporters. At "breakout" sessions at the meeting, state caucus groups convene to discuss local Coalition issues. Although the Coalition claims not to endorse candidates, specific Republican candidates were endorsed during state caucus meetings at the 1995 conference, according to press reports. There were also discussions of "stealth" tactics to be used to identify supporters and gain control of local Republican parties.

One example of the Coalition endorsing a candidate occurred during the South Carolina State Caucus meeting in 1995. Roberta Combs, director of the South Carolina Christian Coalition, stated that Democratic Representative John Spratt "needs to go." Combs then introduced Republican candidate Larry Bingham, and commented, "He's going to be our next congressman in the 5th District." Bingham stated, "Larry Bingham will score 100 on your scorecard. . . I need your help. I need your support. Roberta has given me her personal support. . . . With your help, we can defeat John Spratt." Combs seemed aware that these activities were questionable; she twice demanded that any reporters leave the room.³⁶

Similarly, at the Louisiana State Caucus meeting, Louisiana State Coalition Director Sally Campbell openly endorsed the gubernatorial candidacy of Republican State Senator Mike Foster. Campbell told attendees that Senator Foster promised her that if elected, he would call a special session of the legislature to mandate a ballot initiative against gambling. Reportedly, Senator Foster told Campbell that he could not be elected without the Coalition's help. The national Christian Coalition, as noted above, claims that it does not endorse candidates. To avoid that ban, Campbell suggested that Coalition activists endorse candidates, but ensure that

every time an endorsement appeared in print, the caveat "Affiliation given for identification purposes only" be included.³⁷

In addition to supporting candidates, in at least one state caucus meeting at the 1995 Road to Victory conference, Coalition members surreptitiously engaged in political activities. Arizona Coalition Field Director Nathan Sproul reportedly urged attendees at the Arizona Caucus meeting to become precinct committee chairs in the Republican Party, but cautioned them not to disclose to anyone that the Coalition was behind the effort. Sproul advised the attendees that the Coalition needed precinct committee chairs to elect delegates to the Republican National Convention.³⁸

At the 1996 "Road To Victory" Conference, candidates were again endorsed at individual state caucus meetings:

- Representative David Funderburk (R-N.C.) and his wife Betty appeared at the North Carolina Caucus meeting and appealed for help in his re-election bid. At the meeting, Representative Funderburk commented, "I wouldn't be a member of Congress if it weren't for the work the Christian Coalition had done for me." State Coalition Chairman Sim DiLapp advised Funderburk, "We want to do what we can for you."³⁹

- In the Texas Caucus meeting, Texas Coalition State Director Jeff Fisher discussed races for the state board of education and noted that one of the candidates, Rich Neill, was present in the room. Fisher advised the attendees to "forget the top of the ticket," and focus on developing a "farm team of lower office holders." Fisher asserted, "The Rich Neills at the bottom of the ticket are going to run for statewide offices in the future."⁴⁰

- In the California caucus meeting, California Coalition Chairwoman Sara DiVito Hardman cited a state legislative race in Santa Ana where "we got our guy elected" by distributing 30,000 voter guides. Hardman noted that state caucus attendance was down and attributed it to attendance at the Republican National Convention in San Diego in August.⁴¹

- South Carolina Coalition Director Roberta Combs commented in the South Carolina Caucus meeting on the state's U.S. Senators, Republican Strom Thurmond and Democrat Ernest Hollings, stating, "Thurmond is good, Hollings is trouble." Combs stated that Senator Hollings "voted wrong" on recent bills concerning gay rights and abortion restrictions.⁴²

Ralph Reed apparently also used the Road of Victory conference to encourage general support for Republican candidates in the 1996 elections. Reed told the press at the conference:

If the Republicans hold both houses of Congress, or gain seats in either chamber, regardless of what happens in the presidential race, it will be a major statement that the religious conservative movement has arrived as a permanent and institutionally stronger player that can win victory down the ballot even when the presidential race remains uphill."⁴³

Most recently, at the 1997 Road to Victory conference held in Atlanta in September 1997, Pat Robertson, chairman of the Coalition, made remarks which cast doubt on the Coalition's position that it

does not engage in activities to elect candidates. In addressing about 100 members of the Coalition's state branches, Robertson made clear his comments were not intended for the general public, "This is sort of speaking in the family. . . . If there's any press here, would you please shoot yourself? Leave. Do something."⁴⁴ Robertson spoke in detail about the need for the Coalition to increase precinct-level political efforts and suggested that the Coalition imitate Tammany Hall and other successful political machines. Robertson also commented on the Coalition's part in the Republican Party's congressional victories and control of Congress, and asserted his expectations that the Republican leaders would listen to his agenda. In discussing the Republican presidential nominee in the year 2000, Robertson said, "We have absolutely no effectiveness when the primary comes. None whatsoever. Because we have split our votes among four or five people and the other guy wins. . . . So we need to come together on somebody."⁴⁵ In an apparent reference to Vice President Gore, Robertson derided him as "ozone Al," and said that "I don't think at this time and juncture the Democrats are going to be able to take the White House unless we throw it away." He also asserted the Coalition has the "possibility" of selecting the next U.S. president.⁴⁶ By his own words, Robertson confirmed that the Coalition seeks to influence elections and establish itself as a powerful political organization, and that its goal is to elect Republicans, not Democrats.

Finally, there is considerable evidence that the Coalition expressed a preference for and worked to ensure the nomination of Senator Dole to be the Republican Party's presidential nominee in 1996. The media reported that in January 1996, Ralph Reed was "encourag[ing] county and state coalition officers to back [Senator] Dole" for the Republican nomination.⁴⁷ In March 1996, Michael McHardy, general manager of religious radio station KSIV in St. Louis, Missouri, resigned from the advisory board of the state Christian Coalition. He cited Coalition support for Senator Dole as a reason for his resignation, stating, "On the national level, they have been working to get Bob Dole elected." Showing any candidate preference, he said, ran counter to the Coalition's stated purpose—"to promote certain issues on a local level and to issue objective scorecards showing each candidate's stances on those issues." McHardy cited a "puff piece" on Senator Dole that appeared in the Coalition's *Christian American* magazine in late February.⁴⁸ Documentation obtained by the Committee reveals that the magazine contacted the Dole campaign just before a series of crucial primaries to prepare a "full length cover article on Senator Dole" for the February edition.⁴⁹ Later, according to one election analyst, "Reed's support for Dole would turn out to be crucial in South Carolina, where Dole dutifully attended a rally laid on by Reed, and wrapped up the nomination."⁵⁰ In June 1996, Robertson stated, "The Christian Coalition, without it probably Bob Dole wouldn't be the nominee."⁵¹

The evidence indicates that the Coalition is attempting to influence the election of Republican candidates to public office and is seeking to further its political goals by building a political organization at the precinct level—activities indicative of a political party, not a social welfare organization. These activities dem-

onstrate that the Coalition functions primarily as a political committee and its major purpose is the nomination and election of Republican candidates to public office.

COALITION TIES TO THE REPUBLICAN PARTY

The Committee obtained a number of RNC documents which reveal close ties between the Coalition and the Republican Party, providing further evidence of the Coalition's partisan nature. Despite Coalition assertions that it qualifies as a social welfare organization, the documents confirm that the Coalition works closely with the Republican Party.

For example, during the 1996 election cycle, the RNC supplied Republican candidates with a 29-page "Coalition Building Manual," advising them on how to work with nonparty organizations to win election.⁵² The manual provided a list of specific organizations that "have been the most active in encouraging their constituents to support Republican candidates."⁵³ The list includes the Christian Coalition, which is described as a group which conducted "some of the most effective and hard-hitting mail and phone programs last cycle."⁵⁴

A memorandum dated April 23, 1996, to RNC chairman Haley Barbour from RNC political director and head of campaign operations Curt Anderson indicates that the RNC routinely identified sympathetic outside groups and instructed its candidates to develop formal coalition plans with them, including the Christian Coalition.⁵⁵ The memorandum states:

Every [RNC] Regional Field Representative is in the process of putting together the definitive list of the 5 top reachable coalition groups in each state, and their approximate size . . . [Redacted] will be on this list for most states, as will the [redacted], and [National Right to Life]. Christian Coalition will make the list in about ½ of the states.

At virtually all of our field meetings we have put together day long meetings in which we bring the decision makers from the biggest coalition groups. We generally spend an hour with each of them comparing notes on races. . . .

While it has always been true that our coalition groups need direction on how they can best effect the outcome of elections, many of the larger groups are becoming increasingly sophisticated in their approach and they employ competent professionals who know how to make things happen.⁵⁶

Another internal RNC memorandum discussing "Outreach, Auxiliaries, Coalitions," identified "five coalition organizations that have distinguished themselves and we have to pay special attention to," including the Christian Coalition.⁵⁷

Still another internal RNC memorandum, dated March 4, 1996, to Barbour from Anderson, placed the Coalition leadership at the heart of the Republican Party's strategy for victory in 1996.⁵⁸ In response to a request from Barbour, Anderson developed a list of persons who should be included in a select Republican leadership coa-

lition of outside groups. Anderson recommended that Ralph Reed, the Coalition's executive director, and Chuck Cunningham, the Coalition's director of voter education be included, because they represent a group "that actually [has] troops in the field," and "they can motivate, activate, and deliver."⁵⁹ About 40 individuals were apparently evaluated by Barbour and other top RNC officials for inclusion in this select group; Ralph Reed was one of only two individuals who received unanimous support.⁶⁰ When Congressman Bill Paxon, head of the National Republican Congressional Committee ("NRCC"), was asked to "list the most important people or groups behind the Republicans' effort to maintain control of the House" in 1996, he too listed the Christian Coalition.⁶¹

This evidence indicates that the RNC deliberately planned to work with independent groups to affect the outcome of the 1996 elections, and that the Christian Coalition was an integral part of this effort. The Minority attempted to clarify these documents by taking the deposition of Anderson and others named in them, but no one from the RNC or Coalition provided any interview or deposition on these matters.⁶²

Additional documents reveal that, during the 1996 election cycle, high-ranking officials of the RNC and the Christian Coalition had an ongoing working relationship. A December 15, 1995, internal RNC memorandum to Anderson from Jack St. Martin, RNC director of coalitions, discussed "Coalition Activities Week of Dec. 15." St. Martin commented on his "constructive" meeting with Coalition Director of Voter Education Chuck Cunningham and National Field Director D.J. Gribbon, at which he "reassured" them the RNC would "work with them."⁶³ (St. Martin recently resigned his RNC position and joined the Christian Coalition.⁶⁴)

A memorandum dated September 6, 1995, from St. Martin to RNC Chairman Haley Barbour concerned an upcoming speech by Barbour to the Coalition.⁶⁵ St. Martin advised Barbour to thank the Coalition for its contribution to the Republican victories in 1994. He suggested that Barbour tell the Coalition that "it is not simply a special interest group, but a vital part of the Republican base." Finally, St. Martin recommended that Barbour encourage Coalition members "to run for national delegate slots."

A memorandum to Anderson dated March 6, 1996, entitled, "Coalitions," categorized various outside groups according to their issues of concern and apparently discussed how the RNC could work with them.⁶⁶ The first entry states: "Family issues/Christian Coalition/Eagle Forum/Pro-Life groups/in-state PACS. In this community alone there are probably two dozen different organizations. What we ask them to do would be very different than what we ask pro-gun groups to do." This memorandum is additional evidence that the RNC was indeed asking groups like the Coalition to take actions on behalf of Republicans in connection with the 1996 elections.

In addition to RNC-Coalition communications, Drew and others have described ongoing communications and meetings between the Christian Coalition and the Dole campaign.⁶⁷ Drew writes:

"Scott has an ongoing relationship with Ralph," a Dole adviser said. According to Scott Reed, the two men talked once a week throughout the summer and fall [of 1996].⁶⁸

One series of communications took place around the Coalition's 1996 annual conference in which Reed allegedly sent written memoranda and spoke with Scott Reed, Dole campaign manager, and Paul Manafort, a key strategist in the Dole campaign, recommending that Senator Dole address the conference. After Senator Dole spoke to the conference, Ralph Reed reportedly sent Scott Reed another memorandum congratulating the Dole campaign on improving poll numbers and recommending "that Dole appear at an evangelical college in the South or a battleground Midwestern state. He specifically recommended Wheaton College in Illinois, Hillsdale College in Michigan, and several other schools. He then called Manafort."⁶⁹ None of these memoranda, however, was produced to the Committee. In fact, neither the Dole campaign nor the Christian Coalition produced a single memorandum exchanged between the two organizations during the whole of the 1996 election cycle.

Besides describing routine Coalition communications with the RNC and Dole campaign, Drew describes routine contacts between Ralph Reed and other key players in the Republican Party:

The relentlessly cheerful [Congressman] Bill Paxon [head of the NRCC] by mid-September was still predicting that the Republicans would pick up twenty House seats. In the course of our phone conversation, Paxon told me he had to ring off because Ralph Reed was waiting to see him. Then Paxon tried to pass it off as a once-a-year-or-so friendly visit. In fact, Reed told me later, he talked to Paxon during the election "a couple of times a month."

Ralph Reed also kept in touch with several of the consultants who worked with the Republican leadership and on congressional campaigns. His pollster, Vern Kennedy, also polled for Republican Jeff Sessions's campaign for the Alabama Senate seat. Others Reed kept in touch with were Frank Luntz, the thirty-three-year-old Republican pollster, and Joe Gaylord, the political consultant and close adviser to Newt Gingrich.⁷⁰

The Coalition also regularly attended weekly meetings held throughout 1996 at the headquarters of Americans for Tax Reform, attended by 50-70 conservative activists, Republican Party representatives, and candidates.⁷¹ Drew writes that these meetings often served as strategy sessions for the 1996 elections on behalf of Republicans, recounting, for example, group discussions of candidates and specific House and Senate races, and instances in which Republican candidates made formal presentations at the meetings and requested support for their election efforts. These meetings are described in more detail in Chapter 11 on Americans for Tax Reform.

Still other Republican Party connections during the 1996 election cycle emerged during the Republican National Convention, held August 12 to 15, 1996, in San Diego. Just before the convention, the media reported that Amway Corporation had donated \$1.3 million to the nonprofit San Diego Convention and Visitors Bureau (ConVis) which, in turn, had paid the money to the Family Channel to broadcast gavel-to-gavel, "unfiltered" coverage of the Repub-

lican Convention.⁷² The Family Channel is controlled by Pat Robertson.⁷³ After the Democratic National Committee filed an FEC complaint charging Amway with laundering an illegal corporate contribution to the Republican Party through ConVis, the plan was abandoned. The \$1.3 million was repaid to Amway, and the RNC instead used taxpayer funds to pay for five nights of air time on the Family Channel.⁷⁴ This convention coverage was not the first time that Robertson's network carried programming favoring the Republican Party; in 1990, the Family Channel aired programming from the American Citizens' Television, an effort associated with GOPAC and House Speaker Newt Gingrich.⁷⁵

The Coalition's actions to support Republican candidates and the Republican Party in the 1996 elections was not a new development. As recounted in the FEC complaint against the Coalition described below, the Coalition has been helping Republican candidates in the last three election cycles. For example, the Coalition is alleged to have provided direct financial assistance to Senator Jesse Helms (R-NC). A \$14,000 Coalition check payable to "Christian Coalition of North Carolina" is dated October 30, 1990.⁷⁶ On the check is the notation "GOTV Calls State Project G/L 5710," an apparent reference to a "get out the vote" telephone bank operation. The FEC complaint alleged that the Coalition acted in concert with Helms's re-election campaign, and "made expenditures directly and/or through its state affiliate to make approximately 29,800 telephone calls as part of a get-out-the-vote telephone bank operation in connection with the November 1990 general election in North Carolina."⁷⁷

Rather than provide direct financial assistance, the Coalition "rented" a mailing list of 36,000 of its supporters to Republican candidate Oliver North's campaign during his 1994 Senate race in Virginia against Senator Chuck Robb. North allegedly paid \$5,131 for the list in the spring of 1994. Coalition communications director Arne Owens acknowledged the incident but asserted that the list was rented at fair market value.⁷⁸

In 1992, the Coalition apparently received a donation "earmarked" for the Bush presidential campaign. On July 23, 1992, John Wolfe, a business executive, wrote to Pat Robertson that "a very good friend of mine [Lyn Nofziger] tells me your group is very supportive of President Bush and that you will be doing a massive distribution of literature on his behalf." Wolfe wrote that he was advised that "you could use some financial help with that project for the President and therefore, on the recommendation of Lyn, I am pleased to send you a contribution of \$60,000." Enclosed with the letter was a personal check in that amount dated July 23, 1992. In an August 3, 1996, interview, Nofziger acknowledged that he had known Wolfe for 30 years and recalled discussing the issue with him.⁷⁹

COALITION ACTIVITY IN STATE ELECTIONS

Although the Committee's mandate focused on the 1996 federal election, the Coalition's activities in state elections are relevant because they show a continuing pattern of partisan political activity. In 1991, Virginia Beach Republican Kenneth Stolle was supported by the Christian Coalition in his state Senate campaign against in-

cumbent Democrat Moody Stallings. According to Judy Liebert, the Coalition's former chief financial officer, the Coalition mailed thousands of Stolle campaign letters from its headquarters.⁸⁰ The Coalition advised that the local Republican committee paid \$4,742 for the mailing. In defending itself, the Coalition pointed out that state elections are not under the jurisdiction of the Federal Election Commission, and that state election law allows unlimited corporate contributions to state candidates. The Coalition asserted that it "simply functioned as a lettershop."⁸¹

Despite its claims that it "simply functioned as a lettershop," the Coalition appears to have provided financial assistance as well. A Coalition check in the amount of \$25,000 made payable to the 2nd District Republican Committee is dated November 12, 1991, one week after the Stolle-Stallings election.⁸² Reportedly, a factor in Stallings's defeat was a "blitz" of negative television advertisements in the final week of the campaign—bought by the 2nd District Republican Committee. Had the Stolle campaign purchased the ads, it would have been required to report the contributors. Interestingly, Pat Robertson's son, Gordon Robertson, was the 2nd District Republican chairman at the time, and he refused to reveal the source of the money. A state police investigation of the matter ensued, after which the Norfolk commonwealth's attorney determined that the party was not required to reveal the source of the ad money. The \$25,000 was characterized by a Coalition spokesman as a "one-time" contribution for "general party-building purposes."⁸³

Similar to the "rental" of a Coalition voter list to Oliver North's 1994 U.S. Senate campaign was the "sale" of a voter list to a Republican candidate in a Florida state race. A presentation at the 1993 Coalition "Road to Victory" conference by Max Karrer, Coalition state coordinator for North Florida, revealed how the Christian Coalition of Florida assisted a Republican candidate in winning a seat in the state legislature. According to Karrer, the Coalition used computerized membership lists of conservative churches to build a Christian voter data base. The list was then sold to the conservative candidate for five dollars. Karrer stated, "We were not allowed to give them away, so we charged him five dollars; but we printed labels for him of the Christian voters, which enabled him to put out direct mailings to the Christian voter, that he would not necessarily do to the general public. . . . You want to talk about stealth campaigns; it was quietly done, and they didn't realize they were in trouble until it was too late." Commenting on the Coalition's influence among candidates, Karrer stated, "When someone wants to run for office, they come to the Christian Coalition. . . . It gives you . . . tremendous lobbying power with the legislator because they think you have this huge bloc of votes that you can swing, though you can't necessarily."⁸⁴

Distortion of candidates' positions in Coalition voter guides is not limited to federal elections. A Florida state circuit court barred the Seminole County Christian Coalition from distributing copies of its voter guide before the October 4, 1994 runoff election for the Seminole County Commission.⁸⁵ Adrienne Perry, Democratic candidate for Seminole County Commission District 2, had alleged in a lawsuit that the voter guide misrepresented her views on homo-

sexual marriage. Perry claimed that her support for allowing homosexual partners to be included on health plans was misrepresented in the guide as a blanket approval of legalizing homosexual marriages. The Circuit Court judge ruled that the Coalition questionnaire sent to Perry and other candidates and the resulting voter guide did not allow for a “moderate view.” The judge stated, “It’s either one way or another, and that’s misleading. It doesn’t represent Ms. Perry’s position.”⁸⁶

Candidate endorsement also continues within local Coalition circles. In August 1997, Virginia State Delegate Jay Katzen, a Fauquier County Republican invited by the Coalition to lead a political training session in Fairfax County, urged members to work against Democratic gubernatorial candidate Don Beyer. Reportedly, Katzen referred to Beyer as a “dangerous opponent,” but praised Republican Governor George Allen and James Gilmore, Beyer’s Republican opponent. “Don Beyer has promised. . .to reverse everything that you elected me and George Allen and Jim Gilmore to achieve,” Katzen told the Coalition activists. Mark Rozell, a political scientist at American University who wrote a book about the religious right, commented, “Jay Katzen’s remarks should put to rest the argument about whether the Christian Coalition is really an arm of the Republican Party. . . . This is so explicit, it’s incredible.”⁸⁷

FEC ACTION

In complaints filed with the FEC since February 1992, the Democratic Party of Virginia, and later the Democratic National Committee, alleged improper political activity by the Coalition.⁸⁸ These complaints led to an FEC investigation and subsequent suit against the Coalition in federal court. On July 30, 1996, the FEC, by affirmative vote of four of its members (two Democratic appointees joined by two Republican appointees), filed suit against the Coalition, alleging the organization improperly provided aid to Republican candidates.⁸⁹

The FEC complaint alleged, “During the campaign periods prior to the 1990, 1992 and 1994 federal elections, [the] Christian Coalition made expenditures, directly from its corporate treasury and/or through its subordinate state affiliates, to influence the election of candidates for federal office.”⁹⁰ Referencing examples of the Coalition’s work with prominent Republican candidates such as former President George Bush, Senator Jesse Helms, former Senate candidate Oliver North and House Speaker Newt Gingrich, the FEC alleged that the Coalition spent money on voter guides and other get-out-the-vote efforts in conjunction with particular candidates’ campaigns and engaged in expressly advocating the election or defeat of specific candidates. The complaint further stated that the Coalition consulted with candidates’ campaigns before making the improper expenditures, which are considered “in-kind contributions.”⁹¹ Corporations are prohibited by law from making contributions from corporate treasury funds to federal elections.⁹² However, corporations may legally engage in such activity through a separate, segregated political committee fund, subject to federal election law registration and reporting requirements.⁹³

The FEC complaint consists of three causes of action.⁹⁴ The first cause of action alleges violations of law for Coalition actions on behalf of the following candidates or campaigns:

- Bush/Quayle campaign—The Coalition made expenditures for voter identification and get-out-the-vote efforts and for the preparation and distribution of approximately 28 million voter guides in connection with the 1992 election for president and vice president of the United States.⁹⁵

- Jesse Helms—The Coalition made expenditures directly and/or through its state affiliate to produce and distribute approximately 750,000 voter guides in connection with Senator Helms's November 1990 general election campaign and additionally made expenditures to make approximately 29,800 telephone calls as part of a get-out-the-vote telephone bank operation in connection with the November 1990 general election in North Carolina.⁹⁶

- Oliver North for U.S. Senate Committee, Inc.—The Coalition made expenditures directly and/or through its state affiliate to produce and distribute approximately 1,750,000 voter guides in connection with the 1994 general election campaign in Virginia and additionally made expenditures for voter identification and get-out-the-vote efforts in connection with the 1994 general election campaign in Virginia.⁹⁷

- Inglis for Congress Committee—The Coalition made expenditures directly and/or through its state affiliates for voter identification and get-out-the-vote efforts in connection with the 1992 general election in the Fourth District of South Carolina and also made expenditures to produce and distribute approximately 240,000 voter guides in connection with this election.⁹⁸

- J.S. Hayworth for Congress—The Coalition made expenditures directly and/or through its state affiliates for voter identification and get-out-the-vote efforts in connection with the 1994 general election in the Sixth District of Arizona and also made expenditures to produce and distribute approximately 200,000 voter guides in connection with this election.⁹⁹

The second cause of action concerns the National Republican Senatorial Committee, “a national party committee dedicated to the election of Republican candidates to the United States Senate.” The FEC alleged that “[d]uring 1990, [the] Christian Coalition, acting in coordination, cooperation, and/or consultation with the NRSC, made expenditures directly and through its state affiliates to produce and distribute between five and ten million voter guides in seven states in connection with the November 1990 federal elections for the United States Senate.”¹⁰⁰

The third FEC cause of action alleges that “[The] Christian Coalition made corporate expenditures directly and/or through its state affiliates for public communications expressly advocating the election or defeat of clearly identified candidates for federal office.” It states that, for example, the “Christian Coalition, through its subordinate state affiliate in Montana, made expenditures in excess of \$250 during a calendar year for a two day conference open to the public held during January 1992. At this conference, Dr. Ralph Reed expressly advocated the defeat of United States Representa-

tive Pat Williams. Thus, the conference costs were independent expenditures by Christian Coalition in opposition to the candidacy of Representative Pat Williams." It states that, in addition, the Coalition may have violated 2 U.S.C. Section 434(c) by failing to report the costs of the conference as an independent expenditure in opposition to the candidacy of Representative Pat Williams.¹⁰¹

Additionally, the third cause of action alleges that during 1994, the Coalition made expenditures in excess of \$250 during a calendar year for the preparation and distribution of a direct mail package entitled "Reclaim America" which included a scorecard and a cover letter signed by Pat Robertson. In the letter, Robertson asserted that the enclosed scorecard would be an important tool for affecting the outcome of the upcoming elections: "This SCORECARD will give America's Christian voters the facts they will need to distinguish between GOOD and MISGUIDED Congressmen." The scorecard listed and characterized many issues voted on in the Senate and House in 1993 and 1994. Each Member's votes were reflected as a "-" or a "+", followed by percentages. The scorecard stated: "A score of 100% means the Congressman supported Christian Coalition position on every vote. A score of 0% means the Congressman never supported a Christian Coalition position." The FEC alleged that the mailed package together constituted express advocacy of "clearly identified candidates for federal office," and constituted unreported independent expenditures, in violation of the law.¹⁰²

Finally, the third cause of action alleges that prior to the July 9, 1994 primary election in Georgia, the Coalition, through its subordinate state affiliate in Georgia, made expenditures in excess of \$250 during a calendar year for the preparation and distribution of a combination Congressional Scorecard and cover letter, which stated in part: "The only incumbent Congressman who has a Primary election is Congressman Newt Gingrich—a Christian Coalition 100 percenter." The FEC alleged that the mailing constituted express advocacy of the re-election of Gingrich, constituting unreported independent expenditures in violation of the law.¹⁰³

The FEC asked the court to declare that the Christian Coalition violated 2 U.S.C. Section 441b and 434(c). The FEC further asked the court to enjoin the Christian Coalition from making similar corporate contributions and expenditures in violation of 2 U.S.C. Section 441b; and to enjoin the Christian Coalition from violating 2 U.S.C. Section 434(c) by failing to report its independent expenditures. Additionally, the FEC asked the court to assess an appropriate civil penalty against the Christian Coalition for each violation found by the Court to have been committed by the Corporation, not to exceed the greater of \$5,000 or the amount of the expenditure involved in the violation, and to grant such other relief as may be appropriate.¹⁰⁴ The FEC suit is ongoing.

CONCLUSION

The evidence shows that the Christian Coalition is closely tied to the Republican Party and functions as a partisan political committee. The Coalition has been led by persons with close ties to the Republican Party, received about \$64,000 in start-up funds from the National Republican Senatorial Committee, and is repeatedly iden-

tified in RNC documents as “a vital part of the Republican base.” Former Coalition officials have confirmed that the organization is closely aligned with the Republican Party and explained how the Coalition constructs its voter guides to favor the candidates the Coalition prefers. The fact that the two FEC Republican commissioners joined with their two Democratic counterparts in deciding to file suit against the Coalition supports the conclusion that the Coalition does indeed engage in election activity promoting specific Republican candidates.

The ongoing pattern of distortion of candidates’ positions as stated in Coalition voter guides and the above-cited examples of candidate endorsements provide evidence that the Coalition does not seek merely to inform and educate voters, but instead functions to elect specific Republican candidates to offices at all levels of government. Another disturbing tactic employed by the Coalition is the distribution of voter guides in selected churches the weekend prior to an election, thus making it difficult for candidates to correct any distortions of their positions. The fact that voter guides did not address the same issues in the same manner for each district, but instead attempted to portray the Coalition’s favored candidate in the most favorable light, amounted to candidate endorsement, not simply informing and educating the voter.

The Coalition voter guides also failed to list positions on all surveyed issues for all candidates, thereby precluding the voter from a full understanding of the candidates’ views on each issue. As discussed earlier, issues portrayed in the voter guides were reduced to sparsely worded “sound bites,” which condensed complex political issues into simple phrases, without explaining the varying degrees of difference among candidates’ positions. Apparently, the Coalition does not wish to fully inform its constituents of the candidates’ positions, preferring instead to slant voter guide issues in an effort to elect the Republican candidate preferred by the Coalition. In the Minority’s view, such tactics are employed because the Coalition fears that fully informed voters may not support the Coalition’s candidates.

The evidence indicates that the Coalition is a partisan Republican political committee, whose primary activity and major purpose is the election of Republican candidates to public office, and should not be granted IRS section 501(c)(4) “social welfare organization” tax exempt status. It is time for the IRS to reach a final decision on this matter. In addition, the FEC should continue its civil enforcement action to require the Coalition to stop making prohibited corporate contributions to federal candidates and to report independent expenditures to the FEC. More, the Coalition ought to register with the FEC as the political committee it is.

FOOTNOTES

¹*FEC v. Christian Coalition*, Civil Action No. 96-1781 (U.S.D.C. District of Columbia), 7/30/96 (hereinafter “FEC Complaint”); FEC Statement of Reasons, Commissioner Aikens and Elliot, 1/24/96.

²Letter from Senator Glenn to Chairman Thompson concerning 11 Minority-drafted subpoenas, 3/3/97.

³Committee Subpoena to Christian Coalition, 7/30/97.

⁴Letter from Christian Coalition, et al, to Committee re: Joint Statement of General Objections to Subpoenas, 9/3/97.

⁵Sabato, Larry J. and Glenn R. Simpson. *Dirty Little Secrets: The Persistence of Corruption in American Politics*. New York: Times Books, 1996, pp. 109-110.

⁶Sabato & Simpson, pp. 109–10; see also Drew, Elizabeth. *Whatever It Takes*. United States: Penguin Books USA Inc., 1997, pp. 24–25.

⁷See Chapter 11 on Americans for Tax Reform.

⁸Sabato & Simpson, pp. 110–111. See also Drew, p. 24.

⁹Ralph Reed's dictated response to Christian Coalition Chief Financial Officer Judy Liebert, re: monies received from the NRSC in 1991.

¹⁰Sabato & Simpson, p. 111.

¹¹*CRS Report, 95–421A, Comparison of 501(c)(3) and 501(C4) Organizations, 3/24/95*, p. 2; 26 U.S.C. 501(c)(4). See also Chapter 9.

¹²*CRS Report, 95–421A*, p. 1; see Chapter 9.

¹³See Chapter 9.

¹⁴See “Voter Guides In The 1996 Elections” section of this chapter.

¹⁵*Church & State*, July/August 1996.

¹⁶*The Christian Coalition's Specific Objections To Schedule A*, p. 5.

¹⁷Sabato & Simpson, p. 134.

¹⁸Sabato & Simpson, p. 134.

¹⁹Sabato & Simpson, p. 135.

²⁰*Church & State*, 11/94.

²¹*Ft. Worth Star-Telegram*, 11/5/94.

²²*Richmond Times Dispatch*, 11/3/94.

²³*Ft. Worth Star-Telegram*, 11/5/94.

²⁴Drew, p. 26.

²⁵Gannett News Service, 11/8/96; *Roll Call*, 12/12/96; Drew, p. 160.

²⁶1996 Christian Coalition Voter Guides—Georgia.

²⁷1996 Christian Coalition Voter Guides—Iowa; Letter from Senator Harkin to Christian Coalition Director of Voter Education Chuck Cunningham, 4/25/96.

²⁸1996 Christian Coalition Voter Guide for Presidential Race.

²⁹1996 Christian Coalition Voter Guides—Alaska.

³⁰1996 Christian Coalition Voter Guides—Massachusetts. In Mississippi, the same modifying language concerning the balanced budget issue that appeared in the Coalition's Massachusetts guide concerning Representative Joe Kennedy, was used by the Coalition in two congressional district voter guides, but not in the remaining three district guides. 1996 Christian Coalition Voter Guides—Mississippi.

³¹Riverside (CA) *Press Enterprise*, 11/2/96. The guide indicated that Representative Bono supported a ban on partial-birth abortions, and that his opponent had not responded to the Coalition's survey. According to Stoermer, Representative Bono's responses to other abortion-related questions in the Coalition's questionnaire indicated that he supported abortion in some circumstances. For example, Stoermer indicated that Representative Bono did not answer questions about whether he supported *Roe v. Wade*, the landmark U.S. Supreme Court decision giving women the right to seek an abortion, or the right to abortion on demand during the first trimester of pregnancy. Representative Bono had also voted for an amendment in August 1995 that would have prevented states from denying the use of Medicaid funds for abortions, except in cases where the pregnancy would endanger the mother's life. *Riverside (CA) Press Enterprise*, 11/2/96.

Stoermer had resigned in a dispute with the Coalition over the exclusion of a third party candidate from the same Coalition voter guide. Information concerning American Independent Party candidate Donald Cochran, who was also running against Representative Bono, was excluded from the voter guide. The California Christian Coalition had blocked Stoermer from including Cochran in the voter guide because of a national policy to feature only viable candidates. Stoermer said neither Representative Bono nor his Democratic candidate could claim to represent family values because both had been divorced and supported abortion rights, while Cochran had never been divorced and opposed abortion. When Cochran ran against Democrat Steve Clute in 1994, he captured 6.4 percent of all ballots cast in the race. *Press Enterprise*, 10/9/96.

³²Letter from Norma Paulus to Ralph Reed, 11/27/95.

³³*Norfolk Virginian-Pilot*, 8/4/97.

³⁴*Ethnic Newswatch, Baltimore Jewish Times*, 9/15/95; Associated Press, 9/6/95.

³⁵*Ethnic Newswatch*, 9/15/95; Associated Press, 9/6/95.

³⁶*Church & State*, 10/95, p. 8.

³⁷*Church & State*, 10/95, p. 9. Campbell also made a television commercial on Foster's behalf, in her capacity as Louisiana Coalition Director; but the ad was allegedly pulled when the national Coalition office learned of it.

³⁸*Church & State*, 10/95, p. 9. Apparently Coalition officials were concerned about media scrutiny, as guards were posted at the doors to remove anyone not personally approved by the caucus leader.

³⁹*Church & State*, 10/96, p. 9.

⁴⁰*Church & State*, 10/96, p. 9.

⁴¹*Church & State*, 10/96, p. 9.

⁴²*Church & State*, 10/96, p. 9.

⁴³*Washington Post*, 9/13/96, p. 20.

⁴⁴*New York Times*, 9/18/97.

⁴⁵*Washington Post*, 9/18/97.

⁴⁶*New York Times*, 9/18/97; *Washington Post*, 9/18/97.

⁴⁷*Washington Post*, 9/13/96, p. 20.

⁴⁸*St. Louis Post-Dispatch*, 3/20/96.

⁴⁹Dole Campaign Memorandum from Judy Haynes to Jill Hansen, 12/14/95.

⁵⁰Drew, p. 23.

⁵¹Associated Press, 7/7/96.

⁵² See Chapter 10; Exhibit 2367: Coalition Building Manual, authored by Curt Anderson, R01821-49.

⁵³ Exhibit 2367, at R01841.

⁵⁴ *Ibid.* at Exhibit 2367, at R01847.

⁵⁵ Exhibit 2363: memorandum dated 4/23/96 from RNC political director and head of campaign operations Curt Anderson to RNC chairman Haley Barbour, regarding "Nuttie's Coalition Plan," R06060-62.

⁵⁶ Exhibit 2363.

⁵⁷ Exhibit 2353: undated internal RNC memorandum from "Blaise" to "Pat," regarding "Outreach, Auxiliaries, Coalitions," R51299-30.

⁵⁸ Exhibit 2365: memorandum dated 3/4/96 from RNC political director and head of campaign operations Curt Anderson to RNC chairman Haley Barbour, regarding "Group of 12, or Council of Trent, or Whatever," R006050.

⁵⁹ Exhibit 2365.

⁶⁰ Hearing exhibit 2366: untitled and undated document tallying support for, opposition to and comments by RNC officials on proposed members in a coalition of independent group leaders, R021559-60.

⁶¹ Drew, p. 14.

⁶² For example, in early August 1997, Anderson, through his attorney, indicated he would voluntarily appear for a deposition. Subsequently, he changed his mind, and at the request of the Minority, the Majority issued a Subpoena with a September 18 return date. Anderson could not be located immediately and the subpoena was served on September 19, one day after the return date. Anderson's attorney claimed the subpoena was invalid, and the Majority refused the Minority's request to issue a second subpoena to Anderson. See also Part 7.

⁶³ Memorandum from RNC coalitions director Jack St. Martin to RNC political director and head of campaign operations Curt Anderson, 12/15/95.

⁶⁴ *U.S. Newswire*, 11/20/97.

⁶⁵ Memorandum from RNC coalitions director Jack St. Martin to RNC Chairman Barbour, 9/6/95.

⁶⁶ Hearing exhibit 2362: memorandum from "Hopper" to RNC political director and head of campaign operations Curt Anderson, with a copy to RNC coalitions director Jack St. Martin, 3/6/96, regarding "Coalitions," R056245.

⁶⁷ See, for example, Drew, pp. 14, 105-7, 160-62; Associated Press, 7/7/96 (Robertson and Reed met with Dole for 40 minutes on 6/27/96.).

⁶⁸ Drew, p. 106.

⁶⁹ Drew, pp. 161-62.

⁷⁰ Drew, pp. 164-65.

⁷¹ See Drew, p. 6.

⁷² See, for example, *San Diego Union-Tribune*, 8/9/96, p. B1.

⁷³ See, for example, *San Diego Union-Tribune*, 8/9/96, p. B1.

⁷⁴ *San Diego Union-Tribune*, 8/14/96, p. B1; *Los Angeles Times*, 8/13/96, p. A18; *Newsday* 8/9/96, p. B4.

⁷⁵ *Boston Globe*, 11/22/96, p. A1; *The Village Voice*, 8/6/96, p. 23; *Washington Post*, 1/7/97, p. A1.

⁷⁶ \$14,000 Christian Coalition check to Christian Coalition of North Carolina, 10/30/90.

⁷⁷ FEC Complaint.

⁷⁸ *AP/Baltimore Sun*, 6/5/97; Universal Lists Billing invoice #1010, 3/23/94.

⁷⁹ *Washington Post*, 8/4/96; Associated Press, 8/3/96.

⁸⁰ *Norfolk Virginian-Pilot*, 8/4/97.

⁸¹ *Norfolk Virginian-Pilot*, 8/1/97.

⁸² Christian Coalition \$25,000 check to the Second District Republican Committee, 11/12/91.

⁸³ *Norfolk Virginian-Pilot*, 7/27/97.

⁸⁴ *Freedom Writer*, April 1994.

⁸⁵ *Orlando Sentinel*, 9/17/94.

⁸⁶ *Orlando Sentinel*, 9/29/94.

⁸⁷ *Washington Post*, 9/28/97.

⁸⁸ FEC Complaint, p. 2.

⁸⁹ FEC Complaint, p. 5. At the time of the vote, one position on the Commission was vacant, and another member was not present. An earlier vote to require the Coalition to register as a political committee did not pass, as it was opposed by the two Republican appointees. They contended that within the meaning of the law, the Coalition's "major purpose" was not the election or defeat of a federal candidate. FEC Statement of Reasons, Commissioners Aikens & Elliot, 1/24/96, pp. 1, 6.

⁹⁰ FEC Complaint, p. 6.

⁹¹ FEC Complaint, pp. 5-12.

⁹² FEC Complaint, p. 5; 2 U.S.C. §441b.

⁹³ FEC "Statement of Reasons," Commissioners Thomas, McGarry, & McDonald, 7/30/96, p.2.

⁹⁴ FEC Complaint, pp. 6-10.

⁹⁵ FEC Complaint, p. 7.

⁹⁶ FEC Complaint, pp. 7-8.

⁹⁷ FEC Complaint, p. 8.

⁹⁸ FEC Complaint, p. 9.

⁹⁹ FEC Complaint, p. 9-10.

¹⁰⁰ FEC Complaint, p. 10.

¹⁰¹ FEC Complaint, pp. 10-11.

¹⁰² FEC Complaint, pp. 11-12.

¹⁰³ FEC Complaint, p. 12.

¹⁰⁴ FEC Complaint, pp. 12-13.

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PART 2 INDEPENDENT GROUPS

Chapter 15: Other Republican Groups

The Committee's investigation of independent groups focused mainly on a handful of organizations that played an active role in the 1996 election cycle, and the results of this investigation are summarized in earlier chapters of the Minority Report. This chapter includes brief examinations of other nonprofit groups with ties to the Republican National Committee, Republican donors, and Republican presidential candidates.

Although these groups were not investigated in depth, the Committee did receive some documents, pursuant to subpoenas, from nonprofit organizations connected to the presidential candidates. Some of the organizations discussed in this chapter are also mentioned in documents provided to the Committee by the Republican National Committee.

SENIORS ORGANIZATIONS

Documents produced to the Committee by the Republican National Committee reveal that the RNC closely coordinated with a number of ostensibly nonpartisan organizations during the 1996 election cycle, including senior citizens' organizations. For example, on March 20, 1996, two RNC officials sent a memo regarding the party's ties to senior citizens' organizations. One portion of the memo discusses a "Senior Republican Network Conference" scheduled for June 8. According to the memo, one of the goals of the conference was "Establishment of good relationships with major conservative senior groups: 60 Plus, United Seniors, and Seniors Coalition. Explore ways in which we can work together during the campaign."¹

Ten days later, the Seniors Coalition was mentioned in a follow-up memo. According to this memo, the Seniors Coalition was "very interested in sponsorship of our [Republican] conference. They offered to help take on some financial obligations as well. They asked us to determine where they think they should do their next poll (Kellyanne has done research in CA & FL on how Medicare and senior issues are playing). They indicated a willingness to give us some input into the questions asked as well."²

The Seniors Coalition, which apparently coordinated with the RNC, disseminated a press release during the presidential campaign which appears to have been aimed at assisting Republican candidate Bob Dole. On March 11—the day before the Florida primary—the organization announced the results of a survey of Florida senior citizens. The press release was headlined: "Florida seniors reject Clinton's leadership, lack of optimism about the future according to poll conducted by the Seniors Coalition." The lead sentence read: "A new poll of seniors in Florida may spell trouble for the White House."³

A careful reading of the press release makes clear that the Florida seniors who responded to the survey were much more favorably disposed to Clinton than the headline and lead sentence suggested. For example, 39 percent said that Clinton best represents the con-

Footnotes appear at end of chapter 15.

cerns of senior citizens, compared with 38 percent for Dole. An equal percentage of respondents—44 percent—favored Clinton and Dole. Since the margin of error was plus or minus 4.7 percent, it is possible that Clinton was actually *favored* by Florida seniors.

Another group mentioned in RNC memos, the United Seniors Association, was also active during the 1996 campaign. The organization “spent \$3 million on a direct mail and media campaign to rebut Democratic and union Medicare claims,” according to a study of issue advocacy in 1996. “The targeted states were Oklahoma, Iowa, Nebraska, Kentucky, Washington state, Arizona and Wisconsin.”⁴

The Seniors Coalition and the United Seniors Association are both registered with the Internal Revenue Service as tax-exempt, 501(c)(4) “social welfare” organizations, and they have portrayed themselves as bona fide grassroots organizations—conservative versions of the American Association of Retired Persons. However, several critics have characterized them as organizations that serve mainly to enrich professional fundraisers. In the early 1990s, for example, these groups were criticized by then-Representative Andy Jacobs (Ind.), the Democratic chairman of the Subcommittee on Social Security of the House Ways and Means Committee as well as the committee’s ranking Republican, Jim Bunning (Ky.). “The motive of these groups,” said Representative Bunting, “is to raise money.”⁵

The Seniors Coalition was founded by Dan C. Alexander, Jr., who had been convicted of extortion in 1987 and sentenced to 12 years in prison (he served 51 months).⁶ Alexander worked closely with Richard Viguerie, a prominent direct-mail fundraiser who has founded and/or worked for several seniors groups, including the Seniors Coalition, the United Seniors Association, and 60 Plus.

In late 1992, Alexander was forced out of the Seniors Coalition after the board found evidence of financial irregularities.⁷ A new CEO was installed⁸ and the group improved its image. After the mid-term elections of 1994, Republican congressmen invited officials of the Seniors Coalition to testify before congressional committees.⁹ When, in 1995, House Speaker Newt Gingrich announced the Republicans’ Medicare reform policy, he did so at a conference sponsored by the Seniors Coalition.¹⁰

But the Seniors Coalition’s growing visibility was not entirely appreciated by several mainstream seniors organizations. At a May 1994 press conference, representatives of the American Association of Retired Persons and the National Council of Senior Citizens sharply criticized the Seniors Coalition and two other conservative groups: the United Seniors Association and the American Council for Health Care Reform. According to these critics, the conservative seniors groups, including the Seniors Coalition, did not accurately portray political issues, but instead sent false and misleading “fright mail” to seniors. For example, a mass mailing by the Seniors Coalition made the unsubstantiated claim that “Bill Clinton plans . . . less medical treatment for seniors” because he believes that “if more seniors die at a younger age, then there will be less overall spending on health care.”¹¹

The Seniors Coalition’s credibility suffered a further setback in January 1996, when the Virginia Supreme Court ruled that the

ouster of Dan Alexander was invalid.¹² After the ruling, allies of his regained control of the organization.¹³ Alexander's return prompted several executives and lobbyists to resign from the organization.¹⁴ Even in the eyes of some Republicans, the Seniors Coalition was not a credible organization. For example, James E. Miller, a Washington lawyer who had worked with the Seniors Coalition in the past, told the *National Journal*: "The Republicans can't possibly want to associate themselves with the group at this point."¹⁵

But other Republicans were willing to work with the Seniors Coalition. Steven D. Symms, a former Republican Senator from Idaho, was appointed chairman of the Seniors Coalition's board of advisers.¹⁶ Stan Parris, a former Republican Representative from Virginia, became chairman of the coalition's congressional affairs committee.¹⁷ During the 1996 campaign, as noted above, the RNC worked closely with the Seniors Coalition, in spite of its background involving criminal activities and despite the coalition's claims to be a nonpartisan social welfare organization.

TERM-LIMITS GROUPS AS FRONTS FOR GOP DONORS

Since the 1980s, several political activists have called for limits on the number of terms that elected officials can serve in office. Some of the individuals and groups who favor term limits are nonpartisan. Others, however, use the term-limits issue as a partisan weapon, despite claiming to be nonpartisan organizations. Two groups in this category are U.S. Term Limits and an affiliated organization called Americans for Limited Terms.

These groups were not subjects of the Committee's investigation. They are mentioned here because the Committee learned that they may have been backed by conservative donors who financed groups that were investigated by the Committee. If these organizations conducted partisan political activity, even while claiming to be nonpartisan, tax-exempt groups, they served as ways for GOP donors to support Republican candidates without adhering to the disclosure requirements or contribution limits of the federal election laws. In such cases, the donors and the term-limits groups exploited the "issue advocacy" loophole in order to circumvent the election laws and the groups themselves may have violated their tax-exempt status. (U.S. Term Limits and Americans for Limited Terms are both tax-exempt, "social welfare" organizations, under section 501(c)(4) of the tax code.)

U.S. Term Limits, which was founded in 1992,¹⁸ asks federal candidates to sign a pledge promising that they will vote to limit House members to three two-year terms, and Senate members to two six-year terms.¹⁹

Americans for Limited Terms, which was established in 1994, conducts purported "issue advocacy" campaigns targeted at candidates who refuse to sign the U.S. Term Limits pledge. There are other links between the two organizations: They share a website on the Internet²⁰ and they use the same advertising agency.²¹ Moreover, a number of activists have been connected to both groups: ALT's founders include Howard Rich,²² the president of USTL,²³ and Paul Farago, a former USTL board member.²⁴

Although Americans for Limited Terms claims to be nonpartisan, most of its targets are Democratic candidates. During the 1994

election, according to the *Wall Street Journal*, ALT waged a “\$1.3 million mail and media campaign aimed primarily at Democrats. In only a handful of cases—Maryland and Rhode Island, for example—are Republican incumbents targeted.” Nearly one fourth of that money—\$300,000—was spent attacking Speaker Tom Foley.²⁵ In their book *Dirty Little Secrets*, Larry Sabato and Glenn Simpson noted that “ALT focused mainly on Democrats, despite the fact that many Republicans running were term limits opponents.”²⁶ In their view, “It would be difficult to construe ALT’s activities as anything other than direct campaign expenditures.”²⁷ In 1996, according to the *Kansas City Star*, ALT spent \$1.8 million “in campaigns in Wisconsin, Texas, Illinois, North Carolina, Virginia, New Hampshire and Kansas, aiding chiefly Republicans.”²⁸

Americans for Limited Terms does not identify any of its financial backers.²⁹ U.S. Term Limits reveals some of its larger donors, but does not provide complete information.³⁰ Despite the secrecy of these organizations, some information about their donors and fundraisers has emerged in the press, and it comes as no surprise that many of them are leading contributors to Republican candidates.

In November 1994, the *Wall Street Journal* reported that ALT and other term-limits organizations have received funding from individuals who also gave to GOPAC, the “leadership PAC” of House Speaker Newt Gingrich.³¹ For example, ALT donors Fred Sacher and K. Tucker Anderson had given more than \$350,000 to GOPAC.³² Sacher, a California businessman, has been a major donor to conservative causes over the years. Anderson, a portfolio manager in New York, gave “tens of thousands of dollars” to GOPAC, according to the *Journal*.³³

Both term-limits groups may have ties to oil executives Charles and David Koch who, as noted in earlier chapters of the Minority Report, are likely to have financed Triad and Coalition for Our Children’s Future. U.S. Term Limits is a successor organization to Citizens for Congressional Reform, a term-limits group that was funded by the Koch brothers.³⁴ When CCR’s ties to the Kochs were publicized in the early 1990s, the organization disbanded and its assets—including its mailing list—were acquired by USTL.³⁵ Several key figures in these pro-GOP term-limits groups have ties to the Cato Institute, a Libertarian think tank that has received millions of dollars from the Koch brothers over the years.

- Howard Rich, the president of USTL and a co-founder of ALT, served on Cato’s board of directors.³⁶ (Rich is also a friend of Charles Koch.³⁷)

- Ed Crane, Cato’s president, has served on USTL’s board.³⁸

- K. Tucker Anderson, a major donor to ALT, has served on Cato’s board.³⁹

U.S. Term Limits has denied that the organization received any money from the Kochs, according to a September 1996 press report.⁴⁰ Because Americans for Limited Terms refuses to disclose its donors, this leaves open the possibility that the Kochs provided funding to ALT.

Although it is not possible to identify the financial backers of Americans for Limited Terms, its extensive involvement in political campaigns demonstrates how easy it is for donors to assist the can-

didates of their choice by contributing to “nonpartisan” organizations involved in purported “issue advocacy” activities.

NONPROFIT GROUPS LINKED TO PRESIDENTIAL CANDIDATES

During the 1996 election cycle, three Republican presidential candidates may have used nonprofit organizations as shadow campaign vehicles. Two of the organizations were registered with the Internal Revenue Service as a tax-exempt “social welfare” organization, pursuant to section 501(c)(4) of the tax code. In exchange for this privileged status, such organizations are supposed to be nonpartisan and may not engage in political activity as their primary activity. One of the organizations was a 501(c)(3) charitable organization, which is allowed to receive tax-deductible contributions and is subject to even tighter curbs on political activity.

The three groups in question were:

- the Better American Foundation,⁴¹ a 501(c)(4) established in 1993 by then-Senator Bob Dole and disbanded in June 1995, just as Senator Dole was starting his official campaign organization;
- the Republican Exchange Satellite Network,⁴² a 501(c)(4) affiliated with former Governor Lamar Alexander of Tennessee; and
- the American Cause,⁴³ a 501(c)(3) established by Patrick Buchanan in 1993.

In spite of their tax-exempt status, these three groups allegedly assisted the candidates by providing staff, paying for travel expenses, scheduling media events, conducting polling and issue research, and engaging in other activities normally associated with campaigns.⁴⁴ If these allegations are true, the three nonprofits were almost entirely political in nature and, thus, may have violated their tax status and the federal election laws, since none of them registered with the Federal Election Commission as a political organization.

CONCLUSION

The evidence before the Committee shows that a myriad of tax-exempt organizations assisted Republican candidates during the 1996 election cycle, serving variously as tools of Republican candidates, conduits for Republican donors, and money-making operations for conservative fundraisers. One thing they all had in common is that they violated the spirit—and, in some cases, probably the letter—of the federal tax and election laws.

If these de facto political organizations are not brought under control, they will be used even more extensively in future elections. It is possible, for example, that a single wealthy donor could influence the outcome of dozens of congressional races by channeling millions of dollars through tax-exempt organizations. If large donors are allowed to operate on that scale—and with no disclosure and no accountability—the campaign finance laws will be meaningless.

FOOTNOTES

¹ Memo on RNC letterhead (Office of the Co-Chairman) from Howard and Phil to Judy, re Seniors Update, 3/20/96. R 33746–33758.

The Minority staff believes that "Howard" is Howard Leach, who was the RNC's finance chairman at the time the memo was written. "Judy" is probably Judy Hughes, who was chief of staff to Evelyn McPhail, who was co-chairman of the RNC. "Phil" has not been identified.

² Memo on RNC letterhead (Office of the Co-Chairman) from Howard & Phil to Evelyn and Judy re Seniors Program, 3/30/96. R 033746.

³ Seniors Coalition press release dated 3/11/96.

⁴ Annenberg Public Policy Center of the University of Pennsylvania: "Issue Advocacy Advertising During the 1996 Campaign: A Catalogue," September 16, 1997, citing *Washington Times*, 11/4/96.

⁵ *New York Times*, 11/12/92.

⁶ *New York Times*, 11/12/92.

⁷ *Los Angeles Times*, 4/2/96.

⁸ *National Journal*, 1/27/96.

⁹ Molly Ivins column in *Sacramento Bee*, 8/26/95 (citing reporting by Jim Drinkard of Associated Press).

¹⁰ *Los Angeles Times*, 4/2/96.

¹¹ *Des Moines Register*, 5/27/94.

¹² *Los Angeles Times*, 4/2/96.

¹³ *Los Angeles Times*, 4/2/96.

¹⁴ *National Journal*, 1/27/96.

¹⁵ *National Journal*, 1/27/96.

¹⁶ *Idaho Statesman*, 3/9/96.

¹⁷ *National Journal*, 1/27/96.

¹⁸ *Omaha World Herald*, 9/16/96.

¹⁹ Associated Press, 8/2/96.

²⁰ *Kansas City Star*, 5/5/97.

²¹ *Kansas City Star*, 5/5/97.

²² *Kansas City Star*, 5/5/97.

²³ *Roll Call*, 9/22/94.

²⁴ *Kansas City Star*, 5/5/97.

²⁵ *Wall Street Journal*, 11/4/94.

²⁶ Sabato, Larry J. and Glenn R. Simpson. *Dirty Little Secrets: The Persistence of Corruption in American Politics*. New York: Times Books, 1996, p. 144, citing *Wall Street Journal*, 11/4/94.

²⁷ Sabato/Simpson, p. 144.

²⁸ *Kansas City Star*, 5/5/97.

²⁹ *Kansas City Star*, 5/5/97. (On 12/4/97, a Committee staff member telephoned Steve Merican, the president of ALT, and he confirmed that the organization does not disclose its donors.)

³⁰ *Kansas City Star*, 5/5/97.

³¹ *Wall Street Journal*, 11/4/94.

³² Sabato/Simpson, footnote on p. 372.

³³ *Wall Street Journal*, 11/4/94.

³⁴ *Los Angeles Times*, 10/31/92; *Wall Street Journal*, 8/25/83.

³⁵ *Wall Street Journal*, 8/25/93.

³⁶ *Wall Street Journal*, 11/4/94.

³⁷ *Seattle Times*, 11/1/92.

³⁸ *Wall Street Journal*, 8/25/93.

³⁹ *Wall Street Journal*, 11/4/94.

⁴⁰ *Omaha World Herald*, 9/16/96.

⁴¹ *Washington Post*, 6/21/95, p. A1; Associated Press, 5/25/95 and 11/5/94.

⁴² Associated Press, 6/21/95.

⁴³ Associated Press, 2/21/97 and 4/10/97.

⁴⁴ See, for example, *Congressional Quarterly*, 2/22/97.

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PART 2 INDEPENDENT GROUPS

Chapter 16: Overview of Democratic Independent Groups

Federal election and tax laws attempt to ensure that groups registered as tax-exempt independent organizations are truly independent from partisan electioneering. To do so, several laws prohibit these organizations from (1) conducting “issue advocacy” if the advocacy is, in reality, nothing more than support for political candidates and (2) coordinating their activities with political committees or candidates (See Chapter 9). The Minority’s investigation of independent groups associated with the Republican Party, as discussed in Chapters 10–15 of this Report, focused on whether specific organizations violated these laws. The evidence shows that many of them clearly circumvented the law and some appear to have violated it. Several pro-Republican organizations closely coordinated their activities with the Republican Party, and some were directly funded by the Republican National Committee. In 1996 alone, the RNC gave nearly \$6 million to supposedly “non-partisan” groups. Two tax-exempt organizations were even established by the RNC.

The Committee found no evidence that there was this level of coordination on the Democratic side. There was nothing in the files of the Democratic National Committee to compare with RNC memoranda showing close coordination with pro-Republican groups. Regarding issue advocacy, the Committee received little evidence supporting allegations that pro-Democratic independent groups conducted issue advocacy campaigns that served as nothing more than partisan electioneering. The evidence also shows that independent groups received very little money from the DNC. In all of 1996, the DNC contributed less than \$185,000 to independent groups, a tiny fraction of the RNC’s contributions to such groups. Of course, the Committee does not have a full picture of what happened during the 1996 election cycle, since many subpoenaed groups—both pro-Democratic and pro-Republican—refused to cooperate with the investigation.

The following chapters explore the Committee’s investigation of independent groups associated with the Democratic Party. The first two chapters discuss the Committee’s public investigation of these groups, which was limited to exploring allegations that Harold Ickes, former chief of staff in the White House, directed a potential contribution to groups including Defeat 209 and Vote Now ’96 and allegations that two DNC officials directed a potential \$100,000 contribution to the re-election campaign of former Teamsters President Ron Carey’s. The last chapter summarizes allegations against a variety of other independent groups traditionally associated with the Democratic Party.

FINDINGS

(1) During the 1996 election cycle, several independent groups spent millions of dollars to promote Democratic issues and possibly Democratic candidates through issue advocacy, and voter education and registration.

(2) The evidence before the Committee, however, suggests that the Democratic Party did not play a central role in financing, or coordinating with, these groups.

PART 2 INDEPENDENT GROUPS

Chapter 17: R. Warren Meddoff

Shortly before the 1996 election, Florida businessman Warren Meddoff approached President Clinton at a Florida fundraiser concerning a possible \$5 million donation to the President's campaign from Meddoff's associate, William Morgan. Meddoff told Ickes that Morgan wanted to make at least some of his contributions tax deductible, and Ickes prepared a memo suggesting some possible tax-exempt and tax deductible recipients. After sending the memo to Meddoff, Ickes received word that a DNC background check of Meddoff and his associate raised serious questions and that it would be better for the DNC to decline Meddoff's offer of contributions. Ickes and Meddoff dispute what happened next. Meddoff testified that Ickes told him to "shred" the memo; Ickes testified that he merely told Meddoff that the memo "was inoperative."

Based on the evidence before the Committee, we make the following findings regarding these events:

FINDINGS

(1) There is no evidence before the Committee suggesting that Harold Ickes or any DNC official acted illegally in their dealings with Warren Meddoff. Current law does not prohibit a federal government employee or party official from directing contributions to tax-exempt organizations.

(2) It would have been more prudent, as Ickes himself testified, for Ickes to have immediately referred Meddoff to the DNC. Meddoff sought suggestions on how to make a tax-deductible contribution that would help President Clinton's campaign. The Committee does not have sufficient evidence to determine whether the organizations recommended by Ickes were actually engaged in any partisan political activities. Ickes's opinion that a contribution to such groups would benefit the President's campaign does not establish that these organizations were engaged in any activities that would have been inconsistent with their tax-exempt status.

(3) The DNC acted appropriately by checking the backgrounds of Meddoff and his associate and ultimately refusing their proposed contribution.

(4) Meddoff is not a credible witness. His explanation to the Committee of two past proposals on behalf of two different persons to contribute \$5 million to the Republican Party in one case and the Democratic Party in the other case; his admission of involvement in conduct that appears to be an attempt to bribe a federal official; his apparent threats to his former employer and a DNC fundraiser; and the fact that he never met the person on whose behalf he was allegedly making a \$5 million contribution to help President Clinton, cast significant doubt on his credibility.

WARREN MEDDOFF

Warren Meddoff, described as a "businessman" in published news reports, has worked at a commodities trading firm, at a car dealership as a business manager, and as a real estate broker at

three different companies.¹ From 1983 to 1988, Meddoff also served as a member of the executive committee for the Republican Party in Broward County, Florida.² During that same time period, Meddoff registered to run for the Florida State House as a Republican, but later withdrew his candidacy.³ Meddoff testified that he started his own company in 1989, called R. Warren Meddoff, P.A., located in Fort Lauderdale, Florida.⁴ Meddoff described his work as a consultant with “areas of involvement in real estate, investment development and brokerage, and in consulting on financial matters under contract with several foreign governments, those governments having been Bulgaria, Romania, the Ukraine, Tajikstan, and Moldova.”⁵ In October 1996, Meddoff was hired as an export manager by Bukkehave, Inc., a wholly owned subsidiary of a Danish corporation.⁶

Since 1989, Meddoff has also had business dealings with an individual named William Morgan.⁷ These business dealings involve gold-backed bearer bonds issued by Germany’s Weimar Republic before World War II.⁸ Meddoff has sought, so far unsuccessfully, to “utilize and develop” these bonds as a source of income.⁹ Meddoff claims that Morgan, unlike himself, has been able to “close transactions” involving these bonds,¹⁰ but Morgan is a “mysterious character whose stories don’t always quite add up,” according to *Vanity Fair*.¹¹ Despite dealing with him for more than five years, speaking with him up to five to ten times a day and entering into contracts with him, Meddoff testified that he has never met Morgan.¹² Morgan did not pay Meddoff for his representation, and Meddoff said he has never made any money from his association with Morgan. Meddoff claims that he has never checked into Morgan’s background or net worth.¹³ The little information the Committee could garner about Morgan invited considerable skepticism about Meddoff’s claims that Morgan is frequently at the center of multi-million dollar business deals. The Committee learned that Morgan operates a business out of a house which he does not own, that properties he does own have had two IRS liens against them, and that he defaulted on a personal note in 1988 and was unable to even afford an attorney at that time.¹⁴

MEDDOFF AND THE OCTOBER 1996 FUNDRAISER

On October 22, 1996, according to Meddoff’s testimony, Meddoff was sent by his employer, Bukkehave, to a Democratic fundraiser held at the Biltmore Hotel in Coral Gables, Florida. His primary purpose in attending was to assist a client of Bukkehave, Catholic Relief Services, in making humanitarian flights to Cuba to assist victims of a recent hurricane there.¹⁵ Administration policy at that time did not permit direct flights to Cuba and Meddoff was tasked to seek administration support for the charity’s proposed relief flights.¹⁶ Meddoff said he spoke with Morgan earlier that day about his forthcoming attendance at the fundraiser that night.¹⁷ According to news reports, however, Morgan has said that Meddoff was the one who originally proposed that Morgan propose a contribution.¹⁸ During that conversation, Morgan asked Meddoff to inform the President that he wished to make a contribution of \$5 million

Footnotes appear at end of chapter 17.

to President Clinton.¹⁹ At the fundraiser, Meddoff handed President Clinton a business card on which he had written, "I have an associate that is interested in donating \$5 million to your campaign."²⁰ The President took the card, asked for another one for his staff, and indicated that someone would get back to him.²¹ According to Meddoff, at "no time did the President discuss contributions or funds" during this conversation.²²

Instead, during their conversation, which Meddoff said lasted between two to five minutes, the President and Meddoff discussed the aid flights to Cuba that his employer's client wished to undertake. When Meddoff told the President that Catholic Relief Services and the Catholic diocese wanted his support for those flights, the President, according to Meddoff, responded, "I've made the decision . . . Tell the people they'll be able to fly."²³ The White House had formally announced that morning, before the President had left Washington for Florida, that Catholic Charities would be permitted to fly relief supplies to Cuba.²⁴ Meddoff testified that he did not believe that the President's decision had "anything to do with me."²⁵ In addition, Meddoff testified in his deposition that Bukkehave's interest in the aid flights was "a humanitarian issue, not one of going out for remuneration or trying to get some sort of financial benefit from it."²⁶

ICKES'S CONVERSATIONS WITH MEDDOFF

After the Florida fundraiser, the President asked Harold Ickes, White House deputy chief of staff, to contact Meddoff concerning the proposed contribution. Pursuant to this direction from the President, Ickes had a telephone conversation with Meddoff on October 26 in which they discussed the possible \$5 million contribution.²⁷ These contributions were to come from the proceeds of a business deal to be completed by November 1 from which Morgan expected to realize over \$300 million.²⁸ Meddoff explained that Morgan, in addition to the proposed \$5 million donation, was contemplating additional donations over a period of time that would total over \$50 million.²⁹ Meddoff said he told Ickes that the funds were not the product of any criminal activity and originated from within the United States, but that he did not describe the specific nature of Morgan's pending transaction. Meddoff said he did convey to Ickes, however, that Morgan wished to get a tax benefit out of the contribution in order to reduce his anticipated tax liability on the pending deal.³⁰ When asked during his deposition how Morgan anticipated making a tax-deductible donation to a political campaign, Meddoff testified "he [Morgan] sometimes has a misconception of the reality of our legal system and what works and what doesn't work."³¹ During this and subsequent conversations with Ickes, Meddoff said that he "never relayed on a request" for anything in connection with the proposed contributions.³²

During one of these conversations, according to Meddoff, Ickes asked whether Morgan would also be willing to make a non-tax-deductible donation to the DNC.³³ Meddoff says that, after consulting with Morgan, he informed Ickes that Morgan was willing to make such a contribution once the funds became available to him.³⁴

On October 29, according to Meddoff, Ickes telephoned Meddoff from Air Force One and said, "We have an immediate need for \$1.5

million within the next 24 hours. Do you think you could get it to us?"³⁵ After consulting with Morgan, Meddoff said he told Ickes that a contribution within 24 hours would not be possible, but that Morgan was expecting to receive some of his money within 48 hours and a contribution could be effected within that time frame.³⁶ Meddoff says he requested information on where to send the funds and how to do so.³⁷ Medoff says that Ickes told him that he would be sending information on "501(c)(3)'s (charitable, tax-exempt organizations) that were friendly to the President's campaign and supported the same areas, and . . . also what would be a non-tax-favorable contribution to the Democratic National Committee."³⁸ Ickes, for his part, does not remember this conversation with the same level of detail, but confirmed in his deposition that he called Meddoff from Air Force One, discussed Morgan's desire to make a tax-deductible contribution to assist President Clinton, and promised to provide him with information about entities to which such contributions could be made.³⁹ Ickes also testified that, immediately after speaking with Meddoff, he called Eric Berman, head of research at the DNC, and asked him to check the background of both Meddoff and Morgan.⁴⁰

On October 31, according to the testimony of both Ickes and Meddoff, Meddoff received a fax from Ickes providing information concerning the following four groups, along with proposed contribution amounts: (i) National Coalition of Black Voter Participation (\$40,000); (ii) Defeat 209 (\$250,000); (iii) Vote Now '96 (\$250,000); and (iv) Democratic National Committee (\$500,000).⁴¹ Meddoff testified that he forwarded this fax to Morgan on the assumption that Morgan would share the information with his attorneys and accountants in order to make the ultimate decisions about which organizations would receive the contributions.⁴² Ultimately, as explained in more detail below, Morgan made none of the suggested contributions.

NO EVIDENCE OF ILLEGAL COORDINATION

Ickes has testified that with hindsight, it would have been better if he had not sent the fax, but that he did not believe that he did anything improper. In his deposition he stated:

I'm confident I did nothing illegal . . . it would have been the better part of discretion for me to have handed this whole thing off to the professional fundraisers [at] the DNC to handle, but given the press of time, given the fact that the President asked me to take care of this and he didn't say that I had to make the call, but given the press of time and given the fact that if this money was going to be forthcoming and if it was going to be used for the election, it had to get done quickly, and I knew that I could get it done quickly or that I would get it done quickly. [With] 20/20 hindsight, I should have handed it off to the DNC.⁴³

The Committee agrees that Ickes would have been well-advised to refrain from providing such information to a potential contributor in order to avoid any appearance of improper coordination. Nevertheless, the simple fact that Ickes identified non-profit groups in

response to a desire from a potential contributor to make a tax-deductible contribution does not establish that improper coordination has occurred. There is no evidence, for example, that Ickes or the groups proposed that the contributions be spent in coordination with the White House or DNC officials.

ICKES'S ALLEGED DIRECTION TO MEDDOFF TO SHRED THE FAX

Meddoff has testified that on the afternoon of October 31, the same day that Meddoff received the fax from Ickes identifying the tax-exempt groups to whom contributions could be made, Ickes called Meddoff concerning the fax.⁴⁴ During this conversation, according to Meddoff, Ickes explained the fax he had sent that morning had been sent "in error" and asked him to shred it.⁴⁵ Ickes, for his part, has denied that he told Meddoff to shred the fax. Ickes testified in his deposition, "My recollection is that I called Meddoff and told him . . . that the memo was inoperative . . . I have no recollection of saying that I would shred a memo. I find it inconceivable that I would use that kind of language to somebody—with somebody that I knew, much less that I had no idea who I was talking about."⁴⁶

At the hearing, Senator Nickles indicated that Ickes had covered up his actions in light of the fact that the White House had been unable to locate an original copy of the memorandum faxed to Meddoff. In response, Ickes pointed out that he had voluntarily produced to the Committee the identical information:

I have never seen the original of the document, Senator, of the memo. *Newsweek* did fax that memo or I received a copy of the memo from *Newsweek*. That was in my files. That was turned over. That is the document that you are referring to here, number one.

Number two is, every—virtually every pertinent aspect and piece of information that is in the typed memo is also contained in my handwritten notes, which were turned over to the Committee.⁴⁷

Ickes did not have a copy of the original because he had dictated it from Air Force One to the White House, which then faxed it to Meddoff. Ickes had only his handwritten notes which he kept and produced to the Committee. The fact that Ickes kept these handwritten notes in his files belies the contention that he either sought to hide the contents of the memo from the Committee or even that he asked Meddoff to shred the memo in the first place.⁴⁸

MEDDOFF'S CREDIBILITY

Meddoff's dramatic account of having been instructed by Ickes to shred a document made an issue of his credibility. The evidence before the Committee raises serious doubts about Meddoff's credibility. Moreover, the evidence strongly suggests that Meddoff had a personal interest in appearing before the Committee—his desire to damage his former employer, Bukkehave, Inc.

Meddoff was fired from his job at Bukkehave in July 1997.⁴⁹ Meddoff was terminated for numerous violations of company policy for which he had been warned, including misuse of company credit cards, mis-allocation of resources, habitual tardiness, failing in his

duties, and making negative comments about the company and its officers.⁵⁰ On September 10, 1997, (the day before Meddoff was originally scheduled to testify before the Committee), he sent an e-mail to Christian Haar, the CEO at Bukkehave, stating:

The problem with betraying someone's trust and friendship is that the individual that you betrayed will never forgive the betrayal. Tomorrow you and your company will come under international scrutiny and scorn. Prepare to face the [w]rath of an entire country[,] foreigner. I am sure that the President and Vice President, let alone Chrysler, will thank you for the trouble that you have caused and will be caused due to your personal actions.⁵¹

This e-mail presented a disturbing picture of a hidden agenda behind Meddoff's testimony. In light of these facts, the Committee has serious questions about the extent to which Meddoff's animosity toward his former employer may have colored his hearing testimony.

Meddoff's character was further tarnished in light of information concerning a previous episode wherein Meddoff spun a fanciful scenario proposing a huge political contribution on behalf of a client to be funded by a not-yet-complete transaction. In February 1995—a year and a half before Meddoff gave President Clinton his business card at the Biltmore Hotel fundraiser—he sent a letter to Senator Dole offering to donate \$5 million to help the Republican Party win the 1996 presidential election.⁵²

In the letter, Meddoff explained that he was representing an entity called Jelico Investments, Inc. in connection with a project on behalf of the government of Bulgaria that involved the exchange of pre-1940 gold-backed German bonds. According to Meddoff, his client told him to make the offer of a \$5 million contribution to the RNC to Senate Majority Leader Dole and House Speaker Newt Gingrich in order to influence the U.S. Government to “take a hands-off position” on the transaction so that the deal could go through.⁵³ Meddoff's client “felt that if both parties were cognizant of the fact that there was a possibility of such large term donations made to them, that the U.S. Government would take a hands-off position and not involve itself one way or the other.”⁵⁴ By Meddoff's own account, his actions on behalf of his client in this matter sought to influence public policy in exchange for a promised contribution. During the hearing, Senator Levin made the following observation about the potential seriousness of Meddoff's overture to Dole:

So you now write the White House and Senator Dole saying you have been notified that U.S. Government employees are interfering with the transaction. You believe that if that interference is removed, it would facilitate that transaction, and you are offering both of them \$5 million from the proceeds of that transaction. That comes very, very close, Mr. Meddoff, to being the offer of a bribe.⁵⁵

The contribution was never made, Meddoff claims, because the German bond deal fell through.⁵⁶

In February of 1996, Meddoff wrote a letter on his own behalf to President Clinton with an exceedingly familiar ring.⁵⁷ Meddoff's letter related that he was prepared to make a substantial contribution to President Clinton and asked for a meeting with the president during his upcoming visit to Washington with his family in April.⁵⁸ In his deposition, Meddoff testified that he was involved at that time in a transaction to sell 493,000 "historical documents," i.e. the gold-backed bonds.⁵⁹ Meddoff anticipated closing on the contract in mid-March, at which time he would realize over \$350 million in profit.⁶⁰ Unsurprisingly, Meddoff testified that this deal fell through and the proposed contribution, like the other proposed contributions from his clients that were supposed to be funded from such deals, was never made.⁶¹ President Clinton never responded to the February letter.⁶²

Meddoff's claims to have represented two different clients who each independently sought to use him to advance identical promises of a \$5 million political contribution from the proceeds of a pending transaction involving gold-backed bonds strains any reasonable notion of credibility.⁶³ The fact that Meddoff himself proposed a similar contribution, contingent on the outcome of a wildly lucrative business deal, raises additional doubts about the true purpose of these proposed contributions and Meddoff's actual motives. The proposed transactions based on the value of "historical documents" also raise suspicion given that many experts consider such "deals" to constitute nothing more than "securities, mail and wire fraud."⁶⁴

Evidence also indicates that, according to Morgan, Meddoff sent him a falsified memo in the summer of 1996 which was designed to look as if it came from then-White House Chief of Staff Leon Panetta.⁶⁵ Reportedly written on what looks like official White House stationery, the memo, dated February 8, 1996, purports to advise Meddoff about how one of his Weimar bond deals should be handled.⁶⁶

These doubts are underscored by Meddoff's threats to a Democratic fundraiser concerning his allegations about Ickes. In November, about a week after Ickes allegedly asked him to shred the memo, Meddoff related his story about the alleged direction by Ickes to shred the faxed memorandum to a cousin who worked for *Newsweek*. At the time, Meddoff claims he told *Newsweek* that his information could be used for background purposes, but he withheld permission to use his name.⁶⁷ In January 1997, Mitchell Berger, a Florida Democratic fundraiser with ties to Vice President Gore, solicited a \$25,000 contribution related to the presidential inauguration from Meddoff's employer, the Bukkehave company. When Meddoff, accompanied by the Danish CEO of Bukkehave's parent company, traveled to Washington to present the check, Meddoff claims that Berger told him that, due to a policy change in the administration, the contribution could not be accepted since Bukkehave was a U.S. subsidiary of a foreign corporation and Bukkehave's CEO was a foreign national.⁶⁸ According to Meddoff, Berger's rebuff made him "contemptuous of the disdain that individuals would have for corporations or individuals that are prepared to make donations of that type."⁶⁹ In response, Meddoff threatened to go public with his allegations concerning Ickes. "I

had informed him that, as he well knew, since he had seen the documents from Mr. Ickes, he was aware that I had provided it to certain people within the media for research purposes; that they had from other sources confirmed it and that they were prepared to print it. I said to Mitchell, 'You know this is all going to come out,' and he says, 'We don't care. Take your best shot.'⁷⁰ Meddoff subsequently authorized *Newsweek* to use his name and the story was published in February.⁷¹ Meddoff's attempt to pressure Berger into accepting a political contribution from his employer by threatening to "go public" with his claims about Icke's alleged direction to shred the memorandum reveal another potential motivation for Meddoff to embellish the circumstances of his conversations with Ickes and cast further doubt on his credibility.

THE DNC'S REFUSAL OF THE CONTRIBUTION OFFER

The same day that he sent the memorandum identifying tax-exempt organizations to Meddoff, Ickes referred Meddoff's possible contribution to the DNC. A DNC official then contacted Meddoff. Meddoff informed the DNC that "what Mr. Morgan was looking for at that time was a letter designating the fact that he was supporting the President and the President was thanking him."⁷² Meddoff did receive a letter from DNC Chairman Donald Fowler, stating:

Please accept my deep appreciation for the substantial financial support you have offered the Democratic Party. Your support will help advance President Clinton's agenda for the American people in the 21st Century. We look forward to working with you in the future. Best regards. Don Fowler.⁷³

This letter was not what Morgan wanted, however, because "the letter did not specify that Mr. Morgan was making contributions or the fact that it was done in support of the President." Morgan also "wanted language to the effect that if there was anything that could be done in the future, to please notify them."⁷⁴ Since the letter did not contain what Morgan was looking for, Meddoff edited the letter to include the changes that Morgan was looking for and faxed it back to Fowler.⁷⁵ Meddoff called DNC Finance Director Richard Sullivan three times on October 31 alone, to get the letter he was seeking for Morgan.⁷⁶ Sullivan never returned Meddoff's phone calls.⁷⁷

The DNC looked into Meddoff and Morgan and found, among other things, that Meddoff had sued the government of Romania and various Romanian government officials for fraud.⁷⁸ Meddoff later told *Newsweek* that the "DNC was being so careful and that they weren't circumventing anywhere to get large donations. . . . They weren't circumventing laws. They weren't cutting any corners. They were being very careful in my case, the DNC, to do everything properly and to make sure it was done properly."⁷⁹

Meddoff spoke to Fowler three to five times.⁸⁰ In his deposition, Fowler testified that he told Meddoff that unless they could find someone to validate the appropriateness of the contribution, it would not be accepted, and he asked for references. Meddoff replied, "[Y]es, here are a few numbers that you can call, but if they answer something about the CIA, don't be surprised."⁸¹ Fowler did

not follow up with Meddoff any further, and he told Sandler to tell Ickes that the DNC was not going to take the money.⁸² When Sandler told Ickes that the contribution was not going to be pursued by the DNC, Ickes concurred with the decision.⁸³ Fowler and Sullivan cut off communications with Meddoff on October 31.⁸⁴ In May of 1997, despite stories that had appeared in the press concerning Meddoff's proposed campaign contributions, Republican Majority Leader Trent Lott sent a letter to Meddoff thanking him for his contribution of \$2,500 to the Republican Presidential Roundtable and soliciting additional contributions.⁸⁵

FUNDRAISING ON FEDERAL PROPERTY

The discussions between Ickes and Meddoff also raised the issue of whether Ickes's phone calls to Meddoff from Air Force One and the White House were illegal or improper instances of fundraising on government property. While Ickes's brief involvement with a potential contributor before passing responsibility to DNC officials raised concerns, the Committee's investigation showed that Ickes did not initially solicit Meddoff for funds. When Meddoff spoke to Ickes for the first time, he made it clear that there was "absolutely no doubt whatsoever" that Morgan wanted to make a contribution.⁸⁶ Ickes's conversations with Meddoff at this point merely concerned the timing and form of the proposed contribution that Meddoff's associate was already willing to make. Given these circumstances, it is difficult to characterize Ickes's initial discussions with Meddoff as a solicitation.

According to Meddoff, however, during one of their subsequent discussions, Ickes asked Meddoff whether his associate would be willing to make a non-tax-deductible donation to the DNC. After Meddoff informed Ickes that this would be possible, Ickes sent information to Meddoff concerning the DNC's bank account and suggested a contribution amount of \$500,000. While some allege that Ickes solicited a contribution to the DNC, as discussed in other sections of this report, there is considerable doubt as to whether a telephone call from federal property to someone not on federal property concerning soft money contributions constitutes an illegal solicitation within the meaning of the Pendleton Act.

An additional threshold issue is whether the phone line that was used by Ickes was a DNC line or a government line. The administration took great pains to provide separate lines of communication on Air Force One, paid for by the DNC, for communications related to the campaign. WHCA Commander Simmons testified in his deposition about a separate communication system, called INMARSAT, that was installed on Air Force One in the late summer or early fall of the 1996 campaign.⁸⁷ One of the advantages of the INMARSAT system was that it was capable of generating detailed billing records to separate political calls from official calls.⁸⁸ Simmons testified that these efforts to separate political and officials costs were unprecedented. "[T]his administration has gone through more pain than anyone, and I give a historical reference because I have people who have been here through several administrations. It's never been done, where they tried to break down and draw a demarcation line and say this is political and this is official."⁸⁹ The Committee's investigation was unable to conclusively establish

which lines were utilized by Ickes in his communications with Meddoff.

CONCLUSION

While the Minority agrees with Ickes's statement that the "better part of discretion" would have been for him to have promptly passed the Meddoff matter to the DNC, the Committee found no evidence of illegal coordination between the DNC and the non-profit groups to which Ickes referred Meddoff. The only remaining issue of importance is the truth of Meddoff's allegation that Ickes directed him to "shred" the memo listing the tax-exempt groups. Significantly, Ickes's notes upon which the fax were based that Ickes had maintained in his files and a copy of the fax itself that was provided to Ickes by a news organization, were voluntarily produced to the Committee by Ickes without the necessity of a subpoena. It is difficult to reconcile Ickes's cooperativeness with the Committee and his candid acknowledgement about drafting and sending the fax with Meddoff's claim. Most importantly, the evidence before the Committee raises grave doubts about Meddoff's credibility given the mysterious nature of his business dealings and associates, his apparent personal agenda in appearing before the Committee, and his apparent attempt at bribery in connection with a previous proposed contribution. Finally, the DNC, for its part, acted appropriately when it checked Meddoff's and Morgan's backgrounds and, rejected Meddoff's offer.

FOOTNOTES

- ¹ R. Warren Meddoff deposition, 8/19/97, pp. 8–10.
- ² R. Warren Meddoff deposition, 8/19/97, p. 15.
- ³ R. Warren Meddoff deposition, 8/19/97, pp. 15–16.
- ⁴ R. Warren Meddoff deposition, 8/19/97, p. 7.
- ⁵ R. Warren Meddoff deposition, 8/19/97, p. 7.
- ⁶ R. Warren Meddoff deposition, 8/19/97, p. 6.
- ⁷ R. Warren Meddoff deposition, 8/19/97, p. 11.
- ⁸ R. Warren Meddoff deposition, 8/19/97, p. 11.
- ⁹ R. Warren Meddoff deposition, 8/19/97, p. 11.
- ¹⁰ R. Warren Meddoff deposition, 8/19/97, p. 12.
- ¹¹ Exhibit 2014M: Article regarding Harold Ickes which details Ickes' communications with Meddoff, *Vanity Fair*, 9/97; R. Warren Meddoff, 9/19/97 Hrg., p. 29.
- ¹² R. Warren Meddoff, 9/19/97 Hrg., p. 27; R. Warren Meddoff deposition, 8/18/97, p. 13.
- ¹³ R. Warren Meddoff, 9/19/97 Hrg., pp. 117, 119, 126. Senator Glenn likened this to the movie, "The Sting" (a popular early 1970s film about an elaborate con game). Senator Glenn, 9/19/97 Hrg., pp. 119, 126.
- ¹⁴ R. Warren Meddoff, 9/19/97 Hrg., pp. 71–72, 118.
- ¹⁵ R. Warren Meddoff deposition, 8/19/97, p. 23.
- ¹⁶ R. Warren Meddoff deposition, 8/19/97, p. 23.
- ¹⁷ R. Warren Meddoff deposition, 8/19/97, p. 28.
- ¹⁸ *Dallas Morning News*, 2/4/97.
- ¹⁹ R. Warren Meddoff deposition, 8/19/97, p. 28.
- ²⁰ R. Warren Meddoff deposition, 8/19/97, p. 9.
- ²¹ R. Warren Meddoff, 9/19/97 Hrg., pp. 7–8. There is a videotape of this fundraiser, but Meddoff does not appear on the tape, despite a few erroneous press accounts that state that the tape shows President Clinton "being handed a business card by R. Warren Meddoff." See, e.g., *New York Times*, 10/15/97.
- ²² R. Warren Meddoff, 9/19/97 Hrg., pp. 41–42; R. Warren Meddoff deposition, 8/18/97, pp. 30, 129.
- ²³ R. Warren Meddoff deposition, 8/18/97, p. 129–30.
- ²⁴ Exhibit 2016M: Newspaper article regarding U.S. aid flights to Cuba, *Reuters North American Wire*, 10/22/96; see also R. Warren Meddoff, 9/19/97 Hrg., p. 41.
- ²⁵ R. Warren Meddoff, 9/19/97 Hrg., p. 41.
- ²⁶ R. Warren Meddoff deposition, 8/19/97, p. 133.
- ²⁷ R. Warren Meddoff, 9/19/97 Hrg., pp. 8–11.
- ²⁸ R. Warren Meddoff, 9/19/97 Hrg., p. 38; R. Warren Meddoff deposition, 8/18/97, p. 53.
- ²⁹ R. Warren Meddoff deposition, 8/19/97, pp. 44–45.
- ³⁰ R. Warren Meddoff, 9/19/97 Hrg., pp. 9–11; R. Warren Meddoff deposition, 8/18/97, p. 53.

- ³¹ R. Warren Meddoff deposition, 8/19/97, pp. 127–128.
³² R. Warren Meddoff deposition, 8/19/97, p. 38.
³³ R. Warren Meddoff deposition, 8/19/97, pp. 50, 161.
³⁴ R. Warren Meddoff deposition, 8/19/97, pp. 50, 161.
³⁵ R. Warren Meddoff deposition, 8/19/97, p. 41.
³⁶ R. Warren Meddoff deposition, 8/19/97, p. 41.
³⁷ R. Warren Meddoff deposition, 8/19/97, pp. 41, 135–136.
³⁸ R. Warren Meddoff deposition, 8/19/97, p. 50.
³⁹ Harold Ickes deposition, 6/27/97, pp. 40–42.
⁴⁰ Harold Ickes deposition, 6/27/97, p. 40.
⁴¹ Exhibit 929: Fax from R. Warren Meddoff to Harold Ickes, 10/31/96; Harold Ickes deposition, 6/27/97, p. 46.
⁴² R. Warren Meddoff, 9/19/97 Hrg., p. 152.
⁴³ Harold Ickes deposition, 6/27/97, pp. 57–58.
⁴⁴ R. Warren Meddoff, 9/19/97 Hrg., pp. 16–17.
⁴⁵ R. Warren Meddoff, 9/19/97 Hrg., pp. 16–17.
⁴⁶ Harold Ickes deposition, 6/27/97, pp. 42–43.
⁴⁷ Harold Ickes, 10/8/97 Hrg., pp. 132–33; see also pp. 142–43. Ickes also testified at the hearings on October 8, 1997 that Meddoff told him that he thought Ickes was being a scapegoat: “Mr. Meddoff, shortly before he testified, called my attorney, Mr. Bennett, and explained to him that he thought that Harold Ickes was being a scapegoat and he was getting a raw deal and on and on and on.” Harold Ickes, 10/8/97 Hrg., p. 101.
⁴⁸ Also supporting his contention, Ickes produced to the Committee a copy of the memorandum that he had in his files. Exhibit 929: Fax from R. Warren Meddoff to Harold Ickes, 10/31/96.
⁴⁹ R. Warren Meddoff, 9/19/97 Hrg., pp. 25–27; R. Warren Meddoff deposition, 8/18/97, p. 6. The Associated Press obtained a copy of this deposition prior to Meddoff testifying at the hearing. See, e.g., *Capital Times*, 9/19/97.
⁵⁰ Senator Torricelli, 9/19/97 Hrg., p. 75.
⁵¹ Exhibit 2066M: E-mail from R. Warren Meddoff to Christian Haar, 9/10/97.
⁵² Exhibit 2010M. The letter reads:

Dear Senator Dole:

This firm is currently representing an American entity in a transaction with and for the Republic of Bulgaria. Upon completion of this transaction we and our client are committing to the donation of \$5,000,000 to help the Republican Party during the 1996 Presidential election.

The transaction we are involved in deals with the exchange of Pre-1940 Gold Backed German Government External Loan Documents for the forgiveness of Sovereign debt and hard currency. Upon completion at its fullest extent this transaction could provide the Republic of Bulgaria with a credit against debt of \$700,000,000 and hard currency in excess of \$2,000,000,000. According to the stated policy of the U.S. Government this would solidify market reforms and lead to enhanced U.S. security interests in the region.

You have been previously notified of individual government employees interfering in this transaction, contrary to policy. We thank you for the courtesy exhibited to the Bulgarian delegation during the President’s visit of last week. We appreciate your attention to this matter and keep you informed as to our progress.

Sincerely yours,

R. Warren Meddoff, P.A.

- ⁵³ R. Warren Meddoff, 9/19/97 Hrg., pp. 35–36; R. Warren Meddoff deposition, 8/18/97, p. 144–146.
⁵⁴ R. Warren Meddoff, 9/19/97 Hrg., pp. 35–36; R. Warren Meddoff deposition, 8/18/97, p. 144–146.
⁵⁵ Senator Levin, 9/19/97 Hrg., p. 93.
⁵⁶ R. Warren Meddoff, 9/19/97 Hrg., p. 35.
⁵⁷ Exhibit 2005M. The letter reads:

Dear Mr. President:

This letter is to advise you that I am considering a large donation to the Democratic National Committee to assist you in the forth coming [sic] Presidential election this fall. Please have your staff contact my offices to coordinate presentation of this donation to you in person during my families [sic] Washington visit scheduled between April 3 and the 12th.

You have made great strides and accomplished under very difficult circumstances, particularly in the area of foreign affairs. I strongly support your efforts in spite of having been a life time supporter of the Republican Party. During my last visit to the White House, I had the pleasure and honor of observing your representation of our nation during the State visit of President Yeltsin.

I look forward to your response and wish you success in your future endeavors as President. Thank you for your kind consideration of this matter.

Sincerely yours,

R. Warren Meddoff

- ⁵⁸ R. Warren Meddoff deposition, 8/19/97, pp. 16–17.
⁵⁹ R. Warren Meddoff deposition, 8/19/97, p. 17.
⁶⁰ R. Warren Meddoff deposition, 8/19/97, p. 17.

- ⁶¹ R. Warren Meddoff deposition, 8/19/97, p. 18.
- ⁶² R. Warren Meddoff, 9/19/97 Hrg., pp. 38–39.
- ⁶³ R. Warren Meddoff, 9/19/97 Hrg., pp. 67, 87–93.
- ⁶⁴ *Dallas Observer*, 1/1–7/98.
- ⁶⁵ *Dallas Observer*, 1/1–7/98.
- ⁶⁶ *Dallas Observer*, 1/1–7/98.
- ⁶⁷ R. Warren Meddoff, 9/19/97 Hrg., pp. 80, 86.
- ⁶⁸ R. Warren Meddoff, 9/19/97 Hrg., p. 23; see also R. Warren Meddoff deposition, 8/18/97, p. 81.
- ⁶⁹ R. Warren Meddoff deposition, 8/19/97, p. 154.
- ⁷⁰ R. Warren Meddoff, 9/19/97 Hrg., p. 24.
- ⁷¹ R. Warren Meddoff, 9/19/97 Hrg., p. 86; see *Newsweek*, 2/10/97.
- ⁷² R. Warren Meddoff deposition, 8/18/97, p. 56; R. Warren Meddoff, 9/19/97 Hrg., pp. 14–15, 99, 101.
- ⁷³ Exhibit 931: fax from Don Fowler to Warren Meddoff, 10/31/96; Exhibit 2008M: fax from Don Fowler to Warren Meddoff, 10/31/96.
- ⁷⁴ R. Warren Meddoff, 9/19/97 Hrg., pp. 15, 101.
- ⁷⁵ R. Warren Meddoff, 9/19/97 Hrg., pp. 46–47; R. Warren Meddoff deposition, 8/18/97, p. 60.
- ⁷⁶ R. Warren Meddoff, 9/19/97 Hrg., pp. 49–50. Exhibit 2007M: Richard Sullivan's 10/31/96 call sheet, which states:
- Warren Metalf (sic) 12:20 p.m. Received letter. Did not spell his name right. Also, letter did not fulfill his requests.
- Warren Meddoff 3:30 p.m. Wants to know about revised letter he should be receiving.
- Warren Meddoff 4:35 p.m. Tomorrow morning needs to speak with you right away. Still needs that letter.
- The next day, November 1st, Meddoff called Mr. Sullivan yet again and left a message stating: "Plz call re: people who has (sic) a request for POTUS." Exhibit 2009M: Richard Sullivan call sheet with memorandum of call from Warren Meddoff, 11/1/96; R. Warren Meddoff, 9/19/97 Hrg., pp. 50–51.
- ⁷⁷ R. Warren Meddoff, 9/19/97 Hrg., p. 51.
- ⁷⁸ Exhibit 933: fax from Eric Berman/Dan Fee/Rick Hess to Harold Ickes/Jessica Fitzgerald regarding Meddoff, Morgan, Valduz and Bukkehave, 11/25/96.
- ⁷⁹ R. Warren Meddoff, 9/19/97 Hrg., p. 102.
- ⁸⁰ R. Warren Meddoff deposition, 8/18/97, p. 56.
- ⁸¹ Donald L. Fowler deposition, 5/21/97, pp. 332–33; see R. Warren Meddoff, 9/19/97 Hrg., p. 48. Meddoff did not have a specific recollection of telling Fowler not to be deterred if someone mentioned the CIA, but he said that he might have mentioned the CIA and suggested to Fowler that a reference might have raised his contact with the CIA, because he has had contact with that agency. R. Warren Meddoff, 9/19/97 Hrg., pp. 112–13.
- ⁸² Donald L. Fowler deposition, 5/21/97, p. 333; see R. Warren Meddoff, 9/19/97 Hrg., p. 48.
- ⁸³ Donald L. Fowler deposition, 5/21/97, p. 335; see R. Warren Meddoff, 9/19/97 Hrg., p. 48.
- ⁸⁴ R. Warren Meddoff deposition, 8/18/97, p. 70.
- ⁸⁵ Exhibit 2065M: Letter from Majority Leader Trent Lott to R. Warren Meddoff thanking him for his \$2,500 contribution to the Republican Presidential Roundtable, 5/15/97.
- ⁸⁶ R. Warren Meddoff, 9/19/97 Hrg., p. 44; R. Warren Meddoff deposition, 8/18/97, p. 133.
- ⁸⁷ Col. Joseph J. Simmons IV deposition, 10/16/97, p. 134.
- ⁸⁸ Col. Joseph J. Simmons IV deposition, 10/16/97, p. 134.
- ⁸⁹ Col. Joseph J. Simmons IV deposition, 10/16/97, pp. 134–135.

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PART 2 INDEPENDENT GROUPS

Chapter 18: Teamsters

During the reelection campaign of International Brotherhood of Teamsters President Ron Carey, consultants to the campaign, including Carey's campaign manager and Martin Davis, launched a contribution-swapping scheme to help raise money for the Carey campaign. As these consultants have acknowledged in court proceedings, they illegally asked a number of groups to donate money to Carey's campaign in exchange for donations to those groups from the Teamsters. As a small part of this scheme, Davis sought the help of DNC officials in locating wealthy individuals willing to give money to Carey's campaign and promised greater Teamsters donations to the Democratic state parties in return. Evidence gathered by the Committee suggests that DNC officials took little action in response to this request, but that they did make an ultimately unsuccessful effort at directing to the Carey campaign the donation of an individual who sought to donate to the DNC, but whose foreign citizenship made her ineligible to make that donation.

FINDINGS

(1) The evidence before the Committee indicates that the DNC's efforts at finding a donor for the Carey campaign were limited to exploring the legality of a possible donation from one individual to the Carey campaign, but that donation did not ultimately occur because the potential donor was not eligible, under labor laws and Teamsters' rules, to contribute to the Carey campaign.

(2) Nevertheless, Martin Davis's comments to DNC officials should have led them to suspect that Davis was improperly seeking to influence the use of Teamsters funds to benefit the Carey campaign. DNC officials should have immediately refused to take any action in response to Davis's request.

TEAMSTER CONTRIBUTIONS

Martin Davis, a consultant for the reelection campaign of Teamster's president Ron Carey, pleaded guilty to participating in an illegal scheme to funnel money from the Teamsters union treasury to the Carey campaign. In his plea agreement, Davis stated, under oath, that he told "individuals, including a former official of the Clinton Campaign '96 Re-election Committee and the Democratic National Committee, that I wanted to help the DNC with the fundraising from labor groups, including the Teamsters" and that he "wanted to help raise more money from the Teamsters than they originally anticipated."¹ Jere Nash, who was running Carey's campaign and who also pleaded guilty to participating in the illegal scheme, stated under oath that Davis told him that he had spoken to "a representative of the Clinton-Gore campaign" and had told this representative that he (Davis) would help raise large amounts of money from the Teamsters "in exchange for" the DNC finding donors for the Carey campaign.²

Footnotes appear at end of chapter 18.

Martin Davis's initial contacts with DNC officials

Martin Davis was the part-owner and president of a company called the November Group, which provided direct mail services for organizations and political candidates. He was also a consultant for Ron Carey's campaign to be re-elected president of the International Brotherhood of Teamsters. In May or June of 1996, Davis contacted Terry McAuliffe, Clinton campaign finance chairman. At the time, McAuliffe was helping to raise money for the Clinton campaign and the DNC, and he maintained an office at Clinton campaign headquarters.³ McAuliffe had known Davis since approximately 1984.⁴

Davis told McAuliffe that he wanted to help raise a half-million dollars from labor unions for the DNC.⁵ McAuliffe does not recall Davis specifically asking for assistance in raising money for the Carey campaign,⁶ but conceded that Davis might have said something in the nature of, "Terry, I'd love it if you could help me. I am running Ron Carey's campaign."⁷ However, McAuliffe also testified that he saw no connection between Davis's offer to raise money for the DNC from labor and his suggestion that McAuliffe's help in raising money for the Carey campaign would be welcome.⁸ McAuliffe said he thanked Davis for his willingness to assist in raising funds from organized labor and referred him to Laura Hartigan, who was serving as the Clinton campaign finance director. McAuliffe explained to Davis that Hartigan could put him in touch with the appropriate people at the DNC.⁹ McAuliffe then brought Davis into Hartigan's office,¹⁰ where Davis told Hartigan that he wanted to be the "point person" to coordinate raising labor funds for the DNC.¹¹ McAuliffe testified that he never spoke with Davis again concerning this subject¹² and did not pursue it further.¹³

In response to this contact, Hartigan told Davis that she would speak to someone at the DNC.¹⁴ Shortly after that meeting, Hartigan called DNC Finance Director Richard Sullivan to tell him that Davis would be calling regarding his desire to raise labor money for the DNC.¹⁵ Hartigan did not ask Sullivan to do anything other than talk to Davis.¹⁶

Davis then contacted Sullivan directly and indicated that he was working to raise money from the Teamsters and asked whether the DNC could be helpful in raising money for the Carey campaign.¹⁷ Sullivan took no immediate action to pursue this request.¹⁸ In fact, Sullivan testified that he was indifferent to Davis's request, in part because he was confident that labor would support the DNC regardless of whether the party found a donor for the Carey campaign:

I had no doubt whatsoever that the IBT would support the DNC. It had done so in the past, on the merits of labor issues, and there was no reason whatsoever to believe that would change in 1996. In that sense, Davis wasn't offering much. The IBT was already a DNC supporter. Others were already actively working to raise money from it. Thus, we didn't need Davis to devise ways to entice the IBT as an ally.¹⁹

There is no evidence that anyone suggested to Sullivan that Davis's help in raising money for the DNC from the Teamsters was conditioned upon or was a quid pro quo for the DNC's assistance in raising money for Carey.²⁰ Indeed, it was Sullivan's impression that Davis wanted to help the DNC regardless of whether the DNC was helpful in finding support for the Carey campaign.²¹ Similarly, it was never Hartigan's understanding that Davis was suggesting some sort of quid pro quo or a nexus between raising money for Carey and raising funds for the DNC.²² Rather, it was her feeling that labor was going to donate to the DNC anyway, and Davis was not needed to get money from the labor unions.²³

Judith Vasquez's contribution to Vote Now '96

On June 9, 1996, a DNC fundraising event was held at the home of investment banker Richard Blum in Northern California.²⁴ In late June or early July 1996, Mark Thomann became the California DNC director and one of his first responsibilities was to collect the outstanding contribution commitments from the Blum event.²⁵ One of the pledges that had not been collected was a \$100,000 commitment by Judith Vasquez, the chairman and CEO of Duvaz Pacific, a Philippine company, to Vote '96, a tax-exempt get-out-the-vote organization.²⁶

When Sullivan asked Thomann about the commitments, Thomann told him that a Philippine woman (i.e., Vasquez) was interested in contributing, but that Thomann and attorneys for Vasquez had determined that, as a foreign national, she was prohibited from contributing to the DNC.²⁷ The hosts of the fundraiser had not known until shortly before the event that Vasquez was not a U.S. resident and therefore not able to contribute to the DNC.²⁸ Because she had traveled all the way from the Philippines, she was allowed to attend the fundraiser without making a contribution.²⁹ Through her counsel, Vasquez inquired about the legality of making an "in-kind" contribution to the DNC by underwriting a future fundraiser. Thomann researched this possibility by consulting the DNC's general counsel's office and the FEC, both of whom advised him that even in-kind contributions from foreign nationals were prohibited.³⁰

Several days later, knowing that Thomann was continuing to consult with attorneys for Vasquez to see "what other support she might offer," Sullivan said he had asked Thomann if Vasquez would consider making a contribution to the Carey campaign, if such a contribution was appropriate.³¹ Sullivan said he did not direct Thomann to solicit the contribution, but rather asked him to determine whether such a contribution would be legal.³² Sullivan explained to Thomann that any contribution to the Carey campaign had to be from an individual, and that the individual could not be an employer.³³

According to Thomann, Sullivan asked if the contribution for Vote '96 had been sent, and when he responded that it had not, Sullivan told him that there was "a change in direction" for the contribution.³⁴ Thomann testified that Sullivan did not tell him why Vasquez was to be asked to contribute to the Carey campaign.³⁵ Sullivan testified that he does not recall whether he ever told Davis he thought he could get Vasquez or another individual

to contribute to the Carey campaign, but acknowledges that he may have told Davis that he was having a conversation with Thomann.³⁶

A few days after the call from Sullivan, Thomann was contacted by Nathaniel Charney, an attorney for the Teamsters, regarding the possible contribution from Vazquez.³⁷ Thomann felt that Charney was pressuring him to secure this contribution immediately, which made him uncomfortable.³⁸ It was ultimately determined that because Vazquez was an employer, she could not contribute to the Carey campaign.³⁹ At that point, Thomann told Charney that Vazquez could not make a contribution and that he was "recusing" himself from the process.⁴⁰ According to Thomann, Charney was disappointed and continued to pressure him.⁴¹

Thomann also informed Sullivan of his conclusion that Vazquez could not contribute, because she had employees, and that he was stepping out of the process.⁴² According to Thomann, Sullivan exerted "absolutely no pressure" on him to come up with the contribution.⁴³ Thomann testified that Sullivan did not ask him to find another donor, or to find another way to get a contribution to the Carey campaign.⁴⁴ Thomann also testified that Sullivan never raised the issue with Thomann again.⁴⁵ Sullivan testified that he subsequently told Davis that the DNC was not going to be able to refer a contributor to the Carey campaign.⁴⁶ Vazquez ultimately donated \$100,000 to Vote '96.⁴⁷

Teamsters' contributions

In early June, Hartigan was asked by Davis for information on how the Teamsters could make contributions to certain Democratic state parties. Hartigan obtained information from the DNC about contributions that could be legally made and forwarded that information to Davis in a memorandum dated June 12, 1996.⁴⁸ Davis forwarded the memorandum to Teamsters headquarters.⁴⁹ A June 21 memorandum from Bill Hamilton, the Teamsters' director of government affairs, to Greg Mullenholz, the individual responsible for processing contribution requests made to the Teamsters, asked Mullenholz to have contribution checks issued to certain state Democratic parties.⁵⁰ The parties listed correspond to the parties listed in the June 12 Hartigan memorandum.

That same month, the Teamsters gave \$236,000 to state Democratic parties. A DNC record of Directed-Donor Checks Received to-Date lists several contributions received on June 26, 1996 credited to McAuliffe: a \$25,000 contribution from the Teamsters to the Illinois Democratic Party, a \$25,000 contribution from the Teamsters to the California Democratic Party, and \$5,000 from the Teamsters DRIVE Political Fund to the states listed on the two memoranda.⁵¹ Mullenholz testified that these contributions were made in response to the Hartigan memorandum.⁵²

During this same period of time, Davis continued in his unsuccessful efforts to get Sullivan to locate a contributor to Carey's reelection campaign. Overall, Davis placed roughly 30 calls to Sullivan concerning finding a donor for TCFU, but Sullivan spoke to Davis on only approximately two or three occasions.⁵³ In July or August, Sullivan and Davis had a conversation, during which Davis again said he hoped he could be helpful in raising labor money for

the DNC and that the DNC would find a contributor for the Carey campaign.⁵⁴

Sullivan testified that he told Davis that it was unlikely that he would be able to find someone to contribute to Carey.⁵⁵ He gave Davis two tickets to Clinton's birthday party at Radio City Music Hall on August 19 as a "consolation."⁵⁶ Sullivan testified that he was unaware of anyone else from the DNC soliciting anyone else for a contribution to the Carey campaign.⁵⁷

Sullivan also testified that he discussed Davis's request with others at the DNC, but he did not ask them to take any action.⁵⁸ According to Sullivan, Marvin Rosen, the DNC's finance chairman, discouraged the plan but told him to see whether the White House had heard anything about it.⁵⁹ Sullivan testified that he did not contact the White House,⁶⁰ and there is no evidence that anyone at the White House was contacted by Sullivan or by anyone else regarding this issue.

In August, in response to several telephone calls from Davis seeking a list of state parties to which the Teamsters could contribute, Hartigan asked Sullivan to compile such a list.⁶¹ The DNC provided the information to Hartigan and on August 10, she forwarded to Davis a memorandum under Sullivan's name listing the state parties and seeking approximately \$1 million in contributions.⁶² Davis sent the memo to Bill Hamilton, the political director for the Teamsters, with a cover memo stating that he would let Hamilton know when the DNC had "fulfilled their commitment."⁶³ Hartigan testified, however, that she was not aware of any commitments the DNC made to the Teamsters or Ron Carey.⁶⁴ In September and October, the Teamsters contributed to state parties and some of the contributions correlated with the requests made in the memorandum.

SULLIVAN'S ROLE

Some members of the Committee suggested that Sullivan may have perjured himself in his September 5, 1997 deposition when he disavowed any knowledge of a person named Judith Vazquez.⁶⁵ They point to Sullivan's notes, which contain the name Judith Vazquez,⁶⁶ and Mark Thomann's deposition testimony that it was his understanding from his conversations with Sullivan that Sullivan knew who Vazquez was.

At the hearing, Sullivan did not dispute Thomann's testimony regarding Vazquez, but explained that, at his deposition, he had not recalled that name or remembered who she was.⁶⁷ "I don't deny that I knew about Judith Vazquez at the time I talked to Mark Thomann. A year-and-a-half later, I didn't remember who she was."⁶⁸ At his deposition, despite not having recognized Vazquez's name, Sullivan was forthcoming about all of the relevant circumstances surrounding the transaction being examined by the Committee, including the fact that he had had a conversation with Thomann about a potential donor to Carey's campaign,⁶⁹ that Thomann was working with this potential donor's lawyers to determine the legality of the proposed contributions,⁷⁰ and that the potential donor was a female with interests in the Philippines.⁷¹ At the hearing, refreshed with his notes and other testimony, Sullivan remembered that the donor's name was Vazquez.⁷² When Sullivan's

deposition and hearing testimony is viewed in its entirety, given his testimony on the underlying facts of what happened, Sullivan's failure to recall the specific name of the donor does not appear to have been an attempt to mislead the Committee. This is reinforced by Sullivan's testimony where he recounted the events surrounding this donor.

Some members of the Committee also questioned whether Richard Sullivan may have perjured himself in his September 5, 1997 deposition when he testified that he did not do anything specific to raise money for Ron Carey and did not ask anyone to try to raise money for Carey.⁷³ It was suggested that this testimony was an attempt to mislead the Committee and was contradicted by Thomann's deposition and hearing testimony detailing his conversations with Sullivan.⁷⁴ However, a complete reading of Sullivan's deposition sheds doubt on these allegations.⁷⁵ Sullivan testified about specific conversations with Thomann, but simply disagreed with his questioners at both the deposition and in the hearing that his request of Thomann to look into the legality of Vazquez's potential contribution to the Carey campaign was, in fact, an attempt to raise money for Carey. Sullivan testified that Thomann "responded back that [Vasquez's contribution would not be] legal, and I said fine. So I did not ask Mark to ask her to contribute."⁷⁶ For his part, Thomann agreed with this characterization, testifying at the hearing that he had no knowledge of "any DNC official ever solicit[ing] a contribution that was made to the Ron Carey Presidential campaign or the Teamsters for a Corruption-Free Union."⁷⁷ Again, in light of the fact that Sullivan voluntarily provided the details of his involvement in the proposed Vazquez contribution, the questioned statements do not appear to have been an attempt to mislead the Committee.

PROPOSED CONTRIBUTION TO UNITY '96

In October 1996—several months after the possible Vazquez contribution to the Teamsters was determined to be inappropriate—Martin Davis and Terry McAuliffe discussed the possibility of locating an individual willing to donate \$100,000 to the Carey campaign in exchange for a \$500,000 contribution by the Teamsters to Unity '96,⁷⁸ a joint fundraising effort by the DNC, DSCC, and DCCC to raise money for the 1996 elections.⁷⁹ McAuliffe was one of the persons behind the creation of Unity '96 and raised funds for it, but played no role in the actual administration of the project.⁸⁰ Each Unity '96 official who was subsequently informed about Davis's request to secure a contributor for the Carey campaign in order to facilitate a contribution to Unity '96 rejected the suggestion out of hand and did not pursue the possibility.

DCCC executive director rejected the proposal

McAuliffe discussed the possibility of locating a contributor for Carey's campaign with Matt Angle, the executive director of the Democratic Congressional Campaign Committee ("DCCC").⁸¹ Angle is also involved in the fundraising efforts of the DCCC.⁸² Around October, Angle initiated a discussion with McAuliffe concerning fundraising. In the course of the conversation, McAuliffe asked if there was anyone who could or would write a check to Carey. He

said that if Unity '96 could get someone to donate to the Carey campaign, donations might come from the Teamsters to Unity '96. Specific amounts were not discussed, nor was it suggested that a smaller donation to the Carey campaign might result in a larger Teamsters donation to Unity '96.⁸³

Angle testified that he was dismissive of the idea and told McAuliffe that he would not take the idea to the chairman of the DCCC, Rep. Martin Frost (D-Tex.).⁸⁴ Angle testified in his deposition that the idea did not make sense for two reasons. First, the DCCC had made it a practice not to get involved in internal union politics.⁸⁵ Second, it was convoluted, in that the DCCC wanted to find donors for Unity '96, not some other entity.⁸⁶ He knew it was not something that Frost would be interested in.⁸⁷ He did not consider the idea seriously enough to begin to think about whether it would be legal or not.⁸⁸ McAuliffe accepted Angle's response and told him to let him know if he heard anything.⁸⁹ McAuliffe did not bring the subject up with Angle again.⁹⁰

DCCC chairman rejected the proposal

Angle mentioned the conversation with McAuliffe to Frost that same day and told him that the DCCC was not interested in the idea. Angle said that Frost was also dismissive of the idea, for reasons Angle believed were similar to his own. In fact, Frost wanted to be sure that Angle had made it clear that the DCCC was not interested in the idea.⁹¹ Frost did not ask how much money was involved. Angle is not aware of Frost making telephone calls to any contributors or to anyone at the Teamsters concerning the idea.⁹²

DSCC deputy executive director rejected the proposal

McAuliffe also brought up the idea in October at a Unity '96 meeting attended by Rita Lewis, the deputy executive director of the DSCC and a director of Unity '96.⁹³ McAuliffe said that if Unity '96 were able to find money for Carey's campaign, the Teamsters would be more likely to give to Unity '96. It was not Lewis's understanding that a contribution by the Teamsters to Unity '96 was conditional upon efforts to find a donor for Carey's campaign, but, rather, that Unity '96 would be more likely to receive a contribution if Carey were helped.⁹⁴ She characterized it as more of a statement of fact than a proposal.⁹⁵ McAuliffe did not indicate the genesis of this idea.⁹⁶ Lewis does not recall McAuliffe mentioning the amount of the contribution that Unity '96 might receive from the Teamsters.⁹⁷

Lewis dismissed the idea as something Unity '96 could not do because of political disagreements the DSCC was having with the Teamsters.⁹⁸ She does not recall anyone else reacting to McAuliffe's comment,⁹⁹ nor does she recall anyone being given an assignment in relation to the comments made by McAuliffe. She never discussed implementing the plan with anyone.¹⁰⁰ Lewis, who regularly attended Unity '96 meetings, remembers this subject coming up only that once.¹⁰¹ Because they did not pursue the idea, they did not assess the legality of it.¹⁰²

DSCC chairman rejected the proposal

In mid-October, Lewis and Senator Bob Kerrey of Nebraska, who is the chairman of the DSCC, were discussing the Teamsters campaign contributions and an upcoming vote relating to the Federal Express labor dispute, and Lewis brought up the idea that McAuliffe had mentioned.¹⁰³ According to Lewis, Senator Kerrey dismissed the idea at that meeting because he believed the Teamsters faced more critical issues.¹⁰⁴

Senator Kerrey called Bernard Rapoport, a major Democratic contributor who is one of his close friends and advisors,¹⁰⁵ and according to Rapoport, said, "I want your opinion on something."¹⁰⁶ Rapoport testified that Kerry then explained how the DNC¹⁰⁷ would benefit from raising funds for the Carey campaign and asked Rapoport what he thought.¹⁰⁸ Rapoport said, "It's a bad idea."¹⁰⁹ According to Rapoport, both he¹¹⁰ and Senator Kerrey said they did not like the idea, and that was the end of the conversation.¹¹¹ Rapoport testified that their discussion of this topic lasted no more than a minute-and-a-half to two minutes.¹¹² That was the only conversation Rapoport had with Senator Kerrey concerning Carey's campaign.¹¹³ There is no evidence that the Senator made any efforts to find a contributor for Carey's campaign.¹¹⁴

The Proposal and Unity '96

Ultimately, the Teamsters did not contribute to Unity '96.¹¹⁵ Other unions and union PACs did contribute to the effort.¹¹⁶ Hamilton, the Teamsters' political director, had decided against donating to Unity '96 because of the recent votes of Democratic senators on labor issues.¹¹⁷ An October 23, 1996 memorandum from Hamilton to Carey states that Hamilton has "stopped all contributions to the Democratic Senate Campaign Committee because of the disappointing performance of Senate Democratic leaders, especially Democratic Leader Tom Daschle, on the Fed Ex vote two weeks ago just before they adjourned."¹¹⁸

CONCLUSION

During the last election cycle, DNC officials discussed attempting to find a contributor to the Carey campaign, and undertook a few limited efforts in that regard. There was no evidence presented to the Committee, however, that a contribution swap ever occurred. Although Davis has suggested that his proposal to raise money for the DNC was a quid pro quo, all of the Democratic Party officials involved deny any contribution swap and the evidence indicates that no swap occurred. The Teamsters made initial contributions to State Democratic Parties, but stopped after anti-labor votes by Senate Democrats.

FOOTNOTES

¹ *United States v. Martin Davis and Michael Ansara*, 9/18/97, pp. 25-26.

² *United States v. Jere Nash*, 9/18/97, p. 23.

³ Terrence R. McAuliffe deposition, 9/18/97, pp. 7-11.

⁴ Terrence R. McAuliffe deposition, 9/18/97, p. 51.

⁵ Terrence R. McAuliffe deposition, 9/18/97, pp. 59, 63.

⁶ Terrence R. McAuliffe deposition, 9/18/97, p. 62.

⁷ Terrence R. McAuliffe deposition, 9/18/97, p. 62.

⁸ Terrence R. McAuliffe deposition, 9/18/97, p. 81.

⁹ Terrence R. McAuliffe deposition, 9/18/97, p. 59.

- ¹⁰ Laura Hartigan deposition, 9/16/97, pp. 11–12.
¹¹ Laura Hartigan deposition, 9/16/97, p. 13.
¹² Terrence R. McAuliffe deposition, 9/18/97, p. 60.
¹³ Terrence R. McAuliffe deposition, 9/18/97, pp. 88–89.
¹⁴ Laura Hartigan deposition, 9/16/97, p. 13.
¹⁵ Statement of Richard Sullivan, 10/9/97, p. 3; Laura Hartigan deposition, 9/16/97, p. 13.
¹⁶ Laura Hartigan deposition, 9/16/97, p. 13.
¹⁷ Statement of Richard Sullivan, 10/9/97, p. 4.
¹⁸ Statement of Richard Sullivan, 10/9/97, p. 5.
¹⁹ Richard Sullivan, 10/9/97 Hrg., p. 91.
²⁰ Richard Sullivan, 10/9/97 Hrg., pp. 90–91.
²¹ Statement of Richard Sullivan, 10/9/97, p. 4; see also Richard Sullivan, 10/9/97 Hrg., pp. 144, 178–81.
²² Laura Hartigan deposition, 9/16/97, p. 24.
²³ Laura Hartigan deposition, 9/16/97, p. 20.
²⁴ Exhibit 1401.
²⁵ Mark Thomann, 10/9/97 Hrg., p. 7; Richard Sullivan, 10/9/97 Hrg., p. 127.
²⁶ Mark Thomann, 10/9/97 Hrg., pp. 9 & 122.
²⁷ Statement of Richard Sullivan, 10/9/97, p. 7; Richard Sullivan, Hrg., 10/9/97 Hrg., p. 128.
²⁸ Exhibit 1415: Statement of Richard Blum.
²⁹ Exhibit 1415: Statement of Richard Blum.
³⁰ Richard Sullivan, 10/9/97 Hrg., p. 95.
³¹ Statement of Richard Sullivan, 10/9/97, p. 8.
³² Mark Thomann, 10/9/97 Hrg., p. 38.
³³ Mark Thomann deposition, 9/23/97, p. 38.
³⁴ Mark Thomann, 10/9/97 Hrg., pp. 9, 72–73; Mark Thomann deposition, 9/23/97, p. 38. Sullivan does not recall using the phrase “change of direction.” Richard Sullivan, 10/9/97 Hrg., p. 129.
³⁵ Mark Thomann, 10/9/97 Hrg., p. 16, 61–62.
³⁶ Mark Thomann, 10/9/97 Hrg., p. 132.
³⁷ Mark Thomann, 10/9/97 Hrg., pp. 17–18.
³⁸ Mark Thomann, 10/9/97 Hrg., pp. 29, 75.
³⁹ Mark Thomann, 10/9/97 Hrg., p. 41.
⁴⁰ Mark Thomann, 10/9/97 Hrg., pp. 22–24.
⁴¹ Mark Thomann, 10/9/97 Hrg., p. 41.
⁴² Mark Thomann, 10/9/97 Hrg., p. 25.
⁴³ Mark Thomann, 10/9/97 Hrg., p. 25.
⁴⁴ Mark Thomann, 10/9/97 Hrg., p. 42; Mark Thomann deposition, 9/23/97, p. 49; Richard Sullivan, 10/9/97 Hrg., p. 146.
⁴⁵ Mark Thomann, 10/9/97 Hrg., pp. 42–43.
⁴⁶ Richard Sullivan, 10/9/97 Hrg., p. 146.
⁴⁷ Exhibit 1409.
⁴⁸ Exhibit 1422.
⁴⁹ Exhibit 1422.
⁵⁰ S 004820–004823.
⁵¹ Exhibit 15 to Terrence R. McAuliffe deposition, 9/18/97; Terrence R. McAuliffe deposition, 9/18/97, p. 112.
⁵² Gregory C. Mullenholz deposition, 9/15/97, pp. 99–100.
⁵³ Richard Sullivan, 10/9/97 Hrg., p. 113.
⁵⁴ Statement of Richard Sullivan, 10/9/97, p. 6; Richard Sullivan, 10/9/97 Hrg., p. 136; Laura Hartigan deposition, 9/16/97, pp. 20–21.
⁵⁵ Statement of Richard Sullivan, 10/9/97, p. 6; Richard Sullivan, 10/9/97 Hrg., p. 139.
⁵⁶ Statement of Richard Sullivan, 10/9/97, pp. 6–7.
⁵⁷ Richard Sullivan deposition, 9/5/97, pp. 118–119.
⁵⁸ Richard Sullivan, 10/9/97 Hrg., pp. 144–45.
⁵⁹ Richard Sullivan deposition, 9/5/97, pp. 181–82.
⁶⁰ Richard Sullivan deposition, 9/5/97, pp. 183–184, 197.
⁶¹ Laura Hartigan deposition, 9/16/97, p. 92.
⁶² Exhibit 1423.
⁶³ Exhibit 1423.
⁶⁴ Laura Hartigan deposition, 9/16/97, p. 104.
⁶⁵ Robert F. Bauer, 10/9/97 Hrg., p. 126.
⁶⁶ Exhibit 1420: Richard Sullivan’s notes regarding Vazquez.
⁶⁷ Richard Sullivan, 10/9/97 Hrg., pp. 125–26.
⁶⁸ Richard Sullivan, 10/9/97 Hrg., p. 126.
⁶⁹ Richard Sullivan deposition, 9/5/97, pp. 95–96.
⁷⁰ Richard Sullivan deposition, 9/5/97, p. 119.
⁷¹ Richard Sullivan, 10/9/97 Hrg., pp. 126, 148–49; Richard Sullivan deposition, 9/5/97, p. 134.
⁷² Richard Sullivan, 10/9/97 Hrg., p. 149.
⁷³ Senator Specter, 10/9/97 Hrg., p. 170.
⁷⁴ Richard Sullivan, 10/9/97 Hrg., p. 171; Exhibit 1419.
⁷⁵ Richard Sullivan, 10/9/97 Hrg., pp. 170–73.
⁷⁶ Richard Sullivan, 10/9/97 Hrg., p. 173.
⁷⁷ Mark Thomann, 10/9/97 Hrg., pp. 47–48.
⁷⁸ According to Davis, it was McAuliffe that first approached him to ask if he would attempt to raise \$500,000 for Unity ’96. Davis plea, p. 27.
⁷⁹ Matthew H. Angle deposition, 10/28/97, p. 26.

- ⁸⁰ Matthew H. Angle deposition, 10/28/97, p. 27, 33; Rita M. Lewis deposition, 10/27/97, pp. 9, 13.
- ⁸¹ Matthew H. Angle deposition, 10/28/97, p. 9.
- ⁸² Matthew H. Angle deposition, 10/28/97, p. 9.
- ⁸³ Matthew H. Angle deposition, 10/28/97, pp. 43–45, 47, 52.
- ⁸⁴ Matthew H. Angle deposition, 10/28/97, p. 45. Angle did not recall McAuliffe asking him to take the idea to Frost. Matthew H. Angle deposition, 10/28/97, p. 45.
- ⁸⁵ Matthew H. Angle deposition, 10/28/97, p. 46.
- ⁸⁶ Matthew H. Angle deposition, 10/28/97, p. 46–47, 51–52.
- ⁸⁷ Matthew H. Angle deposition, 10/28/97, pp. 46–47.
- ⁸⁸ Matthew H. Angle deposition, 10/28/97, pp. 64–65. In an October 22, 1997 *Washington Times* article Michael Tucker, a spokesman for the DSCC and Senator Kerrey, said that the idea was dismissed “largely because it was so impractical.” He also stated: “It would have been illegal, and that was part of the reason for not acting—for dismissing it.”
- ⁸⁹ Matthew H. Angle deposition, 10/28/97, p. 46.
- ⁹⁰ Matthew H. Angle deposition, 10/28/97, p. 49.
- ⁹¹ Matthew H. Angle deposition, 10/28/97, pp. 50–53.
- ⁹² Matthew H. Angle deposition, 10/28/97, p. 67.
- ⁹³ Rita M. Lewis deposition, 10/27/97, p. 6.
- ⁹⁴ Rita M. Lewis deposition, 10/27/97, pp. 15–18, 22–23.
- ⁹⁵ Rita M. Lewis deposition, 10/27/97, p. 55.
- ⁹⁶ Rita M. Lewis deposition, 10/27/97, p. 57.
- ⁹⁷ Rita M. Lewis deposition, 10/27/97, p. 29.
- ⁹⁸ Rita M. Lewis deposition, 10/27/97, pp. 17, 54–55.
- ⁹⁹ Rita M. Lewis deposition, 10/27/97, p. 17.
- ¹⁰⁰ Rita M. Lewis deposition, 10/27/97, pp. 18, 58.
- ¹⁰¹ Rita M. Lewis deposition, 10/27/97, pp. 15, 50–51.
- ¹⁰² Rita M. Lewis deposition, 10/27/97, pp. 18, 24–25.
- ¹⁰³ Rita M. Lewis deposition, 10/27/97, pp. 18–21.
- ¹⁰⁴ Rita M. Lewis deposition, 10/27/97, pp. 18–21.
- ¹⁰⁵ Rita M. Lewis deposition, 10/27/97, p. 53; Bernard Rapoport deposition, 10/20/97, p. 77.
- ¹⁰⁶ Bernard Rapoport deposition, 10/20/97, p. 35.
- ¹⁰⁷ According to Rapoport, Kerrey did not mention Unity '96. Bernard Rapoport deposition, 10/20/97, p. 49.
- ¹⁰⁸ Bernard Rapoport deposition, 10/20/97, pp. 35, 48–49.
- ¹⁰⁹ Bernard Rapoport deposition, 10/20/97, p. 89.
- ¹¹⁰ Bernard Rapoport deposition, 10/20/97, pp. 44 & 83–84.
- ¹¹¹ Bernard Rapoport deposition, 10/20/97, p. 35.
- ¹¹² Bernard Rapoport deposition, 10/20/97, p. 78.
- ¹¹³ Bernard Rapoport deposition, 10/20/97, pp. 39, 66.
- ¹¹⁴ See, e.g., Matthew H. Angle deposition, 10/28/97, pp. 46, 62; Rita Lewis deposition, 10/27/97, pp. 18–21.
- ¹¹⁵ Rita M. Lewis deposition, 10/27/97, p. 41.
- ¹¹⁶ Rita M. Lewis deposition, 10/27/97, pp. 41–42.
- ¹¹⁷ *U.S. v. Nash*, 9/18/97, p. 24.
- ¹¹⁸ S 004920. The memorandum continues, “I was asked as recently as yesterday by Sen. Kerrey, chairman of the DSCC, to reconsider. He asked for \$500,000; I said no.” While the Majority might attempt to connect this request by Kerrey—and the amount he requested—to the alleged contribution swap scheme, there is no evidence to support this. In fact, Lewis testified that Kerrey routinely called PAC contributors and national contributors to ask them to give money to the DSCC. Rita M. Lewis deposition, 10/27/97, p. 29. According to Lewis, the DSCC solicited the Teamsters for a large contribution because they knew that the Teamsters had funds readily available. Rita M. Lewis deposition, 10/27/97, p. 29.

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PART 2 INDEPENDENT GROUPS

Chapter 19: The Democratic Party and Other Independent Groups

During the 1996 federal election cycle, there were allegations that ostensibly independent, tax-exempt groups engaged in improper or illegal partisan political activity. The alleged activity ranged from broadcasting issue ads that in reality were candidate ads, to closely coordinating with one of the national political parties. Unfortunately, the vast majority of allegations against independent groups remain unexplored by the Committee because subpoenas issued to most of these groups were not complied with or enforced. Despite these and other limitations, allegations regarding groups traditionally associated with the Republican Party are addressed in Chapters 10–15. Allegations regarding groups traditionally associated with the Democratic Party, and that were explored in public hearings, are addressed in Chapters 17–18. This chapter addresses, to the extent possible based on evidence submitted to the Committee, allegations regarding certain other groups traditionally associated with the Democratic Party.

FINDINGS

(1) During the 1996 election cycle, several independent groups spent millions of dollars to promote Democratic issues and possibly Democratic candidates through “issue advocacy,” voter education and voter registration.

(2) The Committee, however, uncovered no evidence that the Democratic Party played a central role in contributing to, or coordinating with, these groups. The Democratic National Committee contributed only \$185,000 to such groups in 1996, compared to over \$5 million the Republican National Committee contributed to conservative groups in the last half of 1996 alone.

OVERVIEW

In 1997, the Annenberg Public Policy Center, a nonpartisan organization, published a report analyzing issue advocacy ads broadcast during the 1996 federal elections. The report found that political candidates and their committees spent \$400 million to broadcast candidate ads and that parties and other outside groups discussed in the study spent between \$135 and \$150 million to broadcast “issue ads.” The report noted that the independent and other outside groups claimed that because their ads focused on advocating “issues,” not candidates, there was no obligation to report the ad campaigns to the Federal Election Commission as independent expenditures.¹

The Annenberg report made the following comment about the role of these issue ads in the 1996 elections:

This report catalogues one of the most intriguing and thorny new practices to come onto the political scene in many years—the heavy uses of so-called “issue advocacy” advertising by political parties, labor unions, trade associations and business, ideological and single-issue groups dur-

¹Footnotes appear at end of chapter 19.

ing the last campaign . . . This is unprecedented and represents an important change in the culture of campaigns.²

The Minority agrees that the increased use of issue advocacy has changed the culture of campaign financing in the 1990s, as has the increased coordination and financial support between certain independent groups and the national political parties. As a result, with a few exceptions, the Minority actively supported a series of Committee subpoenas issued to 30 independent groups from April to July of 1997.³ The subpoenaed entities ranged from conservative groups such as Americans for Tax Reform, the Christian Coalition, and Triad Management to pro-Democratic groups such as Vote Now '96, the Teamsters and the AFL-CIO. The subpoenas requested that these entities provide information about their issue ads and other voter education activities, as well as their coordination with the national parties.

The Minority hoped to conduct a thorough investigation of these groups in order to understand their effect on the campaign finance system and to determine whether they avoided or violated current election and tax laws. Such an investigation would have assisted in providing guidelines for meaningful enforcement of campaign finance laws and regulations and could have led to proposals for new legislation. Unfortunately, a thorough investigation of these activities eluded the Committee because subpoenas to the groups were, in large part, not complied with or enforced. The breakdown in compliance is explained in detail in Chapter 41 of this Minority Report.

In addition, with very limited exceptions noted earlier in this part of the Minority Report, the Committee did not hold public hearings focused on the activities of these groups. With these limitations in mind, this chapter contains a summary of the information obtained regarding the activities of certain independent groups associated with the Democratic Party.

THE DNC AND INDEPENDENT GROUPS

In 1996, the Democratic National Committee ("DNC") contributed a total of \$184,500 to several independent, tax-exempt groups. The two largest recipients were the National Coalition of Black Voter Participation, which received \$117,000, and the African American Institute, which received \$20,000.⁴ Neither of these organizations was subpoenaed by the Committee and there were no allegations that they conducted improper partisan electioneering on behalf of the Democratic Party.

The Committee did examine other potential contacts the DNC may have had with independent groups. The Committee subpoenaed the DNC and required it to produce, among other things, all documents regarding contact with a variety of named independent groups. Despite a large production of documents, the Committee obtained no evidence that the DNC was involved in establishing, structuring, or controlling any independent group.

Therefore, unlike the evidence demonstrating that the RNC contributed nearly \$6 million dollars to independent groups and documents showing that RNC officials founded, structured or financed allegedly independent groups, the Committee obtained no evidence

that the DNC engaged in similar activities. Unfortunately, this disparity between the RNC and DNC relationships with independent groups was not explored by the Committee.

The Committee did explore, however, allegations that White House and DNC officials directed contributions to certain independent groups. These allegations were the subject of public hearings where the Committee received testimony about Warren Medoff's contact with Harold Ickes, and DNC officials' contact with Ron Carey's campaign for reelection as president of the Teamsters. There were also hearings where testimony was received on Vote Now '96. Additional allegations against independent groups traditionally associated with the Democratic Party are summarized below.

ACTIVITIES OF INDEPENDENT GROUPS

The AFL-CIO

Federal election law permits unions to establish political action committees ("PACs") and the PACs, in turn, are permitted to make contributions to candidates. Direct contributions by a union to a candidate or to the federal account of a political party, however, are prohibited in federal elections. This prohibition not only includes cash contributions, it prohibits unions from paying for "express advocacy" expenditures out of their general treasuries. Labor organizations, including the AFL-CIO, aired television advertisements during the 1996 elections, but maintain that they properly avoided this prohibition by airing issue ads that did not expressly advocate the election or defeat of specific candidates.⁵ This legal distinction is discussed at length in Chapter 9 of this Minority Report.

The allegations against the AFL-CIO were (1) that by spending a substantial amount of money on issue ads and other advocacy activities in 1996, the organization had an impermissible effect on the 1996 federal elections, and (2) that the organization improperly proposed that it coordinate its issue ads with the Democratic Party.

With the caveat that the Committee did not conduct a public investigation of the issue advocacy conducted by any independent group, the evidence the Committee received does not support the allegation that the AFL-CIO's expenditures ran afoul of legal prohibitions. Of the \$35 million reportedly spent by the AFL-CIO during the last election cycle, an estimated \$25 million went into paid media, and the remainder went into direct mail and related organizing activities. The AFL-CIO sent coordinators to 102 congressional districts, where they engaged in a combination of paid advertising, mail and get-out-the-vote activities. The AFL-CIO also ran issue-advocacy ads in a total of 44 of congressional districts where, ultimately, the GOP won 29 races and the Democrats won 15.⁶

The Committee investigated the second allegation—that the AFL-CIO impermissibly proposed coordinating its issue ads with the Democratic Party. That allegation arose during the deposition of Richard Morris, an outside political consultant who advised the president during the 1996 campaign. Morris claimed that during a meeting held at the White House sometime in 1996, an AFL-CIO media consultant proposed that they coordinate union advertising with the Clinton campaign.⁷ Following Morris' deposition, the Com-

mittee deposed several officials who Morris claimed were present during that meeting. Those officials, who included former White House Chief of Staff Leon Panetta and former White House Communications Director George Stephanopoulos, testified that they did not recall any discussion of coordination and that coordination did not occur.⁸ The Committee received no further evidence to support Morris' assertion that coordination was proposed, and Morris himself testified that no coordination actually occurred.⁹

It is apparent that the Committee's investigation of the AFL-CIO's activities, like the investigations of other independent groups, was not complete. The AFL-CIO was subpoenaed by the Committee in late May 1997, but objected to the subpoena in August after unsuccessfully attempting to narrow its scope. Several other independent groups also objected to subpoenas they received from the Committee, some stating that they agreed with the AFL-CIO's objections. These objections to the subpoena and the Committee's responses are detailed in Chapter 41 of this Minority Report.

Vote Now '96

The Committee discovered evidence that DNC officials and at least one White House official directed contributions to Vote Now '96, an independent tax-exempt organization that does not broadcast issue ads, but attempts to register new voters in minority areas. DNC officials allegedly directed contributions to Vote Now '96, including contributions from people who could not legally give to the DNC. The DNC apparently considered Vote Now '96 an organization worthy of contributions because most new minority voters tend to identify with the Democratic Party. Among the allegations involving Vote Now '96 were:

- DNC Finance Chairman Marvin Rosen steered a \$100,000 contribution from Judith Vasquez, a donor who was not legally permitted to give to the DNC or the Ron Carey campaign to Vote Now '96.¹⁰
- DNC donor Yah Lin ("Charlie Trie") contributed \$3,000 to Vote Now '96, and as with several of his political contributions, the source of the funds could not be determined.
- After a fundraising event at the Hay-Adams Hotel in Washington, D.C., DNC fundraiser John Huang indicated to DNC General Counsel Joseph Sandler that two of the contributions that had been made to the DNC were from individuals whose green card status had been approved but were not yet issued. The DNC returned the contributions and the same individuals later contributed to Vote Now '96.¹¹
- In response to a request from businessman Warren Meddoff for recommendations on tax-deductible organizations, White House deputy chief of staff Harold Ickes suggested that Meddoff's associate contribute to Vote Now '96. This allegation is discussed in detail in Chapter 17.
- In the fall of 1996, Vance Opperman, a major contributor to the Democratic Party, offered to contribute \$100,000 to the DNC. Mark Thomann, a DNC fundraiser was instructed by Richard Sullivan that even though he could legally contribute to the DNC, he should direct Opperman's contribution to Vote Now '96.¹²

Based on these allegations, it appears that DNC officials and one White House official steered contributions they could not—or did not want to—accept to Vote Now '96. The practice of steering contributions to an independent group leads to obvious questions regarding the reason for such activities, such as, was an attempt being made to conceal the true identity of the contributor or to evade the law. The legality of this activity, however, depends upon whether the contributions to Vote Now '96 served as nothing more than contributions to the DNC and were made to circumvent election law restrictions. In order to become de facto party contributions, the DNC must have in some way controlled or coordinated the contribution and the way Vote Now '96 expended its funds. Unlike the evidence establishing that the RNC controlled and coordinated with the National Policy Forum, Americans for Tax Reform, Coalition for Children's Future and other groups, there was no evidence presented to the Committee that the DNC coordinated or controlled the activities of Vote Now '96, which fully complied with this Committee's subpoena by producing documents and witnesses to the Committee.

Citizen Action

Citizen Action is a 501(c)(4) tax-exempt consumer advocacy group which spent \$7 million on televised ads, direct mail, and telephone operations during the 1996 election cycle.¹³ It was targeted for a subpoena primarily due to its alleged involvement in a contribution "swap" scheme devised by consultants to Ron Carey's campaign to be reelected president of the International Brotherhood of Teamsters. However, beyond issuing a document subpoena, the Committee did not investigate the group's activities. A criminal information filed against Ron Carey's campaign consultants in the Southern District of New York details the allegations against Citizen Action. There is no evidence of any connection between the activities of Citizen Action and the activities of the DNC and Clinton campaign. These matters are further discussed in Chapter 17.

National Council of Senior Citizens

Another entity apparently involved in the allegations concerning Ron Carey's campaign consultants was the National Council of Senior Citizens ("NCSC"). Federal prosecutors alleged in a criminal information against these consultants that the consultants arranged for the Teamsters to contribute \$85,000 to the NCSC, which then sent the same amount to the November Group. Part of the NCSC money paid to the November Group was allegedly funneled by Davis into the Carey campaign in order to finance Carey's direct mail campaign. Beyond issuing a subpoena, the Committee did not explore these serious allegations.¹⁴

CONCLUSION

As the 1997 Annenberg study points out, both pro-Republican and pro-Democratic groups conducted costly and partisan issue advocacy campaigns during the 1996 federal elections. Although the Minority believes that such issue advocacy campaigns as well as independent group coordination with both national parties merit further investigation, the Committee did not receive evidence that

the groups summarized above engaged in any improper issue advocacy or illegal coordination with the Democratic Party. For a list of independent groups subpoenaed by the Committee, see Chapters 40 and 41 of this Minority Report.

FOOTNOTES

¹The Annenberg Center for Public Policy, 9/16/97, "Issue Advocacy During the 1996 Campaign: A Catalogue."

²Annenberg, p. 3.

³The Minority believes that the Majority targeted certain independent groups solely on the basis that they were pro-Democratic.

⁴According to FEC records, in 1996, the DNC gave \$117,500 to the National Coalition of Black Voter Participation; \$20,000 to the African American Institute; \$10,000 to the Stonewall Gay and Lesbian Club; \$10,000 to the Congressional Black Caucus; and \$4,000 to the Hispanic Caucus.

⁵Annenberg, p. 5.

⁶Annenberg, p. 10.

⁷Richard Morris deposition, 8/20/97, p. 217.

⁸Leon Panetta deposition, 8/29/97, p. 190; and George Stephanopoulos deposition, 9/6/97, p. 98.

⁹Richard Morris deposition, 8/20/97, p. 217.

¹⁰Mark Thomann deposition, 9/23/97, pp. 24-29.

¹¹*New York Times*, 9/29/97.

¹²Mark Thomann deposition, 9/23/97, p. 63.

¹³Annenberg, p. 18.

¹⁴See *United States v. Davis*, U.S.D.C., S.D.N.Y.

PART 3 CONTRIBUTION LAUNDERING/THIRD-PARTY
TRANSFERS

Chapter 20: Overview and Legal Analysis

FINDING

A number of individuals in both the Republican and Democratic parties made contributions to candidates for federal office and political parties through persons who were eligible to contribute, in apparent violation of the Federal Election Campaign Act.

OVERVIEW OF FOLLOWING CHAPTERS

The Federal Election Campaign Act (“FECA”) mandates public disclosure of campaign contributors and their contributions, a requirement which the Supreme Court has upheld as a constitutional means to deter corruption, inform voters and detect violations of law.¹ Section 441f of Title 2 of the U.S. Code provides:

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.²

This provision creates three separate prohibitions: (1) it prohibits a contributor from disguising a contribution by using another person as a conduit; (2) it prohibits anyone from knowingly agreeing to serve as a conduit; and (3) it prohibits campaign organizations and candidates from knowingly accepting a conduit contribution. These prohibitions help guarantee that persons barred from making campaign contributions do not evade the applicable legal restrictions by making contributions in the name of another, and help prevent persons from circumventing the public disclosure requirements by offering their money in someone else’s name rather than their own.

The Committee investigated a number of allegations that contributions made to political parties or candidate committees were paid for by hidden donors. As the following chapters demonstrate, the investigation gathered convincing evidence that, during the 1996 election cycle, a number of individuals laundered funds through third parties when making contributions to Republicans and Democrats. In some cases, the laundered funds came from abroad; in others the laundered funds were American dollars. Some contributions were for \$1,000; one went as high as \$500,000. The evidence shows that unpaid fundraisers for both parties, such as Charlie Trie and Simon Fireman, participated in contribution laundering schemes.

The following chapters describe a variety of contribution laundering schemes. The evidence includes three companies, Aqua-Leisure Industries, Empire Sanitary Landfill, and DeLuca Liquor and Wine, which appear to have laundered corporate funds through employees to make more than \$275,000 in contributions to the Republican Party. One company, owned by Simon Fireman, vice chair-

Footnotes appear at end of chapter 20.

man of finance for the Dole for President campaign, laundered corporate funds through a secret Hong Kong trust before supplying cash to company employees who wrote checks made out to the campaigns Fireman selected. Also examined is the Hsi Lai Buddhist Temple which appears to have reimbursed temple monastics and supporters for contributions totalling \$65,000 to the Democratic National Committee. Contributions orchestrated by a family of Democratic Party supporters, the Lums, and their subsequent criminal convictions are examined, as well as \$253,500 in contributions to the DNC which Pauline Kanchanalak held out as her personal contributions when, in fact, the funds were provided by her mother-in-law, Praitun Kanchanalak (who was also eligible to contribute). The chapters also examine contributions from two apparently insolvent individuals, Yogesh Gandhi, who gave \$325,000 to the DNC, and Michael Kojima, who in 1992 gave \$500,000 to the Republican Party, both of which were apparently financed with foreign funds from Japan. Democratic Party contributions totalling about \$425,000 by the Wirindinatas may have originally derived from abroad, but appear to be legal because they were personal funds and no foreign national participated in the contribution decisions. Additional information about possible conduit contributions from foreign funds is discussed in Part 1 of this Minority Report which focuses on foreign influence in the last election cycle.

The Committee received no evidence that any candidate or party employee, other than Simon Fireman, Representative Jay Kim of California, and possibly John Huang, knowingly solicited or accepted a laundered contribution. The evidence also shows that, in some instances, fundraisers or party officials had warning signs that particular contributions were suspect. In too many cases involving large sums of money, these warning signs were ignored and inadequate procedures were used to verify the contributor and the contribution, resulting in improper or illegal contributions entering the campaign finance system.

LEGAL ANALYSIS

The basic principle underlying the prohibition on contributions in the name of another is that campaign contributions must be accurately disclosed to the public. For that reason, the prohibition applies even if the underlying contribution would have been legal, but for the fact that it was disguised as the contribution of another.

Establishing violations of section 441f often involves determining the source of funds used for a contribution, ownership of those funds, and whether the funds were provided to the contributor of record for the purpose of making a disguised contribution. These determinations are sometimes straightforward and can be established through the testimony of the conduit or through bank records documenting the movement of funds from a third party to the contributor of record to the campaign organization. Other times, these determinations are difficult, particularly if the contributor insists that no third party was involved or that the funds used for the contribution were validly obtained.

For example, an American citizen or legal resident who earns money working abroad, or receives money from a foreign national or foreign corporation in a business transaction, may be able to es-

establish that the money was personal income which can be lawfully used for a campaign contribution. Similarly, an American citizen or legal resident who makes a campaign contribution with money received from a family member who is a foreign national, may be able to demonstrate that the money was a personal gift, the family member played no role in the contribution decision, and the contribution was in compliance with the law. In contrast, while an American citizen or legal resident can establish personal ownership of funds provided from abroad and use those funds for a campaign contribution, U.S. subsidiaries of foreign corporations are completely barred from using foreign money to pay for a corporate contribution.³ The FEC requires U.S. subsidiaries to be able to “demonstrate through a reasonable accounting method that it has sufficient funds in its account, other than funds given or loaned by its foreign national parent,” to pay for its campaign contributions.⁴ In contrast, U.S. corporations that are not subsidiaries of foreign companies may use foreign funds to finance their campaign contributions, so long as they are not acting as conduits for another.

One significant problem with the current wording of section 441f severely limits its usefulness. As currently worded, each of the section’s prohibitions rely on the word “contribution.” Because “contribution” is defined in 2 U.S.C. 431(8) in terms of hard money contributions, section 441f’s prohibition on contributions in the name of another may not apply to any of the soft money conduit contributions examined by this Committee. Until corrective legislation is enacted, it is not clear that individuals who make soft money contributions through conduits could be successfully prosecuted or fined under the current law despite the fact that such actions violate the intent of existing law.

FOOTNOTES

¹*Buckley v. Valeo*, 424 U.S. 1, 66–67 (1976).

²U.S.C. § 441f.

³FEC Advisory Opinion 1992–16.

⁴*Ibid.* See also, legal analysis of foreign contributions in Part 1, *supra*.

PART 3 CONTRIBUTION LAUNDERING/THIRD-PARTY
TRANSFERS

Chapter 21: Contributions to the Democratic Party

A major focus of the Committee's investigation was the allegation that the Democratic National Committee ("DNC") received contributions during the 1996 election cycle that were paid for by someone other than the contributor of record and possibly with foreign funds. The Committee examined a number of these alleged contributions, including those from Keshi Zhan, Yue Chu and Xiping Wang; Pauline Kanchanalak; Yogesh Gandhi; Arief and Soroya Wiradinata; the Lum family; and persons associated with the Hsi Lai Temple branch of the Fokuangshan Buddhist sect. In each case, the Committee attempted to determine whether the contributions made in the names of these individuals were paid for by another, and whether DNC officials knew or should have known of any misconduct.

FINDINGS

(1) The evidence before the Committee shows that a number of individuals made contributions to the DNC or Democratic organizations in the name of others. Some of these were hard (restricted) money contributions, in which case they may be improper or illegal; some of these were soft (unrestricted) money contributions, in which case they may be technically legal, but result in inaccurate contribution records at the FEC. Among those whose activities the Committee investigated are:

(A) Charlie Trie/Ng Lap Seng ("Wu"): Trie and Wu used Keshi Zahn to arrange to have two legal permanent residents, Yue Chu and Xiping Wang, contribute \$28,000 in hard (restricted) money to Democratic campaign organizations and reimbursed them. There is no evidence before the Committee to suggest that either Chu or Wang understood that their actions potentially violated campaign finance laws. Trie and Wu also used Zahn to make a \$12,500 hard (restricted) money contribution to the DNC.

(B) Pauline Kanchanalak: Kanchanalak used her mother-in-law's money to fund \$253,500 in contributions to the DNC, \$26,000 of which was hard (restricted) money. Although both Pauline Kanchanalak and her mother-in-law Praitun Kanchanalak were legal permanent residents of the U.S. and each, therefore, lawfully could make contributions in her own name, the \$26,000 contribution of her mother-in-law's money in Kanchanalak's name appears to violate Section 441f.

(C) Yogesh Gandhi: Gandhi, a legal permanent resident, appears to have used an associate's foreign-source money to fund a \$325,000 contribution in soft (unrestricted) money in connection with a DNC fundraiser. Gandhi's bank records reveal that he would not have been able to make that contribution without significant wire transfers from Yoshio Tanaka, a Japanese national who attended a DNC fundraiser with Gandhi. Evidence before the Committee supports the conclusion that Tanaka transferred the money to fund Gandhi's contribution.

(D) Arief and Soraya Wiriadinata: The Wiriadinatas, at one time legal permanent residents, made contributions of over \$425,000 to the DNC, \$20,000 of which appears to be hard (restricted) money contributions. The contributions were made in checks drawn on bank accounts funded with overseas transfers from Soraya Wiriadinata's father. In light of representations from Soraya Wiriadinata that her father transferred Soraya's own money, the evidence before the Committee does not establish that the \$20,000 in hard money contributions came from another.

(2) The evidence before the Committee does not support a finding that any DNC official knowingly solicited or accepted contributions given in the name of another.

Hsi Lai Temple event

On April 29, 1996, Vice President Gore attended a DNC-sponsored and John Huang-organized event at the Hsi Lai Temple in Hacienda Heights, California. Vice President Gore's briefing papers for the event described it as an outreach event with members of the Asian-American community, but much controversy has arisen regarding allegations that the DNC improperly used a religious institution to host a fundraising event and that the Temple funneled money through its monastics to the DNC.

Based on the evidence before the Committee, we make the following findings regarding the event at the Hsi Lai Temple:

(3) From the perspective of Vice President Gore and DNC officials, the Hsi Lai Temple event was not a fundraiser. There is no evidence before the Committee that Vice President Gore knew that contributions were solicited or received in relation to the Temple event. The information received by the Vice President regarding the event described it as an opportunity for the Vice President to meet with members of the local Asian-American community. John Huang assured DNC Finance Director Richard Sullivan that the event was not a fundraiser, but instead would involve community outreach. Moreover, the event had none of the features of a fundraiser: no tickets were taken or sold at the door; the speakers did not solicit donations; and many of those who attended did not contribute to the DNC.

(4) John Huang and Maria Hsia used Vice President Gore's appearance at the Temple to raise money for the DNC. Although the event itself was not a fundraiser, Huang and Hsia, unbeknownst to DNC officials or the Vice President, used it as an opportunity to raise money for the DNC. Both before and after the event, they suggested to Temple officials that they collect contributions in connection with the Temple event. Their efforts eventually yielded \$65,000 in contributions from persons associated with the Temple.

(5) There is no evidence before the Committee to suggest that the money donated in connection with the Hsi Lai Temple event was foreign in origin.

(6) Many of the donations made in connection with the Hsi Lai Temple event appear to have violated federal campaign laws prohibiting contributions in the name of another. The Temple reimbursed the monastic donors for their contributions. There is evidence to suggest that most of those writing the checks did not un-

derstand that they were potentially violating federal election law. Nevertheless, there appears to be little doubt that most, if not all, wrote the checks to the DNC only because the Temple asked them to do so and with the understanding that they would not fund the contributions themselves.

(7) There is no evidence before the Committee that any DNC official knew that contributions made by Hsi Lai Temple monastics were of questionable legality.

KESHI ZHAN, YUE CHU AND XIPING WANG

The Committee examined several contributions made by three persons, Keshi Zhan, Yue Chu and Xiping Wang, associated with Charlie Trie and Ng Lap Seng (also known as Wu), Trie's Macao-based business associate.¹ All three appear to have been reimbursed by Trie and Wu for contributions made to the DNC in 1996. The DNC has returned all contributions made by Zhan, Chu and Wang.²

Keshi Zhan is a legal permanent resident of the United States and eligible to make campaign contributions. She is a local government employee, but apparently has also worked on occasion for Trie and Wu.³ In February 1996, in connection with a DNC fundraiser at the Hay Adams Hotel in Washington, D.C., co-chaired by Trie, Zhan made a hard money contribution of \$12,500 to the DNC. Bank records produced to the Committee show that Zhan wrote a check to herself for \$12,500 drawn from a bank account controlled by Trie and Wu, and deposited that check into her personal bank account on the same day that she wrote the \$12,500 check to the DNC. Committee investigator Jerry Campana testified before the Committee that it was his conclusion that the check from Trie and Wu's account was a reimbursement of her contribution.⁴

Yue Chu and Xiping Wang are two women who were born in China and are now legal permanent residents who have lived in the U.S. for several years.⁵ They are related by marriage.⁶ Chu's husband, Ming Chen, is employed by Wu in a restaurant in Beijing.⁷ Chu and Wang testified before the Committee on July 29, 1997, pursuant to a grant of immunity from prosecution.⁸ In sum, Chu and Wang testified that they contributed a total of \$27,000 to the Democratic Party at the request of Chu's husband and Zhan and were later reimbursed.

Chu testified that she first met Zhan in 1991, when Zhan was a classmate of Chu's husband at the University of the District of Columbia. Chu and Zhan became friends.⁹ On November 14, 1995, Zhan asked Chu to write a check for \$2,000 to the Democratic Senatorial Campaign Committee. She also asked Chu to write a \$1,000 check to Zhan herself. The next day, Zhan repaid Chu with a check for \$3,000. Chu testified that it was her understanding at the time that Zhan wanted Chu to lend her some money, and she did not ask Zhan the reason. She also testified that she did not know what the initials "DSCC" stood for at the time she wrote the \$2,000 check, and that she did not know that this check represented a political contribution.¹⁰

Footnotes appear at end of chapter 21.

In February 1996, Chu's husband, Ming Chen, returned to the U.S. from China for the Chinese New Year holidays. According to Chu, her husband said that his boss, Wu, wanted to visit the White House and needed \$25,000 to "buy a ticket."¹¹ Chu testified that they had sufficient funds to provide only \$20,000, and asked Chen's cousin, Xiping Wang, for the remaining \$5,000. Wang provided a check in that amount.¹²

On February 19, 1996, Chu gave Zhan two checks which were blank except for her signature. Zhan made out both checks to the DNC, in the amounts of \$12,500 and \$7,500. Chu testified that she did not know what the initials "DNC" meant.¹³ At the time she gave Zhan the two checks, Chu was given two checks from Zhan in identical amounts. Chu stated that this seemed unusual to her, but that she did not ask any questions at the time. She indicated that her primary consideration at the time was that her husband's boss needed help to buy a ticket and she had been asked to provide that help.¹⁴ Chu testified that she did not know whose money was used to reimburse her.¹⁵ She also testified that although she had once met Trie, she only knew of him as a business associate of Wu.¹⁶

On January 28, 1998, the Department of Justice indicted Trie for conspiring to defraud the DNC and FEC, in part, by "channel[ing] foreign money to the DNC through the use of straw or conduit contributions"; "conceal[ing] the source of the money contributed by reimbursing conduits in cash and using multiple bank accounts;" and "caus[ing] the DNC to file false campaign finance reports with the FEC."¹⁷ The Zhan contribution appears to be identified in the Trie indictment as an illegal conduit contribution; the Chu and Wang contributions are not included, presumably due to the Committee's decision to grant both women immunity from prosecution.¹⁸

The evidence before the Committee is convincing that Zhan, Chu and Wang were used as conduits for contributions financed by Trie and Wu, in connection with a fundraiser co-chaired by Trie and attended by Wu as Trie's guest. The evidence suggests that while Chu and Wang may have been unaware of their participation in a contribution conduit scheme, Trie, Wu and Zhan appear to have been aware of the legal prohibition against contributions by foreign nationals. The Committee's investigation found no evidence that, at the time of the contributions, anyone at the DNC knew or had reason to know that the Zhan, Chu and Wang contributions were being financed by Trie and Wu.¹⁹ Zhan, Chu and Wang were legal permanent residents eligible to make campaign contributions, and their checks were drawn on local U.S. banks in amounts that were substantial, but not so large as to trigger special inquiry. Neither the DNC nor the White House had access to or were aware of the bank records demonstrating the reimbursements.²⁰ The Trie indictment does not cite any facts suggesting that anyone at the DNC or the White House was aware of Trie's misconduct with respect to these or any other conduit contributions.²¹

In addition to the Zhan contribution, the Trie indictment identifies a number of other conduit contributions involving Trie, in particular in connection with an August 1996 Radio City Music Hall fundraiser in New York celebrating President Clinton's 50th birthday.²² The indictment charges that \$200,000 in funds from abroad

were wired transferred into a bank account belonging to Trie who then solicited and reimbursed two conduit contributions to the DNC totaling \$20,000.²³ The indictment charges that \$80,000 was also transferred from the Trie account to a California bank account, which Trie's business associate then used to solicit and reimburse five conduit contributions to the DNC totaling \$40,000.²⁴ While the Committee did not obtain independent evidence on these conduit contributions, the charges in the indictment provide additional reason to believe that Trie was involved in a number of conduit contributions to the DNC utilizing foreign funds. Trie's activities are discussed more fully in Chapter 5 of this Minority Report.

PAULINE KANCHANALAK

Born in Thailand, Pauline Kanchanalak is a legal permanent resident of the United States.²⁵ She earned graduate degrees from the University of Pittsburgh and Stanford and, in the 1980s, married Chupong "Jeb" Kanchanalak, the son of a prominent, wealthy Thai family residing in the United States since the 1950s.²⁶

Kanchanalak and her husband began a consulting business known as Ban Chang International ("BCI") in the early 1990s. This company sought to develop joint ventures between U.S. and Thai companies and to establish franchises of U.S. companies in Thailand. Jeb Kanchanalak served as managing director of BCI's Thailand operations, while Pauline managed the company's U.S. operations. Pauline Kanchanalak is also the Washington representative of a Thai conglomerate, the Ban Chang Group. In 1992, a group of Thai corporations—with the support of the Thai government—established an umbrella group called the U.S.-Thailand Business Council to promote trade with the United States. Jeb Kanchanalak was named executive director of the Thailand branch of the council. In 1994, the U.S. branch of the council was established.²⁷ The president of the U.S. branch was Karl D. Jackson, a Republican foreign policy expert.²⁸ Pauline Kanchanalak also was active in the U.S. branch of the council.

FEC records list Kanchanalak as having contributed \$1,000 to the DNC in 1993, \$62,500 in 1994 and nothing until 1996 when she contributed \$190,000 for a three-year total of \$253,500. All but \$26,000 were soft money donations.²⁹

Kanchanalak's contributions brought her status as a DNC managing trustee and wide-ranging access to the White House and the President.³⁰ A summary document of U.S. Secret Service WAVE records shows that in the nearly four-year period between January 20, 1993, and November 30, 1996, Kanchanalak visited the White House 26 times, including ten visits at which the President was present. These visits included such events as DNC trustees' receptions, lunches, dinners, and coffees; a presidential radio address; and a meeting of the U.S.-Thai Business Council.³¹ At one coffee, she was permitted to bring as her guests a group of visiting Thai businessmen.³²

After press reports raised questions about Kanchanalak's contributions, the head of the DNC's managing trustee program, Ari Swiller, contacted her. In a memorandum dated November 20, 1996, Swiller describes the substance of his conversation with Kanchanalak.³³ According to Swiller's memorandum, "she stated

that she had not made any contributions to the DNC and that all contributions came from her mother-in-law, Praitun Kanchanalak.”³⁴ The memorandum states:

Pauline explained that this was an arrangement she made with Vic Raiser during the 1992 campaign. I asked her if she ever discussed that arrangement with anyone other than Mr. Raiser, specifically Richard Sullivan, Lauren Supina, John Huang or me. She clearly stated that she never indicated that contributions from P. Kanchanalak were not from her.³⁵

Under this alleged arrangement between Kanchanalak and Raiser, the DNC’s 1992 finance chair, she was credited with contributions made by “P. Kanchanalak,” even though the contributions were financed with funds belonging to her mother-in-law, Praitun Kanchanalak. Praitun Kanchanalak is a legal permanent resident who is also eligible to contribute.

A Committee review of the contribution checks credited to Kanchanalak confirms that they were each signed “P. Kanchanalak.” No evidence before the Committee indicates that DNC personnel during the 1996 election cycle were aware of Kanchanalak’s alleged arrangement. Kanchanalak told Swiller that she had never discussed the arrangement with anyone other than Raiser. She also stated to him that she had never indicated that contributions from “P. Kanchanalak” were not from her. Moreover, there was no reason for DNC officials in 1996 to suspect that these contributions were not her own, since, by then, Pauline Kanchanalak was a wealthy international businesswoman and a DNC managing trustee with a history of contributions. In addition, separate contributions had been received from, and credited to, Pauline’s mother-in-law, Praitun Kanchanalak. In light of these facts, there would have been no reason to suspect that Pauline’s contributions represented funds from Praitun.

While questions were raised at the hearing regarding whether Kanchanalak or her mother-in-law used foreign funds for the contributions, there is no evidence that foreign nationals directed the contributions. Moreover, their status as legal permanent residents permits them to use their personal funds for campaign contributions, even if earned abroad. Additionally, as \$227,500 of the \$253,500 in contributions were soft money donations, it is unclear that these contributions were made in violation of 2 USC 441f’s prohibition against contributions in the name of another. Nonetheless, the DNC has returned all the contributions to Praitun Kanchanalak.

YOGESH GANDHI

In May 1996, Yogesh K. Gandhi made a \$325,000 contribution to the DNC in order to attend an Asian American fundraising event at which President Clinton would be present. The evidence before the Committee suggests that Gandhi paid for the contribution with funds provided by a Japanese national. DNC records identifying Trie as the “solicitor” of the contribution and Huang as the “DNC contact.”³⁶

Gandhi, born Yogesh Kothari, is a distant relative of Mahatma Gandhi.³⁷ In 1983, Kothari changed his name to Gandhi, moved to the United States, and became a legal permanent resident. He is eligible to make campaign contributions. He established the Gandhi Memorial International Foundation purportedly to promote the ideas of Mahatma Gandhi. An immediate descendant of Mahatma Gandhi, however, has publicly stated that Yogesh Gandhi is a “scam artist” interested primarily in enriching himself.³⁸

The Gandhi Memorial International Foundation periodically presents the Mahatma Gandhi World Peace Award to prominent individuals. Past recipients have included Ronald Reagan, Corazon Aquino, and Mikhail Gorbachev. In 1987, the award was given to Ryochi Sasakawa, a controversial, wealthy Japanese businessman who was jailed for suspected war crimes by the Americans after World War II and has been accused of links to organized crime and extreme rightists. One year after receiving the Gandhi award, Sasakawa donated \$500,000 to the Gandhi Foundation.³⁹

In 1995, the foundation gave the Gandhi award to Hogen Fukunaga, a Japanese multimillionaire who runs a controversial religious organization in Japan and faces multiple legal problems in Japan from people claiming to have been defrauded by his organization.⁴⁰ Press reports indicate that Fukunaga has taken part in a number of highly publicized events arranged by Yogesh Gandhi, including an audience with Pope John Paul II, a meeting with Mother Teresa and participation in a United Nations conference in Turkey. These events were apparently funded by a Japanese associate of both Gandhi and Fukunaga named Yoshio Tanaka. Tanaka is a businessman who is apparently involved in unknown business ventures with Gandhi and who brought Gandhi together with Fukunaga.⁴¹

In late September 1995, Gandhi sent letters to President and Mrs. Clinton inviting them to attend an October 2, 1995 ceremony celebrating the 125th anniversary of Mahatma Gandhi’s birth, at which time the Gandhi Foundation’s World Peace Award would be presented to Fukunaga.⁴² The White House declined the invitation. On November 12, Gandhi wrote again to the President asking for 30 minutes of his time for presentation of the gift of a leather-bound collection of the writings of Mohandas Gandhi.⁴³ This gift was declined by the White House on January 3, 1996.⁴⁴

On February 5, 1996, Gandhi wrote to the President once again, this time informing him that he had been selected as the recipient of the 1996 Mahatma Gandhi World Peace Award.⁴⁵ In a separate letter the same day, Gandhi wrote seeking a date to present the award.⁴⁶ In response, the White House scheduling office sent out a routine internal inquiry seeking opinions on whether or not the President should accept the award.⁴⁷ Ann Eder of the White House Office of Public Liaison testified in a deposition that she believed preliminary information was obtained on Gandhi and his foundation indicating that the foundation was not reputable.⁴⁸ The White House staff also located an article discussing the presentation of the award to the controversial Sasakawa.⁴⁹ On April 17, 1996, the scheduling office wrote to inform Gandhi that the President would not be able to accept the foundation’s award.⁵⁰

Having been turned down three times in his efforts to gain a meeting with the President, Gandhi took a new approach. According to an interview Gandhi provided to Committee staff,⁵¹ a friend of his from Houston alerted him to an Asian-American fundraising event that would be taking place in Washington, D.C. at which the President would be present. Gandhi told Committee staff that on the day of the event, May 13, 1996, Charlie Trie visited him at his hotel in Washington and suggested a contribution of \$500,000 for Gandhi and 25 other individuals to attend the DNC fundraiser at the Sheraton Carlton Hotel. According to Gandhi, he negotiated with Trie and ultimately gave Trie a check drawn on his personal account for \$325,000 in exchange for 26 tickets to the event.

Gandhi's contribution represented tickets to a fundraising dinner for 13 couples. Among the guests Gandhi brought to the dinner were Fukunaga and Tanaka. Although Gandhi said that his attendance at the dinner was not for the purpose of giving the Gandhi award to the President, Fukunaga told the media that he made the trip to Washington specifically for that purpose.⁵² The entire \$325,000 was attributed to a soft money account.⁵³

According to Gandhi, during the dinner he approached individuals about presenting the award to the President. Gandhi claims that he contacted Secret Service agents present at the dinner and that they set up the award presentation.⁵⁴ According to a deposition provided by the DNC general counsel, the persons responsible for allowing the presentation to be made were then White House Chief of Personnel Craig Livingstone, who was handling advance duties for the event, and John Huang.⁵⁵ The presentation was apparently hastily arranged in a room near the dinner area and lasted only a few minutes. The award was presented to President Clinton by Gandhi and Fukunaga. Soon thereafter, photographs of Fukunaga and Gandhi with the President appeared on Fukunaga's Internet website.⁵⁶

DNC general counsel Joseph Sandler testified at a deposition that, five months after the event, when he asked Huang about the Gandhi contribution, Huang told him that Gandhi had been referred to him by an Indian American activist, who indicated that Gandhi was interested in attending a DNC event with the President and presenting the President with an award.⁵⁷ Gandhi stated in his interview that he never met or spoke with Huang until the dinner itself.⁵⁸

DNC finance director Richard Sullivan testified at a deposition that after the May 1996 event, he asked Huang about the Gandhi check, and Huang told him he wanted to have DNC general counsel Sandler look into it.⁵⁹ Sandler testified that Huang did not bring the check to him for review.⁶⁰ According to Sullivan, Huang held the check for as long as six days. It is unclear whether Huang held the check in order to evaluate Gandhi's eligibility to contribute, or because Gandhi had asked him to hold the check until additional funds were transferred into the account to cover the \$325,000 check.⁶¹

Several months later, in October 1996, newspaper articles began reporting that Gandhi appeared to be insolvent. One article published on October 23, reported an outstanding tax lien, revocation of Gandhi's driving license for failure to pay traffic fines, unpaid

bills, and a divorce petition in which Gandhi claimed pauper status to avoid paying a filing fee.⁶² The article reported in particular that in August 1996, three months after the DNC fundraiser, Gandhi appeared in small claims court in Contra Costa, California, in connection with a suit filed by former employees of the foundation seeking back wages and testified under oath that he had no American bank accounts or other assets, lived overseas the majority of his time, and obtained “all of his funds from a family trust in India.”⁶³

Following publication of these articles, DNC General Counsel Sandler made efforts to obtain a copy of the transcript of the court proceedings in which Gandhi allegedly stated that he lacked assets. On October 25, Sandler instructed DNC staff to prepare a return check to Gandhi. Sandler testified at his deposition that he decided to wait, however, until he had received and reviewed the court transcript before returning the funds. According to Sandler, after he received and reviewed the transcript, and after Gandhi failed to produce additional information regarding his contribution, Sandler ordered the return of the contribution. The return was made on November 6, 1996, about two weeks after the press allegations surfaced.⁶⁴

During an interview with Committee staff about these events,⁶⁵ Gandhi made contradictory statements and also contradicted information he was identified as having provided to the media. For example, he told the staff that the funds for his contribution had come from a wire transfer from a personal friend after the event. He also stated that he had asked the DNC to hold his check until he had made sure that the funds were available. Upon further questioning, he seemed to retract those statements and indicated that he had received a series of wire transfers for \$500,000 around the time of the event. When asked about statements in press accounts that his funds had come from a joint venture which had become profitable,⁶⁶ Gandhi characterized those funds as an “advance” on a business deal which had fallen through due to adverse publicity surrounding his DNC contribution.

The Committee subsequently subpoenaed Gandhi’s bank account records. The bank records show that, in May 1996, the same month as the DNC fundraiser, Gandhi received two wire transfers of \$500,000 and \$250,000 through Citibank in New York, from Japanese businessman Yoshio Tanaka. Absent these transfers, Gandhi’s account did not have sufficient funds to cover the \$325,000 check to the DNC. Tanaka was one of Gandhi’s guests at the fundraiser. Given Tanaka’s past history of making regular wire transfers of similar sums to Gandhi, presumably in connection with Gandhi and Fukunaga’s appearance with international figures, it is a logical inference that these wire transfers were intended to repay Gandhi for obtaining the tickets to the fundraising event at which President Clinton was present.

No evidence before the Committee indicates that anyone from the DNC, with the possible exception of Huang, had any knowledge that the Gandhi contribution was financed by another person and possibly utilized foreign funds. After press accounts questioned Gandhi’s financial viability, the DNC obtained the relevant court transcript and returned his money in full.⁶⁷ On the other hand, the

evidence indicates that, prior to accepting Gandhi's contribution initially, DNC personnel failed to obtain apparently readily available information raising concerns about Gandhi and his foundation, and never determined that the White House had prior dealings with him. Given the size of this contribution and how little was known about Gandhi, a more careful evaluation of his contribution should have been conducted. For additional discussion of this topic see Chapters 4 and 5 of this Minority Report.

HSI LAI TEMPLE MONASTICS

The Hsi Lai Temple in Hacienda Heights, California, is the largest U.S. branch of the Fokuangshan Buddhist Order, a Taiwan-based Buddhist sect founded and led by the Venerable Master Hsing Yun ("Master" or "Hsing Yun"). According to its literature, the Hsi Lai Temple is the largest Buddhist monastery in the Western Hemisphere. It was built in 1988 to further "humanistic Buddhism" and to serve "as a spiritual and cultural center for those interested in learning more about Buddhism and Chinese culture."⁶⁸ During the 1996 election cycle, the Temple abbess was Suh Jen Wu; her assistant was Man-Ho Shih; and the Temple bookkeeper was Yi Chu.

On April 29, 1996, Vice President Gore attended a DNC-sponsored event at the Temple.⁶⁹ This event had been organized by Maria Hsia, a long-time Democratic activist and fundraiser, and a devotee of the Hsi Lai Temple.⁷⁰ John Huang was the DNC fundraiser in charge of organizing the event. DNC records attributed a total of \$159,000 in contributions to this event,⁷¹ of which \$65,000 was contributed in the form of personal checks by monastics from or devotees associated with the Temple.⁷² Each of the monastics who contributed to the DNC in connection with this event received a check from the Temple for the full amount of his or her contribution.⁷³

On September 4, 1997, pursuant to a grant of immunity from criminal prosecution, the Committee received testimony concerning the event from three monastics, the Venerable Man-Ho Shih, assistant to the Temple Abbess; Venerable Yi Chu, the Temple bookkeeper; and Venerable Man Ya Shih, abbess of a Texas temple who attended the event while visiting the Hsi Lai Temple for a seminar with the Master.⁷⁴ Man-Ho testified that \$45,000 in contributions was raised prior to the date of the event as a result of calls placed by monastics to devotees of the Temple.⁷⁵ She further testified that on the day after the event she received a telephone call from Maria Hsia informing her that John Huang needed to raise additional money in connection with the event to enable him to report total contributions of \$100,000.⁷⁶ Because she believed the Temple's abbess was already aware of this need, Man-Ho spoke with the Temple's bookkeeper, Yi Chu, about raising the additional funds.⁷⁷

Yi Chu testified that she approached a number of monastics at the Temple that day and asked those who had their checkbooks if they would be willing to donate \$5,000. She said that no one refused. She said that she ultimately received checks from 11 people totaling \$55,000.⁷⁸ These checks were made out to the DNC and were provided to John Huang.⁷⁹

Yi Chu further testified that she wrote checks totaling \$10,000 to three individuals—two monastics and one devotee—who had made contributions prior to the event in order to reimburse them for their contributions. In addition, she stated that she wrote reimbursement checks to each of the 11 monastics who contributed after the event.⁸⁰ The Temple thus reimbursed a total of \$65,000 in contributions, all of which were hard money contributions. The reimbursements were all made from the Temple's general expense account.⁸¹

The evidence before the Committee on whether the Temple and its monastics knowingly participated in a conduit contribution scheme is mixed. Some monastics apparently were unaware that the \$5,000 checks they were asked to write were for campaign contributions; Yi Chu testified that the name of the Temple's security system is "DNC" which may have caused some confusion,⁸² and Yi Chu herself did not know that the DNC was a political party.⁸³ Temple officials also contend that "reimbursement" is a misnomer for the transfer of funds. They explain that the Temple's lifestyle is a communal one in which members view themselves as members of one large family. Members often give to the Temple what is theirs and they receive from the Temple as they need it.⁸⁴ In such a lifestyle the line between what constitutes the personal property of the monastics and what constitutes the property of the Temple is not as clearly delineated as it is elsewhere in American society. This concept was explained in the joint opening statement of the monastics who testified before the Committee:

For instance, individual monastics often share what assets they personally have accumulated with the temple and consider the temple to be their home and provider. Often, monastics will bring and contribute to the temple funds which they have access to or that belong to them from their lay relationships (i.e., inheritances or cash savings accumulated prior to their joining the monastery). While monastics may contribute their own funds to the temple, at the same time funds for their living expenses or for some worthy cause will be provided by the temple. All this is part of the Buddhist tradition[all] custom of helping one another in time of need. Thus, as a consequence[], what Americans call "reimbursements" is simply the way by which the temple helps its monastics to meet living expenses or to perform good deeds.⁸⁵

The testimony indicated that the Temple regularly "reimbursed" monastics for a wide variety of expenses, including medical expenses, educational expenses, expenses incurred in visiting family, and charitable donations.⁸⁶ Moreover, in an interview with Committee staff, Master Hsing Yun indicated that, in his view, contributions made in connection with a visit to the Temple by the Vice President of the United States were not an effort to promote the reelection of a particular candidate, but rather were a way of expressing gratitude to the United States for all the assistance it has provided to Taiwan over the years.⁸⁷

On the other hand, the evidence indicates that at least some Temple officials were conscious of possible wrongdoing. Yi Chu, the

Temple bookkeeper, testified that she knew the Temple could not contribute directly, in its own name, which is why she had to go through the process of finding individuals to write checks.⁸⁸ She and Man-Ho testified that once the controversy over the event became public, they destroyed certain documents and altered others. Among the documents Man-Ho destroyed was a list of those individuals who had contributed money prior to the Temple event.⁸⁹ The alteration of documents involved Yi Chu's adding the words "*futien* account" to the bottom of the reimbursement checks supplied by the Temple, after those checks had already been cashed.⁹⁰ This alteration was significant, because the checks were drawn on the Temple's general expense account,⁹¹ not the special account used by the Temple to manage its monastics' personal funds or "*futien* accounts." If the monastics had been reimbursed from their *futien* or personal accounts, it would have been clear that the money they were contributing was their own. By adding the words "*futien* account" to the reimbursement checks after the fact—suggesting that the reimbursements were made with each monastic's personal funds rather than with the Temple's funds—Yi Chu seemed to demonstrate an understanding that using the Temple's funds was improper.

Yi Chu's explanation for her action was that she was concerned about the press reports concerning the Temple event and was worried that negative publicity would hurt the Temple's reputation.⁹² She stated that she did not want to embarrass the Vice President or her friend Maria Hsia.⁹³ She and Man-Ho each testified that they took their respective actions entirely on their own and were not instructed to do so by Maria Hsia, John Huang, or anyone else.

Yi Chu and Man-Ho have also indicated that the April 1996 event was not the only time that the Temple had asked its monastics to make campaign contributions. Man-Ho stated in her deposition that the practice dated back to at least 1993, when Hsia asked her whether any of the Temple's devotees would like to support a fundraiser at which Vice President Gore would be appearing.⁹⁴ She indicated that three Temple devotees contributed a total of \$5,000 in connection with that event, for which the Temple reimbursed them. In 1996, the Temple asked its supporters to make contributions not only at the April event, but also for DNC fundraisers in Washington and Los Angeles,⁹⁵ a fundraiser for Representative Patrick Kennedy of Rhode Island,⁹⁶ and for an event featuring Hillary Rodham Clinton. She indicated that, in each case, Hsia requested these contributions, and in each case the Temple reimbursed its supporters who made contributions.⁹⁷

On February 18, 1998, the Department of Justice indicted Hsia for conspiring with the Temple, from 1993 to 1996, to reimburse persons associated with the Temple for making requested campaign contributions. Hsia denies the charges. The indictment does not allege any facts indicating that foreign money was involved in the contributions. The indictment also does not allege any facts indicating the DNC, White House or John Huang was aware of the conduit contributions.⁹⁸

Section 441f states that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution." The evidence before the Com-

mittee suggests that the donations made by the Temple's monastics and devotees appear to have violated this prohibition, although many of the persons writing the checks apparently did not understand that they were making campaign contributions or that they were potentially violating federal election law. Nevertheless, the evidence suggests that there was little doubt that most, if not all of them, wrote checks only because the Temple asked them to do so and did so with an expectation of reimbursement similar to many other expenditures they might make. There is no evidence before the Committee that the Temple used any foreign funds to reimburse the contributions.⁹⁹ There is also no evidence before the Committee that Vice President Gore or any DNC official knew that the contributions made by persons associated with the Temple were of questionable legality. The DNC has returned all contributions made by persons associated with the Temple.

ARIEF AND SORAYA WIRIADINATA

Arief and Soraya Wiriadinata were born in Indonesia, became legal permanent residents of the United States, and resided in the United States until December 1995.¹⁰⁰ Arief attended graduate school in the U.S. in architectural engineering and operated a landscape architecture business. He also was a joint owner of a computer business named Geo-Tech in Indonesia, a business which he had hoped to develop in the United States. Arief's wife, Soraya, is the daughter of Hashim Ning, a wealthy Indonesian businessman who was a friend and business partner of Mochtar Riady.¹⁰¹

Arief and Soraya Wiriadinata voluntarily consented to be interviewed by Committee staff. Their interview took place on June 24, 1997.

In the interview, Arief stated that he and his wife made all of their campaign contributions through John Huang whom they first met when Huang visited Soraya's father in the hospital during the summer of 1995.¹⁰² Arief indicated that Huang encouraged the Wiriadinatas to support the Democratic Party at that time, although it does not appear that Huang directly solicited a specific contribution. Arief stated in the interview that a few months later, in October of 1995, during a visit to Indonesia, he informed Ning that he intended to contribute money to the Democratic Party. He indicated that he thought these contributions would help him build relationships that would facilitate his business efforts in the United States.¹⁰³

On November 2, 1995, the Wiriadinatas opened two bank accounts—one in each of their names—at First Union Bank. Three days later, Soraya's father wired \$250,000 from an account under his control to Soraya's account. Two days after that, he wired another \$250,000 to Arief's account. From November 1995 until December 1996, Soraya made 11 contributions from her account totaling \$226,000. During the same time period, Arief made ten contributions from his account totaling \$201,000. With the exception of \$2,000 contributed to the congressional campaign of Rep. Jesse Jackson, Jr. (D-Ill.), all of the Wiriadinatas's contributions were to the DNC and provided both hard and soft money.¹⁰⁴ Many of these contributions were made after the Wiriadinatas left the United States and returned to Indonesia in December 1995.

Soraya stated in her Committee staff interview that the \$500,000 wired to the two accounts was her own money.¹⁰⁵ She described it as her portion of the family's wealth, which her father, an experienced investor, had been managing for her. She also stated that following her father's death her brother took on the task of managing her money. According to an FBI detailee to the Committee who has worked and lived within Asian communities, such a practice is not unusual within Asian families.¹⁰⁶ No evidence has been presented to the Committee which contradicts Soraya's characterization of the money in the accounts as her personal funds. In addition, the Wiriadinatas voluntarily cooperated with the Committee investigation and have no history of wrongdoing. If the money wired to the accounts did, in fact, belong to Soraya, the Wiriadinatas' contributions would not appear to violate the prohibition against contributions in the name of another.

Moreover, as long as the Wiriadinatas were legal permanent residents, they were eligible to contribute and the prohibition against foreign contributions did not apply to them. Once the Wiriadinatas travelled to Indonesia, the law suggests they endangered their immigration status but it is unclear whether or at what point they may have lost their permanent resident status and eligibility to contribute. During their interview, the Wiriadinatas said that they travelled to Indonesia in December 1995 due to Ning's illness and remained at the request of her family after Ning's death, but had "always planned on returning to the United States after a year or two."¹⁰⁷ Under federal immigration law and its implementing regulations,¹⁰⁸ legal permanent residents who travel abroad may retain their legal permanent resident status so long as they "departed from the United States with the intention of returning" and the visit abroad was "temporary" or, if protracted, the length of time was due to "reasons beyond the alien's control and for which the alien was not responsible."¹⁰⁹ These determinations are to be made by immigration officials on a case-by-case basis when a person claiming permanent resident status seeks to return to the United States.¹¹⁰ No specific period abroad automatically causes legal permanent residents to lose their immigration status, although after six months, immigration officials typically question individuals claiming to be returning legal permanent residents.¹¹¹ Despite the fact that it is unclear if and when the Wiriadinatas may have lost their permanent legal resident status, the DNC chose to return all of the funds they contributed.¹¹²

THE LUM FAMILY

In May 1997, Nora and Gene Lum, and their daughter, Trisha, pleaded guilty to laundering contributions to Democratic campaigns in 1994 and 1995.¹¹³ Nora and Gene Lum pleaded guilty to making \$50,000 in illegal conduit contributions, primarily through employees and board members of their Oklahoma-based company, Dynamic Energy Resources.¹¹⁴ Trisha Lum pleaded guilty to making an illegal conduit contribution of \$10,000 to the Democratic Congressional Campaign Committee.¹¹⁵ These contributions, which were primarily from the 1994 election cycle, demonstrate that contribution laundering is not a new practice in the 1996 election cycle.

Nora and Gene Lum are Asian Americans who, in 1992, moved from Hawaii to Los Angeles and launched the Asian Pacific American Advisory Council ("Council"), a group seeking to increase support for Democratic candidates among Asian Americans in Southern California.¹¹⁶ In addition, the Lums personally contributed to Democratic candidates, with the bulk of their contributions directed to the 1994 re-election campaign of Senator Edward Kennedy of Massachusetts, and an unsuccessful bid for an Oklahoma congressional seat made by their business partner and co-owner of Dynamic Energy, Stuart Price.

Beginning in 1994 and continuing for about a year, the Lums began to use their personal funds and funds from Dynamic Energy to make conduit contributions.¹¹⁷ Between May 1994 and April 1995, the Lums funneled approximately \$50,000 in conduit contributions into several Democratic campaigns, primarily through company employees. Their daughter Trisha served as a conduit for a \$10,000 donation to the Democratic Congressional Campaign Committee, a division of the DNC, financed with funds from her mother. In August 1997, Michael Brown, son of the late Secretary of Commerce Ron Brown, a friend of the Lums, and acting president of Dynamic Energy, pleaded guilty to participating in the Lums' conduit scheme.¹¹⁸ After initially donating \$1,000 to the 1994 reelection campaign of Senator Kennedy, Brown admitted receiving another \$5,000 from Nora Lum. Brown then used those funds to make another \$1,000 contribution to the Kennedy campaign in his own name (reaching the \$2,000 legal limit on individual contributions), and used the remaining \$4,000 to reimburse others who made contributions under their names.¹¹⁹

The Justice Department obtained the convictions of the Lum family and Michael Brown in 1997.¹²⁰ To date, the Justice Department has apparently found no evidence that the DNC, Senator Kennedy, Stuart Price, or any other candidate or campaign organization was aware of the Lums' conduit scheme or knowingly accepted a laundered contribution. The evidence indicates that as soon as the allegations against the Lums became known, Democratic party officials and the Kennedy and Price campaigns returned all relevant contributions.¹²¹

CONCLUSION

The evidence before the Committee confirms that the DNC received a number of contributions during the 1996 election cycle that were paid for by someone other than the contributor of record, and that at least of some of these contributions may have utilized foreign funds. The evidence did not establish that the DNC knew or should have known of this misconduct. The example of the Lums shows that conduit contributions were not a new practice in the 1996 election cycle.

FOOTNOTES

¹For more information on Trie and Wu, see Chapter 5: Charlie Trie, *supra*.

²See Exhibit 62: DNC In-Depth Contribution Review, DNC 0134-145.

³See *Washington Post*, 12/18/96.

⁴Jerry Campana, 7/29/97 Hrg., pp. 71-72.

⁵Hrg., 7/29/97, p. 150.

⁶Hrg., 7/29/97, pp. 126-127, 140-141.

- ⁷ Hrg., 7/29/97, pp. 127–128.
- ⁸ Hrg., 7/29/97, pp. 125–126.
- ⁹ Hrg., 7/29/97, p. 128; Yue Chu deposition, 7/9/97, pp. 18–19.
- ¹⁰ Hrg., 7/29/97, pp. 130–133.
- ¹¹ Hrg., 7/29/97, pp. 134–135; Xiping Wang deposition, 7/9/97, pp. 10–16.
- ¹² Hrg., 7/29/97, pp. 134–135; Xiping Wang deposition, 7/9/97, pp. 10–16.
- ¹³ Yue Chu deposition, 7/9/97, pp. 36–37; Hrg., 7/29/97, p. 137.
- ¹⁴ Hrg., 7/29/97, pp. 137–140.
- ¹⁵ Hrg., 7/29/97, pp. 138–140, 143. See Exhibit 211: \$12,500 check from Keshi Zhan to Ming Chen, 2/19/97; Exhibit 212: \$7,500 check from Keshi Zhan to Ming Chen, 2/19/97.
- ¹⁶ Hrg., 7/29/97, pp. 129–130.
- ¹⁷ *United States v. Yah Lin “Charlie” Trie and Yuan Pei “Antonio” Pan*, Criminal Case No. 98–0029 (U.S. District Court for the District of Columbia), 1/28/98 (hereinafter referred to as the “Trie indictment”), “Manner and Means of the Conspiracy,” paragraph 15 (c), (d), (i).
- ¹⁸ Trie indictment, “Overt Acts,” paragraph 34.
- ¹⁹ Jerry Campana, 7/29/97 Hrg., pp. 64–65, 93.
- ²⁰ Jerry Campana, 7/29/97 Hrg., p. 93.
- ²¹ Trie indictment, “The Conspiracy,” paragraph 14.
- ²² See Part 1, Chapter 5: Charlie Trie, for more information.
- ²³ Trie indictment, “Overt Acts,” paragraphs 43–45, 52.
- ²⁴ Trie indictment, “Overt Acts,” paragraphs 48–51. See also *Los Angeles Times*, 12/7/97.
- ²⁵ *Washington Post*, 7/13/97.
- ²⁶ *Washington Post*, 1/27/97; Clark Wallace deposition, 8/27/97, pp. 92–93.
- ²⁷ Clark Wallace deposition, 8/27/97, pp. 6–14.
- ²⁸ Jackson served in the Bush Administration as the National Security Council’s chief Asian expert. In 1992, he became Vice President Quayle’s national security adviser. In August 1993, Jackson and Quayle announced formation of FX Strategic Advisors, Inc., a consultancy service for foreign-exchange traders and U.S. companies looking to invest abroad. See *Los Angeles Times*, 10/10/94; *Financial Times*, 9/6/93; *Business Times*, 6/28/94. Jackson testified before the Committee on 9/16/97.
- ²⁹ See FEC records and www.tray.com/cgi-win/allindiv.exe.
- ³⁰ UST 2013.
- ³¹ EOP002958; EOP002959.
- ³² Richard Sullivan deposition, 6/4/97, pp. 125–127.
- ³³ Memorandum dated 11/20/6, by Ari Swiller, head of the DNC’s managing trustee program, DNC1143379.
- ³⁴ *Ibid.*
- ³⁵ *Ibid.*
- ³⁶ DNC Check Tracking Form, 5/28/96, DNC0829404
- ³⁷ See *Los Angeles Times*, 10/23/96.
- ³⁸ See *Los Angeles Times*, 10/23/96.
- ³⁹ *Los Angeles Times*, 11/2/96 and 10/23/96; EOP 005431.
- ⁴⁰ *Los Angeles Times*, 11/2/96.
- ⁴¹ *Los Angeles Times*, 11/2/96.
- ⁴² EOP 003666 and 003667.
- ⁴³ EOP 003344.
- ⁴⁴ EOP 003345.
- ⁴⁵ EOP 005431.
- ⁴⁶ EOP 005430.
- ⁴⁷ EOP 008846.
- ⁴⁸ Eder deposition, 5/28/97, pp. 200–205.
- ⁴⁹ EOP 4717, October 14, 1987 UPI article.
- ⁵⁰ EOP 003399.
- ⁵¹ Staff interview with Yogesh Gandhi, 3/24/97. Gandhi had originally agreed to provide a deposition, but at the beginning of the deposition asserted his constitutional rights under the Fifth Amendment and refused to provide sworn testimony. He consented to an unsworn, untranscribed interview.
- ⁵² *L.A. Times* 11/2/96.
- ⁵³ See FEC filings.
- ⁵⁴ Staff interview with Yogesh Gandhi, 3/24/97.
- ⁵⁵ Joe Sandler deposition, 5/15/97, p. 110.
- ⁵⁶ *Los Angeles Times*, 11/2/96.
- ⁵⁷ Joseph Sandler deposition, 5/15/97, pp. 107–11.
- ⁵⁸ Staff interview with Yogesh Gandhi, 3/24/97.
- ⁵⁹ Richard Sullivan deposition, 6/5/97, pp. 34–35.
- ⁶⁰ Joseph Sandler, 9/10/97 Hrg., p. 13.
- ⁶¹ Staff interview with Yogesh Gandhi, 3/24/97.
- ⁶² *Los Angeles Times*, 10/23/96.
- ⁶³ *Los Angeles Times*, 10/23/96.
- ⁶⁴ Joe Sandler deposition, 5/15/97, pp. 113–116.
- ⁶⁵ Staff interview with Yogesh Gandhi, 3/24/97.
- ⁶⁶ See *Los Angeles Times*, 10/23/96.
- ⁶⁷ Because the \$325,000 contribution was attributed entirely to a soft money account, section 441f’s prohibition on contributions in the name of another may not apply. See Chapter 20: Overview and Legal Analysis.
- ⁶⁸ Hsi Lai Temple Literature, 000860–000865, 861.
- ⁶⁹ For a discussion of the event itself and the Vice President’s role in it, see Part 1’s chapter on John Huang, *supra*.

- ⁷⁰ See Howard Hom deposition, 8/27/97.
- ⁷¹ DNC document # D 0000974-977.
- ⁷² Yi Chu, 9/4/97 Hrg., p. 74.
- ⁷³ Yi Chu, 9/4/97 Hrg., p. 44.
- ⁷⁴ Man Ya Shih deposition, 8/20/97, pp. 13-14, 28-29.
- ⁷⁵ Man-Ho Shih, 9/4/97 Hrg., p. 31.
- ⁷⁶ Man-Ho Shih, 9/4/97 Hrg., p. 41.
- ⁷⁷ Man-Ho Shih, 9/4/97 Hrg., pp. 41-42.
- ⁷⁸ Buddhist nuns, 9/4/97 Hrg., pp. 43-45, 160-163.
- ⁷⁹ Yi Chu, 9/4/97 Hrg., pp. 46-48.
- ⁸⁰ Yi Chu, 9/4/97 Hrg., p. 44.
- ⁸¹ Yi Chu, 9/4/97 Hrg., p. 47.
- ⁸² Yi Chu deposition, 8/7/97, p. 78.
- ⁸³ Yi Chu deposition, 8/7/97, p. 77.
- ⁸⁴ Monastics of the Fokuangshan Order do not take a vow of poverty. Although many monastics do turn their wealth over to the sect, they are not required to do so. Monastics generally receive a monthly allowance from their Temple based upon their seniority and responsibilities. Indeed, monastics are allowed to maintain personal checking accounts at commercial banks. Some also maintain *futien* accounts with their individual temple. Such *futien* accounts are managed by the Temple on behalf of the monastic. The money from these *futien* accounts is typically held in a common account owned by the Temple. Buddhist nuns, 9/4/97 Hrg., pp. 45, 49-51.
- ⁸⁵ Buddhist nuns opening statement, 9/4/97 Hrg., p. 195.
- ⁸⁶ Man-Ho Shih, 9/4/97 Hrg., pp. 56-57.
- ⁸⁷ Statement of the Venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97.
- ⁸⁸ Yi Chu deposition, 8/7/97, p. 31.
- ⁸⁹ Man-Ho Shih, 9/4/97 Hrg., pp. 34-35.
- ⁹⁰ Yi Chu, 9/4/97 Hrg., p. 64.
- ⁹¹ Yi Chu, 9/4/97 Hrg., pp. 47, 74.
- ⁹² Yi Chu, 9/4/97 Hrg., p. 65; Man-Ho Shih deposition, 8/6/97, pp. 155-58; Exhibit 706.
- ⁹³ Yi Chu, 9/4/97 Hrg., p. 65.
- ⁹⁴ Man-Ho Shih deposition, 8/6/97, pp. 74-84.
- ⁹⁵ Man-Ho Shih deposition, 8/6/97, pp. 196, 202.
- ⁹⁶ Man-Ho Shih deposition, 8/6/97, p. 206.
- ⁹⁷ Man-Ho Shih deposition, 8/6/97, pp. 206-213.
- ⁹⁸ U.S. v. Maria Hsia, (Criminal Case No. _____, D.D.C. 12/18/95).
- ⁹⁹ Yi Chu, 9/4/97 Hrg., pp. 52 (Glenn), 99 (Lieberman), 107 (Durbin), 163 (Nickles).
- ¹⁰⁰ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰¹ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰² Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰³ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰⁴ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰⁵ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰⁶ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰⁷ Staff interview of Wiriadinatas, 6/24/97.
- ¹⁰⁸ 8 USC 1104; 22 CFR 42.22.
- ¹⁰⁹ 22 CFR 42.22(a).
- ¹¹⁰ 22 CFR 42.22(a).
- ¹¹¹ See 8 USC 1101(a)(13)(C).
- ¹¹² See FEC filings.
- ¹¹³ *United States v. Nora and Gene Lum*, Criminal Case No. 97-0207 (D.D.C.), 5/16/97; *United States v. Trisha Lum*, Criminal Case No. 97-0208 (D.D.C.), 5/9/97.
- ¹¹⁴ *United States v. Nora and Gene Lum*, Criminal Case No. 97-0207 (D.D.C.), 5/16/97; *United States v. Trisha Lum*, Criminal Case No. 97-0208 (D.D.C.), 5/9/97; see also *Los Angeles Times*, 6/30/97.
- ¹¹⁵ *United States v. Nora and Gene Lum*, Criminal Case No. 97-0207 (D.D.C.), 5/16/97; *United States v. Trisha Lum*, Criminal Case No. 97-0208 (D.D.C.), 5/9/97; see also *Los Angeles Times*, 6/30/97; *Los Angeles Times*, 5/22/97.
- ¹¹⁶ See *Los Angeles Times*, 6/05/97; and see also *Chicago Tribune*, 12/16/97.
- ¹¹⁷ See *Los Angeles Times*, 5/22/97.
- ¹¹⁸ *United States v. Michael A. Brown*, Plea Agreement, (D.D.C.), 8/26/97.
- ¹¹⁹ *United States v. Michael A. Brown*, Plea Agreement, (D.D.C.), 8/26/97; see also *Washington Post*, 8/29/97.
- ¹²⁰ *United States v. Nora and Gene Lum*, Criminal Case No. 97-0207 (D.D.C.), 5/16/97; *United States v. Trisha Lum*, Criminal Case No. 97-0208 (D.D.C.), 5/9/97; see also *Washington Post*, 2/7/96.
- ¹²¹ See FEC filings. See also *Los Angeles Times*, 6/5/97.

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PART 3 CONTRIBUTION LAUNDERING/THIRD-PARTY
TRANSFERS

Chapter 22: Contributions to the Republican Party

While the Committee spent much time and effort investigating allegations of laundered contributions to the DNC, it spent little time investigating similar allegations with respect to contributions to the Dole for President campaign, the RNC, and other Republican campaign organizations. The Committee allocated three hours on one Friday morning to hearing testimony concerning the admitted laundering scheme of Simon Fireman and Aqua Leisure Industries. That testimony established the DNC was not the only campaign organization which received laundered contributions during the 1996 election cycle. The Dole for President campaign and other GOP organizations received more than \$250,000 in confirmed instances of contribution laundering during the same time period. Moreover, in 1992—four years before the “unprecedented” activities which became the focus of this Committee’s investigative efforts—the RNC received \$500,000 in laundered foreign funds from an individual whose case bears many similarities to those for which the DNC has been criticized.

FINDINGS

(1) Simon Fireman, as a national vice chairman of the Dole for President campaign, used his company, Aqua Leisure Industries, Inc., to reimburse contributions to several Republican Party organizations made in the name of employees of Aqua Leisure. Over \$100,000 in contributions made by employees of Aqua Leisure to the Bush-Quayle campaign, the RNC, and the Dole for President campaign were actually corporate contributions from Aqua Leisure. Fireman was convicted for his offenses.

(2) Empire Sanitary Landfill, Inc. reimbursed its employees for over \$110,000 in contributions the employees made to the Dole for President campaign and other Republican campaigns. Empire was convicted for its offenses.

(3) DeLuca Liquor & Wine, Ltd. reimbursed five of its employees for \$10,000 in contributions the employees and their spouses made to the Dole for President campaign.

(4) There is no evidence before the Committee that anyone in the Dole for President campaign, the Bush-Quayle campaign or the RNC, other than Simon Fireman, knew about the above activities.

MICHAEL KOJIMA

A complete description of the case of Michael Kojima and his contributions to the RNC is provided in Part 1, Chapter 6. This discussion will focus solely on his \$500,000 contribution to the Republican Senate-House Dinner Committee and the evidence which suggests that contribution represented laundered foreign funds.

On April 28, 1992, Kojima attended a gala RNC fundraiser known as the President’s Dinner. As a result of having contributed \$500,000 to the Dinner Committee, Kojima and his wife sat at the head table with President and Mrs. Bush for the Dinner.¹ In addi-

¹Footnotes appear at end of chapter 22.

tion, Kojima brought 23 guests with him to the Dinner.² Kojima's \$500,000 contribution was paid for with three checks—two from a company called IMB, of which Kojima was president, and one from Kojima's personal account.³

At the time Kojima made his \$500,000 contribution to the RNC, however, he was an individual in deep debt and with few apparent assets. As president of a partnership known as 2M Management, he had defaulted on a \$655,000 loan in 1989.⁴ His subsequent business venture, IMB, was suspended for nonpayment of taxes in 1992.⁵ Indeed, a 1992 *Washington Post* article reported that Kojima had "a string of bad debt claims totaling more than \$1 million from previous business ventures."⁶ The *New York Times* reported that one creditor's attorney "thought Mr. Kojima had no assets," while another creditor's attorney, after learning of the Kojima contribution, said his 'blood began to boil'. . . since Mr. Kojima had declared bankruptcy to avoid paying his debts."⁷

In addition to his business debts, Kojima was also in deep personal debt at the time of his contribution, owing hundreds of thousands of dollars in child support to two former wives. One former wife had been searching for Kojima for five years to pay \$700 per month in court-ordered child support. The other former wife told the *Los Angeles Times* that she had "given up searching for the purportedly poverty-stricken Kojima—until he showed up with the President."⁸ Within a month after learning of Kojima's \$500,000 contribution to the RNC, the Los Angeles County District Attorney issued an arrest warrant for Kojima for nonpayment of child support. In announcing the warrant, the District Attorney labeled Kojima "America's most wanted deadbeat dad."⁹

How then did such an individual come up with \$500,000 to contribute in order to sit at a table with the President of the United States? Material initially uncovered by CBS News in July 1997 reveals that Kojima's guests at the President's Dinner included ten Japanese citizens who had flown in from Tokyo just for the Dinner. Three of these ten were Japanese businessmen who admitted that they had paid Kojima significant sums of money in order to attend the President's Dinner. Shuuichi Nakagawa told CBS News that he had attended the dinner as a Kojima guest and that Kojima had asked him for hundreds of thousands of dollars in return. Takashi Kimoto, a real estate company owner, stated that he "*knows* his money went to the GOP" [emphasis in original].¹⁰

CBS News also released a document apparently provided by one or more of the Japanese businessmen. Printed in English and Japanese, the English version appears on IMB letterhead and is entitled "Receipt." It is addressed to Tsunekasu Teramoto, a person known to have worked with Kojima and IMB.¹¹ The next line of the document is the word "Participant:" followed by a blank line. The text states, "Your Participation for 1992 President's Dinner will be the minimum requirement of donation at one Hundred Seventy-Five Thousand (US \$175,000) U.S. Dollars." The document instructs the money to be remitted to IMB, providing the location and number of IMB's bank account. The account number provided is the same account number that appears on the two IMB checks providing \$400,000 to the Republican Dinner Committee. Below the remittance instructions is a blank signature line under which is

typed "Michael Kojima, Co-Chairman." If authentic, the document suggests that Kojima was using his status as a Co-Chairman of the President's Dinner to obtain huge sums of money from foreign sources in exchange for arranging attendance at the dinner.

The admissions of the Japanese businessmen, their attendance at the President's Dinner, and the English/Japanese receipt bearing IMB's specific bank account number, when combined with Kojima's history of indebtedness and apparent lack of assets, provide strong evidence that Kojima's \$500,000 contribution to the RNC represented a laundered contribution of foreign funds.

The Minority found no evidence that the RNC knew at the time it accepted Kojima's contribution that it represented laundered funds. There is evidence, however, that concerns about Kojima's source of funds were brought to the attention of RNC officials prior to the date of the President's Dinner and that these concerns were sufficient to lead RNC officials to question Kojima about his contribution. A memorandum written by two fundraisers for the Dinner four days before the Dinner itself stated:

Chuck Babcock of the *Washington Post* has called numerous times, over the past two days, regarding the donations of Mr. Kojima. Mr. Kojima is listed as one of the largest donors to The Dinner in the FEC report which was filed on April 15. . . .

Babcock has been unable to find out any information regarding Mr. Kojima which raised his interest. . . .

He had the *Post's* Los Angeles bureau check Secretary of State documents in California and found the only reference to a "Michael Kojima" one who was a chef who owned, at one time, a series of restaurants.

His further research indicated that the address listed as the headquarters of International Marketing Bureau was also the address of one of the restaurants owned by the Michael Kojima he could find. . . .

His specific concerns . . . "How do you know whether these checks come from the assets of his corporation or whether they are the result of laundered money?"

This question raised our concerns to the point where we placed a call to Mr. Kojima and asked him about his business.

Mr. Kojima, in a phone conversation with Rich and Betsy said:

- (1) His business is "international marketing";
- (2) He has clients in "various countries" including: The USA, Japan, Hong Kong and Israel;
- (3) He is involved in "organizing consortiums" for "national projects" such as airports and telecommunications systems. . . .
- (4) We specifically asked him the source of funds which are represented by the checks he has sent. He was asked if they were from corporate proceeds or "from individuals who had chosen to donate to The Dinner." His specific answer was that the checks were "corporate assets, my own corporation assets."

We feel much more comfortable now, having spoken to Mr. Kojima:

—That we have taken reasonable steps to ensure the funds he has sent to The Dinner are from a legitimate source;

—That he understood the nature of our concerns; and,

—That he answered our questions with no hint of evasion.”¹²

In light of the questions put to Kojima by the Dinner personnel and the assurances received from him, the evidence does not support the conclusion that the RNC accepted Kojima's contribution with the knowledge that it represented laundered funds. However, in light of subsequent evidence, the RNC's failure to return the \$215,000 it still retains from the Kojima contribution is disturbing. Particularly in light of the evidence presented in this Minority Report that foreign funds were the source of Kojima's contribution, the RNC should immediately return the \$215,000 it received from Kojima.

AQUA LEISURE INDUSTRIES, INC.

Aqua Leisure Industries, Inc., based in Avon, Massachusetts, was founded by Simon Fireman in 1970. Over the years, Fireman built Aqua Leisure, a relatively small company, into one of the largest distributors of aquatic sports equipment in the world. In October 1996, Fireman pleaded guilty to eleven counts of a federal criminal information charging him with a scheme to funnel over \$120,000 in illegal corporate contributions from Aqua Leisure to the Bush-Quayle campaign, the RNC, the Dole for President campaign, and other campaigns. At the same time, his company pleaded guilty to seventy counts in connection with the scheme. One month later, Carol A. Nichols, Fireman's executive assistant, pleaded guilty to one count of conspiracy in connection with the same scheme.¹³

Fireman has been active in politics since the Carter administration. Originally a liberal Democrat, he changed party affiliation early in the administration of Ronald Reagan. Fireman had been named to several presidential trade committees by both Presidents Carter and Reagan.¹⁴ He was also appointed to the board of directors of the Export-Import Bank by Presidents Reagan and Bush.¹⁵

In late 1991 and early 1992, Fireman and Nichols provided approximately \$21,000 to Aqua Leisure employees in order for them to make contributions to the Bush-Quayle campaign.¹⁶ Nichols told Committee investigators that she believed Fireman had hoped to be appointed to a prominent position within the Bush administration and that he had therefore made commitments to raise money for the 1992 Bush-Quayle campaign committees.¹⁷ According to Nichols, when Fireman found it difficult to raise the money he had promised, he devised the scheme to solicit employees of Aqua Leisure and to reimburse them for their contributions.¹⁸ Fireman and Nichols decided upon which employees to solicit and then Nichols made the actual solicitation.¹⁹ Once an employee agreed to contribute, Nichols collected a personal check from the employee and re-

imbursed the employee with cash from an account controlled by Fireman.²⁰ In addition to soliciting Aqua Leisure employees, Fireman loaned money from Aqua Leisure to an outside individual who gave that money to his own set of contributors to make contributions to the Bush-Quayle campaign.²¹

A similar pattern of soliciting and reimbursing Aqua Leisure employees was followed in subsequent years as Fireman funneled Aqua Leisure funds to several other campaign organizations, including \$24,000 to the RNC in 1992, \$6,000 to the "Citizens for Joe Kennedy Committee" in 1993, and \$69,000 to the Dole for President campaign in 1995.²² With respect to the contributions to the Dole campaign, Fireman once again loaned money to an outside individual in order to facilitate contributions from a set of contributors known to this individual.²³

At the time of the contributions to the Dole campaign, Fireman was a national vice chairman of Dole's campaign finance committee. Again, Nichols told Committee investigators that she believed Fireman's motive for contributing to the Dole campaign was a desire to obtain a position in a future Dole administration.²⁴ This belief was confirmed by the criminal information, which stated that "one goal and objective, among others, of Simon C. Fireman's secret scheme to funnel money to the presidential campaign of Robert Dole was to obtain for Simon C. Fireman a position with the United States government."²⁵

What makes Fireman's activities particularly egregious is that he not only laundered illegal corporate contributions, but that those contributions represented foreign funds. In approximately 1985, Fireman formed a trust known as Rickwood Ltd. in Hong Kong. The purpose of this trust was to make certain expenditures for the benefit of Fireman that Fireman wished to conceal.²⁶ According to the criminal information, the Rickwood trust maintained a bank account in the U.S. and received wire transfers of funds from Hong Kong.²⁷ These funds came from a Hong Kong company known as Greyland Trading Company, which had been acquired by Fireman in 1988.²⁸ All of the money used to reimburse contributors came from the bank account of the Rickwood trust,²⁹ and was withdrawn in such a manner as to avoid detection and reporting by the bank where the account was maintained.³⁰

The U.S. Attorney for the District of Massachusetts has noted that there is no evidence to suggest that any of the candidates or campaigns who received these laundered contributions were aware of Fireman's scheme. Shortly after questions about Fireman's contributions first arose, the Dole campaign accepted his resignation from its finance committee. In addition, the campaign placed all donations involving Mr. Fireman into an escrow account pending the outcome of a federal inquiry. After Fireman pleaded guilty, the campaign turned those contributions over to the U.S. Treasury.³¹

In connection with his guilty plea, Fireman agreed to pay a total of \$6 million in fines. At the time, that represented the largest fine ever levied for a violation of campaign finance laws.³² That record would soon be eclipsed, however, by another illegal corporate contributor to the Dole campaign, Empire Sanitary Landfill.

EMPIRE SANITARY LANDFILL, INC.

Empire Sanitary Landfill, Inc., a solid waste transfer, disposal and landfill business located in Scranton, Pennsylvania, is another company which has admitted to illegally funneling corporate contributions through its employees and their relatives during the 1996 federal election campaign.

On October 7, 1997, Empire agreed to plead guilty to a 40-count federal criminal information filed by the United States Attorney for the Middle District of Pennsylvania.³³ According to the criminal information, Empire's former upper management made campaign contributions themselves and solicited such contributions from numerous Empire employees, family members, and business associates.³⁴ They then used corporate funds to reimburse themselves and those they had solicited.³⁵ In connection with this scheme, \$80,000 in laundered corporate contributions was provided to the Dole for President campaign.³⁶

In addition to its contributions to the Dole campaign, Empire also admitted to funneling contributions to nine other political campaigns, including \$10,000 to the "Arlen Specter '96" campaign, \$6,000 to the "Santorum '94" campaign, \$10,000 to the "Haytian-U.S. Senate '94" campaign, \$3,000 to the "Fox for Congress" campaign, \$1,000 to the "Paxon for Congress" campaign, \$5,000 to the "Duhaime for Senate" campaign, \$3,000 to the "Pallone for Congress" campaign, \$1,000 to the "Friends of Max Baucus" campaign, and \$10,000 to the "Clinton/Gore '96 Primary Committee." In announcing Empire's plea agreement, the U.S. Attorney noted that there was no evidence to suggest that any of the candidates or campaigns knew of the illegality of the contributions.³⁷

Simultaneous to the announcement of Empire's plea agreement, the U.S. Attorney also announced that a federal grand jury sitting in Scranton, Pennsylvania had returned a 140-count indictment charging six individuals with a variety of criminal offenses arising out of Empire's illegal contributions.³⁸ These individuals included several former officers and owners of Empire, as well as business associates of Empire and a Pennsylvania state representative in whose district Empire did business. The indictment provides the details of the government's theory as to how Empire's contributions were laundered.

According to the indictment, in April 1995, Empire's former president and its former assistant secretary were invited to become members of the New Jersey Steering Committee, a fundraising arm of the Dole for President campaign.³⁹ A Steering Committee luncheon was scheduled for April 29, 1995.⁴⁰ Prior to that luncheon, the Empire officials and others solicited numerous Empire employees, as well as their own friends and families in an effort to raise funds for the Dole campaign.⁴¹ The donors were instructed to issue personal checks.⁴² At the Steering Committee luncheon the Empire officials turned over a large envelope containing approximately \$80,000 in contributions to officials of the Dole campaign.⁴³

The indictment further charges that Empire issued approximately nine corporate checks directly reimbursing approximately twenty individuals a total of \$20,000.⁴⁴ In addition, the indictment charges that one of Empire's officials issued approximately 34 per-

sonal checks reimbursing 53 individuals a total of \$58,000.⁴⁵ This official was then issued an Empire corporate check for the \$58,000, as well as for \$2,000 in contributions he and a friend had made.⁴⁶

The contributions to the other campaigns followed a similar pattern. In connection with a fundraising event attended by one or more officials of Empire, employees of Empire and others were solicited to make contributions. These individuals were instructed to write personal checks and were then reimbursed either directly by Empire or indirectly through one of Empire's officials.

It should be noted that the defendants charged by the indictment have pleaded not guilty to all counts and a trial has not yet taken place. Empire has pleaded guilty to its role in these activities. In connection with its plea, Empire agreed to pay a fine of \$8 million, the largest penalty ever for a campaign finance violation.⁴⁷

DELUCA LIQUOR & WINE, LTD.

DeLuca Liquor & Wine, Ltd. ("DeLuca"), located in Las Vegas, is one of the largest distributors of liquor, wine, and beer in Nevada. In 1995, the company, acting through its vice president for operations, funneled \$10,000 in corporate contributions to the Dole for President campaign through five of its employees and their spouses.

Between May 19 and 22, 1995, five DeLuca employees and their spouses each made \$1,000 contributions to the Dole for President campaign. At least two of those contributors later admitted that they had been given money by DeLuca to make the contributions.⁴⁸ According to the *Kansas City Star*, Ray Norvell, DeLuca's vice president in charge of its Nevada operations, "acknowledged that he knew federal law prohibited corporate contributions, so he boosted his workers' pay to help them donate."⁴⁹ The *Star* quoted Norvell as saying, "I give them \$5,000 extra salary to give to political campaigns and also to charities. We are prepaying it, basically, in front."⁵⁰ Approximately seven or eight DeLuca employees received this "contribution allowance," according to Norvell.⁵¹

While stressing to the *Star* that DeLuca did not reimburse its employees for political contributions, Norvell "acknowledged that he asked 'a few' of his employees to contribute, using the portion of their salaries designated for political and charitable contributions."⁵² One of the contributors, Michelle McIntire, whose husband Dale works for DeLuca, stated that she would not have contributed to the Dole campaign if DeLuca had not paid for the donation.⁵³ The *Star* quoted McIntire as saying, "they gave us the money. That was something that the company wanted him [Dale] to do, and so that's what we did."⁵⁴ Dale McIntire also admitted to making his contribution using money from DeLuca; however, he would not say how the company compensated him.⁵⁵ Of the other eight DeLuca employees who contributed, three denied that the company had compensated them and five either refused to discuss the matter or stated they did not remember.⁵⁶

Documents produced to the Committee by DeLuca and the Dole for President campaign, pursuant to subpoena confirm this scheme. At the same time, these documents indicate that those employees who contributed to the Dole campaign were given money specifically for those donations and not as part of some general "contribu-

tion allowance.” The DeLuca documents show that on May 18, 1995, five checks for \$2,000 each were issued to the following DeLuca employees: Ray E. Norvell, Kenneth W. Leslie, Dale McIntire, James P. O’Connor, and Bruce Kobrin.⁵⁷ The corporate payment stub attached to the check for Norvell actually included the notation “Campaign—Dole.”⁵⁸

Records produced by Dole for President show that on May 19, 1995, Norvell, McIntire, Kobrin, and each of their wives wrote checks for \$1,000 to the Dole campaign.⁵⁹ On May 22, 1995, Leslie, O’Connor, and both of their wives also wrote checks for \$1,000 each to “Dole for President.”⁶⁰ Thus, within two business days of DeLuca’s payments of \$10,000 to five of its employees, the same dollar figure had been contributed to Dole’s presidential campaign by those employees and their wives.

The Minority is aware of no evidence that the Dole campaign had any knowledge of the DeLuca scheme. It is troubling, however, that the Dole campaign has never returned the contributions of the DeLuca employees, despite the fact that information detailing the scheme has been public since at least September 1996. Indeed, a Dole campaign spokesperson acknowledged at that time that an FEC investigation might be warranted.⁶¹ In light of the public admissions of DeLuca’s vice president and the supporting documentation uncovered by the Committee, the Dole campaign should immediately refund these contributions.

CONCLUSION

The preceding examples of illegally laundered contributions making their way into Republican campaign coffers, apparently without the knowledge of the campaign organizations involved, provides much-needed perspective to the allegations that have been raised concerning laundered contributions to Democratic candidates and organizations. As was the case with Kojima, Fireman, DeLuca, and Empire Landfill, illegal conduct on the part of fundraisers for the party does not necessarily mean that the recipients of such funds are complicit in a scheme to violate campaign finance laws. Instead, as past experience has shown, both Republicans and Democratic party organizations or campaigns can find that they have been victimized by overzealous or unscrupulous fundraisers. Campaigns are likely to continue to encounter such difficulties so long as the political system’s demand for money continues to rise unchecked.

FOOTNOTES

¹ *Toronto Star*, 10/11/92.

² Memorandum from Betsy Ekonomou to Michael Kojima, 4/20/92.

³ Check from Michael Kojima to President’s Dinner Trust, 3/6/92 ; Check from Michael Kojima to President’s Dinner Trust, 3/16/92

⁴ Letter to Michael Kojima from Lippo Group Bank of Trade, 3/3/87; Lippo Group Bank of Trade Credit Proposal for Michael Kojima, 4/9/87; Lippo Group Bank of Trade Promissory Note, 4/14/87; Lippo Group Bank of Trade memorandum from James Riady to Richard Chen, 8/8/89.

⁵ State of California Secretary of State Certification, 5/20/97.

⁶ *Washington Post*, 5/8/92.

⁷ *New York Times*, 5/9/92.

⁸ *Los Angeles Times*, 5/9/92.

⁹ *New York Times*, 10/11/92; *Los Angeles Times*, 10/11/92; *New York Times*, 10/18/92; and *Daily News*, 10/15/96, *Dallas Morning News*, 10/11/92.

¹⁰ CBS News Story Script, 7/7/97. CBS News has reprinted several photographs of Kojima’s guests at the President’s Dinner on its website www.eveningnews.com/moneytrail2.html.

While Kojima's guest list for the dinner has not been produced to the Committee, Kimoto's name does appear in a State Department document summarizing a 3/19/92 meeting between Kojima and the U.S. ambassador to Japan. The document lists Kimoto as a participant at the invitation of Kojima, thereby providing evidence that the two were engaged in business dealings in the month before the President's dinner. State Department Memorandum of Conversation, 3/19/92.

¹¹IMB letterhead receipt. Teramoto, for example, attended meetings with Kojima and U.S. embassy personnel, and is listed on embassy documents summarizing the meetings. State Department Memorandum of Conversation, 3/19/92.

His name also appears in correspondence between Mr. and Mrs. Kojima and Harvard University, including a 3/10/92 letter from Mrs. Kojima which describes Teramoto as Kojima's "Japan agent." Letter to Leonard Houseman from Chiey Nomura, 3/10/92.

¹²Memorandum to Senator Howard Baker from Betsy Ekonomou, 4/24/92. This memorandum is referenced in the Court decision, 858 F.Supp. 243, 245, footnote 5, and is available in the public file associated with the 1992 court case.

¹³*New York Times*, 7/11/96; *Kansas City Star*, 11/5/96; Plea agreement letter re: Aqua Leisure to John Pappalardo from the Massachusetts District U.S. Attorney, 6/26/96; Plea agreement letter re: Simon Fireman to Thomas Dwyer from the Massachusetts District U.S. Attorney, 6/26/96.

¹⁴Memorandum of FBI Interview of Carol Nichols, 7/23/97.

¹⁵Memorandum of FBI Interview of Carol Nichols, 7/23/97.

¹⁶Hrg., 7/25/97, p. 10; Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts.

¹⁷Memorandum of FBI Interview of Carol Nichols, 7/23/97.

¹⁸Memorandum of FBI Interview of Carol Nichols, 7/23/97.

¹⁹Memorandum of FBI Interview of Carol Nichols, 7/23/97.

²⁰Memorandum of FBI Interview of Carol Nichols, 7/23/97.

²¹Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, pp. 8–9.

²²Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, pp. 5–6.

²³Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, pp. 8–9.

²⁴Memorandum of FBI Interview of Carol Nichols, 7/23/97.

²⁵Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, p. 4.

²⁶Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, p. 8.

²⁷Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, p. 8.

²⁸Memorandum of Interview of Carol Nichols, 7/22/97. See also, Notes to Financial Statements, Aqua Leisure Industries, Inc., 12/31/94.

²⁹Memorandum of Interview of Carol Nichols, 7/22/97; Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, 10.

³⁰Information, *United States of America v. Simon C. Fireman, Carol A. Nichols, and Aqua Leisure Industries, Inc.*, United States District Court for the District of Massachusetts, pp. 10–11.

³¹*New York Times*, 7/11/97.

³²*New York Times*, 7/11/97.

³³Plea Agreement, *United States of America v. Empire Sanitary Landfill, Inc.*, United States District Court for the Middle District of Pennsylvania.

³⁴Plea Agreement, *United States of America v. Empire Sanitary Landfill, Inc.*, United States District Court for the Middle District of Pennsylvania, p. 3.

³⁵Plea Agreement, *United States of America v. Empire Sanitary Landfill, Inc.*, United States District Court for the Middle District of Pennsylvania, p. 3.

³⁶Plea Agreement, *United States of America v. Empire Sanitary Landfill, Inc.*, United States District Court for the Middle District of Pennsylvania, p. 5.

³⁷Press Release, David M. Barasch, U.S. Attorney, U.S. Department of Justice, 10/8/97.

³⁸Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania.

³⁹Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 9.

⁴⁰Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 9.

⁴¹Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 9.

⁴²Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 9.

⁴³ Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 10.

⁴⁴ Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 10.

⁴⁵ Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 10.

⁴⁶ Indictment, *United States of America v. Renato P. Mariani, Michael L. Serafini, Leo R. Del Serra, Alan W. Stephens, Robert Giglio and Frank Serafini*, United States District Court for the Middle District of Pennsylvania, p. 10.

⁴⁷ Plea Agreement, *United States of America v. Empire Sanitary Landfill, Inc.*, United States District Court for the Middle District of Pennsylvania; Pittsburgh Post-Gazette, 10/22/97.

⁴⁸ *Kansas City Star*, 9/29/96.

⁴⁹ *Kansas City Star*, 9/29/96.

⁵⁰ *Kansas City Star*, 9/29/96.

⁵¹ *Kansas City Star*, 9/29/96.

⁵² *Kansas City Star*, 9/29/96.

⁵³ *Kansas City Star*, 9/29/96.

⁵⁴ *Kansas City Star*, 9/29/96.

⁵⁵ *Kansas City Star*, 9/29/96.

⁵⁶ *Kansas City Star*, 9/29/96.

⁵⁷ Copies of canceled checks and bank statements produced by DeLuca Liquor & Wine, Ltd, DEL-0002, 0004, 0014, 0019, and 0022.

⁵⁸ Copy of payment stub for a DeLuca check made out to Ray E. Norvell in the amount of \$2,000, 5/18/95, DEL-0003.

⁵⁹ Copies of canceled checks and donor records produced by Dole for President, DFP-2132, 2141, 2144, 2153, 2156, and 2159.

⁶⁰ Copies of canceled checks and donor records produced by Dole for President, DFP-2135, 2138, 2147, and 2150.

⁶¹ Combined News Services, *Newsday*, 9/30/96.

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PART 4 SOFT MONEY AND ISSUE ADVOCACY

Chapter 23: Systemic Problems of the Campaign Finance System

The Committee's investigation into campaign financing during the 1996 election cycle exposed a system in crisis, with most problems stemming not from activities that are illegal under current law, but from those that are legal. Soft, or unrestricted and unregulated, money is a relatively new legal loophole in the campaign financing system. Since 1988, however, it has become the crux of many of the current problems uncovered by the Committee, including the offers of access for large contributions and the use of party-run issue ads on behalf of candidates.

Based on the evidence before the Committee, we make the following findings with respect to the role of soft money in the federal campaign finance system:

FINDINGS

(1) The most insidious problem with the campaign finance system involved soft (unrestricted) money raised by both parties. The soft money loophole, though legal, led to a meltdown of the campaign finance system that was designed to keep corporate, union and large individual contributions from influencing the electoral process.

(2) The vast majority of issue ads identified specific candidates and functioned as campaign ads.

(3) Both parties went to significant lengths to raise soft money, including offering access to party leaders, elected officials, and exclusive locations on federal property in exchange for large contributions. Both parties used issue ads, which were effectively indistinguishable from candidate ads and which—unlike candidate ads—can be paid for in part with soft (unrestricted) money, to support their candidates.

INTRODUCTION

The Committee investigation into campaign financing during the 1996 election cycle exposed a system in crisis, with most of the problems stemming, not from activities that are illegal under the current law, but from activities that are legal.

For four days in September 1997, the Committee heard from respected experts who argued the case for campaign finance reform and presented recommendations to remedy the problems that plagued the 1996 election cycle.¹ The witnesses were virtually unanimous in declaring that the current campaign finance system is broken, that the problems are bipartisan, and that there are solutions available if both parties are willing to tackle the problem.

The witnesses included former Vice President Walter Mondale and former Senator Nancy Kassebaum Baker, as well as former Chairman of the Federal Election Commission ("FEC") Trevor Potter and representatives from the Brookings Institution, American Enterprise Institute, Common Cause, the Campaign Reform Project, League of Women Voters, Cato Institute, Committee for the Study of the American Electorate, Public Campaign, Brennan

Footnotes appear at end of chapter 23.

Center for Justice, and professors of law and economics from the University of Virginia, Rutgers University and Colby College. The witnesses' views ranged from those who support unlimited private money to finance campaigns to those who advocate public funding of elections on the ground that only removal of private money from elections will fix the system. Most, however, supported an incremental approach to reform falling somewhere between the two poles. With few exceptions, the witnesses advocated a soft money ban and curtailment of so-called issue advocacy advertisements as critical steps to reform. Thomas Mann of the Brookings Institution testified that if the system of unlimited soft money and unregulated issue advocacy is not reformed soon, "[I]t could become much worse. I could imagine a scenario in the next presidential election in which we will look back fondly on the experience of 1996."²

SOFT MONEY

Soft money is a relatively new phenomenon in campaign financing, not having been raised in large amounts until the 1988 election cycle. Since then, however, it has become the crux of many of the problems with the current campaign finance system, including the drive to raise vast sums of money, the appearance of party leaders trading favors for contributions, and the appearance of wealthy individuals buying access to elected officials. Most of the witnesses agreed with the sentiment of former Vice President Walter Mondale who testified: "The work of this Committee, as difficult as it has been, has established a record that is available for every American that demonstrates that at the heart of this crisis in American democracy lies this new phenomenon called soft money."³

Background on soft money

Because entities with large concentrations of wealth long have been recognized as having the potential to corrupt the federal election process, the law has prohibited corporations and labor unions from contributing to federal candidates for most of the 20th century.⁴ Contributions from individuals likewise have been capped by law in order to prevent the corruption or appearance of corruption of the electoral process.⁵ Soft money contributions provide corporations, labor unions, and wealthy individuals with a way around those legal restrictions.

Soft money has been defined as "contributions to political parties" "non-federal accounts" that fall outside the legal, "hard money" limits on contributions to federal candidates."⁶ The justification for allowing soft money contributions was to permit parties to spend money on state elections and so-called "party building" activities. The campaign finance hearings have demonstrated that this loophole is now being used by both parties to spend huge sums of soft money to support or defeat federal candidates.

In the late 1970s, after the passage of the current campaign finance laws, soft money did not exist. Former Vice President Mondale, who was on the national ticket in the 1976, 1980, and 1984 presidential elections, recalled that soft money at that time was used for the limited purposes of local voter registration.⁷ Mondale recalled that "during that period . . . the federal campaign regula-

tions worked and . . . worked quite well.” Mondale indicated that he believed former President Ford shared his views, which would explain why former President Ford also supports a soft money ban.⁸

The reason soft money was not widely used until roughly a decade ago⁹ is due in part to the fact that the current campaign finance system, including provisions for raising and spending soft money, evolved piecemeal out of numerous judicial decisions and agency rulings that fundamentally altered the campaign finance system originally envisioned by Congress. The law was patched together from, among other things, the 1976 *Buckley* decision which struck down spending limits that were part of the original campaign finance system;¹⁰ the 1978 FEC Advisory Opinion that gave political parties the option of spending soft money when a federal race coincided with a state race;¹¹ and recent federal court decisions that have expanded the use of so-called issue advocacy ads.¹² As Mondale noted, “what we have here is a new phenomenon, never contemplated or adopted into law by the Congress.”¹³

Both parties have raised and spent increasing amounts of soft money with every election cycle. In 1992, the first year that parties reported their soft money contributions, FEC records indicate that the total soft money raised by both parties was \$89 million. By 1994, that figure reached nearly \$107 million. In 1996, the amount of soft money raised by both parties more than doubled to \$262 million.¹⁴ FEC figures also indicate that the Republican Party has consistently raised more soft money than the Democratic Party. In 1992, Republicans raised \$15 million more than Democrats; in 1994, Republicans raised \$13 million more; and in 1996, Republicans out raised Democrats by \$14 million.¹⁵ If Congress does not act, those amounts are likely to continue to increase during the 1998 and 2000 election cycles.

FEC records also show that, while the Republican Party wins the overall race for soft money, in many instances both parties benefit from soft money contributions by the same donor. In 1996, for example, corporations such as RJR Nabisco, AT&T, and Walt Disney were among the top contributors to both parties. In the words of Common Cause President Ann McBride, “[S]oft money is not about ideology. . . . It is about making sure ‘whoever wins, my special interest has a place at the table’. . . . It is about gaining access and influence.”¹⁶

Soft money finds a way into federal elections

“When Congress amended the Federal Election Campaign Act in 1979 to promote party-building, its purpose was not to allow national party committees to receive unlimited contributions or to accept corporate and labor funds,” according to Colby College Professor Anthony Corrado.¹⁷ Nevertheless, party leaders and candidates on both sides of the aisle over the years have devised numerous ways for millions of dollars in corporate and union money to be spent influencing federal elections. The most blatant use of soft money for federal purposes involves issue advocacy. Additionally, soft money is funneled through state parties, congressional campaign committees, and leadership political action committees

("PACs"), where its use for federal election activity becomes difficult to trace.

Political parties have a constitutional right to inform the public of their positions on issues. However, in 1996, both parties ran televised advertising which they characterized as educating the public on issues, but which struck many viewers as actually promoting the election of each party's candidates. These televised ads were paid for, in part, with soft money.

The issue ads run in 1995 and 1996 by the Democratic National Committee ("DNC") were "focused on the Republican Congress's role in the government shutdown, the future of Medicare, the strength of the economy and the reduction of crime in America," according to the Annenberg Public Policy Center.¹⁸ Although these ads discussed pending legislative issues, many were designed to and did help President Clinton's re-election efforts.¹⁹ The Annenberg study noted that the Republican National Committee ("RNC") similarly engaged in a calculated effort to use soft money "before the Republican convention for ads that helped Bob Dole's campaign."²⁰ Former RNC Chairman Haley Barbour, who was involved in spending soft money on ads that told Bob Dole's life story, told the press: "The law allows the party to do advertising on the issues. The Democrats have already spent money doing it. It does not have to be independent, and it can be candidate-specific. I can mention Bob Dole. But I can't say, 'Vote for Dole.'"²¹

When national political parties use soft money to pay for federal campaign activities such as the ads described above, they are required by law to spend a percentage of hard money as well.²² In presidential election years, national parties must spend a ratio of 65 percent hard money to 35 percent soft. State parties are also required to spend a combination of hard and soft money when paying for certain activities such as issue advocacy ads, but are often permitted by state law to use a greater proportion of soft money than the national parties. In 1996, both parties "took advantage of the more soft money favorable state party allocation formulas [by] transferring large sums to state party committees and encouraging state parties to pay for expenses so that more soft money could be used for their costs," according to Corrado.²³ These transfers meant that more corporate and union money was used to pay for advertising when the ads were paid for by the state, rather than the national parties.²⁴

Like the national party committees, the parties' national senatorial and congressional campaign committees raise and spend soft money in ways that render prohibitions on corporate and union contributions virtually meaningless. Senatorial and congressional campaign committees are intended, as their names imply, to help elect United States Senators and Representatives. In 1996, the National Republican Senatorial Committee raised over \$29 million in soft money, compared with \$14 million raised by the Democratic Senatorial Campaign Committee. The National Republican Congressional Committee raised \$18.5 million in soft money, while the Democratic Congressional Campaign Committee raised \$12 million.²⁵ The amounts of soft money raised by the House and Senate committees increased dramatically over previous years, demonstrating the greater importance of soft money in the last election

cycle.²⁶ Like soft money raised by the DNC and RNC, soft money raised by the House and Senate committees was spent on activities such as issue advocacy.²⁷

Another indication that soft money is infiltrating federal elections is that it was raised and spent by at least one federal officeholder's "leadership PAC." Leadership PACs are established by a Member of Congress to help elect federal candidates. In 1996, the media reported that a leadership PAC, Americans for a Republican Majority, had raised at least \$175,000 in corporate money.²⁸ Most of this money was reported to have come from tobacco interests and was spent in Virginia, although at least \$12,000 in corporate money was reportedly transferred to the state party's hard money account.²⁹ A newspaper editorial noted, "[E]veryone knows that using [soft] money to defray overhead increases the non-corporate funds . . . available to help Congressional candidates and secure [the leadership PAC Member's] place on the House leadership ladder."³⁰ When a federal officeholder raises large sums of corporate money for a leadership PAC, it seems evident that such funds may inure to the benefit of a federal candidate, rather than for party building or state election activities.

Soft money creates appearance of corruption and undermines public financing

Burt Neuborne of the nonpartisan Brennan Center testified that, "[T]he democratic process is eroded by the desperate search for money."³¹ The raising and spending of tremendous amounts of soft money, in particular, destroys the basic tenet of the campaign finance law, which is to deter corruption and the appearance of corruption. Additionally, the search for soft money undermines the system of presidential public funding, which was originally put in place so that presidential candidates could rise above the fundraising fray.

The Supreme Court upheld the campaign finance law's contribution limits, in part, by holding that there is legitimate cause for concern from "the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions."³² The Court went on to say that, "Congress could legitimately conclude that the avoidance of the appearance of improper influence 'is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'"³³

Roger Tamraz, a contributor to both parties, proudly extolled the virtues of soft money as the means for providing him with access to the White House.³⁴ Videotapes of Presidents Clinton and Reagan thanking supporters at the White House suggest special access for big donors. Offers of access are commonly used as an incentive to obtain large contributions. For example, individuals who raised or donated \$250,000 for the 1997 RNC Annual Gala were promised, among other things, "Breakfast and Photo Opportunity with Senate Majority Leader Trent Lott and Speaker of the House Newt Gingrich on May 13, 1997; Luncheon with Republican Senate and House Leadership and the Republican Senate and House Committee Chairmen of your choice."³⁵

The appearance of corruption, in which large contributions appear to be traded for access to government officials or favored treatment, and the resulting loss of public confidence in government are two of the most serious consequences of the soft money system. Less apparent, but nearly as insidious, is the time elected officials must spend raising soft money. Former Vice President Mondale testified that, “[I]t is the most degrading and humiliating thing that can happen to a public officer to have to spend a substantial chunk of his or her time pleading for money in this kind of way. . . . That is one of the most powerful arguments for repeal of the soft money loophole.”³⁶ Evidence that President Clinton, Vice President Gore, and House Speaker Newt Gingrich made fundraising telephone calls should concern the American public, not because of where the calls originated (on or off federal property), but because the three most powerful elected officials in the country were spending time fundraising rather than focusing on national policy.

In addition to the corrupting influence of soft money, another reason to stem its flow is that it undermines the presidential public financing system. The campaign finance law provides for full public funding of the general presidential election. The law was enacted to prevent even the appearance of corruption that results when presidential candidates have to raise money from private sources. To qualify for public funds, the candidates must agree to spending limits and must swear, under penalty of perjury, not to accept contributions during the general election. In 1996, each major party nominee received \$62 million in federal funds, yet each spent countless hours fundraising. Scott Reed, the campaign manager for Dole for President, acknowledged that part of the Republican strategy in 1996 included fundraising to help defray the cost of issue ads that would help Bob Dole. In *Campaign For President '96*, Reed was quoted as saying, “We went out in April and May and raised \$25 million for the party, of which about \$17, \$18, or \$19 million was put into party building ads, which were Bob Dole in nature.”³⁷ Tony Fabrizio, a Dole pollster, echoed Reed’s statement, saying, “We were coming off a primary where we were flat broke. . . . We had a candidate who was very sensitive to not having all of the money potentially available to him post-convention. So to say that [fundraising] wasn’t a driving factor, especially since we put him out on the road to raise \$25 or \$30 million for the party, would be unfair.”³⁸

Disclosure of soft money

Disclosure is a bedrock of the campaign finance system. The soft money system, however, gives parties a way to make large contributions and expenditures almost impossible to trace. One way soft money is hidden from public scrutiny is by transferring the funds from the national parties to the state parties. According to one expert who testified at the hearings:

Overall, the Democratic committees in 1996 transferred over \$64 million in soft money to state parties, or almost nine times more than in 1992. The Republican committees transferred \$50 million in soft money to state parties, or almost 10 times more than 1992. These transfers also

serve to further obscure the already inadequate disclosure requirements imposed on national party committees. Because the committees are only required to report the amounts transferred to other committees, they do not have to account for how these funds were ultimately spent. That responsibility rests with state parties, and most state disclosure laws are so inadequate that it is impossible to determine how the funds were expended. By transferring large sums to the state or local level, national parties can avoid effective disclosure.³⁹

In addition to hiding soft money by funneling it through state parties, the RNC has avoided public scrutiny of its soft money expenditures by funneling money through tax-exempt organizations. (See Chapter 10.) One such organization that worked in coordination with the RNC to spend soft money is Americans for Tax Reform ("ATR"). (See Chapter 11.) In October 1996, the RNC gave \$4.6 million to ATR. Immediately after the contribution was made, ATR used the funds to pay for a direct mail campaign that aided Republican candidates in 150 congressional districts. Evidence suggests that the RNC coordinated with ATR on how the money would be spent. This coordination may result in a violation of federal election law; it also illustrates how soft money expenditures are hidden from public scrutiny and used to influence federal elections.

ISSUE ADVOCACY

At the Committee hearings, Daniel Ortiz, a professor of law at the University of Virginia, summarized what many of the campaign finance experts had to say about issue advocacy:

In the last election cycle, so-called issue advocacy became one of the most prominent and controversial weapons in the federal campaigns. It provided an easy way for individuals, political committees, corporations, and unions to spend money to influence elections without any regulatory control. Its impact cannot be exaggerated. To anyone interested in campaign finance reform, issue advocacy is the 800-pound gorilla. Without taming it, campaign finance reform, no matter how thoroughly it addresses public funding, soft money, PAC spending, or any other perceived problems, will come to naught. Issue advocacy represents a huge, gaping loophole of last resort.⁴⁰

As used in 1996, many televised ads were characterized as issue ads but appeared to function as attack ads on candidates. By claiming the ads to be discussions of issues, the ad sponsors were able to evade federal election law contribution limits and disclosure requirements applicable to candidate ads. In addition to providing a way for unlimited and undisclosed amounts of corporate and union money to influence elections, the so-called issue ads took control of the election out of the hands of the candidates and put it in the hands of the ad sponsors. Finally, since no disclosure laws apply, issue ads run by unknown organizations leave the public in the dark in terms of knowing who is financing candidate attack ads.

Background on issue ads

Issue ads are, by definition, supposed to be discussions of issues rather than candidates. In the leading case of *Buckley v. Valeo*, the Supreme Court held that ads which discuss issues are outside the scope of federal election laws, which apply only to “communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.”⁴¹ A footnote to the opinion gives examples of terms of express advocacy, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’” These phrases have become known as the Buckley “magic words,” providing a bright line test for when an ad is clearly subject to federal election laws. Ads that do not contain any of the Buckley magic words are often claimed to be issue ads outside the limitations of the campaign finance laws.

Many of the witnesses testifying before the Committee indicated that many of the so-called issue ads functioned as candidate ads. Burt Neuborne of the nonpartisan Brennan Center testified:

What we have now is a group of very sophisticated people tiptoeing up to the line and laughing at the process because what they are doing is—they know they are engaged in election speech. Everybody else knows that they are engaged in election speech, but somehow we all have to pretend as though they are involved in educational speech.⁴²

The most comprehensive study to date of issue ads during the 1996 election cycle is the Annenberg Public Policy Center’s *Issue Advocacy During the 1996 Campaign: A Catalog*. The Annenberg study examined ads broadcast by the political parties and at least two dozen groups, estimated to have spent between \$135 and \$150 million on issue advertising.⁴³ The Annenberg study found an even split between ads that generally favored Democrats or Democratic issues and those that favored Republicans or Republican issues. In addition to representing both sides of the aisle, issue ads were determined to be “the highest in pure attack” compared to presidential candidate ads and free air time speeches.⁴⁴ The study also determined that almost 90 percent of these ads named a specific candidate.⁴⁵

The 1996 election cycle saw numerous groups from across the political spectrum broadcasting issue ads. The groups included the political parties, unions, corporations and tax-exempt organizations.

Both political parties spent millions of dollars on issue advocacy in the 1996 election cycle. Party ads which referred to the presidential candidates garnered the most publicity, but the parties did not limit their issue ad activity to presidential candidates. The National Republican Congressional Committee was by far the most active party committee to engage in issue advertising outside of the presidential arena, conducting a \$10 million issue ad campaign for the benefit of Republican House freshmen.

The AFL–CIO was one of the leaders in airing issue advocacy ads during the 1996 election cycle. Early in the year it announced its plans to spend \$35 million to counter the Republican “Contract with America.”⁴⁶ Ultimately, the union spent about \$25 million on

media advertising in 44 congressional districts. The majority of the ads attacked Republican House freshmen who won office in 1994.

Tax-exempt organizations were also active in televising ads that named candidates, but claimed to be issue discussions. Some of these organizations were newly established in 1996. Viewers of union ads at least knew who was paying for the ads. The same was not true of issue ads paid for by new or unknown tax-exempt organizations, which enable a corporation or wealthy individual to remain out of view behind the sponsoring organization. Norman Ornstein noted: "There seems to be little doubt that at least a few of these organizations were set up just to run those ads. . . . [I]t is clear most of these ads . . . were directly intended and targeted to influence elections, and in many, many cases, to blur the lines as to where they were coming from."⁴⁷ See, for example, Chapters 11, 12 and 13 of this Report discussing Americans for Tax Reform, Citizens for Reform, Citizens for the Republic Education Fund, and the Coalition for Our Childrens Future, all of which ran televised ads attacking candidates by name close in time to the 1996 elections, but none of which admitted to sponsoring candidate ads subject to federal election laws.

One of the issue ads discussed at the Committee hearings was aired against Bill Yellowtail, a Democratic congressional candidate in Montana, and was paid for by Citizens for Reform, a tax-exempt organization controlled by Triad Management Services. (See Chapter 12.) The ad asks: "Who is Bill Yellowtail? He preaches family values, but he took a swing at his wife. And Yellowtail's explanation? He 'only slapped her.' But her nose was broken." This is the kind of personal attack ad that candidates shy away from producing themselves, but that they might quietly welcome if it is paid for by an outside group with which the candidate claims no association.

Ann McBride, executive director of Common Cause, testified:

What is happening with issue ads is fundamentally altering the electoral system in this country. This is beyond the corruption issues. And what you will have is a situation if this continues where candidates are bit players in their own campaigns and where the American people in looking at the debate will not know what these candidates stand for because their voices will be muted by all of these interest groups for and against. . . . [W]e are really, if we allow this, altering our basic electoral system in a way that is quite dangerous . . . for our democracy.⁴⁸

This situation is detrimental to candidates who often lack the time or money to respond to attack ads. In addition, because the candidates are in the dark about who is attacking them, they cannot discredit the ad by exposing the individual or corporation behind it. In one case described in Chapter 12 of this Report, Representative Calvin Dooley of California faced televised attack ads paid for by the Triad-run, tax-exempt organization Citizens for Reform ("CFR"). After the election, Dan Gerawan, a California farmer, admitted to a newspaper that he had provided CFR with the funds to pay for the ads. If he had not made this admission to the media, the public and Dooley may not have learned who paid for

the ad.⁴⁹ The ads attacked Dooley for spending taxpayer money on “radical lawyers,” referring to Dooley’s support of the Legal Services Corporation (“LSC”). Gerawan allegedly opposes the LSC after facing a lawsuit brought by indigent plaintiffs represented by LSC lawyers. While Dooley won re-election in spite of the ads, he was forced to spend his campaign resources combating, not his opponent in the election, but a relatively unknown and unforeseen enemy.⁵⁰

Issue ads have accelerated since the 1996 elections. For example, in 1997, the RNC provided \$750,000 in funds to pay for televised ads in a special election in New York’s 13th Congressional District.⁵¹ The RNC characterized the ads were issue ads, even though they attacked the Democratic candidate by name and mirrored campaign ads broadcast by the Republican candidate. Apparently, neither the DNC nor the Democratic candidate was able to respond to the attacks. The Republican candidate won handily, despite earlier polls indicating a close race. In 1998, the media reported that a new group called Americans for Job Security plans to spend \$100 million in corporate funds over the next five years on a variety of issue ads.⁵²

PROPOSALS FOR REFORM

The campaign finance experts that testified before the Committee have highlighted closing the soft money and issue advocacy loopholes as key steps to meaningful campaign finance reform:

Soft money . . . is the most pressing issue facing the political system at this time—Professor Anthony Corrado⁵³

It is imperative that we close the major loopholes that make a mockery of [the] law. In particular, the soft money and sham issue advocacy loopholes were exploded on a massive scale.—Becky Cain, President, League of Women Voters⁵⁴

The question we asked ourselves was: “Do we really want to be part of a system and perpetuate a system in which the only way you can get representation is to buy it?” Once we got the question right, the answer was easy. No, we do not want to be any part of it.—Douglas Berman, President, Campaign Reform Project⁵⁵

[A]ll of these rivers and oceans of money are swamping this system. They are discouraging good people from seeking or holding office. They are converting our most important public officers from officers into essentially fund-raisers, and the spectacle of this massive amount of money being raised is causing an appalling diminution of public trust in the system.”—Former Vice President Walter Mondale⁵⁶

[I]t is this nexus of soft money and issue advocacy which is poisoning the system that you value.”—Norman Ornstein, Fellow, American Enterprise Institute⁵⁷

Many of the experts who testified provided concrete legislative proposals ranging from eliminating all contribution limits to enacting a system of public funding. While there are some differences of

opinion in the reform community, many of the specific proposals outlined below contain similar recommendations, especially regarding the containment of soft money and issue advocacy.

Kassebaum-Baker/Mondale

Former Vice President Walter Mondale and former Senator Nancy Kassebaum-Baker have joined together in an effort to stimulate public support for campaign finance reform. Kassebaum-Baker and Mondale strongly believe that reform is imperative to restoring public confidence in the electoral system. Their efforts have secured the support of three former presidents for campaign finance reform: Ford, Carter, and Bush.

The foundation of the Kassebaum-Baker/Mondale reform model is a soft money ban that would prohibit corporations and labor unions from contributing to the parties and would cap the amount individuals could give to the parties. In addition, they would close the issue advocacy loophole. Although they make no specific recommendations as to how to achieve this, they believe that “clever scripting” should not be a way to evade the campaign finance restrictions. In addition, they support disclosure of sources of money and amounts spent for all campaign activity masquerading as issue advocacy.

The former elected officials also recommend strengthening the Federal Election Commission by providing adequate funding and limiting commissioners to one term. In addition, they acknowledge the importance of immediate disclosure of all last-minute contributions.

League of Women Voters

A number of witnesses who testified over the four days of hearings backed a proposal sponsored by the League of Women Voters. In addition to Becky Cain, the League’s president, supporters of the proposal included Thomas Mann of the Brookings Institution, Norman Ornstein of the American Enterprise Institute, and Professor Anthony Corrado of Colby College. The highlights of the league’s proposal include a soft money ban. The proposal would, however, raise the hard money limits by doubling the current \$25,000 annual hard money limit, thereby permitting individuals to give a maximum \$25,000 to multiple candidates and \$25,000 to the parties.

The proposal also recommends that any advertisement using a candidate’s name or likeness within a set number of days of an election (proposals range from 60 to 90) be considered a candidate ad that falls under the campaign finance law’s restrictions. This proposal would not preclude the ads from being run, but would ensure that such ads would be paid for using only disclosed, regulated money. The League proposal also suggests strengthening the Federal Election Commission’s enforcement powers and improving disclosure by requiring mandatory electronic filing of campaign finance reports. The League would attempt to decrease the cost of campaigns by providing that, in exchange for the licenses they receive to broadcast over the public airways, television broadcasters provide candidates with a certain amount of free air time. To en-

courage participation, the League would also provide a tax credit for in-state donors who contribute \$100 or less to a campaign.

Common Cause

Common Cause President Ann McBride and Vice President Don Simon also testified before the Committee. Common Cause has been an outspoken advocate of S. 25, the McCain-Feingold campaign finance reform bill. Another witness, Professor Burt Neuborne of the Brennan Center, is also a proponent of S. 25. At the time of the hearings, none of the witnesses knew what the final version of S. 25 to be voted on by the Senate would contain, but all supported the bill's broad framework which included a soft money ban, a method to close the issue advocacy loophole, and improved disclosure. Common Cause also advocated voluntary spending limits for candidates, and would provide incentives such as reduced television costs to candidates who choose to limit their financial activity.

Campaign Reform Project

The Campaign Reform Project, which was represented at the hearings by Douglas Berman, has called for a ban of soft money, and also supports electronic filing of campaign contributions. The group represents members of the business community who support a soft money ban.

Public Campaign

Ellen Miller is the executive director of Public Campaign, which advocates "clean money" or public financing of elections. Common Cause and the League of Women Voters also support public funding as an ultimate goal, but indicated that they do not see it as a feasible option in the immediate future. By definition, soft money would be banned under a public funding system. In addition, issue ads would have to be controlled so that private money would not come into the system through that device. And, like other reform proponents, Public Campaign supports a stronger Federal Election Commission to ensure the campaign finance law is enforced.

Disclosure only

Edward Crane and Roger Pilon represented the libertarian Cato Institute. The Cato Institute takes the position that any limits on contributions or other regulation of the political system violate the First Amendment and are unconstitutional. In addition to proposing the removal of all limits on contributions, the Cato Institute also stands for the proposition that the FEC should be abolished. According to Crane and Pilon, the government should in no way be involved in regulating the political process. The Cato Institute does support disclosure of contributions.

CONCLUSION

The Committee investigation has built a strong case for the need to close the soft money and issue advocacy loopholes. Until these loopholes are closed, the bulk of the problems plaguing the campaign finance system will be, not illegal conduct, but conduct that is legally permitted by the federal election laws.

FOOTNOTES

- ¹ Committee Hearings on September 23, 24, 25 and 30, 1997.
- ² Thomas Mann, 9/24/97 Hrg., p. 32.
- ³ Vice President Mondale, 9/30/97 Hrg., p. 11.
- ⁴ "It has been policy and law in this country for 90 years that corporate money, aggregations of wealth in corporations are banned from Federal elections. The Supreme Court has repeatedly upheld that ban as serving compelling public purposes." Donald Simon, 9/24/97 Hrg., p. 70.
- ⁵ *Buckley v. Valeo*, 424 U.S. 1 (1976).
- ⁶ Rosenberg, Lisa. *A Bag of Tricks: Loopholes in the Campaign Finance System*. Washington, D.C.: Center for Responsive Politics, 1996, p. 3.
- ⁷ Vice President Mondale, 9/30/97 Hrg., p. 115.
- ⁸ Vice President Mondale, 9/30/97 Hrg., p. 114.
- ⁹ Because reporting by parties of soft money contributions was not required by the FEC until 1992, anecdotal evidence is the primary resource available for the claim of soft money's slow growth during the 1980s.
- ¹⁰ *Buckley v. Valeo*, 424 U.S. 1 (1976).
- ¹¹ FEC Advisory Opinion 1978-10, Allocation Costs for Voter Registration.
- ¹² See, for example, *FEC v. Christian Action Network*, 92 F.3d 1178 (4th Cir. 1996).
- ¹³ Vice President Mondale, 9/30/97 Hrg., pp. 17-18. Chairman Thompson agreed with Mondale, noting: "Since Congress last acted in this area, things have happened around and outside of Congress that have totally changed the system, and we have a totally different system today, as I see it, without Congress having acted. So I would think, if for no other reason, as a matter of congressional prerogative that the laws of this land should be basically addressed by the Congress of the United States; that we would want to take a look at it." 9/30/97 Hrg., p. 15.
- ¹⁴ See Appendix A: National Party Non-Federal Activity. Source: Federal Election Commission. In 1996, the Republican Party's national committees raised about \$138 million, while the Democratic Party's national committees raised about \$124 million.
- ¹⁵ See Appendix A. The Republican Party also raises more hard money than the Democratic Party. In 1996, for example, FEC records indicate that Republicans raised \$416 million in hard money, compared to \$221 million raised by Democrats.
- ¹⁶ Ann McBride, 9/24/97 Hrg., p. 38.
- ¹⁷ Anthony Corrado, 9/25/97 Hrg., p. 4.
- ¹⁸ *Issue Advocacy Advertising During the 1996 Campaign: A Catalog*, The Annenberg Public Policy Center, 1997, p.32.
- ¹⁹ See Chapter 32.
- ²⁰ Annenberg Study, p. 53. See also Chapter 33.
- ²¹ *Washington Times*, 3/5/96. This statement is in sharp contrast to Barbour's testimony before this Committee, in which he claimed that the RNC did not use soft money to help federal candidates: "These non-federal monies, funds, could not be and were not spent for federal election purposes." Barbour, 7/24/97 Hrg. p. 126. See also Barbour deposition, 7/19/97, p. 86, in which Barbour stated, "The RNSEC [The RNC's soft money account] may not pay for any Federal campaign activities."
- ²² FEC Advisory Opinion 1995-25.
- ²³ Anthony Corrado, 9/25/97 Hrg., p. 7.
- ²⁴ See *The Clinton Ad Campaign Run Through the DNC/The Dole Ad Campaign Run Through the RNC*, Common Cause, 10/97.
- ²⁵ See FEC records.
- ²⁶ See Appendix A.
- ²⁷ Experts agree that soft money into the House and Senate campaign committees stretches to the limit the credibility of the argument that the money is being used only for party building and not to elect federal candidates. In his testimony, Professor Corrado said, "[W]hat you had was this expanding universe of activities that could fall under this hard/soft money rule, and they applied it to the national committees to the point where...the Senate and congressional campaign committees, which the average voter would think basically deal with federal elections, since they are designed to elect federal officials, actually use soft money now because of the non-Federal portion of their activities." Anthony Corrado, 9/25/97 Hrg., p. 65.
- ²⁸ *Roll Call*, 2/22/96.
- ²⁹ *Roll Call*, 2/22/96.
- ³⁰ *Roll Call*, 2/22/96.
- ³¹ Burt Neuborne, 9/25/97 Hrg., p. 151.
- ³² *Buckley* at 27.
- ³³ *Buckley* at 27 (citations omitted).
- ³⁴ Roger Tamraz, 9/18/97 Hrg., pp. 81-86.
- ³⁵ Exhibit 1070-M.
- ³⁶ Vice President Mondale, 9/30/97 Hrg., p. 20.
- ³⁷ *Campaign for President: The Managers Look at '96*, Harvard Institute of Politics: Boston, 1996, p. 117.
- ³⁸ *Campaign for President*, p. 117.
- ³⁹ Anthony Corrado, 9/25/97 Hrg., pp. 7-8. See also, for example, *Roll Call*, 10/27/97 (In 1997, RNC gave about \$660,000, the NRSC \$375,000 and the NRCC \$1.2 million, to Virginia Republican Party and Republican candidates, often without disclosure.)
- ⁴⁰ Daniel Ortiz, 9/25/97 Hrg., p. 11.
- ⁴¹ *Buckley* at 44.
- ⁴² Burt Neuborne, 9/25/97 Hrg., p. 136.
- ⁴³ Annenberg, p. 3.
- ⁴⁴ Annenberg, p. 8.

⁴⁵ Annenberg, p. 7.

⁴⁶ Rosenberg, p. 11.

⁴⁷ Norman Ornstein, 9/24/97 Hrg., p. 42.

⁴⁸ Ann McBride, 9/24/97 Hrg., p. 33.

⁴⁹ The Committee attempted to interview Gerawan, but he refused to provide a voluntary interview. The Majority refused to issue a deposition subpoena to Gerawan.

⁵⁰ The Minority had planned to call Representative Dooley as a witness to testify about the way in which the CFR issue ads affected his campaign, but the Majority declined to permit the Minority to present testimony on Triad and Dooley never testified.

⁵¹ See *New York Times*, 11/5/97.

⁵² *Roll Call*, 1/15/98. The new group is allegedly "run by David Carney, a former campaign consultant to GOP presidential candidate Bob Dole and Representative Vito Fossella of New York." The article cites documents in which the group's officials state that the group "already have \$7 million committed this year and plan to spend 85 percent of their money directly on communications."

⁵³ 9/25/97 Hrg., p. 3.

⁵⁴ 9/24/97 Hrg., p. 150.

⁵⁵ 9/24/97 Hrg., p. 146.

⁵⁶ 9/30/97 Hrg., p. 12.

⁵⁷ 9/24/97 Hrg., p. 75.

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PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE
NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 24: Overview and Legal Analysis

OVERVIEW OF FOLLOWING CHAPTERS

During the 1996 election cycle, spending by candidates, their campaign committees, political parties, other political committees and persons making independent expenditures totaled a record-breaking \$2.7 billion.¹ Of that amount, the Democratic and Republican Parties together spent almost \$900 million, or one-third of the total.² The two presidential candidates, President Clinton and Senator Dole, together spent about \$232 million, or almost 10 percent of the total.³

One of the primary objectives of the Committee's investigation was to investigate allegations of improper and illegal activities associated with fundraising undertaken both parties to finance this campaign spending. The allegations examined include the alleged misuse of federal property and federal employees to raise funds, the sale of access to top government officials in exchange for campaign contributions, and the circumvention of campaign spending restrictions through such devices as issue advocacy and coordination between the parties and their presidential nominees.

The following chapters will show that the evidence amassed during the Committee's investigation establishes that both political parties engaged in questionable fundraising practices. Both parties scheduled events at government buildings and promised access to top government officials as enticements for donors to attend fundraising activities or make contributions. Both parties used their presidential candidates to raise millions of dollars in soft money donations in addition to the \$150 million provided in public financing for presidential campaigns.⁴ Both parties worked with their candidates to design and broadcast so-called issue ads intended to help their candidates' election efforts.⁵

Some Members of the Committee charged during the hearings that these fundraising practices were clearly illegal. Others suggested that the federal election laws contain so many ambiguities, and the constitutional protections afforded political speech and association are so sweeping, that the tactics complained of either did not clearly violate the law or could not be legally restricted. The proceedings before the Committee repeatedly document confusion over the legal restrictions that apply to fundraising, unsettled legal questions, and provisions which would benefit from clarifying or strengthening legislation.

During the proceedings, many Committee Members expressed the conclusion that, whether or not fundraising practices used during the 1996 election cycle were illegal, a number of individuals involved exhibited poor judgment and the conduct that occurred created an appearance of corruption of the political process or misuse of federal resources. Offers of meetings with the President, the Speaker of the House, the Senate Majority Leader, or House or Senate committee chairs in exchange for political contributions cre-

Footnotes appear at end of chapter 24.

ated the appearance that access to our elected officials was for sale. Allowing large contributors to stay overnight in the Lincoln bedroom created the appearance that the White House was a campaign prize. Raising and spending millions of soft dollars to air issue ads designed to affect the presidential race undermines the law providing for public funding of presidential elections. The activities of 1996 make clear the need for reform.

LEGAL ANALYSIS

The campaign fundraising practices examined in the following chapters invoke a number of different federal laws, including federal criminal law restrictions on taking official action in exchange for money; federal property restrictions, primarily in the Pendleton Act, on using government resources for campaign purposes; federal personnel law restrictions, primarily in the Hatch Act, on employees participating in campaign activities; and federal election law restrictions on spending and coordination.

While some of the campaign restrictions set out in these laws are clear, other provisions provide insufficient guidance on what conduct is lawful, while ambiguities or limitations in other provisions may hinder criminal prosecutions and civil enforcement actions in this area. Many of these provisions would benefit from legislation strengthening and clarifying intended prohibitions on fundraising practices in federal elections.

Taking official action in exchange for a contribution

A number of the allegations investigated by the Committee involve suggestions that government officials took action during the 1996 election cycle to obtain or reward a campaign contribution. The alleged actions cover a range of activity, from providing a meeting between a contributor and a federal official, to advancing the contributor's private business interests, to obtaining a change in U.S. policy requested by the contributor.⁶

Several longstanding federal criminal statutes bar government personnel from taking official action in exchange for contributions. For example, the federal bribery statute, 18 U.S.C. § 201, bars "public officials" from taking or promising to take official acts in exchange for "anything of value," including a campaign contribution.⁷ The federal extortion statutes, 18 U.S.C. § 872 and § 1951, bar public officials from soliciting funds through a threat of violence, under color of official right, or by causing a victim to fear economic harm if the funds are not provided.⁸ A provision in the Hatch Act, 18 U.S.C. § 600, bars public officials from promising any government benefit in exchange for "support of or opposition to any candidate or any political party."⁹ Each of these provisions has its own requirements for proving a quid pro quo relationship between the action taken and the campaign contribution.¹⁰

The law is also clear that to establish a criminal violation, a public official must do more than simply arrange or attend a meeting with a contributor. In a recent letter to the House Judiciary Committee, Attorney General Janet Reno summarized the court decisions holding that public officials who grant access, but nothing more, to contributors do not violate federal law:

The courts . . . have held that . . . access in exchange for political contributions is not an “official act” that can provide the basis for a bribery or extortion prosecution. [Legal citations omitted.] Indeed one court has focussed on the constitutional right to “petition the Government for a redress of grievances” guaranteed by the First Amendment in refusing to find that alleged gifts provided in hopes of access to an elected public official could amount to a scheme to defraud the public of the official’s honest services To the extent that the allegations . . . suggest simply a decision by an elected politician to provide access to political contributors, we conclude that no federal violation is suggested.¹¹

These court decisions mean that fundraising activities that promise access to a government official in exchange for a campaign contribution, but nothing more, do not constitute bribery, extortion or any other violation of federal criminal law. In addition, the cases suggest that the courts would strike down as unconstitutional any law which attempted to go farther, and bar contributors from gaining access to public officials, solely due to their contributor status.

While current law provides that candidates who agree to meet personally with contributors solely due to their contributions have not committed an illegal act, the circumstances surrounding particular meetings may nevertheless create an appearance of favoritism or impropriety.

Use of federal property

A second set of issues involves the use of federal property in connection with campaign fundraising, including using government telephones to contact contributors or inviting contributors to attend events in government buildings.

The key federal statute is a provision of the Pendleton Act, 18 U.S.C. § 607, which states:

It shall be unlawful for any person to solicit or receive any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 in any room or building occupied in the discharge of official duties by any [federal employee] or in any navy yard, fort or arsenal.

While this provision seems to impose a broad prohibition against soliciting campaign contributions on federal property, its wording and interpretation by the courts have limited its scope.

First, the statute is limited on its face to contributions as defined by section 301(8) of FECA. This definition is a narrow one. It encompasses only “hard money” contributions in connection with a federal election; it does not include, for example, donations in connection with state or local elections, generic party-building activities, or issue advocacy.¹²

A second limitation turns upon case law interpreting where a campaign solicitation takes place within the meaning of section 607. The key case is a ninety-year-old Supreme Court decision, *United States v. Thayer*, 209 U.S. 39 (1908), which holds that section 607 is violated by a letter which is written and mailed from outside a federal workplace, and delivered to an individual in a fed-

eral office. The Supreme Court held, in an opinion written by Justice Oliver Wendell Holmes, Jr., that “the solicitation was in the place where the letter was received,” rather than where the letter was written or sent.¹³ By analogy, a telephone call or fax message soliciting a campaign contribution takes place where the call or fax is received, rather than where it originated. This analysis suggests that a telephone call or fax from a government building to a private location would not violate section 607, since the solicitation would occur outside of a federal workplace. This interpretation makes sense in light of the original intent of the Pendleton Act, which was to protect federal employees from being pressured to make campaign contributions while at work.¹⁴

Federal prosecutions are in line with this interpretation of the statute. In a recent report, the American Law Division of the Congressional Research Service stated it was unable to find any criminal prosecution under section 607 of a campaign solicitation made by mail or telephone from a federal building to a non-federal building:

In more than 100 years since its enactment . . . the law appears to have been neither specifically construed by any court nor applied in any prosecution to cover one who solicits a campaign contribution from a federal building by letter or telephone to persons who are *not* located themselves in a federal building.¹⁵ [original emphasis]

A third limitation on section 607 is an exception created for residential and “mixed-use” areas of the White House. Because these areas of the White House serve as the President’s personal home, the Department of Justice has long held that they must be treated differently than federal office space. In this context, the Department has held that campaign solicitations made from telephones in the residential and mixed-use areas of the White House, as well as fundraising events held in such areas, do not violate section 607, because the activities do not take place in a “room or building occupied in the discharge of official duties.”¹⁶

These three limitations on the scope of section 607—that it does not apply to soft money donations, solicitations directed outside federal buildings, and White House residential and mixed-use areas—make this provision inapplicable to a number of fundraising incidents before the Committee, such as the telephone solicitations made by the President and Vice President and the White House coffees. These legal limitations are also a primary reason that the Attorney General declined to appoint an independent counsel to investigate allegations that campaign fundraising calls placed by President Clinton or Vice President Gore violated federal law.¹⁷

A second federal statute affecting the use of federal property in connection with campaign fundraising is 18 U.S.C. § 641, which bars conversion of government property to personal use. The provision prohibits a person from “knowingly convert[ing] to his use or the use of another . . . anything of value of the United States.” This provision also has several limitations. First, federal regulations permit incidental use of federal property for otherwise lawful personal purposes, and the Justice Department has determined that, under these regulations, occasional use of a federal telephone

or fax machine for a campaign purpose would not amount to a Federal crime.¹⁸ Second, under 5 U.S.C. § 7324(b)(1) and 5 C.F.R. 734.503(a), the White House is explicitly authorized to use federal property for political activity if there is no cost to the government.¹⁹ Third, the Justice Department has determined that events which take place in the residential and mixed-use areas of the White House, such as the White House coffees and Lincoln bedroom overnights, cannot, as a matter of law, result in criminal conversion, since these areas are provided to the President explicitly for his personal use.²⁰

A third statute of interest concerns the use of appropriated funds. While no specific federal statute expressly prohibits spending federal funds for partisan campaign purposes, 31 U.S.C. § 1301(a) states that monies appropriated by Congress may be spent only for the purposes for which they were appropriated.²¹ The Comptroller General has interpreted this statute to allow agencies to spend federal funds to further agency objectives but not to carry out “a propaganda effort designed to aid a political party or candidate.”²² In evaluating a particular expenditure, the Comptroller General defers to an agency determination that an expenditure was “in connection with official duties,” ensuring only that there was “a reasonable basis” for the agency determination. The Comptroller General has also evaluated expenditures by determining whether they were “so devoid of any connection with official functions or so political in nature that [the expenditures] are not in furtherance of purposes for which Government funds were appropriated.”²³ Violations of 31 U.S.C. § 1301(a) are punishable only with administrative or civil penalties such as the recovery of misused funds or removal of a federal employee from office.²⁴

The proceedings before the Committee suggest that many persons thought federal law barred all use of federal property for campaign purposes, with no exceptions or limitations. However, federal law does not presently impose this type of absolute ban, and legislation would be required to achieve that result.

Use of federal employees

Another set of issues involves the use of federal personnel in connection with campaign fundraising, including to solicit contributions, attend fundraising events in a government building, or engage in other campaign activities.

The key federal statute is the Hatch Act, 5 U.S.C. § 7321 *et seq.*, which generally permits covered federal employees to engage in voluntary partisan political activities while away from work, but restricts most partisan “political activity” while an employee is on duty, in uniform, or in a government building or vehicle.²⁵ Section 7323 imposes a few restrictions that apply at all times to federal employees, whether on duty or off. Two of these across-the-board restrictions are that covered federal employees may not “knowingly solicit, accept, or receive a political contribution from any person,”²⁶ and they are prohibited from using their “official authority or influence for the purpose of interfering with or affecting the result of an election.”²⁷

The Hatch Act contains a number of exceptions and limitations. First, the Act does not apply to federal employees in the legislative

or judicial branches, including Congressional staff.²⁸ Second, it does not apply to the President or Vice President.²⁹ Third, its prohibition on partisan political activity while on duty does not apply to certain White House personnel paid from appropriations for the Executive Office of the President, or to certain federal officials appointed by the President with the advice and consent of the Senate such as members of the Cabinet.³⁰ These excepted persons are nevertheless subject to the Hatch Act's ban on soliciting or accepting contributions, whether on duty or off.³¹ The Hatch Act further requires that political activity performed by a Hatch Act-exempt person while on duty, in uniform or in a government building or vehicle, must either incur no cost to the government or its cost must be reimbursed in accordance with federal regulations.³²

Together, the exceptions to the Hatch Act mean that a limited number of high-ranking federal officials and White House personnel may legally engage in a wide range of political activities while in a federal building, during working hours, using federal property, so long as the activity does not involve soliciting or accepting contributions and either incurs no cost to the government or the cost is reimbursed.³³ The President, Vice President, Members of Congress and Congressional staff are not subject to any Hatch Act restrictions.

A key legal issue is distinguishing between "political activity" and "official activity." Many White House employees paid by the Executive Office of the President ("EOP") may, as discussed above, engage in either activity, but must ensure that political activity costs are reimbursed. Non-EOP White House staff are essentially barred from engaging in any political activity while working. Hatch Act regulations and opinions prepared by the Department of Justice's Office of Legal Counsel ("OLC") for the Carter Administration in 1977 and re-stated by the OLC for the Reagan Administration in 1982 provide basic guidelines for distinguishing between "political" and "official" activity. Hatch Act regulations state that, "[p]olitical activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group."³⁴ The OLC defines an activity as "political" if its primary purpose involves the President's role as a candidate or as leader of his political party, such as by appearing at party functions, fundraising, or campaigning for specific candidates.³⁵ Hatch Act regulations do not define "official" activity, while OLC opinions indicate that an activity is "official" if it relates to the President's policies, programs or legislative agenda, even if it concerns matters on which opinion is politically divided.³⁶ Travel, appearances, and actions taken by the President and Vice President to "present, explain, and secure public support for the Administration's measures" are considered official activities.³⁷ By analogy, staff support of the President and Vice President's policies, legislative agenda, programs and initiatives would also be reasonably classified as "official" activity.

Another key legal issue involves determining the costs associated with political activities. Hatch Act regulations state that certain political activity costs do not have to be reimbursed if they are costs that the government has already incurred for official purposes.³⁸ Examples of political activities that are not considered to

incur cost to the government because the government has already paid the expense for other official purposes include: local phone calls, the use of office space and employee salaries.³⁹ Examples of political activities which do incur costs to the government include: faxing, copying, and long-distance telephone calls.

These rules are difficult to apply and, in practice, have been applied at times in surprising ways. One key example involves the Office of Political Affairs ("OPA"), an office within the White House first established in 1981 by President Reagan.⁴⁰ Since its inception, OPA has served as a liaison between the President and White House staff, and the President's political party and various campaign efforts.⁴¹ OPA performs a number of election-related activities that would appear to meet the definition of "political." However, in 1991, C. Boyden Gray, counsel to President Bush, stated in a memorandum explaining Hatch Act restrictions on White House staff that, "It is important to understand that . . . the official responsibilities that customarily have been performed by the Office of Political Affairs constitute "official" and not "political" activities, and the restraints cited here therefore do not in general affect activities and office maintenance or other costs undertaken or incurred in the discharge of such responsibilities."⁴² The memorandum cites no regulation, OLC opinion or other legal authority in support of its determination. A 1994 memorandum on Hatch Act restrictions prepared by Lloyd Cutler, special counsel to President Clinton, follows the precedent set under President Bush.⁴³

Violations of these Hatch Act provisions are punishable only with administrative or civil penalties such as the removal of a federal employee from office.⁴⁴

The proceedings before the Committee indicate that many persons thought federal law barred federal employees from engaging in any campaign activity during work hours. In fact, current law explicitly permits the President, Vice President, Members of Congress, Congressional staff, and a limited number of federal officials and White House personnel, to engage in a wide range of partisan political activities while on duty or in a federal building or vehicle. One key exception is the broad ban placed on executive branch personnel, other than the President and Vice President, from soliciting or accepting campaign contributions.

Spending limits, coordination and issue advocacy

A fourth set of issues involves federal election law requirements regarding contribution and spending limits, and coordination between a party and its candidates.

Federal election laws impose a variety of contribution and spending limits on federal campaigns. Contribution limits apply to all federal candidates, including those running for the House, Senate and Presidency. These limits include, for example with respect to an individual, a \$25,000 annual overall limit; \$20,000 annual limit on contributions to a national political party; and a \$1,000 limit on contributions to a specific federal candidate each election. Parties are limited in the amount of direct contributions they can make to federal candidates. In addition to direct contributions, political parties are allowed under 2 U.S.C. § 441a(d) to make a limited amount of coordinated expenditures in connection with a federal can-

didate's general election.⁴⁵ Statutory formulas set the maximum amount of section 441a(d) coordinated expenditures that a party can make with respect to a House, Senate or Presidential candidate. In 1996, each party was limited to spending \$12 million on section 441a(d) coordinated expenditures made in connection with its presidential candidate's general election.⁴⁶

In addition to contribution limits, federal election laws also impose spending limits on presidential candidates who accept public financing.⁴⁷ These spending limits are permitted because candidates must voluntarily agree to accept them in exchange for public financing.⁴⁸ In 1996, each presidential candidate who accepted public financing agreed to limit expenditures in connection with the primaries to \$37 million and in connection with the general election to \$74 million.⁴⁹

A key legal issue is whether coordinated efforts between candidates and parties are lawful, and whether this coordination, particularly with respect to issue advocacy, was used unlawfully in the 1996 elections to circumvent federal contribution and spending limits.

The Federal Election Campaign Act ("FECA") and its implementing regulations contain a number of provisions indicating that coordination between a party and its candidates is expected and appropriate. Permitted candidate-party coordinated activities include voter registration drives, get-out-the-vote efforts, generic advertising, joint fundraising events, and the development and distribution of campaign materials such as sample ballots, slate cards, brochures, bumper stickers and yard signs.⁵⁰ Each of these activities is typically coordinated between a party and its candidates, pursuant to the role that political parties traditionally play in support of their tickets. With respect to a party's coordinated expenditures under 2 U.S.C. § 441a(d), the FEC has held explicitly that, "consultation or coordination with the candidate is permissible."⁵¹

Attorney General Janet Reno recently stated in a letter to the Senate Judiciary Committee:

FECA does not prohibit the coordination of fundraising or expenditures between a party and its candidates for office. Indeed, the [FEC], the body charged by Congress with primary responsibility for interpreting and enforcing the FECA, has historically *assumed* coordination between a candidate and his or her political party.⁵² [original emphasis]

The FEC made that assumption explicit in a 1988 FEC Advisory Opinion stating that a party's "coordination with candidates is presumed."⁵³ Moreover, the recent Supreme Court case, *Colorado Republican Federal Campaign Committee v. FEC*, 116 S. Ct. 2309 (1996), examining party-candidate coordination, contains no hint that such coordination is unlawful, holding instead that, in addition to coordinated expenditures, parties have a constitutional right to make independent expenditures and must be given an opportunity to demonstrate that a particular party expenditure was independently made. Some Justices suggested, in *dicta*, that parties should be able to make unlimited coordinated expenditures with their candidates.⁵⁴

With respect to presidential candidates in particular, FECA currently permits a presidential candidate to “designate the national committee of [his or her] political party as [his or her] principal campaign committee.”⁵⁵ If President Clinton or Senator Dole had exercised that option, their candidacies would have been not only coordinated with their respective political parties, but the party and the candidate committees would have merged into one entity. This option is additional proof that federal election law contemplates coordination between presidential candidates and their parties as both lawful and appropriate.

The close relationship envisioned in FECA between candidates and their parties is in sharp contrast to the arms-length relationship envisioned between candidates and nonparty groups like corporations or unions. For example, 2 U.S.C. § 441b(a) prohibits direct corporate and union contributions to candidates. The Supreme Court has repeatedly upheld federal election law provisions erecting barriers between candidates and nonparty entities like corporations and unions; no similar case law separates candidates from their parties.⁵⁶

While coordination between parties and candidates is clearly lawful under FECA in many respects, questions have arisen as to whether their coordination on activities such as raising soft money and broadcasting issue ads constitute a FECA violation.

It is beyond question that raising soft money and broadcasting issue ads are not, in themselves, unlawful. FEC regulations currently allow political parties to raise and spend soft money, and have established an elaborate system for allocating and disclosing federal versus non-federal funds.⁵⁷ Candidates are permitted to help their parties raise funds.⁵⁸ The courts have repeatedly upheld the right of persons to engage in issue advocacy outside the scope of federal election laws, even when those ads mention candidates and are broadcast close in time to a federal election day.⁵⁹

The specific issues that some have posed are: (1) whether a candidate’s extensive involvement in party efforts to finance, develop and place issue ads converts such ads into candidate ads that should have been counted against party or candidate contribution and spending limits; and (2) whether some of the ads that parties labelled as issue ads were really candidate ads that should have been counted against the party’s section 441a(d) limit on coordinated expenditures. In particular, some have asked whether, due to the involvement of President Clinton, Senator Dole and their campaigns in party-sponsored issue ads, the cost of those ads—which totaled \$44 million for the DNC and \$24 million for the RNC—should be counted against each party’s \$12 million limit on coordinated expenditures or each candidate’s spending limits of \$37 million during the primaries and \$74 million during the general election.

The answer to these questions turns, in part, on the legal test for distinguishing between candidate and issue ads. In *Buckley v. Valeo*, the Supreme Court upheld disclosure requirements for expenditures by independent groups on communications that “expressly advocate the election or defeat of a clearly identified candidate” and activities coordinated with a “candidate or his agent.”⁶⁰ In a footnote, the Court offered specific examples of express advo-

cacy, which have come to be known as the *Buckley* “magic words.” The footnote listed: “‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for Congress,’ ‘vote against,’ ‘defeat,’ ‘reject.’”⁶¹ A decade later, the Supreme Court reaffirmed the *Buckley* approach, holding that “a finding of ‘express advocacy’ depend[s] upon the use of language such as ‘vote for,’ ‘elect,’ ‘support,’ etc.”⁶²

Lower courts and the FEC have since elaborated on the *Buckley* standard. In *FEC v. Furgatch*, the Ninth Circuit held that “the short list of words included in the Supreme Court’s opinion in *Buckley* does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate.”⁶³ The court accordingly adopted a standard for express advocacy that included not only *Buckley*’s magic words, but also communications expressing an unmistakable and unambiguous message to vote for or against a clearly identified candidate, without using the *Buckley* magic words.⁶⁴ The FEC subsequently adopted a regulatory standard based in part on the *Furgatch* ruling.⁶⁵

Two circuits have recently rejected the FEC’s *Furgatch*-inspired approach. The First and Fourth Circuits have determined that a communication cannot constitute express advocacy under FECA unless it contains *Buckley*’s magic words or other explicit language urging the election or defeat of a candidate.⁶⁶ The First Circuit took this position despite affirming its lower court’s decision which described the FEC regulation as “a very reasonable attempt . . . drawn quite narrowly to deal with only the ‘unmistakable’ and ‘unambiguous’ cases.”⁶⁷ The Supreme Court has yet to resolve this split among the circuits.

While the circuits have split on the precise contours of the *Buckley* standard, all of the courts that have reviewed issue or candidate ads under FECA have based their determinations on the content of the ad in question. No court has looked behind an ad’s content to determine, for example, the intent of the ad’s sponsors, the persons who participated in financing, developing or placing the ad, or the ad’s intended or actual impact on a particular election. Thus, there is presently no legal authority which supports the proposition that the extent of a candidate’s involvement could convert an ad from issue advocacy into candidate advocacy, particularly in the context of an ad sponsored by a political party.

Testimony was received by the Committee from several legal experts, including the FEC’s general counsel Lawrence Noble, that issue ads sponsored by an independent group and coordinated with a candidate should be treated as a coordinated expenditure and candidate contribution, if the ad conveys an “electioneering message” benefiting the candidate.⁶⁸ Former FEC Chairman Trevor Potter testified that “whether it is express advocacy, or issue advocacy, or anything else, it is relevant to ask in the case of a nonparty organization whether the spending . . . was, in fact, directed and controlled by the candidate.”⁶⁹ However, Noble and Potter both testified that a different legal analysis should apply to coordination involving only a party and its candidates, due to the longstanding legal presumption that party-candidate coordination is permissible and appropriate.⁷⁰ In 1995, the FEC did just that. Asked how party issue ads should be treated, the FEC focused on the ad’s content, rather than on any party-candidate coordination.

It determined that party ads which address “national legislative activity” and do not include an “electioneering message” promoting a particular candidate result in generic voter drive or administrative costs to the party payable with a mix of federal and nonfederal money—no party contribution to a candidate resulted.⁷¹ In reaching this decision, the FEC analyzed the content of the ad, not who was involved in preparing it, or what the party hoped its effect would be on an election.

The Attorney General stated in her recent letter to the Senate Judiciary Committee, not only that party-candidate coordination does not violate FEC as a general principle, but also that party-candidate coordination on a party’s issue ads do not, as a matter of law, violate FECA.⁷² She wrote:

With respect to coordinated media advertisements by political parties (an area that has received much attention of late), the proper characterization of a particular expenditure depends not on the degree of coordination, but rather on the content of the message. . . .

We recognize that there are allegations that both presidential candidates and both national political parties engaged in a concerted effort to take full advantage of every funding option available to them under the law, to craft advertisements that took advantage of the lesser regulation applicable to legislative issue advertising, and to raise large quantities of soft political funding to finance these ventures. However, at the present time, we lack specific and credible evidence suggesting that these activities violated the FECA.⁷³

Coordination between parties and candidates has long been an accepted part of federal election law and campaign financing. Presidential candidates are considered the leaders of their parties.⁷⁴ Party-candidate coordination does not, in and of itself, violate FECA. Party-candidate coordination on party ads which expressly advocate the election of the candidate must comply with the party’s limits on 441a(d) coordinated expenditures for that candidate. Party-candidate coordination on party ads that contain only a generic voter drive or issue message do not, under FEC rulings, have to be attributed to a particular candidate—even if a candidate was involved in financing, developing or placing the ad; those party ads must instead comply with FEC allocation requirements for hard and soft money. Each of these areas would benefit from clarifying or strengthening legislation. Closing the soft money loophole, strengthening and clarifying the definition of express advocacy, and imposing disclosure requirements on issue ads that name candidates or appear close in time to elections are all possible legislative remedies to problems posed in this area.⁷⁵

FOOTNOTES

¹ See FEC filings; see also, for example, *Washington Post*, 2/9/97. The \$2.7 billion total does not include spending by independent groups that did not file with the FEC. The *Washington Post* estimated additional spending by independent groups on the 1996 federal elections at \$70 million. *Washington Post*, 2/9/97.

² See FEC filings. The Democratic Party spent about \$336 million, and the Republican Party spent about \$558 million during the 1996 election cycle.

³ See FEC filings; see also, for example, *Washington Post*, 3/31/97.

⁴The Democratic Party's national campaign committees raised about \$124 million in soft money, while the Republican Party's national campaign committees raised about \$138 million. See FEC filings; see also, for example, *Washington Post*, 2/9/97, and 3/17/97. Compared to the previous presidential election cycle in 1992, the two parties raised three times as much soft money during the 1996 election cycle.

⁵The DNC spent about \$44 million on issue ads, while the RNC spent about \$24 million on issue ads. See FEC filings; see also, for example, Annenberg Public Policy Center, "Issue Advocacy Advertising During the 1996 Campaign: A Catalog," Report Series No. 16, 9/16/97, pp. 32, 53.

⁶See, for example, Letter from House Judiciary Committee Republican Members to Attorney General Reno, requesting appointment of an independent counsel to investigate possible violations of law in connection with the 1996 presidential campaign, 9/4/97.

⁷See discussion of this provision, for example, in Congressional Research Service Report No. IB97045, 8/12/97, pp. 5–6.

⁸See discussion of these provisions, for example, in letter from Attorney General Reno to House Judiciary Committee Chairman Henry Hyde of New York, 10/3/97, p. 7; and Congressional Research Service Report No. IB97045, 8/12/97, p. 6.

⁹See discussion of this provision, for example, in letter from Attorney General Reno to House Judiciary Committee Chairman Henry Hyde of New York, 10/3/97, pp. 5–6.

¹⁰See, for example, Congressional Research Service Report No. IB97045, 8/12/97, pp. 5–6.

¹¹Letter from Attorney General Reno to House Judiciary Committee Chairman Henry Hyde of New York, 10/3/97, p. 4.

¹²Letter from Attorney General Reno to House Judiciary Committee Chairman Henry Hyde of New York, 10/3/97, p. 5; and Congressional Research Service Report No. IB97045, 8/12/97, p. 6.

¹³209 U.S. at 44.

¹⁴See, for example, the Senate Ethics Manual (9/96), which states: "The criminal prohibition at section 607 was originally intended and was historically construed to prohibit anyone from soliciting contributions from federal clerks or employees while such persons were in a federal building. In interpretations of this provision, the focus of the prohibition has been directed to the location of the individual from whom a contribution was requested, rather than the location from which the solicitation had originated." See also *United States v. Burlison*, 127 F.Supp. 400 (E.D. Tenn. 1954) (campaign solicitation of federal employees while at a contractor worksite did not occur in a federal building and so did not result in a violation).

¹⁵Congressional Research Service Report No. IB97045, 8/12/97, p. 7; see also memorandum dated 3/6/97, by Jack Maskell, legislative attorney, American Law Division, Congressional Research Service, "Soliciting Campaign Contributions in a Federal Building: 18 U.S.C. 607."

¹⁶3 Op. Off. Legal Counsel 31, 38–45 (1979); see also Congressional Research Service Report No. IB97045, 8/12/97, p. 7.

¹⁷See, for example, Letter to Senate Judiciary Committee Chairman Orrin Hatch of Utah from Attorney General Reno, 4/17/97, pp. 4–5; see also statement by Senator Levin, Congressional Record, 10/1/97, p. S10277–82.

¹⁸See Letter to Senate Judiciary Committee Chairman Orrin Hatch of Utah from Attorney General Reno, 4/14/97, p. 5 (citing 5 C.F.R. 2635.704 and 41 C.F.R. 201–21.601).

¹⁹See discussion below.

²⁰See Letter from Attorney General Reno to House Judiciary Committee Chairman Henry Hyde of New York, 10/3/97, p. 5.

²¹See Congressional Research Service Report No. IB97045, 8/12/97, pp. 8–9.

²²U.S. General Accounting Office, *Principles of Federal Appropriations Law* (7/91), p. 4–2, cited in memorandum dated 9/6/96 by Jack Maskell, legislative attorney, American Law Division, Congressional Research Service, "Use of Federal Appropriations for Non-Official, Political Campaign Purposes," pp. 3–4.

²³Decision of Comptroller General, B–147578, 11/8/62, p. 5, cited in memorandum dated 9/6/96 by Jack Maskell, legislative attorney, American Law Division, Congressional Research Service, "Use of Federal Appropriations for Non-Official, Political Campaign Purposes," p. 4.

²⁴Memorandum by Jack Maskell, legislative attorney, American Law Division, Congressional Research Service, "Use of Federal Appropriations for Non-Official, Political Campaign Purposes," 9/6/96, p. 7.

²⁵5 U.S.C. §7324(a); see also Congressional Research Service Report No. IB97045, 8/12/97, p. 8.

²⁶5 U.S.C. §7323(a)(2). Section 7323(a)(2) makes an exception for the solicitation of contributions in a few limited instances involving employee organizations, not relevant here. See also 5 C.F.R. 734.101(b) which defines accepting a contribution as taking "possession . . . officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act." 18 U.S.C. §607(b) allows Congressional staff to accept contributions in a federal building if the contribution is forwarded within seven days to the appropriate campaign committee.

²⁷5 U.S.C. §7323(a)(1).

²⁸5 U.S.C. §7323.

²⁹5 U.S.C. §7323 (Hatch Act applies to "any individual, other than the President and the Vice President, employed or holding office in . . . an Executive agency").

³⁰5 U.S.C. §7324(b)(2)(B)(i); see 5 CFR 734.502; Congressional Research Service Report No. IB97045, 8/12/97, p. 8.

³¹5 U.S.C. §7323(a)(2); see Congressional Research Service Report No. IB97045, 8/12/97, p. 8.

³²5 U.S.C. §7324(b); 5 C.F.R. 734.503; see Congressional Research Service Report No. IB97045, 8/12/97, p. 8.

³³ See, for example, 5 C.F.R. 734.503, Example 3: “The head of an executive department may hold a partisan ‘political’ meeting or host a reception which is not a fundraiser in his conference room during normal business hours.”

³⁴ 5 C.F.R. 734.101.

³⁵ 6 Off. Legal Counsel 214, 217 (1982).

³⁶ 6 Off. Legal Counsel 214, 217 (1982).

³⁷ 6 Off. Legal Counsel 214, 217 (1982).

³⁸ 5 C.F.R. 734.503.

³⁹ 5 C.F.R. 734.503.

⁴⁰ Kathryn Dunn Tempas, “Institutionalized Politics: The White House Office of Political Affairs,” *Presidential Studies Quarterly* (Spring 1996).

⁴¹ For the first twelve years under President Reagan and President Bush, OPA staff members served as liaisons to the Republican national, state and local party organizations; coordinated activities with the congressional campaign committees; did political outreach to targeted constituency groups; worked to obtain appointments to federal positions and offices for political supporters; provided assistance to candidates in mid-term elections; and helped plan the president’s re-election campaign. Kathryn Dunn Tempas, “Institutionalized Politics: The White House Office of Political Affairs,” *Presidential Studies Quarterly* (Spring 1996) p. 512. OPA staff under President Clinton engaged in similar activities. See also Harold Ickes, 10/7/97 Hrg. pp 85–90.

⁴² Memorandum to All White House Staff from C. Boyden Gray, Counsel to the President, re “Political Activity,” 11/27/91, p. 4, n. 3.

⁴³ Memorandum to All White House Staff from L. Cutler & C. Mills re: Political Activity, 4/6/94, p. 2, n. 2.

⁴⁴ See Memorandum by Jack Maskell, legislative attorney, American Law Division, Congressional Research Service, “Use of Federal Appropriations for Non-Official, Political Campaign Purposes,” 9/6/96, p. 7.

⁴⁵ The constitutionality of section 441a(d)’s limits on coordinated expenditures by parties was questioned by several Supreme Court Justices in *Colorado Republican Federal Campaign Committee v. FEC*, 116 S. Ct. 2309 (1996), but no ruling was made by the Court on that issue. In *Buckley v. Valeo*, 424 US 1, 47 (1976), in *dicta*, the Supreme Court analogized coordinated expenditures to contributions which it held could be constitutionally limited; in the *Colorado* case, in *dicta*, some Justices analogized coordinated expenditures to direct spending by candidates which *Buckley* held cannot constitutionally be limited.

⁴⁶ 2 U.S.C. § 441a(d)(2).

⁴⁷ 2 U.S.C. § 441a(b).

⁴⁸ *RNC v. FEC*, 616 F.2d 1 (2d Cir) (en banc), *aff’d mem.*, 445 U.S. 955 (1980) One presidential candidate during 1996, Steve Forbes, declined to accept public financing and was not subject to spending limits.

⁴⁹ See 2 U.S.C. § 441a(c), and 11 C.F.R. 9035.1(a)(1).

⁵⁰ See, for example, 2 U.S.C. § 431(9)(B)(iv) and (viii) and 11 C.F.R. 102.17 (joint fundraising by parties and candidates, and allocating associated expenses).

⁵¹ FEC Advisory Opinion 1984–15.

⁵² Letter to Senate Judiciary Committee Chairman Orrin Hatch from Attorney General Reno, 4/14/97, pp. 6–7.

⁵³ FEC Advisory Opinion 1988–22.

⁵⁴ See, for example, opinion by Justice Kennedy; see also footnote 45, *supra*.

⁵⁵ 2 U.S.C. § 432(e)(3)(A)(i); 11 C.F.R. 102.12(c)(1).

⁵⁶ See, for example, *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986); *Austin v. Michigan State Chamber of Commerce*, 494 U.S. 652 (1990); see also legal analysis in part 2 on independent groups, *supra*.

⁵⁷ See 11 C.F.R. 106.5. In a letter dated 6/4/97, President Clinton petitioned the FEC to change these regulations and prohibit parties from raising and spending soft money.

⁵⁸ See 11 C.F.R. 102.17 (joint fundraising by parties and candidates, and allocating associated expenses).

⁵⁹ See, for example, *FEC v. Christian Action Network*, 110 F.3d 1049 (4th Cir 1997).

⁶⁰ 424 U.S. 1, 80 (1976) The Court reached this ruling with respect to “individuals and groups that are not candidates or political committees.” 424 U.S. at 80.

⁶¹ 424 U.S. at 44 n.52

⁶² *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 248–49 (1986) (quoting *Buckley*).

⁶³ 807 F.2d 857, 863 (9th Cir. 1987).

⁶⁴ 807 F.2d at 864.

⁶⁵ 11 C.F.R. 100.22(b) (“*Expressly advocating* means any communication that . . . could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because—(1) [t]he electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and (2) [r]easonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action.”) (original emphasis).

⁶⁶ See *FEC v. Christian Action Network*, 110 F.3d 1049, 1055 (4th Cir 1997) (holding that *Buckley* requires express or explicit words of advocacy of election or defeat of a candidate); *Maine Right to Life Committee v. FEC*, 98 F.3d 1 (1st Cir 1996) (invalidating FEC regulation).

⁶⁷ *Maine Right to Life Committee v. FEC*, 914 F Supp 8, 10 (D. Me. 1996), *aff’d*, 98 F.3d 1 (1st Cir. 1996) (per curiam).

⁶⁸ Lawrence Noble, 9/25/97 Hrg. Pp. 34–40. The FEC is currently in litigation to determine whether this position—that issue ads sponsored by an independent group, coordinated with a candidate, and containing an electioneering message result in a contribution to the candidate—is correct See also legal analysis of independent groups coordinating with candidates in Part 2, *supra*.

⁶⁹ Trevor Potter, 9/25/97 Hrg. P. 36.

⁷⁰ Lawrence Noble and Trevor Potter, 9/25/97 Hrg. Pp. 35–36, 39–40. Potter testified that the FEC had traditionally “presumed all party spending was coordinated with candidates” and had deemed coordination between the two irrelevant, concentrating instead on determining whether specific party expenditures were generic party-building efforts that could not be attributed to individual candidates or candidate-specific spending subject to contribution limits. Trevor Potter, 9/25/97 Hrg. P. 22. See also legal analysis of independent groups coordinating with candidates in Part 2, *supra*.

⁷¹ FEC Advisory Opinion 1995–25; see also FEC Advisory Opinion 1985–14; and letter to Senate Judiciary Committee Chairman Orrin Hatch of Utah from Attorney General Reno, 4/14/97, p. 7.

⁷² Letter to Senate Judiciary Committee Chairman Orrin Hatch of Utah from Attorney General Reno, 4/14/97, pp. 6–7.

⁷³ Letter to Senate Judiciary Committee Chairman Orrin Hatch of Utah from Attorney General Reno, 4/14/97, p. 7.

⁷⁴ See, for example, Harold Ickes, 10/7/97 Hrg. P. 85.

⁷⁵ S. 25, the McCain-Feingold campaign finance reform bill, proposes a variety of legislative remedies on soft money, issue advocacy and coordination.

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PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 25: DNC and RNC Fundraising Practices and Problems

The 1996 federal election cycle set a record for the amount of money raised and spent by federal candidates and their parties in the quest to obtain victory at the polls. During the election cycle, both parties leveled well worn allegations at each other of improper or illegal fundraising practices and other wrongdoings, proclaiming that they were shocked at the opposing party's activities. In past election cycles, these allegations were largely forgotten after the electoral dust settled. After the 1996 election, however, allegations against candidates and national parties persisted and escalated.

The Committee investigated a number of the allegations against the DNC during the last election cycle, taking 38 days of depositions, conducting 14 interviews,¹ receiving 5 days of public testimony,² and receiving over 450,000 pages of unredacted DNC documents.³ The Committee focused on how the DNC had performed its primary functions of (1) soliciting campaign contributions, (2) organizing fundraising and other events, and (3) spending its funds to promote the Democratic Party. After a thorough investigation, several serious problem areas emerged, which are set forth below.

Allegations against the RNC were not fully explored by the Committee, which took only two depositions⁴ and one day of public testimony from one RNC official.⁵ Even then, the Committee strictly limited the testimony to issues involving the National Policy Forum. In addition, the Committee only received 70,000 pages of RNC documents, many of which were heavily redacted, despite the fact that the RNC received a virtually identical subpoena as the one issued to the DNC.⁶ As discussed elsewhere in this report, the lack of information on the operations of the RNC leaves a major hole in the Committee's analysis of the 1996 election cycle. However, the sparse information that the Committee did receive strongly indicates that the RNC engaged in many of the same practices as the DNC and, as with the DNC, these practices were not new or unique in 1996.

The primary fundraising and spending activities of the DNC and the RNC during the last election cycle are addressed in this chapter. The remaining sections of Part 5 discuss in more detail both parties' practices of soliciting funds from federal property; organizing events for contributors which, in exchange for those contributions, often provided access to elected officials; and spending party funds by conducting political advertising.

FINDINGS

(1) The evidence before the Committee establishes that both political parties engaged in questionable fundraising practices. Both parties scheduled events at government buildings and promised access to top government officials as enticements for donors to attend fundraising activities or make contributions. Both parties used their presidential candidates to raise millions of dollars in soft money donations in addition to the \$150 million provided in public

Footnotes appear at end of chapter 25.

financing for presidential campaigns. Both parties worked with their candidates to design and broadcast issue ads intended to help their candidates' election efforts.

(2) The RNC's activities were subject to some of the same or similar problems as the DNC's activities. The RNC received foreign contributions, gave access to top Republican leaders for large contributions, held fundraising-related events on federal property, engaged in coordination between the Presidential campaign and the national party and used supposedly nonpartisan, tax-exempt organizations for partisan purposes.

(3) The compliance systems of the DNC in the 1996 campaign were flawed. Although the evidence before the Committee indicates that the DNC fundraising staff as a whole attempted to do their job in accordance with the law, isolated failures of supervision coupled with a compelling desire to raise more money led the DNC to accept hundreds of thousands of dollars in contributions it otherwise would not have accepted. Despite these problems, the overwhelming majority of contributions received by the DNC appear to have been legal and appropriate.

(4) The position taken by the Republican Party in the 1992 and 1994 election cycles that it had no obligation to investigate contributions or contributors is troubling. The evidence before the Committee is insufficient to evaluate the compliance procedures of the RNC during the 1996 election cycle. Because the Committee did not have the full cooperation of the RNC in complying with the Committee's subpoenas and requests for information (and the Committee failed to enforce the subpoenas), the Committee failed to fully assess the RNC's practices and procedures for insuring the legality and propriety of major contributions.

INTRODUCTION

In September 1996, just weeks before the November 1996 election, the *Los Angeles Times* published an article that raised questions about the legality of a contribution to the DNC from Cheong Am America, a California subsidiary of a South Korean corporation.⁷ The article alleged that the contribution may have been illegal because the subsidiary did not have sufficient domestic revenues to support its contribution of \$250,000. The DNC reviewed the circumstances surrounding the contribution, which had been solicited by a DNC fundraiser named John Huang, and returned the entire \$250,000 after determining that it failed to meet the Federal Election Commission's (FEC) criteria for contributions from domestic subsidiaries of foreign corporations.⁸

Following this event, the news media increasingly published allegations that contributions made to the DNC were illegal or improper. Beginning in November 1996, with the assistance of outside law and accounting firms, the DNC conducted an internal review of the 1200 contributions over \$10,000 it had received in the 1996 election cycle. In addition, contributions solicited by Huang and Charlie Trie and those made by Trie, Johnny Chung or in connection with the Hsi Lai Temple or other Asian Pacific American Leadership Council events were also reviewed.⁹ By June 1996, before the Committee's hearings began, the DNC had returned 172 of those contributions, which represented .006% of the number of

contributions made to the DNC. By September 1996, the total amount of contributions returned by the DNC for legal reasons amounted to .04% of the total raised by the DNC for the relevant 1994–1996 period.¹⁰ The internal review and returned contributions pointed to a number of problems within the DNC and focused attention on Huang—both on the contributions he solicited and the fundraising events he helped to organize. In turn, questions were raised about the fundraising practices and guidelines of the DNC and about whether top DNC and White House officials had actively ignored those guidelines or federal law as they strove to raise money.

The fundraising practices examined by the media and explored by the Committee did not begin with this past election cycle. However, the amount of money—especially large soft money contributions—raised by both parties in 1995 and 1996 was unprecedented. In order to raise such large sums, both parties had dramatically increased their fundraising efforts.

The DNC stepped up its drive to raise money in the fall of 1995, when White House and DNC officials decided that the party would conduct a massive “media” campaign starting a full year before the presidential election.¹¹ According to White House Deputy Chief of Staff Harold Ickes, the media buy was designed to carry the Democratic Party’s message to the American people, and the increased funds were designed to keep up with the Republican Party. He testified:

From the outset, moreover, we Democrats knew that we would have to do all that we could within the bounds of the law to get our message out to the American people. We knew that the Republican money machine would raise more than we could and would outspend us.

And guess what? They did—by about \$222 million. The three major Republican national committees [the RNC, the National Republican Senatorial Committee and the National Republican Congressional Committee] spent over \$558 million in the 1996 election cycle, compared to approximately \$336 raised by their Democratic counterparts [the DNC, the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee].¹²

In order to keep up with “the Republican money machine,” the DNC took aggressive fundraising steps, which included reaching out to new communities and soliciting contributions from donors that had not previously been tapped by Democrats for large contributions; organizing fundraising and other events to entice new donors; and spending the funds raised on media ads that supported the Democratic Party and its candidates. The DNC activities that later created controversy were its receipt of contributions from questionable sources; its use of the President and Vice President as part of its fundraising efforts; its organization of events that were controversial because of their location or the political access they afforded big contributors; and its coordination of media ads with White House and Clinton campaign staff.

Similarly, the Republican Party, which has out-raised the Democratic Party in every recent election, also undertook aggressive fundraising measures during the 1996 election cycle. The RNC solicited and received questionable contributions; organized events in order to promote contributions; and purchased media ads that supported the Republican Party and its candidates. The RNC activities that later created controversy were its use of tax-exempt organizations to raise money; its decision not to investigate or return certain questionable contributions; its use of federal property to court contributors; its organization of events that promised contributors access to Republican leadership; and its coordination of media ads with Dole for President staff.

These fundraising activities by both national parties were encouraged by the ability under current law to raise unlimited amounts of both hard and soft money and to legally spend this money in the proper hard-to-soft proportions to promote their issues as well as their candidates. The quest for money, and the practices used to acquire that money, will control our electoral system until meaningful campaign finance reform is enacted.

In examining the problems of the fundraising practices of the last few years, the Committee, over the strenuous objections of the Minority Members, chose to focus almost exclusively on the Democratic Party's activities. Consequently, the evidence presented to the Committee was lopsided, coming primarily from the DNC, which cooperated with the Committee, spending over \$4.75 million (not including legal fees) to respond to the Committee's requests.¹³ As a result, our description of how the parties operated during the last election cycle is heavily weighted to the DNC. Many questions about the internal workings of the RNC remain unanswered.

STRUCTURE OF THE NATIONAL PARTIES

The Democratic National Committee

During the 1996 election cycle and after the devastating 1994 mid-term elections, the DNC implemented a new, bifurcated chairman arrangement whereby Donald Fowler was the National Chairman, responsible for the day to day activities of the party, and Senator Christopher Dodd was the General Chairman, acting as the official spokesman for the party.¹⁴ The DNC's executive director was Bobby Watson who served in this position until December 1995.¹⁵ In March 1996, B.J. Thornberry, former Deputy Chief of Staff at the Department of the Interior, took his place.¹⁶ The DNC's executive director functioned as a "staff director" and was responsible for the overall management of the personnel who work for the party.¹⁷

During the course of the 1996 election cycle, the DNC fundraising division employed anywhere from 50 to as many as 100 fundraisers.¹⁸ The fundraisers were supervised by a Finance Director who was a paid, full-time employee of the DNC and a Finance Chairman who was considered an officer of the party. Through January 1995 they were supervised by Laura Hartigan, Finance Director,¹⁹ and Terry McAuliffe, Finance Chairman²⁰ who left their respective DNC positions to assume the same positions at the Clinton campaign.²¹ In April 1995, Richard Sullivan took over as Finance Director for the remainder of the 1996 cycle.²² Truman Arnold, a

Texas businessman and long-time DNC donor, took over for McAuliffe for a period of several months,²³ and Marvin Rosen took over for the remainder of the term.²⁴ Sullivan and Rosen testified that they reported and coordinated the activities of the Finance Division with Fowler.²⁵ Fowler, however, testified that he felt the Finance Division was too independent and that, as National Chairman, he was not able to oversee it as well as he would have liked.²⁶

Other key fundraising staff were the Deputy Finance Directors, David Mercer²⁷ (one of Charlie Trie's contacts²⁸) and Erica Payne;²⁹ the Director of the DNC's Managing Trustee Program, its highest dollar donor council, was Ari Swiller³⁰ and his Deputy Ann Braziel.³¹ Due to their sizable donations, many of the donors questioned during the Committee's investigation were members of the DNC Managing Trustee Program, members of which must either donate \$100,000 or raise \$250,000.³²

Joseph Sandler has been General Counsel of the DNC since February 1993.³³ His deputy, and the only other attorney in the DNC's Office of General Counsel during the 1995-96 cycle, was Neil Reiff.³⁴ Reiff had been with the DNC's Office of General Counsel since the spring of 1993.³⁵

In most cases, these individuals were interviewed and deposed for multiple days during the course of the investigation.

The Republican National Committee

During the 1996 election cycle, the chairman of the RNC was Haley Barbour and its executive director was Sanford McAllister. McAllister's immediate predecessor was Scott Reed who left the RNC in February 1995 to become Senator Dole's campaign manager.³⁶ The RNC's top political operative was Curt Anderson, whose title has been listed as both Political Director and Campaign Operations Director. Anderson and his assistant Ruth Kistler supervised the RNC's coordination of political activities with the Dole for President campaign as well as with independent groups.³⁷

The RNC's top fundraiser was RNC Finance Director Albert Mitchler. In March 1996, Mitchler was joined by Jo-Anne Coe, who was named RNC Deputy National Finance Chair. Coe is a longtime aide to Senator Dole, served as top fundraiser of the Dole for President committee until it raised the maximum funds permitted under FECA for presidential candidates who accept public financing, and also served as executive director of Senator Dole's tax-exempt organization, Campaign America. Coe now works with Senator Dole at a private law firm. Coe directed fundraising for media ads which the RNC produced in coordination with the Dole campaign.³⁸

Other key RNC fundraisers included Howard Leach, national finance chair; John Moran, a national finance chair and head of Victory '96, a key Republican Party fundraising organization; Tim Barnes, who served as chair of Team 100, a premier RNC donor program; and Karen Kessenich, chair of the Eagles, another top RNC donor program.³⁹

The RNC's general counsel was David Norcross. Its chief counsel was Thomas Josefiak. The RNC's communications and congressional affairs director was Ed Gillespie. Rich Galen was a frequent RNC spokesperson.

Because the Committee's attempts to depose Mitchler, Coe, Anderson, Kistler, and other RNC officials were not successful, it did not explore the structure of the RNC.

FUNDRAISING DRIVES

In the fall of 1995, White House officials, political advisors, and DNC officials decided to pursue a strategy that involved an extensive "media" campaign to communicate the message of the Administration and the Party.⁴⁰ Fowler set a goal for the DNC to raise a total of \$120 million over the course of 1996.⁴¹ In response, the DNC fundraising staff—led by Rosen and Sullivan—formulated a plan to raise the money using a variety of methods, including direct mail solicitations, major donor contribution packages, and fundraising and other events designed to encourage contributions of both hard and soft money. The DNC and the White House recognized that to meet this goal, tremendous pressure would be placed on all DNC staff, particularly the fundraisers, and that the involvement of the President and Vice President would be necessary. The plan proposed that the President or Vice President attend 100 to 150 events around the country in the next year and that the DNC organize a variety of fundraisers and other events, some within the White House complex.⁴²

The Committee was not afforded the opportunity to depose RNC officials or Republican political consultants, and therefore was not able to explore the special fundraising initiatives planned and implemented by the Republican Party in the 1996 election cycle. However, the Committee learned that, for many years, the Republican Party has solicited contributions through two principal donor programs: Team 100 and the Republican Eagles. Team 100 membership requires "an initial contribution of \$100,000" and contributions of \$25,000 per year for the next 3 years. Republican Eagle membership requires contributions of \$15,000 annually. To encourage individuals to join these programs, the RNC distributes promotional material describing the benefits of membership, which include meetings and dinners with high-ranking Republican elected officials. This fundraising practice of exchanging access for contributions is discussed in Chapter 28. In addition, the 1996 election cycle witnessed a new Republican donor program which offered a variety of benefits to donors informally called "season ticket holders," who contributed \$250,000 or more to the Republican Party.⁴³

SOLICITING CONTRIBUTIONS

A fundraising organization's primary goal is to solicit and receive contributions for its cause. As part of its fundraising organization, the DNC had a staff structure that would (1) train and monitor its fundraisers and (2) screen incoming contributions for legality and appropriateness.⁴⁴ The Minority assumes the RNC had a similar structure, but was unable to investigate its existence or effectiveness.

During the 1996 cycle, however, both parties undertook their largest fundraising drives in history. In fact, both national parties more than doubled the amount they had raised just two years before: the DNC went from \$85.7 million to \$210.3 million and the RNC went from \$132.3 million to \$306.1 million.⁴⁵ Considering

such a dramatic increase in fundraising, the national parties, particularly the DNC did not adequately respond to such enormous pressure by improving old training and compliance systems to ensure against problems. The Committee found these problems in the DNC in particular, in light of the chosen focus of the investigation.

Training fundraisers

The DNC's training procedures and problems

From 1993 to 1996, the DNC general counsel's office, headed by Joseph Sandler and his deputy, Neil Reiff, worked with the Finance Division to ensure that the fundraisers were trained in the legal and appropriate way to solicit and accept contributions and to identify contributions which might not be legal or appropriate. The general counsel's office conducted approximately eight separate group training sessions and numerous special sessions with groups of Finance Division staff.⁴⁶ At those sessions, the counsel's office distributed and explained the DNC's manual, written by the Office of General Counsel, which contained the legal restrictions for national party fundraising as well as the DNC's own policies and guidelines. The general counsel's office emphasized to the fundraisers that as they worked and talked to contributors, they should obtain an understanding of the contributors' backgrounds and ability to comply with applicable laws and guidelines. Sandler and Reiff also emphasized to staff at these sessions that questions and problems should be brought to the attention of someone in the counsel's office. The testimony and evidence received by the Committee demonstrate that the DNC manuals and training sessions were comprehensive and that Finance Division staff routinely sought the advice of the counsel's office.⁴⁷

The DNC's training program seemed adequate: the program and manual were updated appropriately, and all DNC fundraisers who testified before the Committee stated that they went through the training and received the manuals.⁴⁸ However, with the large fundraising goal the DNC undertook to meet, this program could have used some strengthening as more fundraisers were hired.⁴⁹ A larger general counsel's office might have allowed for more active oversight of fundraisers' activities by attorneys familiar with nuances of the law. More frequent training sessions in smaller groups might have allowed for more personal contact with the lawyers. And, as the DNC reached out to new communities and contributors unfamiliar to the DNC, more diligent checks should have been conducted on new, large-dollar contributors. These types of improvements have since been made by the DNC.⁵⁰

John Huang was hired by the DNC in late 1995 to target the Asian-Pacific American community for Democratic fundraising. The evidence establishes that Huang attended a training session, a manual was found in his files, and after his first event he brought checks to Sandler for review which led Sandler to testify that he believed that Huang had a satisfactory knowledge of the laws and DNC guidelines under which he was to raise money.⁵¹ Shortly after this meeting, Huang initiated the return of two checks based on the questionable citizenship status of the donors.⁵² However, after this event, Huang solicited and accepted numerous contributions

that later had to be returned by the DNC. The evidence presented to the Committee does not establish that these problems were indicative of the practices of the vast Majority of other DNC fundraisers during the 1995–96 cycle. See Chapter 4: John Huang.

The RNC's training procedures and problems

The Committee was not afforded the opportunity to depose RNC officials, and, therefore, was not able to explore the procedures involved or the appropriateness of the training that the RNC provided to its fundraisers.

Contribution compliance

Another aspect of the solicitation and acceptance of contributions by the national parties were the compliance systems established to screen incoming contributions for legality and appropriateness.

The DNC's contribution compliance and problems

According to Sandler, the DNC's review for legality had two basic elements:

[O]ne, review of the contribution check and accompanying information; and two, training of the fund-raising staff to spot potential legal problems and to bring them to the attention of the office of the general counsel.⁵³

Sandler explained that the general counsel's office would review all incoming checks as well as the accompanying information provided by the contributors and consult the DNC donor database. Sandler or Reiff would then determine, in the case of "hard" money, whether the strict limitations on the source and amount of money had been met. The office would review similar information for "soft" money contributions.⁵⁴

The second element of screening checks for legality, as outlined by Sandler, was training the fundraising staff to spot problems and bring them to the attention of the general counsel's office.⁵⁵ Although this two-part system worked in the vast majority of cases, the training of fundraisers, particularly Huang, and the response to problems spotted by DNC staff generally, were not vigorously pursued.

Contributions to the DNC were also generally checked for appropriateness. From the spring of 1993 through May 1994, a DNC Research Department staff member was assigned to run public database searches to discover any controversial information regarding individuals who were to become substantial contributors. Sometime in May 1994, however, the staff person assigned to this task left the DNC, and the DNC Research Department did not reassign responsibility for conducting these searches to another staff member. Although public data searches were periodically conducted on new contributors, the screening system developed a hole that was not patched until after the 1996 elections.⁵⁶ However, had these searches continued, it is unclear whether the problems which led to the return of the majority of the returned contributions, such as Gandhi's \$325,000, Kanchanalak's \$190,000, Chung's \$275,000, or the Wiriadinatas' \$425,000 would have been detected.⁵⁷ However, in the case of the Gandhi contribution, information was available

and was one reason the White House had initially declined to accept an award Gandhi had offered to the President.⁵⁸

In general, most of the contributions that were returned by the DNC were returned because the information provided was insufficient to determine the source of the funds for the contributions.⁵⁹ Some of these contributions are associated with individuals who were originally from a number of different Asian countries and whose citizenship or residency status was in question. Although there is no evidence that the DNC encouraged or was aware of the problems with these contributions or that they were associated with any one country, it is also clear that the DNC should have been more diligent in monitoring an inexperienced fundraiser who was placed in charge of tapping substantial contributions from a new community.⁶⁰

Monitoring the origins of campaign contributions is difficult because of the necessity for the national parties, as well as candidates' campaign committees, to rely on information presented by the contributor. In fact, several of the problematic contributions received by the DNC appeared at first to be entirely legal and appropriate and were only discovered to be problematic after a thorough investigation and audit; others involved the contributors giving false certifications to the DNC which were discovered and returned later.⁶¹ Currently, contributors are not required to certify at the time that they make a contribution that the information they have provided is accurate. Amending the law to require contributors to certify that they are U.S. citizens or permanent residents and that they are contributing their own money, accompanied by penalties for false certification, would assist the parties and campaigns in complying with legal requirements.

The DNC has since improved many of its procedures. Among the changes the DNC made were (1) adding to the Office of General Counsel a compliance director with full responsibility to ensure contributions and solicitations comply with law and internal procedure; (2) creating Executive Compliance and Contribution Review Committees and; (3) requiring fundraisers to submit an annual certification of compliance. On the processing side of fundraising, the DNC has improved and specified the research to be done on donors and the process to be followed for returns. Finally, the DNC laid out new, detailed procedures for screening proposed guests at DNC events.⁶²

The RNC's contribution compliance and problems

The Committee was not afforded the opportunity to depose RNC officials or receive a meaningful production of documents in order to explore the legality or propriety of the procedures the RNC used and the contributions the RNC solicited and accepted in the 1996 election cycle. This problem was aggravated by the RNC's failure to conduct a thorough investigation of its contributions and make that information available to the public.

Evidence was obtained by the Committee indicating that, during the 1992 and 1994 election cycles, the Republican Party took the position that it had no duty to investigate or verify any contributions or contributors. Rich Galen, a Republican Party spokesperson, told the press in 1992, "There's no requirement in practice or in

law that a political organization or charitable organization get any kind of statement from a donor as to the origins of the money.”⁶³ In 1993, deposition testimony provided by a top Republican fundraiser, Elizabeth Ekonomou, in connection with a questioned contribution provided by Michael Kojima, indicates that Republican fundraising committees believed they had no legal obligation to investigate any contributor or contribution, and provides no evidence of any standing policy or procedure to conduct such investigations.⁶⁴ Ekonomou stated under oath:

Q. Did the Dinner Committee do any kind of background search or verification regarding its top fundraisers?

A. No.

Q. Do you believe that the Dinner Committee has responsibility to do any kind of background verification or search about its fundraisers or top fundraisers?

A. No.

Q. In light of your experience and the concern that was raised in you after revelations of Mr. Kojima’s outside activities, you continue to have no belief that the Dinner Committee has any kind of obligation to do any verification of the background of its top fundraisers?

A. I do not believe that the President’s Dinner has any obligation to get background information on its top fundraisers.⁶⁵

Jan Baran, long-time legal counsel to the RNC and other Republican Party organizations, put it even more forcefully in 1993 legal pleadings filed with the U.S. District Court for the District of Columbia:

[P]olitical organizations such as the [Republican Dinner] Committee must be able to receive and use contributions. If they were required to investigate all contributors and establish a pedigree for all contributions, their First Amendment protected activities would be seriously handicapped. . . . The Federal Election Campaign Act of 1971, as amended, imposes no burden upon political organizations to investigate the solvency of contributors.⁶⁶

The unequivocal position of the Republican Party’s longtime legal counsel, experienced fundraiser and designated spokesperson suggests that, in the years leading up to the 1996 election cycle, the Republican Party’s policy was that it had no legal obligation to investigate either contributors or contributions, even if questions were raised about a particular donation. In addition, neither the civil litigation over the Kojima contribution nor subsequent investigative efforts by this Committee produced any evidence that standard procedures are in place in Republican fundraising organizations requiring the investigation and evaluation of large contributions from unfamiliar donors. Moreover, due to the failure of RNC officials to provide deposition testimony or cooperate with the Committee’s investigation into RNC procedures, there is no evidence before the Committee which suggests that the Republican Party changed the policy it espoused in the 1992 and 1994 election cycles, or adopted another position during the 1996 election cycle.

There is also evidence before the Committee that the RNC has solicited and received funds that were possibly illegal or inappropriate and which should be refunded. As explored in Chapter 6, the RNC received funds in 1992 from Michael Kojima that were likely illegal. Kojima contributed a total of \$500,000 at a time when he was known to have meager resources and was being pursued by creditors. His contributions were likely derived directly from Japanese businessmen, and constituted one of the largest direct foreign contributions to a national party. Even though, in 1992, there were strong indications that Kojima's contribution was being financed by foreign money, the RNC to date has declined to return the funds. Other examples discussed elsewhere in this report include funding from the National Policy Forum, an arm of the RNC, that originated in Hong Kong, Taiwan and China, and direct contributions to the RNC of funds from German and Taiwanese nationals. The Minority believes that the RNC should return the funds from Kojima and the National Policy Forum and that a thorough public investigation of its other contributions is overdue.⁶⁷

Telephone solicitations from federal property

The practice of soliciting political contributions by telephone, undertaken by current and former Presidents, Vice Presidents, and other elected politicians, is discussed in Chapter 26 of the Minority report.

ORGANIZING FUNDRAISERS AND OTHER EVENTS

The national parties also organized fundraisers and other events for their high dollar contributors and took steps to "service" them by intervening on their behalf for meetings with elected officials and providing other "political" access benefits. These practices are outlined below and discussed in more detail in Chapter 28 of the Minority Report.

DNC events and contributor services

The Committee fully explored the DNC's practice of organizing events in the White House complex, such as coffees with the President and Vice President; inviting a small number of individuals to attend those events that later generated controversy; and making requests on behalf of contributors to the executive branches.

During the 1996 cycle, it was unclear who was responsible for screening individuals proposed by the DNC to be guests at events to be attended by the President or Vice President. Richard Sullivan testified that he understood that the Finance Department was supposed to raise potential problems regarding these guests with White House personnel.⁶⁸ During the last election cycle, the DNC staff did raise such questions with White House staff. These questions, particularly those about foreign nationals who were proposed to be guests of contributors at DNC events, were then addressed on a case-by-case basis, primarily by White House personnel consulting with the relevant staff of the National Security Council. The Committee received evidence that when asked, the NSC staff provided more than adequate input on the appropriateness of the individual attending an event with the President or Vice President and, with a few notable exceptions addressed in detail later in this

Minority Report, the recommendations were followed by the DNC. Problems arose, however, when the DNC did not raise questions to White House officials. In those cases, the White House and the NSC were not consulted and the DNC alone made the determination about whether the individuals were appropriate guests at events to be attended by a principal.⁶⁹

Although the White House has established new procedures to screen White House guests, during the 1996 election cycle, a number of individuals who later generated controversy attended events in the White House with the President or Vice President. These individuals, and the circumstances involved in their invitations to these events, are discussed in Chapters 29-31 of this Minority Report. In general, the Committee discovered that the DNC failed to heed warning signs about certain DNC contributors. Despite warnings about guests invited by John Huang and Johnny Chung, as well as those about Roger Tamraz, the DNC continued to invite these and other individuals to events in the White House. DNC Chairman Donald Fowler also was found to have contacted Executive Branch officials to promote contributors. His contacts on behalf of contributors included contacting Harold Ickes on behalf of the Chippewa Indian tribe, and the Treasury Department on behalf of an issue generally affecting Indian tribes, the Commerce Department on behalf of an individual who wanted to go on a Commerce Department trade mission and an individual who was interested in information on Minority business programs.⁷⁰

When questioned by the Committee about these practices, Fowler testified that although DNC employees are forbidden to intercede with the Administration on behalf of contributors, he confirmed that he did so on a regular basis. Fowler asserted that he did not believe that the DNC policy applied to him in his position as National Chairman.⁷¹ Further, Fowler admitted that many administration and DNC officials admonished him not to pursue these activities, but his contacts did not cease.⁷² Fowler's actions may not have been illegal, but they were clearly inappropriate.

The Committee also investigated allegations that the DNC rewarded contributors with spots on trade missions arranged by the Commerce Department. Despite numerous depositions and thousands of documents on this matter, these allegations were not substantiated by the evidence before the Committee.⁷³

The DNC has now adopted a system that requires several staff members located in different DNC divisions to conduct thorough database searches to both assess the appropriateness of accepting contributions from specific individuals or companies, and of inviting these individuals and their associates to attend fundraisers or other events sponsored by the DNC.⁷⁴ Likewise, the NSC has adopted a structured and thorough process that requires certain individuals invited to attend events at the White House to be screened by knowledgeable NSC staff.⁷⁵

RNC events and contributor services

Despite repeated requests by the Minority, the Committee chose not to conduct depositions of RNC officials or require the RNC to conduct a meaningful document production regarding the Republican Party's organization of events and servicing of contributors.

However, the Committee learned that during previous administrations, the RNC organized events inside the White House with contributors who raised issues of appropriateness, and made requests to Executive Branch officials on behalf of contributors. Those activities, which are similar to the DNC activities at issue, are discussed in detail in Chapter 28 of this Minority Report.⁷⁶

The evidence shows that since the 1970s, the RNC has routinely arranged for contributors to attend events held in the White House and to arrange events between contributors and Republican presidents, presidential candidates, and leaders in Congress. In addition, when inviting contributors to such events, the RNC has included several individuals who later generated controversy.⁷⁷ This is not surprising considering that Judith Spangler, a White House career employee testified that during her 18 year tenure, administrations have handled invitations to RNC and DNC events at the White House in the same way as the current Administration handled similar invitations from 1993 to 1997.⁷⁸

Not surprisingly then, the Committee received evidence that several controversial RNC contributors attended private dinners or meetings inside the White House where President Bush was in attendance. These individuals include Michael Kojima, whose foreign contributions to the RNC afforded him the opportunity to sit next to President Bush at an RNC fundraiser in 1992; Yung Soo Yoo who attended a state dinner at the White House with President Bush in 1991, despite being a convicted felon with known ties to the Korean Central Intelligence Agency; and James Elliott, who attended private White House meetings in 1992, despite having been convicted of bank fraud in 1986.⁷⁹

The Committee learned that the RNC contacted Bush Administration officials on behalf of substantial contributors. For example, in the late 1980s and early 1990s, then RNC Chairman Lee Atwater and Team 100 Chairman Alec Courtelis forwarded the names of several substantial contributors to President Bush's Commerce Department Secretary Robert Mosbacher. Mosbacher, who had been President Bush's campaign manager in 1988, rewarded these contributors by appointing them to positions with such government entities as the President's Export Council.⁸⁰

Both parties use federal property to hold events for, provide political access for, and contact administration officials on behalf of, substantial contributors. These are well-known and common practices in Washington and can be accomplished without violating any law.

SPENDING PARTY FUNDS

In addition to soliciting political contributions and organizing events and other perks for contributors, both national parties spent their funds with the intent of furthering their issues and their candidates. Such expenditures are legal, but federal law limits to \$12 million the amount a party can spend "in connection" with its presidential candidates. That \$12 million limitation applies only to those party funds that carry an "electioneering message" advocating the election or defeat of a clearly identified candidate. Therefore, when the DNC and RNC spent millions of dollars on "issue ads" in the last election cycle, they argued that because the ads fo-

cused on issues, and did not advocate the election or defeat of a clearly identified candidate, they did not count toward the \$12 million limit.⁸¹

Presidential campaign committees that accept matching funds are also limited in the amount of money they can spend in connection with the nomination of their presidential candidates. In 1995, both the Clinton Campaign and the Dole for President campaign accepted matching funds and therefore were limited to spending \$37 million in federal dollars in connection with the nomination of their candidate, and \$74 million in connection with the general election. Both campaigns claimed that the issue ads run by their parties did not advocate the election of their candidates and therefore fell outside the \$37 million and \$74 million limits.⁸²

The Committee heard allegations that the DNC, the RNC, the Clinton Campaign, and the Dole for President campaign all violated these federal restrictions on expenditures. The allegations were based on two assumptions: (1) that the DNC and RNC issue ads, in reality, carried electioneering messages advocating the election or defeat of a clearly identified candidate and that, therefore, the funds expended on these ads should have been counted toward the parties' \$12 million limit and the presidential campaigns' \$37 and \$74 million limits, and (2) that because both the DNC and RNC coordinated with their candidates, all "issue ads" that had input from the candidates—regardless of the content of the ads—should be counted toward the party's \$12 million limit and the presidential campaigns' \$37 and \$74 million limits.⁸³

These two assumptions formed much of the public debate on this issue, but are either not valid, or not clear, under current federal election law, as explained in detail in the legal analysis in Chapter 24. Parties are allowed to coordinate with their candidates, in particular their presidential candidates, and may work closely with their candidates to develop, finance and place issue ads.⁸⁴ Coordination between a national party and its candidates does not turn "issue ads" into "candidate ads" simply because coordination occurred.⁸⁵

Chapters 32 and 33 of this Minority Report set forth the DNC and RNC activities in coordinating with its candidates and broadcasting issue ads. Both parties made use of the existing legal loopholes for soft money and issue ads to bypass the spending limits that apply to presidential campaigns that accept federal funds. Although neither party broke the law, the RNC came closer to crossing the line between issue ads and candidate ads.

DNC'S SPLITTING CONTRIBUTIONS BETWEEN HARD AND SOFT MONEY ACCOUNTS

As discussed in greater detail in Chapter 26, the Committee investigated the legality and appropriateness of the telephone solicitations made by the Vice President. In the course of that investigation, the Committee discovered that some of the contributions solicited by the Vice President were diverted into hard money accounts by DNC officials. Specifically, according to FEC records, 20 individuals called by the Vice President made contributions to the DNC within 30 days of receiving a phone call from him.⁸⁶ The DNC received \$737,750 from these 20 individuals and deposited \$605,750

into its non-federal soft money account. The DNC deposited \$132,000 donated by eight of the 20 individuals into its federal hard money account.⁸⁷ The Minority found that the Vice President was not aware of these diversions, and that the DNC's practice of diverting soft money contributions into hard money accounts without the knowledge or permission of the original contributor was clearly inappropriate.

CONCLUSION

After media attention and its own internal review, the DNC returned less than 200 contributions out of more than 3 million it had received during the 1996 election cycle. The contributions that were returned based on legality totaled just over \$1 million, as did the contributions returned based on the DNC's inability to verify their legality or based on the DNC's determination that they were inappropriate. Thus, the contributions that generated the campaign finance fundraising scandal of 1996, and investigated by the Committee, totaled approximately \$2.8 million and represented .006% of the contributions received by one national party. As of September 1997, the total amount of contributions returned by the DNC for legal reasons amounted to .04% of the total raised by the DNC during the relevant 1994–1996 period.

FOOTNOTES

¹ Interviews and Depositions by Committee Staff as of 1/24/98.

² See <http://www.senate.gov/~gov-affairs/witness.htm>, witnesses who have testified during the Special Investigation hearings.

³ Letter from Chairman Thompson to Roy Romer, 7/23/97; Minority staff telephone conversation with Paul Palmer of Debevoise & Plimpton, counsel to the DNC.

⁴ Interviews and Depositions by Committee Staff as of 1/24/98.

⁵ See <http://www.senate.gov/~gov-affairs/witness.htm>, witnesses who have testified during the Special Investigation hearings.

⁶ Subpoena # 64 (DNC) and # 65 (RNC), <http://www.senate.gov/~gov-affairs/subpoena.htm>.

⁷ *Los Angeles Times*, 9/21/96.

⁸ *Los Angeles Times*, 9/21/96. The test for a contribution to a national political party from a domestic subsidiary of a foreign corporation is discussed in Chapter 1, and the Cheong Am America contribution is discussed in Chapter 4.

⁹ Exhibit 62: DNC In-Depth Contribution Review, 2/28/97, DNC 0134–145.

¹⁰ DNC press release, "DNC Refunds Contributions," 6/27/97; Joseph Sandler, 9/10/97 Hrg., p. 3.

¹¹ Donald L. Fowler deposition, 5/21/97, pp. 291–294.

¹² Harold Ickes, 10/7/97 Hrg., p. 84. The \$558 million of spending by the Republican national committees included spending by the RNC, the NRSC, and the NRCC. The \$336 million of spending by the Democratic national parties includes spending by the DNC, the DSCC, and the DCCC.

¹³ *The Washington Post*, 1/19/98.

¹⁴ Donald L. Fowler deposition, 5/21/97, p. 23.

¹⁵ Staff interview with Bobby Watson, 4/25/97.

¹⁶ B.J. Thornberry deposition, 5/20/97, pp. 6–7.

¹⁷ B.J. Thornberry deposition, 5/20/97, pp. 16–17.

¹⁸ Richard L. Sullivan deposition, 6/4/97, pp. 75.

¹⁹ Laura Hartigan deposition, 9/16/97, p. 7.

²⁰ Terence McAuliffe deposition, 6/6/97, p. 8.

²¹ Laura Hartigan deposition, 9/16/97, pp. 7–8; Terence McAuliffe deposition, 6/6/97, p. 9.

²² Richard L. Sullivan deposition, 6/4/97, p. 32.

²³ Truman Arnold deposition, 5/16/97, p. 8.

²⁴ Marvin S. Rosen deposition, 5/19/97, pp. 12–13.

²⁵ Richard L. Sullivan deposition, 6/4/97, p. 62–66; Marvin S. Rosen deposition, 5/19/97, p. 27.

²⁶ Donald L. Fowler deposition, 5/21/97, pp. 45–46.

²⁷ Mercer was deposed by the Committee on 5/14/97, 5/27/97 and 6/11/97.

²⁸ David Mercer deposition, 5/27/97, p. 7.

²⁹ Payne was deposed by the Committee on 5/7/97.

³⁰ Swiller was deposed by the Committee on 5/6/97 and 5/7/97.

³¹ Ann Brazil deposition, 5/13/97.

³² Jacob Aryeh Swiller deposition, 5/6/97, p. 16.

³³ Joseph E. Sandler deposition, 5/15/97, p. 16.

³⁴ Neil Paul Reiff deposition, 6/20/97, p. 11.

³⁵ Neil Paul Reiff deposition, 6/20/97, p. 6.

³⁶ Scott Reed deposition, 7/11/97, p. 8.

³⁷ See Chapters 10 and 33.

³⁸ See Chapter 33.

³⁹ See Chapter 28.

⁴⁰ Donald L. Fowler, 9/9/97 Hrg., pp. 118–122.

⁴¹ Richard L. Sullivan deposition, 6/4/97, p. 77.

⁴² Richard Sullivan deposition, 6/4/97, pp. 77–78.

⁴³ *Washington Post*, 1/27/97.

⁴⁴ See Joseph E. Sandler deposition, 5/15/97 and Neil Reiff deposition, 6/20/97.

⁴⁵ FEC press release, 3/19/97, "FEC Reports Major Increase in Party Activity For 1995–96.

⁴⁶ Donald L. Fowler, 9/9/97 Hrg., p. 75; Richard L. Sullivan, 7/9/97 Hrg., p. 33; Joseph Sandler, 9/10/97 Hrg., p. 6.

⁴⁷ See Joseph E. Sandler deposition, 8/21/97; Neil Paul Reiff deposition, 6/20/97, Exhibits 6–14: DNC 1484624–627; DNC 1484604–610; DNC 1484892–903; DNC 1485662–675; DNC 1680464–465; DNC 1679038–041; DNC 1679913–917; EOP 053158–161; Memorandum which includes rules governing contributions from foreign sources, 11/27/95. This memo underscores, among other things, that each potential contribution from a U.S. subsidiary of a foreign-owned company must be examined on a case-by-case basis by the general counsel's office; List of "Questions to Ask Before Accepting Contributions from Foreign Nationals."

⁴⁸ Donald L. Fowler, 9/9/97 Hrg., p. 75; Richard L. Sullivan, 7/9/97 Hrg., p. 33.

⁴⁹ Richard L. Sullivan, 7/9/97 Hrg., p. 32. Sullivan testified that at the peak, there were as many as 100 fundraisers on staff.

⁵⁰ See Joseph Sandler deposition, 8/21/97, Exhibit 11: "Policies and Procedures of the Democratic National Committee Regarding Compliance with Campaign Finance Laws," DNC 0132–0161.

⁵¹ There was a dispute that arose during the testimony regarding the method of training for Huang. No one maintained that Huang was not trained—indeed, the testimony has been unequivocal that every DNC fundraiser was in fact trained. However, Sullivan testified that he believed that Huang was trained in a private one-on-one training session, while Sandler stated that he believed Huang was trained in a group training session, as was done for every other fundraiser. Richard L. Sullivan, 7/9/97 Hrg., p. 138; Joseph E. Sandler, 9/10/97 Hrg., p. 12–13.

Testimony from Sam Newman, head of the DNC's National Finance Council, supports Sandler's recollection of the training of Huang, having testified that he saw Huang at a group training session. Sam Newman deposition, 7/17/97, p. 142.

Moreover, Sullivan's recollection of a private training session for Huang may stem from a meeting Sandler had with Huang after his first fundraiser in February 1996 at which Sandler reviewed contributions that Huang received from the event and reviewed with Huang the rules relating to contributions. Joseph E. Sandler deposition, 8/21/97, pp. 16–21.

⁵² Joseph E. Sandler deposition, 8/21/97, pp. 21–28.

⁵³ Joseph E. Sandler, 9/10/97 Hrg., p. 4.

⁵⁴ Joseph Sandler deposition, 8/21/97, Exhibit 9: Checklist used by DNC staff during 1995 and 1996. It outlines at least 40 separate steps that were required to ensure the proper screening and processing of contributions. The steps included examining the check and tracking form information for possible prohibited sources, including foreign nationals.

⁵⁵ Joseph E. Sandler, 9/10/97 Hrg., p. 8. Richard Sullivan and Donald Fowler confirmed that they believed that all DNC fundraisers were trained. Richard L. Sullivan, 7/9/97 Hrg., p. 138.

⁵⁶ Joseph E. Sandler, 9/7/97 Hrg., pp. 7–8; See also Rumi Matsuyama deposition, 6/10/97.

⁵⁷ Joseph E. Sandler, 9/10/97 Hrg., pp. 9–10. John Huang admitted to Joseph Sandler that he failed to ask the correct questions in connection with the Cheong Am contribution. Joseph E. Sandler, 9/10/97 Hrg., p. 13; See also, Chapter 4.

Joseph Sandler testified:

Pauline Kanchanalak was known to be and is a legal permanent resident with substantial business interests, income, and assets. We had no reason to question her contributions at the time they were received. Neither Nexis nor any other database research would have revealed anything untoward. She deliberately deceived the DNC for at least 4 years. Only in November 1996 did she suggest that the funds she had contributed to the DNC really came from her mother-in-law. No system we reasonably could have maintained would have caught that deception. Although her mother-in-law herself is apparently a legal permanent resident and the contributions may well have been lawful, we determined not to retain them in view of the deception.

* * * * *

Joseph Sandler testified:

The Wiradinatas first contributed to the DNC in November 1995, and Mrs. Wiradinata at that time, I believe, contributed \$15,000. They lived in Virginia when that first contribution was made. After John Huang came to the DNC, he continued to solicit them. Soraya Wiradinata was known by Mr. Huang to be the daughter of a billionaire. The Wiradinatas' checks continued to bear that same Virginia address. A Nexis search would have revealed nothing. No one at the DNC, except perhaps Mr. Huang, knew that the Wiradinatas had left the United States in December 1995. Even if we had known that and undertook the same legal analysis we later undertook, it's very likely we would have concluded—we would have accepted their contributions since, when we later did that analysis, we concluded that legal permanent residents may law-

fully contribute to non-Federal accounts of political parties even if they are temporarily absent from the U.S.

* * * * *

Joseph Sandler testified in hearings before this Committee on September 10, 1997:

* * * * *

Johnny Chung is a U.S. citizen. He was known to have a blast fax business, which has been used, apparently successfully, by California Governor Pete Wilson, among others. Had we run a Nexis check of Mr. Chung throughout the period he contributed up until May 1996, it would have revealed nothing more of great interest than the fact that Mr. Chung's business had, as of 1994, government and political clients in 39 States, that Mr. Chung had lived in the United States for many years and had owned other successful businesses, and that, like many U.S. businessmen, he had visited China to promote his business. Joseph E. Sandler, 9/10/97 Hrg., pp. 8–11.

Joseph Sandler also explained in his deposition on May 30, 1997:

Johnny Chung's name may have come up, and it's hard for me to distinguish it from conversations with them and conversations that I had with people at the DNC. But there was—there was a—I don't know if I discussed this with them, but there were conversations that I recall that took place about a, for lack of a better word, a brochure or scrapbook that Johnny Chung maintained with pictures of himself with Governor Wilson and with Newt Gingrich and Bob Dole and the President and various other—the Vice President and various other administration officials, and that there was concern about the appropriateness of his maintaining that book for business purposes. Joseph Sandler deposition, 5/30/97, p. 46.

* * * * *

Joseph Sandler testified:

In May 1996, when his contribution was made, Yogesh Gandhi had an internationally renowned foundation dedicated to promoting the principles of Mahatma Gandhi, whom Yogesh Gandhi claimed was his relative. A Nexis search as of May 1996 would have revealed that the foundation's world peace and humanitarian awards had been presented to former Presidents Ronald Reagan and Jimmy Carter, Mother Teresa, Mikhail Gorbachev, Shirley Temple Black, and former Philippine President Corazon Aquino, among others. A Lexis check would have revealed a small claims court judgment and a routine State tax lien for a few thousand dollars. In other words, there was no real reason to question Gandhi's contribution until a newspaper story in late October 1996, citing the transcript of a small claims court proceeding in California in which Mr. Gandhi stated that he had no assets in the U.S. That proceeding itself didn't take place until August 1996—3 months after Mr. Gandhi's contribution was made. The text of this transcript was unavailable through any database research. Joseph E. Sandler, 9/10/97 Hrg., pp. 9–10.

⁵⁸ See Chapter 21.

⁵⁹ DNC Press Release, "DNC Refunds Contributions", 6/27/97.

⁶⁰ Huang was the DNC contact for many of the returned contributions; however, he was not necessarily the person who introduced these contributors to the DNC. At least half of the amount of the returned contributions is attributable to four sources: Pauline Kanchanalak who had been contributing to the DNC long before Huang started working there; Yogesh Gandhi who was solicited directly by Charlie Trie (whose involvement with the DNC predates Huang); Johnny Chung, with whom Huang has no connection; and Arief and Soraya Wiradinata, whom Huang met due to Soraya's father's relationship the Riadys. While Huang may be credited as the DNC contact for these contributions based on his responsibility for Asian American fundraising and their attendance at events he organized, only the Wiradinatas are contributors he introduced to the DNC. Huang's activities are examined in detail in Part 1 of this report. See Chapter 4.

⁶¹ DNC Press Release, "DNC Refunds Contributions," 6/27/97; Joseph E. Sandler, 9/10/97 Hrg., pp. 1–17.

⁶² Joseph Sandler deposition, 5/15/97, Exhibit 11: "Policies and Procedures of the Democratic National Committee Regarding Compliance with Campaign Finance Laws," DNC 0132–0161.

⁶³ Column by Laws-Erik Nelson in *San Diego Union-Tribune*, 5/14/92.

⁶⁴ See Chapter 6 on Michael Kojima, *supra*.

⁶⁵ Elizabeth Ekonomou deposition, 4/8/92, pp. 102–103. For more information, see Chapter 6 on Michael Kojima.

⁶⁶ Pleading filed by Baran on July 22, 1993, on behalf of the Republican Senate-House Dinner Committee. For more information, see Chapter 6 on Michael Kojima.

⁶⁷ See Chapters 3 and 6.

⁶⁸ Richard L. Sullivan deposition, 6/4/97, p. 106.

⁶⁹ Sullivan deposition, 6/4/97, pp. 105–108; Hancox deposition, 6/9/97, pp. 58–59. Interestingly, as with the screening of contributions, the problems that arose may not have been rectified by the improved procedures that are now in place. While it is clear in retrospect that Roger Tamraz should not have been permitted to attend events at the White House, the fundraising staff did raise questions relating to Mr. Tamraz and disinvited him from a coffee as a result of the negative information that was received from the NSC. However, the DNC did continue to invite him to events largely based on Fowler's activities. Exhibit 1117: Memorandum to DNC Chairman Donald Fowler from DNC Finance Division staff member Alejandra Y. Castillo, 7/12/95, DNC

3116351-53; Exhibit 1127: Memorandum to Vice President from Leon Fuerth, 9/13/95, EOP 45766-67; Roger Tamraz deposition, 5/13/97, pp. 31-33.

⁷⁰ See generally Donald L. Fowler, 9/9/97 Hrg. and Donald L. Fowler deposition, 5/21/97.

⁷¹ Donald L. Fowler, 9/9/97 Hrg., p. 214.

⁷² The General Counsel to the Treasury Department contacted the DNC (Joe Sandler) and asked that he stop Fowler's practice of writing letters to Secretary Rubin. Donald L. Fowler deposition, 5/21/97, Exhibit 33. The Chief of Staff of the Department of Commerce told Fowler that his contact on behalf of the Hathaway Shirt Company was inappropriate. Joseph Sandler deposition, 5/15/97, Exhibit 38. Sosnik told Fowler that he should not contact Administration officials on behalf of donors. Douglas Sosnik deposition, 6/20/97, pp. 209-210.

⁷³ See Melissa Moss deposition, 6/11/97.

⁷⁴ Joseph Sandler deposition, 5/15/97, Exhibit 11: "Policies and Procedures of the Democratic National Committee Regarding Compliance with Campaign Finance Laws," DNC 0132-0161.

⁷⁵ See Chapter 26.

⁷⁶ See Chapter 28.

⁷⁷ See Chapter 31.

⁷⁸ Judith Spangler deposition, 5/9/97, pp. 39-40.

Q: In the Reagan-Bush White House, did the Office of Political Affairs from time to time provide lists of people to be invited?

A: Yes.

Q: Did it do so frequently?

A: May I explain?

Q: Yes.

A: That for almost every event, different offices within the White House submit names to the social secretary; names of people that they would like to have invited to a dinner or a luncheon or some type of reception, or an event.

Q: Has that been so in every White House in which you have worked?

A: Yes.

Q: That for events, receptions, dinners, lunches, events of every kind, the Office of Political Affairs in those White Houses has submitted lists of invitees?

A: Yes.

Q: So that the Clinton-Gore White House is not the first White House which has done that?

A: No.

Q: In earlier administrations did it occasionally occur that the Republican National Committee would supply names of invitees?

A: Yes, they did.

Q: Was that so in the Reagan-Bush White House?

A: Yes.

Q: Was it so in the Bush-Quayle White House?

A: Yes.

⁷⁹ See Chapter 31. See also, for example, *Washington Post*, 4/28/92.

⁸⁰ See Chapter 28.

⁸¹ See Chapters 24, 32 and 33.

⁸² See Chapters 24, 32 and 33.

⁸³ See Chapters 24, 32 and 33.

⁸⁴ See Chapters 24, 32 and 33.

⁸⁵ See Chapters 24, 32 and 33.

⁸⁶ Summary of Vice President Al Gore's phone call records, Appendix.

⁸⁷ There is evidence which suggests that only 6 of the 8 individuals who gave a donation that was subsequently deposited, in part, into the DNC's Federal hard money account made their contribution in response to a phone call from Vice President Gore. John Catsimatidis donated \$10,000 to the DNC that was subsequently deposited in a Federal hard money account two days after records show him receiving a call from the Vice President. However, Thomas Galvin, of the New York Daily News, wrote on August 5, 1997, that "Catsimatidis said he never spoke with Gore—I talk with the No. 1 guy, not the No. 2 guy," he said." Catsimatidis's statement that he never spoke to the Vice President combined with the fact that the phone records indicate that the Vice President only left a message for Catsimatidis strongly indicates that he did not make the contribution in response to the Vice President's phone call. *N.Y. Daily News*, 8/5/97.

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PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE
NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 26: Telephone Solicitations on Federal Property

Documents produced to the Committee by both the DNC and the White House indicate that on a number of occasions the DNC requested the President to make telephone calls to solicit funds for the DNC. The Committee reviewed evidence, including testimony and documents relating to the circumstances and applicable law surrounding these calls. The Committee also investigated fundraising telephone calls made by the Vice President from his office in the White House. The Committee also investigated whether past Republican presidents, and other Republican officials, had made fundraising phone calls from government buildings.

Based on the evidence before the Committee, we make the following findings with respect to these fundraising calls:

FINDINGS

(1) Telephone calls made on federal property to solicit contributions from persons neither on federal property or employed by the federal government have been made by elected officials from both parties and prior administrations.

(2) There was nothing illegal about the one solicitation telephone call known to the Committee made by the President.

(3) There was nothing illegal about the solicitation telephone calls made by the Vice President.

PRESIDENTIAL TELEPHONE CALLS

At a news conference on March 7, 1997, President Clinton was asked whether he had ever made fundraising telephone calls while President, and he responded:

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."

I simply can't say that I've never done it. But it's not what I like to do, and it wasn't a practice of mine. And once I remembered in particular I was asked to do it and I just never got around to doing it.

. . . I don't want to flat out say I never did something that I might in fact have done just because I don't remember it.¹

Documents produced to this Committee by both the Democratic National Committee ("DNC") and the White House indicate that on a number of occasions the DNC requested that the President make telephone calls to solicit funds for the DNC.² Many deposition witnesses testified that they were aware of the President being asked to make calls.³ The only witness who testified that he believed the President had, in fact, made at least some calls was Harold Ickes, White House deputy chief of staff.

¹Footnotes appear at end of chapter 26.

Ickes testified that he had asked the President to make fundraising telephone calls on several occasions after he checked with White House counsel who advised him that there was no legal barrier to making such calls.⁴ Ickes also testified that the President usually did not make fundraising calls, not because they were illegal or improper, but because he did not like making them. Ickes further testified that on one occasion, during 1994, the President made a few fundraising calls from the residential area of the White House.⁵

FBI agents detailed to the Committee were asked to interview people whose names appeared on a series of call lists submitted by the DNC to the White House and other documents.⁶ They were able to confirm that out of 55 people interviewed, only three received calls from the President and only one, businessman Richard Jenrette, was asked by the President to make a contribution.

Minority exhibit 2504M is a summary of the FBI's investigation (consisting of interviews) as of October 29, 1997 concerning the President's telephone calls. The exhibit illustrates the fact that the FBI contacted 55 individuals listed in various call lists, and 52 individuals stated that they did not receive a call from the President.⁷ Two individuals stated that they did receive calls from the President thanking them for contributions they had already pledged to the DNC.⁸ Jenrette was the only individual interviewed who stated that he received a call in which the President solicited a campaign contribution.

The Committee also examined the contributions made by the people whose names appeared on the telephone lists, including an October 18, 1994, memorandum to Harold Ickes from Terry McAuliffe, the then-Finance Chair of the DNC, that contained Ickes's handwriting.⁹ Six of the nine people circled by Ickes in the memo (including Jenrette) made a contribution to the DNC within one month of October 18, 1994.¹⁰ Moreover, Ickes's handwritten notations of money amounts correlate with the amounts ultimately contributed by only two of the listed potential contributors.¹¹ The FBI detailees interviewed five of these six contributors, and only Jenrette recalled receiving a solicitation from the President.¹²

In the final analysis, the evidence submitted to this Committee suggests that, as Ickes testified, on one occasion in 1994, the President made a few telephone calls to contributors, including Richard Jenrette. These calls were made on October 18, 1994, and, most likely, were made to some of the people listed in Exhibit 1653. Ickes's handwritten notations on this exhibit may have been made while the President was making the calls. Other than this one series of calls, there is no evidence that the President made any fundraising calls from 1993 through 1996.

Richard Jenrette

As part of the Committee's investigation, Richard Jenrette was interviewed by FBI detailees. He stated that he did receive a fundraising call from the President.¹³ He was called as a hearing witness to testify about this call.¹⁴

Jenrette is a retired Wall Street investment banker who has been contributing to political parties and committees since the 1970s.¹⁵ According to Federal Election Commission ("FEC") records,

he contributed to the DNC either personally or through his companies between \$30,000 and \$60,000 each year from 1993 to 1996.¹⁶ He has also contributed to the RNC and to Republican candidates including Senator Alphonse D'Amato of New York, Senator Lauch Faircloth of North Carolina, and former Massachusetts Governor and Senatorial candidate William Weld.¹⁷ Since 1991, FEC records show that he contributed approximately \$170,000 to the Democratic Party or committees and approximately \$40,000 to the Republican Party.¹⁸ Jenrette first contributed to President Clinton in August 1992.¹⁹ Since that time he has spoken to the President approximately six or seven times at fundraisers and other events, usually about the economy.²⁰

An AT&T telephone bill for the White House indicates that the call to Jenrette was made on the President's private residence line on October 18, 1994.²¹ The White House also produced records to the Committee that establishes that, at the time of the call to Jenrette, the President was in the residential portion of the White House.²² Jenrette testified that the call was placed by one of the President's secretaries. The White House secretary informed Jenrette's secretary that the President would call Jenrette back on his "private" line.²³

Following his conversation with the President, Jenrette sent a letter to the President confirming his contribution. In testimony before the Committee, Jenrette stated that the letter reflected his best recollection of the telephone call. The letter reads:

In response to your request, I wanted you to know that I am sending checks totaling \$50,000 to the Democratic National Committee. You said you wanted to raise \$2 million from 40 good friends—by my Wall Street math, this comes out to \$50,000 that you requested from each. I hope this will be of assistance to the DNC in its final pre-election push.²⁴

Jenrette testified that his review of this letter had "triggered" his recollection of the call,²⁵ and said, "If I hadn't had that letter, I would have had trouble recalling anything."²⁶

Jenrette testified that he did not feel that the President had pressured him to make contributions that were out of the ordinary;²⁷ indeed, he stated that the President did not exert any pressure.²⁸ The telephone records show that the call lasted 11 minutes and 18 seconds.²⁹ According to Jenrette, the fundraising part of the call was "fairly minimal" and was only a small part of the conversation.³⁰

The President did not specifically request that Jenrette's contribution be directed to either hard money or soft money accounts, according to Jenrette.³¹ Subsequently, one \$10,000 check that made up Jenrette's \$50,000 contribution was changed—with Jenrette's knowledge and approval—from a soft money contribution to a hard money contribution.³² A DNC employee spoke to Joe Hillis, Jenrette's assistant, to ask if \$10,000 could be directed to a hard money account. Jenrette agreed, because he was still within his annual \$25,000 limit.³³

While some Members of the Committee told Jenrette that his candid testimony had cast doubt on the President's forthright-

ness,³⁴ Jenrette's testimony is, in fact, entirely consistent with the President's statements about his fundraising calls. The President has never denied that he may have made fundraising calls. In addition, the President's private attorney has said that although the President doesn't remember calling Jenrette, he has "no reason to question Mr. Jenrette's recollection."³⁵

Jenrette also testified that he received a fundraising phone call from Vice President Gore, as discussed below.

The Justice Department has long held the view that calls made from the White House residence are not covered by 18 U.S.C. § 607.³⁶ As such, there was nothing illegal about President Clinton's call to Jenrette.

The evidence submitted to the Committee indicates that the President made a series of calls to contributors on October 18, 1994, in which he solicited at least one person for a contribution to the DNC. There was nothing illegal or improper about these calls: they were made from the residential portion of the White House; the President did not pressure or coerce the recipient of the call to contribute; and the President did not request hard money.

VICE PRESIDENTIAL TELEPHONE CALLS

In September 1995, DNC and White House officials, including the President and the Vice President, agreed that the DNC would undertake an extensive media project, paying for issue television advertisements to communicate the message of the administration and the party to the American people.³⁷ The President and Vice President agreed to spend more time fundraising for the DNC in order to generate funds for the media project.³⁸ Shortly thereafter, DNC officials began formulating fundraising plans to raise money for a "media fund" that included fundraising telephone calls by the President and the Vice President.³⁹ During the Committee's investigation, numerous witnesses were asked about the proposed fundraising calls. Several witnesses had knowledge of the Vice President making phone calls to assist with fundraising for the media fund. Vice President Gore personally acknowledged at a press conference in March 1997 that he made such calls:

I participated in meetings of our top campaign advisors where it became clear that in order to achieve the President's goals of getting a balanced budget, passing these measures to protect Medicare and Medicaid and education and the environment and so forth, that the DNC needed a larger budget to put advertisements on television. And I volunteered to raise—to help in the effort to raise money for the Democratic National Committee.⁴⁰

The people called by the Vice President were suggested by DNC fundraisers who prepared 190 call sheets identifying 161 potential contributors. The Vice President used the DNC call sheets to make fundraising-related calls from his office of the White House to 61 individuals on 11 occasions between November 28, 1995, and May 2, 1996:

Date	Time of call/s	Number of individuals called
Nov. 28, 1995 ⁴¹	Unavailable	1
Dec. 1, 1995 ⁴²	3:00–3:45 p.m.	7
Dec. 11, 1995 ⁴³	9:00–9:45 a.m.	8
Dec. 18, 1995 ⁴⁴	1:30–2:30 p.m.	7
	5:00–6:00 p.m.	
Feb. 2, 1996 ⁴⁵	2:30–3:00 p.m.	1
Feb. 5, 1996 ⁴⁶	12:30–1:00 p.m.	13
	3:00–4:00 p.m.	
	4:00–5:00 p.m.	
Feb. 6, 1996 ⁴⁷	11:30 a.m.–12:00 p.m.	2
Feb. 9, 1996 ⁴⁸	2:50–3:40 p.m.	2
March 13, 1996 ⁴⁹	Unavailable	6
April 26, 1996 ⁵⁰	12:30–1:00 p.m.	11
	3:30–4:00 p.m.	
May 2, 1996 ⁵¹	11:45 a.m.–12:00 p.m.	3

These calls were initially placed by staff who were instructed to charge the calls to a Democratic Party credit card, not to the federal government.⁵² Once the calls were placed, the Vice President would speak to the potential contributor. According to Federal Election Commission records, 20 of the 61 individuals called by the Vice President contributed to the DNC within 30 days of receiving a phone call from him.⁵³ These contributions totaled \$757,500.

The documentary and testimonial evidence submitted to the Committee demonstrates that during the period that the Vice President was making fundraising phone calls, the DNC was expressly focused on raising *soft money* for the media fund. Moreover, the documents submitted to the Vice President indicate that he knew that the DNC needed soft, not hard, money, for the media fund and the evidence supports the conclusion that he intended to raise soft money when he was making the calls. All telephone solicitations made by the Vice President were directed to private individuals who were not on federal property when they received the calls. According to the call sheets, each of the 61 individuals contacted by the Vice President was a private citizen and the telephone numbers on the call sheets were for their private offices or homes. Finally, documents submitted to the Committee indicate that the thank-you notes sent by the Vice President were prepared by the DNC, on DNC stationery, and were returned to the DNC for mailing after the Vice President signed them. These circumstances demonstrate that the Vice President's calls did not run afoul of the Pendleton Act's prohibitions on fundraising activity on federal property as explained in Chapter 24.

Purpose of the phone calls

The Committee examined documents produced by the DNC and the White House to determine whether the Vice President knew—or should have known—that any of the money he helped to raise was being deposited in DNC hard money accounts. Some Members of the Committee have contended that the Vice President knew or should have known, pointing to a February 21, 1996, memo from Bradley Marshall, the DNC's chief financial officer, that was attached to a February 22 memo from Harold Ickes to the President and Vice President. The Marshall memo briefly summarized the

law in a short paragraph near the end of the lengthy document. He wrote:

Federal money is the first \$20,000 given by an individual (\$40,000 from a married couple). Any amount over this \$20,000 from an individual is considered Non-Federal Individual.⁵⁴

Marshall has confirmed that this paragraph was intended to be a brief summary of the law and not a description of DNC policies or practices relating to depositing contributions into the various DNC accounts. In an affidavit to the Committee, he stated:

This paragraph was a shorthand description by me of federal contribution limits to national political parties and the possible sources of federal and non-federal funds. That's all it was, period. To put it another way, I did not intend this memorandum to serve as an explanation of or reference to the DNC's policies and procedures with regard to the deposit of portions of major donor contributions to the federal or "hard money" accounts.⁵⁵

The primary message of the Marshall memo and the other documents included in the February 22 package is to alert Ickes and others to the DNC's need for "soft" (nonfederal) money to pay for issue ads. The memo states that the average 1996 media buys were paid for with a mix of federal and non-federal dollars (34 percent federal, 31 percent non-federal corporate, and 35 percent non-federal individual), but that the DNC had \$675,000 in federal money, \$100,000 in non-federal corporate money, and \$0 in non-federal individual money. Accordingly, the DNC could not make additional media buys because it had relatively little non-federal corporate money and no non-federal individual money in its accounts.

On February 22, 1996, Ickes sent Marshall's memo to the President and Vice President with a short cover memo restating Marshall's concern that the DNC did not have enough non-federal soft money in its accounts and warning that, "until the amounts of non federal individual [money] is replenished, the DNC cannot buy media time."⁵⁶ Ickes did not mention Marshall's simplified definition of federal and non-federal monies in his cover memorandum.

When asked about his February 22 memorandum, Ickes testified to the Committee that the purpose of the memo "was alerting the president and the Vice president and others that we were, in fact, short of soft money. . . ." ⁵⁷ Joseph Sandler, general counsel of the DNC, also testified that he understood the primary purpose of the memo was to alert the President and Vice President of the urgent need for non-federal soft money. Sandler testified that it "is a memo clearly from Harold [Ickes] addressed to the president and vice president that is saying until the amounts of non-Federal [money] is replenished we are out of business on the generic media program."⁵⁸

It is noteworthy that the February 22 memo was written *three months after* the Vice President began making fundraising calls in late 1995. Given that the memo had not been written when the phone calls began, it could not possibly be probative of the Vice President's state of mind at the time he started making the calls.

Uncontroverted evidence indicates that, at the time the calls started and throughout the period of time they were being made, the information given to the Vice President was that the DNC needed to raise soft money, not hard money, to fund its media efforts.

Even prior to the first discussion of the Vice President making fundraising calls, DNC and White House documents relating to the DNC budget clearly indicate that the DNC needed soft money. An October 23, 1995 memorandum to Harold Ickes from Don Fowler, the National Chairman of the DNC, Marvin Rosen, the Finance Chair of the DNC, and Richard Sullivan, the Finance Director of the DNC regarding "1995 DNC Sources of Funds for DNC Operating Budget and Media Fund" states that the DNC intended to raise \$3,600,000 *non-federal soft money* by the end of the year to meet its goal of raising \$6,600,000 for the DNC's issue-oriented media campaign. This memorandum explains that the plan was to raise the soft money needed for the media campaign and to borrow the federal hard money needed to pay for the media efforts.⁵⁹ Accordingly, the budget summary attached to the October 23 memorandum indicates that the DNC needed to raise *non-federal money*, not federal money, for the DNC Media Fund. The budget's bottom line states:

Total to be raised for media fund	3,600,000
Federal	(0)
Non-Federal	⁶⁰ (3,600,000)

A November 9, 1995 memorandum to DNC Chairman Christopher Dodd and DNC Chairman Fowler from Harold Ickes regarding the DNC 1995 Budget Analysis reiterates that the DNC media fundraising needs were exclusively for soft money.⁶¹ This memo and the attached budgets show that all of the money to be raised for the DNC Media Fund was non-federal soft money.⁶²

A November 20, 1995, Ickes memo to the President and the Vice President again informed them that the DNC needed to raise \$3,600,000 soft money for the media campaign.⁶³

It was in the context of the well-documented need to raise soft money that the Vice President was asked to make fundraising calls. To reach the ambitious fundraising goals set for the television advertising campaign, the DNC proposed in a November 20, 1995 memo to Ickes that the President and Vice President make fundraising phone calls.⁶⁴ Fowler, Rosen, Scott Pastrick, the Treasurer of the DNC, and Sullivan recommended to Ickes that the President make 18 to 20 calls and that the Vice President make ten calls to raise a total of \$1,200,000 "to be applied to paid television."⁶⁵ Sullivan confirmed in his June 1997 deposition that the reason. Fowler, Rosen, Pastrick and Sullivan made this recommendation was to "fund these media buys."⁶⁶

The week after the phone calls were proposed by the DNC leadership in November 1995, Ickes confirmed that all of the money to be raised for the DNC media fund was non-federal soft money. In a November 28, 1995, memorandum to the President and the Vice President, Ickes described his meeting with Marvin Rosen, Scott Pastrick, Richard Sullivan, Terry McAuliffe, Laura Hartigan (all DNC officials), and Karen Hancox and Doug Sosnik, White House Political Director, regarding DNC fundraising efforts for the media

fund.⁶⁷ Ickes reported in this memorandum that Rosen believed \$1.2 million could be raised only if the President and Vice President made telephone calls to solicit funds for the DNC's media fund. Ickes attached budget projections that show all of the money to be raised for the media fund was non-federal soft money.⁶⁸ Similarly, a December 20, 1995 Ickes memo to the President and the Vice President again confirmed that all of the money to be raised for the DNC's media fund was nonfederal soft money.⁶⁹

Accordingly, the evidence clearly demonstrates that the DNC needed to raise non-federal soft money beginning in October 1995. To meet this urgent need, the DNC asked the President and Vice President to make fundraising phone calls starting in November 1995. The DNC's need for non-federal soft money to fund its media campaign continued beyond February 1996, throughout the period of time in which the Vice President made fundraising-related phone calls.

The last fundraising calls by the Vice President were made on May 2, 1996. Through this date, the evidence outlined above demonstrates that the DNC was in dire need of non-federal soft money to fund its media campaign. Later in the campaign, in approximately June 1996, after the Vice President stopped making fundraising calls, the DNC began to suffer a shortfall of federal ("hard") money. In June 1996, Ickes informed the President and the Vice President that the DNC was beginning to have a federal hard money short fall. In a June 3, 1996 memo to the President and the Vice President from Ickes regarding "DNC budget/fundraising," Ickes reported that a lack of federal hard money was "*beginning to present a very serious problem.*"⁷⁰ On the second page of his memo, Ickes concluded, "Thus, *the remainder of the fundraising efforts* between now and the end of October will have to focus very much on increasing the amount of *federal dollars* raised Richard Sullivan is preparing a plan to specifically address this problem which will be ready on 3 June."⁷¹ During this period, when hard money became the focus of the DNC's fundraising efforts, there is no evidence that the Vice President made any fundraising phone calls.

Raising soft money

The fact that the Vice President was asked on one occasion to make 28 to 30 telephone calls with a goal of raising \$1,200,000, or \$40,000 to \$43,000 per person—more than twice the federal hard money limit of \$20,000 per person—further confirms that he believed that he was raising soft money. Testimony by Peter Knight, who was present when the Vice President made approximately 30 fundraising calls in 1995 and 1996,⁷² supports this conclusion. Knight stated:

Now, if you refer back to the memorandum that Harold Ickes sent to the president and vice president, you can see that what is being requested is funds to purchase media. And the very last line of this says: "Thus, until amounts of non-federal individual is replenished, the DNC cannot buy media time." What he's saying is that what you need to do is make soft money calls to individuals, i.e., big checks to individuals.

So if you put this together with the media, *it was always understood, and I understood at the time, that the media calls were soft money calls.*

Now, I don't think that there is any reason to necessarily draw that distinction, because the phone calls I assumed were legal. However, there would be two reasons why they would be considered as soft money in my mind and in helping him to think it through. One was, as I had indicated, that *when you write a check, one check, and it is over \$20,000, you are writing a soft money check*; that had always been my understanding of what was occurring. And number two, although I did not ever see this memo, *I was generally aware that what was needed was to raise money for media, and media was very heavily oriented toward non-Federal soft money.* [emphasis added]⁷³

The only recipient of a call by the Vice President who testified at a hearing of this Committee also confirmed that the Vice President asked for a soft money contribution in the call. Richard Jenrette, who received a call from Vice President Gore in February 1996, testified that the Vice President was soliciting non-federal soft money for the DNC's issue-oriented media campaign.⁷⁴ Jenrette testified that his call with the Vice President was very brief and that he recalls the Vice President told him he wanted to "get an early start in getting some of the issues out."⁷⁵

Jenrette confirmed that the Vice President was raising non-federal soft money for the DNC's media fund in a letter written to Donald Fowler on February 20, 1996.⁷⁶ Jenrette wrote:

Vice President Al Gore called me last week and asked if I would help in assembling funds totaling \$25,000 for the *Democratic National Committee's media fund* campaign. I told him I would be glad to do what I could and therefore I am enclosing the following checks which have been made payable to the "*DNC Non-Federal Account.*"⁷⁷

Some of the call sheets themselves, supplied by the DNC to the Vice President, request the Vice President to raise money for the media fund.⁷⁸

The evidence, from Jenrette's recollection of his telephone conversation with the Vice President and his letter to Fowler, and also the call sheets, illustrates that the Vice President was soliciting non-federal soft money for the DNC's media fund. Jenrette's testimony to the Committee and his letter add to the great weight of evidence that supports the reasonable conclusion that the Vice President was asked to, and did, solicit non-federal soft money from November 1995 to May 1996 to fund the DNC's issue-oriented advertising campaign.

DNC splitting contributions between hard and soft money accounts

This Committee discovered that the DNC deposited a portion of the money contributed by some individuals who received a call from the Vice President into the DNC's federal hard money account. The evidence indicates that neither the Vice President, nor anyone else at the White House, knew about the deposits of a portion of some contributions into a hard money account.

According to FEC records, 20 individuals called by the Vice President made contributions to the DNC within 30 days of receiving the phone call as noted above.⁷⁹ The DNC received \$737,750 from these 20 individuals and deposited \$605,750 into its non-federal soft money account. The DNC deposited \$132,000 donated by eight of the 20 individuals into its federal hard money account.⁸⁰

Joseph Sandler, general counsel of the DNC, confirmed that the Vice President was raising non-federal soft money but that the DNC, without the Vice President's knowledge, deposited some of the money donated by individuals called by the Vice President in its federal hard money account. Sandler stated to the Committee:

[A]ll 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.⁸¹

Peter Knight, who as noted above, was present when the Vice President made several of the calls, confirmed that neither he nor the Vice President was aware that the DNC might allocate some of the money he raised as federal hard money.

Q: And to your knowledge, did the vice president have any knowledge of the fact that the DNC was splitting off money without consulting with the donors?

A: No.⁸²

Furthermore, Knight explained that in his experience, whenever a donor makes a contribution to the DNC above \$20,000 it is "automatically" non-federal soft money.⁸³ He explained that a contributor would have to affirmatively state that they were making a federal hard-money donation before the DNC could properly deposit the funds in its federal money account. Knight testified:

In my experience, you have to have a conversation with the contributor to make the switch. If you have a check that says "\$100,000" on it, written, that to me is a soft money check by definition—in my definition—and that if you for some reason want to take \$20,000, then it was always my understanding that a conversation had to be had with the contributor to redo it, which is consistent with what [Bradley Marshall is] saying here—"Federal money is the first \$20,000 by an individual"—well, the first \$20,000 that one gives is, if it's designated as Federal, as hard. But you know, I—what was different about this account that I learned later was that you would designate it without any—consultation with the donor.⁸⁴

Sandler and Knight confirmed that the Vice President was not aware that the DNC deposited some of the non-federal soft money he raised into its federal hard money account. No evidence has been presented to the Committee that indicates that the Vice President knew or should have known that the DNC deposited some of the funds he solicited into its federal hard money accounts. Clearly,

however, officials at the DNC should not have unilaterally split contributions between federal and non-federal accounts.

Applicability of the Pendleton Act

As discussed in Chapter 24, the Pendleton Act forbids anyone to solicit a federal (hard-money) contribution on federal property. The law has been interpreted to mean that the person *solicited* must not be on federal property when the solicitation occurs. The Committee received no evidence—whether documents, sworn testimony or reports of interviews by FBI detailees—that shows or suggests in any way that any individuals called by the Vice President were on federal property when they were solicited.

In his March 3, 1997, press conference, the Vice President confirmed that he did not solicit a donation from anyone who was on federal property at the time of the solicitation. The Vice President stated that he “never solicited a contribution from any federal employee, nor would I. Nor did I ever ask for a campaign contribution from anyone who was in a government office or on federal property.”⁸⁵

The great weight of the evidence reviewed by this Committee, clearly shows that the Vice President did not violate the Pendleton Act because he did not solicit federal hard money and the individuals he called were not on federal property when they received his calls.

The contributors

A review was undertaken of the 190 call sheets prepared for the 169 individuals identified by the DNC for the Vice President to call. Each call sheet included: the person’s name, title, company, the spouse’s name, addresses, telephone numbers, contributor history, and the reason for the Vice President to call, and personal notes such as noting that one couple had their first child about 8 months ago.⁸⁶

The review found that most of the people on the call sheets had previously contributed money to the DNC or had indicated an intent to make a large contribution to the DNC. Of the 190 DNC call sheets prepared for the Vice President, 134 included contributor history information and 43 others indicated that the person intended to make a large contribution to the DNC.⁸⁷ Only 13 call sheets did not include any contributor history or any information regarding the individual’s intent to contribute.⁸⁸ This information indicates that 93 percent of the persons contacted had contributed to the DNC in the past or had expressed an intent to contribute to the DNC in the future.

These figures indicate that the Vice President was not being asked to “strong-arm” individuals who were not inclined to contribute to the DNC. And, in fact, the Committee found no evidence that anyone called by the Vice President felt pressured to contribute.

Payment for the phone calls

Vice President Gore was aware that any fundraising calls he made from his office at the White House should be paid for by the DNC. The Vice President and another person, usually Peter

Knight, sat together in a separate office from the staff person who placed the calls to individuals listed on the DNC call sheets. Heather Marabeti, executive assistant to the Vice President, explained that a staff person who sat in the outer office of the Vice President's office at the White House, placed the calls.⁸⁹ David Strauss, the Vice President's Deputy Chief of Staff, was present on one occasion when the Vice President made fundraising-related calls in late 1995, and he confirmed that this was how the calls were made.⁹⁰ The staff people who placed the fundraising-related calls were instructed to use a credit card to pay for them. Marabeti, one of the staff people who placed calls for the Vice President testified, "We were instructed to use the credit card."⁹¹ She explained that it was the staff's "intent" to use the credit card each time they placed a fundraising-related phone call for the Vice President.⁹²

In 1995, the Vice President discussed with his staff the use of the credit card to pay for the cost of the fundraising calls. Marabeti testified, "I remember that he [the Vice President] asked me how the phone calls were being placed, whether or not a credit card was being used, and I told him that a credit card was being used."⁹³

In his March 3, 1997, press conference, the Vice President confirmed that he knew the staff was supposed to use a credit card to pay for the costs associated with the calls. The Vice President said, "On a few occasions I made some telephone calls from my office in the White House, using a DNC credit card."⁹⁴ Shortly after the White House discovered that some of the calls were not paid for with the credit card, the DNC reimbursed the U.S. Treasury \$24.20 for the cost of those calls.

Payment for the thank-you notes

The White House and the DNC produced copies of thank-you letters signed by the Vice President and sent to individuals who had made commitments to donate to the DNC during telephone conversations with the Vice President from late 1995 to May 1996.⁹⁵ All of the thank-you notes were printed on DNC letterhead with the disclaimer "Paid for by the Democratic National Committee" prominently displayed on the bottom of the page. David Strauss, the Vice President's Deputy Chief of Staff, testified that the thank-you notes were prepared at the DNC, by DNC employees, on stationery paid for by the DNC.⁹⁶

Heather Marabeti confirmed that the DNC stationery was not used at the Vice President's White House office. She testified that DNC stationery was not even kept in the official office.⁹⁷ She testified that the notes were sent to Gore for his signature and then returned to the DNC for mailing.⁹⁸

No other costs to the government

The Vice President, his staff, and the DNC attempted to ensure that the entire cost of the calls made by the Vice President for the DNC were paid for by the DNC. The staff person who placed the phone calls for the Vice President was instructed to use a credit card to pay for the calls. The thank-you letters signed by the Vice President were prepared on DNC stationery, at the DNC and mailed by the DNC. Because of these careful efforts, the U.S. Gov-

ernment did not incur any additional costs resulting from the fundraising-related calls made by the Vice President in 1995 and 1996.

REPUBLICAN PHONE CALLS

President Clinton was not the first president asked by his party to make fundraising calls. The evidence before the Committee establishes that, from 1982–88, President Reagan was asked to make fundraising calls to and from federal property. Unlike the calls made by Vice President Gore, many of these calls were designed specifically to raise hard money.

- May 17, 1988: President Reagan was asked to make a call from the White House to House Minority Leader Bob Michel (R-Ill.) which was to be broadcast to over 275 attendees at an event designed to raise hard money for Michel’s campaign.⁹⁹
- September 28, 1986: President Reagan was asked to make a call from Camp David to Rep. John Rowland (R-Conn.) which was to be broadcast to 600 attendees at an event designed to raise hard money for Rowland’s campaign.¹⁰⁰
- September 7, 1982: President Reagan was asked to call a Republican Eagles event, which was held on federal property. Reagan was to tell the Eagles, “Let me say to you Eagles how important your contributions are to the Republican Party. . . . We are so appreciative. You are pillars of the party.”¹⁰¹
- March 2, 1981: President Reagan was requested to call Amway President Richard DeVos from the White House and to request DeVos to recruit 335 new Eagles members, which would raise \$3,350,000 for the RNC.¹⁰²

Congressman Newt Gingrich requested that President Reagan make at least one of these calls. A memorandum in connection with the Rowland fundraiser stated: “At the request of Congressman Newt Gingrich and the NRCC, it was agreed to try, as an ‘experiment,’ a presidential phone call to fundraisers for selected Congressmen and challengers in their districts.” These calls were designed to raise hard money.¹⁰³

President Reagan’s White House Counsel’s office approved his fundraising calls. In a May 1988 memorandum on the legality of President Reagan’s call to the Michel fundraiser, which was designed to raise hard money, Associate White House Counsel Robert Kruger wrote:

Counsel’s office has reviewed the attached scheduling proposal and has no objection to it from a legal perspective. Incremental costs associated with the call, if any, should be billed to the appropriate RNC account.¹⁰⁴

The Minority attempted to review records related to President Bush to determine if he, too, made fundraising calls while President, but Chairman Thompson did not concur in the request to the Bush Library, and the Library did not permit a search of President Bush’s records.

The evidence presented to the Committee indicating that most of the people on Vice President Gore’s call sheets had previously contributed money to the DNC or had indicated an intent to make a large contribution to the DNC contrasts with evidence uncovered by this Committee relating to phone calls Speaker Newt Gingrich

was asked to make to persons who were not inclined to contribute to the RNC. The RNC produced documents indicating that Speaker Gingrich was asked in 1996 to solicit contributions from several corporations whose executives had expressly indicated that they *did not want to contribute corporate funds* to the host committee for the Republican National Convention.

In a May 23, 1996, memorandum from Fred Bush, finance chairman for the RNC Convention's host committee, to Gingrich aide Joseph Gaylord, regarding "Phone calls for Speaker Gingrich," Bush requested that Gingrich call the chief executive officers of six companies and solicit \$250,000 to help pay for the convention.¹⁰⁵ The comments included on the call sheet notes that three of the six companies—Boeing, Coca Cola and Hewlett Packard—had recently expressed an intent not to donate money to help pay for the convention.¹⁰⁶ The RNC documents strongly suggest that the Republican Party intended to use the Speaker to convince these corporations to make contributions that they otherwise would not make.

CONCLUSION

The practice of politicians making fundraising calls from federal property is by no means rare. For example, Senator Phil Gramm said of fundraising calls: "I do it wherever I am. . . . I can use a credit card. . . . As long as I pay for the calls, I can make calls wherever I want to call."¹⁰⁷ Dick Morris, who has been a political consultant for both Republicans and Democrats, acknowledged that this practice is widespread: "Would you like me to embarrass 15 of my former clients by telling you when I sat in their office(s) and they made fund-raising phone calls?"¹⁰⁸

FOOTNOTES

¹*New York Times*, 7/24/97.

²Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285; Memorandum from Harold Ickes to the President and the Vice President, 11/28/95, SCGA 00342-43.

³Richard Sullivan deposition, 6/4/97, pp. 181-97; Marvin Rosen deposition, 5/19/97, pp. 107-29; Donald Fowler deposition, 5/21/97, pp. 289-304.

⁴Harold Ickes, 10/8/97 Hrg. pp. 210, 215-17.

⁵Harold Ickes, 10/8/97 Hrg. pp. 124-25, 208-19.

⁶These documents were Exhibit 1653: Memorandum from Harold Ickes to Terence McAuliffe and Laura Hartigan, 10/18/94, EOP 036557-64; Memorandum from Harold Ickes to Terence McAuliffe and Laura Hartigan, 10/21/94, EOP 035494-97; list of names, EOP 036569-74; and DNC Finance Call Sheets.

⁷Exhibit 2504M: Summary of Senate FBI Agent's Investigation into the President's Phone Calls; see Minority counsel, 10/29/97 Hrg. Pp. 22-23, 35-36.

⁸Exhibit 2504M: Summary of Senate FBI Agent's Investigation into the President's Phone Calls. Because solicitation means asking for something, such a call is outside the plain meaning of "solicit[ing] or receiv[ing] any contribution within the meaning of . . . the Federal Election Campaign Act" and therefore not prohibited by section 607. *In re William Jefferson Clinton*, Notification of the Court Pursuant to 28 U.S.C. §592(b) of Results of Preliminary Investigation, at 9-10 (D.C. Cir. Dec. 2, 1997) (citing *Wisconsin Dep't of Revenue v. William Wrigley, Jr., Co.*, 505 U.S. 214, 223 (1992)).

⁹Exhibit 1653: Memorandum from Terence McAuliffe and Laura Hartigan to Harold Ickes, 10/18/94, EOP 036557-64.

¹⁰Exhibit 1656: Statement of Jerome Campana, 10/28/97. Exhibit 1656 was prepared by Committee Investigator Jerry Campana as an analysis of certain interviews of potential contributors. This exhibit was not provided to the Minority until 9:15 a.m. on the morning of the hearing. Minority counsel, 10/29/97 Hrg. P. 35.

¹¹Exhibit 1656: Statement of Jerome Campana, 10/28/97.

¹²Exhibit 1656: Statement of Jerome Campana, 10/28/97. Some Members of the Committee have questioned the credibility of the other five contributors but without affording them the opportunity to testify at a hearing. It is possible that these people received phone calls but do not recall the calls or that a call was placed but the contributor was not reached. It is also possible that Mr. Ickes's handwritten notations came from a source other than the President calling the

contributor. For example, Mr. Ickes may have been told some of these contributors had already contributed or pledged a contribution and thus there was no reason to call.

¹³ Exhibit 1652: FBI Interview of Richard Jenrette.

¹⁴ Jenrette was not deposed by the Committee. Early in the week of October 20, the Majority Chief Counsel spoke to Jenrette. In contravention of the Committee's protocols, the Minority Staff was not notified in advance of the Majority Chief Counsel's intention to speak with a witness. Jenrette then retained an attorney, and the attorney left a message for the Majority Chief Counsel indicating that he had been retained. On October 29, the Majority Chief Counsel called Jenrette directly and they had a half hour conversation about the issues to which he would testify. The Majority Chief Counsel also met with Jenrette later that day. Again, Minority Staff was neither informed in advance of these discussions nor allowed to participate. Staff interview with Jenrette's attorney, as noted in memorandum of Minority Counsel.

¹⁵ Richard Jenrette, 10/29/97 Hrg. Pp. 16–17.

¹⁶ Richard Jenrette, 10/29/97 Hrg. P. 17; FEC records.

¹⁷ Jenrette personally or through one of his companies contributed \$1,000 to D'Amato in 1995, \$1,000 to Faircloth in 1993, \$1,000 to Faircloth in 1995, and \$1,000 to Weld in 1996. FEC records.

¹⁸ Richard Jenrette, 10/29/97 Hrg. Pp. 17–18; FEC records.

¹⁹ Richard Jenrette, 10/29/97 Hrg. P. 18.

²⁰ Richard Jenrette, 10/29/97 Hrg. Pp. 18, 19.

²¹ Exhibit 2500M: AT&T billing records for the White House for 10/18/94; see Minority counsel, 10/29/97 Hrg. P. 23. Exhibit 2500M was redacted to remove the President's private phone number, due to obvious privacy concerns. Senator Glenn, 10/29/97 Hrg. P. 60.

²² Exhibit 2500M: AT&T billing records for the White House for 10/18/94.

²³ Richard Jenrette, 10/29/97 Hrg. Pp. 3–4, 23; Exhibit 1652: FBI Interview of Richard Jenrette.

²⁴ Exhibit 1652: Letter from Richard Jenrette to President Clinton, 10/24/94; Richard Jenrette, 10/29/97 Hrg. P. 3. The Majority questioned why the White House did not produce this document to the Committee. Richard Jenrette, 10/29/97 Hrg. Pp. 4–5. They introduced phone records produced by the White House on October 27 reflecting the call to Jenrette (and others), Exhibit 1657, and pointed to this as an example of the White House's late production of records. Richard Jenrette, 10/29/97 Hrg. P. 5. The White House did, however, produce in June 1997 a document identifying Jenrette as a potential contributor. Exhibit 1653: Memorandum from Ickes to McAuliffe and Hartigan, 10/18/94, EOP 036557–64; see Richard Jenrette, 10/29/97 Hrg. Pp. 19–20, 38. The White House has not been able to locate a copy of Exhibit 1652 in the White House's files, *Newsweek*, 10/27/97, and does not believe that one exists.

²⁵ Richard Jenrette, 10/29/97 Hrg. P. 68.

²⁶ Richard Jenrette, 10/29/97 Hrg. P. 3.

²⁷ Richard Jenrette, 10/29/97 Hrg. P. 24.

²⁸ Richard Jenrette, 10/29/97 Hrg. P. 24; see also Richard Jenrette, 10/29/97 Hrg. P. 30. Jenrette was asked:

Senator Torricelli. . . . Mr. Jenrette, you do not appear to me, even though we do not know each other, to be a man who is easily intimidated. If the President of the United States had called and asked you for a contribution, and you did not believe he was a good President, you did not want to support his campaign, you did not otherwise want to be involved, would you have hesitated to tell him, No, I will not contribute to you?

Mr. Jenrette. I'd say sorry.

Senator Torricelli. You would not have contributed to him?

Mr. Jenrette. No.

Senator Torricelli. In any way based on the business of your firm, activities of the Federal Government, did you find something inappropriate about the timing, the conduct of the phone call, in any way that would have compromised the integrity of the firm or yourself or the President in any ongoing business that was being conducted at that time?

Mr. Jenrette. No.

Senator Torricelli. All right. So there was nothing intimidating and there was nothing inappropriate.

Richard Jenrette, 10/29/97 Hrg. Pp. 55–56.

²⁹ Exhibit 2500M: AT&T billing records for the White House for 10/18/94.

³⁰ Richard Jenrette, 10/29/97 Hrg. Pp. 42, 43.

³¹ Richard Jenrette, 10/29/97 Hrg. Pp. 24–25, 57–58.

³² Exhibit 1655: Contribution checks, p. 3. The \$50,000 was contributed in five separate checks. Exhibit 1655: Contribution checks.

³³ Richard Jenrette, 10/29/97 Hrg. P. 51.

³⁴ Senator Nickles, 10/29/97 Hrg. Pp. 47–48; Chairman Thompson, 10/29/97 Hrg. Pp. 63–65; Senator Smith, 10/29/97 Hrg. P. 66.

³⁵ *Newsweek*, 10/27/97.

³⁶ See Memorandum Opinion for the Assistant Attorney General, Criminal Division, from Larry A. Hammond, Acting Assistant Attorney General, Office of Legal Counsel, 3 Op. O.L.C. 31 (1979) (hereinafter "OLC Opinion") (the discrete residential portion of the White House is not a "room or building occupied in the discharge of official duties" within the meaning of section 607); see also Letter from Janet Reno, Attorney General of the United States, to Henry J. Hyde, Chairman, House Judiciary Committee, in accordance with 28 U.S.C. § 592(g)(2) at 5 (Oct.

3, 1997) (“Section 607 does not apply to events occurring within the residential areas of the White House.”).

³⁷ Donald Fowler deposition, 5/21/97, pp. 292–95.

³⁸ Donald Fowler deposition, 5/21/97, p. 295.

³⁹ Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.

⁴⁰ White House Office of the Press Secretary, press briefing by the Vice President, 3/3/97, p. 4.

⁴¹ Notations on call sheets indicate that a message was left for two individuals on November 28, 1995. DNC Finance Call Sheet, EOP 49257; DNC Finance Call Sheet, EOP 49258.

⁴² Vice President’s schedule, 12/1/95, EOP 49147–49.

⁴³ Vice President’s schedule, 12/11/95, EOP 57207.

⁴⁴ Vice President’s schedule, 12/18/95, EOP 57209–11.

⁴⁵ Vice President’s schedule, 2/2/96, EOP 57212–14.

⁴⁶ Vice President’s schedule, 2/5/96, EOP 57216–18.

⁴⁷ Vice President’s schedule, 2/6/96, EOP 57219–21.

⁴⁸ Vice President’s schedule, 2/9/96, EOP 49143–45.

⁴⁹ A notation on a call sheet indicates that a message was left for Ms. Carol Pensky on March 13, 1996. DNC Finance Call Sheet, EOP 063253. Phone bill records confirm that a 30 second call was placed to Ms. Pensky’s phone number on March 13, 1996. Phone records, EOP 063275–82.

⁵⁰ Vice President’s schedule, 4/26/96, EOP 56527–29.

⁵¹ Vice President’s schedule, 5/2/96, EOP 57227–28.

⁵² Despite these instructions to the staff, some of the calls were not made on a credit card; however, the DNC reimbursed the U.S. Treasury for the cost of these calls. Payment Authorization from Moe Vela, Finance Manager, Office of the Vice President, to the DNC, 6/27/97, EOP 063283–84.

⁵³ Summary of Vice President Al Gore’s phone call records, Appendix.

⁵⁴ Exhibit 1065: Memorandum from Harold Ickes to the President and the Vice President, 2/22/96, attaching Memorandum from Bradley Marshall to Harold Ickes, 2/21/96.

⁵⁵ Exhibit 2381M: Affidavit of Bradley K. Marshall, 10/6/97.

⁵⁶ Exhibit 1065: Memorandum from Harold Ickes to the President and the Vice President, 2/22/96, attaching Memorandum from Bradley Marshall to Harold Ickes, 2/21/96.

⁵⁷ Harold Ickes, 10/8/97 Hrg. P. 122.

⁵⁸ Joseph Sandler, 9/10/97 Hrg. P. 142.

⁵⁹ Memorandum from Don Fowler, Marvin Rosen, and Richard Sullivan to Harold Ickes, 10/23/95, CGRO 0361.

⁶⁰ Budget summary, CGRO 0362–64.

⁶¹ Memorandum from Harold Ickes to Chairman Dodd and Chairman Fowler, 11/9/95, CGRO 0310–13.

⁶² Memorandum from Harold Ickes to Chairman Dodd and Chairman Fowler, 11/9/95, CGRO 0310–13.

⁶³ Memorandum from Harold Ickes to the President and the Vice President, 11/20/95, with attachments, CGRO 0191–96.

⁶⁴ Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.

⁶⁵ Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.

⁶⁶ Richard L. Sullivan deposition, 6/4/97, p. 180.

⁶⁷ Memorandum from Harold Ickes to the President and the Vice President, 11/28/95, SCGA 00342–43.

⁶⁸ DNC 1995 Budget Analysis, 11/21/95, p. 3, SCGA 00344–46.

⁶⁹ Memorandum to the President, Vice President, et al., from Harold Ickes, 12/20/95, with attachment, EOP 027959–65.

⁷⁰ Exhibit 1066: Memorandum from Harold Ickes to the President and the Vice President, et al., 6/3/96, with attachment, SCGA 00846–53 (emphasis added).

⁷¹ Exhibit 1066: Memorandum from Harold Ickes to the President and the Vice President, et al., 6/3/96, with attachment, SCGA 00846–53 (emphasis added).

⁷² Peter Sage Knight deposition, 9/17/97, p. 208.

⁷³ Peter Sage Knight deposition, 9/17/97, pp. 214–15 (emphasis added).

⁷⁴ Richard Jenrette, 10/29/97 Hrg. pp. 12, 28, 71.

⁷⁵ Richard Jenrette, 10/29/97 Hrg. pp. 21, 71.

⁷⁶ Exhibit 1652: Letter from Jenrette to Fowler, p. 2, 2/20/96.

⁷⁷ Exhibit 1652: Letter from Jenrette to Fowler, p. 2, 2/20/96 (emphasis added).

⁷⁸ DNC Finance Call Sheets, e.g., EOP 049237–91, EOP 063413–17.

⁷⁹ Summary of Vice President Al Gore’s phone call records, Appendix.

⁸⁰ There is evidence which suggests that only 6 of the 8 individuals who gave a donation that was subsequently deposited, in part, into the DNC’s Federal hard money account made their contribution in response to a phone call from Vice President Gore.

John Catsimatidis donated \$10,000 to the DNC that was subsequently deposited in a Federal hard money account two days after records show him receiving a call from the Vice President. However, Thomas Galvin, of the New York Daily News, wrote on August 5, 1997 that “Catsimatidis said he never spoke with Gore—I talk with the No. 1 guy, not the No. 2 guy,” he said.” Catsimatidis’s statement that he never spoke to the Vice President combined with the fact that the phone records indicate that the Vice President only left a message for Catsimatidis strongly indicates that he did not make the contribution in response to the Vice President’s phone call. *N.Y. Daily News*, 8/5/97.

Michael Adler received a call from Vice President Gore on December 11, 1995, and contributed \$5000 four days later. However, the contribution was attributed to a December 15, 1995, fundraising event for Jewish contributors.

⁸¹ Joseph Sandler, 9/10/97 Hrg. Pp. 15–16. The DNC has acknowledged that “splitting” contributions in this way without the contributor’s permission was not appropriate. Joseph Sandler, 9/10/97 Hrg. P. 87.

⁸² Peter Sage Knight deposition, 9/17/97, p. 206.

⁸³ Peter Sage Knight deposition, 9/17/97, p. 205.

⁸⁴ Peter Sage Knight deposition, 9/17/97, pp. 204–05.

⁸⁵ White House Office of the Press Secretary, Press Briefing by the Vice President, 3/3/97, p. 2.

⁸⁶ DNC Finance Call Sheet, 2/29/96, DNC 3113672.

⁸⁷ Minority Summary Appendix.

⁸⁸ Minority Summary Appendix.

⁸⁹ Heather Marabeti deposition, 9/3/97, p. 15.

⁹⁰ David Strauss deposition, 6/30/97, pp. 190–94, 197.

⁹¹ Heather Marabeti deposition, 9/3/97, p. 16.

⁹² Heather Marabeti deposition, 9/3/97, p. 17.

⁹³ Heather Marabeti deposition, 9/3/97, p. 17.

⁹⁴ White House Office of the Press Secretary, Press Briefing by the Vice President, 3/3/97, p.1.

⁹⁵ EOP 49171; EOP 53178–82; EOP 53199–211; DNC 3063789–91; DNC 3063793–800.

⁹⁶ David Strauss deposition, 8/14/97, pp. 233–34.

⁹⁷ Heather Marabeti deposition, 9/3/97, pp. 91–92.

⁹⁸ Heather Marabeti deposition, 9/3/97, p. 59.

⁹⁹ Exhibit 2321M: Memorandum from Alan Kranowitz to Rep. Bob Michel, 5/4/88.

¹⁰⁰ Memorandum from Mitchell Daniels to Frederick Ryan, Director Presidential Appointments and Scheduling, 9/12/86.

¹⁰¹ Memorandum from A. Morgan Mason to Michael K. Deaver, 9/16/82; Presidential Talking Points: Phone Call to Eagles Meeting September 17, 1982, 10:45 A.M.

¹⁰² Memorandum from Gregory Newell to President Reagan, 3/2/81.

¹⁰³ Memorandum from Mitchell Daniels to Frederick Ryan, 9/12/86.

¹⁰⁴ Memorandum from Robert Kruger to Rhet Dawson, 5/6/88.

¹⁰⁵ Memorandum from Fred Bush to Joe Gaylord, 5/23/96, R047170–72.

¹⁰⁶ Memorandum from Fred Bush to Joe Gaylord, 5/23/96, R047170–72.

¹⁰⁷ AP, 9/8/97.

¹⁰⁸ *Sacramento Bee*, 10/5/97.

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PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE
NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 27: White House Coffees and Overnights

Many political supporters of President Clinton have attended so-called “coffees” at the White House arranged by the Democratic National Committee. Others have stayed at the White House as overnight guests, often in the historic Lincoln Bedroom. The coffees and “overnights” have prompted widespread criticism of the DNC and the administration. To the extent that issues have arisen over whether persons with questionable backgrounds gained inappropriate access to the White House by attending coffees, those topics are addressed in Chapters 29, 30 and 31. This chapter discusses allegations that White House and/or DNC officials improperly used the White House as a fundraising tool.

FINDINGS

(1) Telephone calls made on federal property to solicit contributions from persons neither on federal property or employed by the federal government have been made by elected officials from both parties and prior administrations.

(2) There was nothing illegal about the one solicitation telephone call known to the Committee made by the President.

(3) There was nothing illegal about the solicitation telephone calls made by the Vice President.

DNC COFFEES AT THE WHITE HOUSE

During the 1996 election cycle, the Democratic National Committee arranged for more than 1,000 individuals to attend so-called “coffees”—get-togethers with President Clinton or Vice President Gore—many of which were held at the White House. Many of the attendees were Democratic campaign contributors, prompting allegations that the coffees were fundraising events on federal property and, as such, were illegal and improper.

The Committee took testimony from, among others, DNC and White House personnel, coffee attendees, and reviewed documents produced to the Committee. FBI agents detailed to the Committee also questioned several individuals who had attended coffees. When a public hearing was held on the coffees on September 18, the Majority called as a “summary witness” Jerry Campane, the head of the team of FBI detailees. During his testimony, Campane presented charts which highlighted political contributions by some of the coffee attendees.

The evidence shows that the coffees were prompted by a January 5, 1995, memo to Nancy Hernreich, director of Oval Office operations, (and given to President Clinton) from Terry McAuliffe, who served as finance chair of the DNC until the end of that month, when he became finance chair of the Clinton re-election campaign.¹ In the memo, which was sent after McAuliffe met with the President, McAuliffe expressed his concern that—in light of the Democratic defeat in the 1994 mid-term elections—the President needed to “energize” his supporters. McAuliffe suggested that small groups

¹Footnotes appear at end of chapter 27.

of supporters be invited to the White House to meet with the President.²

McAuliffe's suggestion was accepted and, on January 11, the DNC held the first of a series of coffees. By August 23, 1996, 103 coffees had been held at the White House—60 of them organized by the DNC Finance Division.³ The coffees were attended by a total of 1,241 people who were afforded an opportunity to meet with the President or the Vice President.⁴

The Clinton Administration and the DNC clearly hoped that the coffees organized by the DNC Finance Division would assist in the DNC's fundraising efforts. They were arranged by the DNC's Finance Division and, after the coffees were publicized in the press, the White House and DNC acknowledged that many of the coffees had a fundraising component. The coffees were aimed at encouraging and motivating "supporters" of the party, including both financial and political supporters.⁵ In February 1997, the President's press secretary stated: "Obviously, the coffees were held in the hopes that people who talk with the President about these ideas and goals would share them and would continue to be or become political and financial supporters of the President."⁶

The coffees and fundraising

DNC finance personnel and others active in political fundraising define a fundraising event—which they call a "fundraiser"—as an event with a "ticket price": attendees are obliged to contribute a certain sum in order to attend.⁷ The evidence examined by the Committee establishes that the coffees were not fundraisers in that sense.

To begin with, they were not conceived as fundraisers. The McAuliffe memo does not suggest that attendees be obliged to contribute a certain amount of money—or, indeed, any amount of money. The memo makes clear that McAuliffe, at least, did not see the coffees as a way to raise money for the Democratic Party or for the president's re-election campaign. Harold Ickes, deputy chief of staff in the White House, testified that they were originally designed to help the President "reconnect" with his constituents and to reenergize them.⁸

More importantly, the coffees did not, in fact, operate like traditional fundraisers. McAuliffe, for example, testified:

Did we recommend . . . people whom we hoped would be helpful or had been helpful? You bet, but I always ended every phone call with you don't—there's no quid pro quo, and you talk to the hundreds of thousands of donors that I dealt with . . . People were invited to spend time. You understand, people didn't care.

They all talk about this White House. It wasn't the White House. It was people to spend time with the president. They get an idea of what his policies were, are, were going to be, to get them energized. That's what it was all about.

As I've always said, I could[n't] have cared less if those first 10 coffees were done at McDonald's. It didn't matter to me. I needed people to see the President and get his vi-

sion for the future to get them energized, and that's what this was all about.⁹

As part of an effort to demonstrate that the coffees were fundraisers, some Committee members drew attention to DNC documents suggesting that every coffee was expected to, and did, raise \$400,000 and that DNC fundraising personnel sometimes credited contributions to specific coffees. For example, the DNC produced documents listing all the attendees at particular coffees that tally the contributions made by these individuals.

Although those documents would seem to suggest that the coffees were fundraising events, the Committee also found considerable evidence undermining that allegation. For example, the \$400,000 figure was arbitrary; it was used for every single coffee organized by the DNC regardless of the number of attendees or their identities.¹⁰ According to FBI agent Campana's testimony, only one of the 103 coffees actually resulted in \$400,000 being contributed by the attendees. With three exceptions, most contributions made by attendees around the time of the coffees were not attributed to the coffees. Finally, the evidence indicates that of the approximately 1600 contributions made by people who attended coffees, less than 5 were credited on the DNC check-tracking forms to the coffee.¹¹

Numerous DNC fundraisers were asked under oath whether the fundraiser had ever told a contributor that he or she could attend a coffee in exchange for a contribution. The DNC witnesses were also asked whether there was a specific amount of total contributions that were required for a contributor to receive a coffee invitation—specifically, whether there was a \$50,000 ticket price to attend the coffees. The DNC fundraisers denied these charges: they all stated that no contribution was required to attend the event and no specific level of contributions was received from coffee attendees.¹²

Coffee attendees were also asked whether they were told that a specific contribution would allow them to attend a coffee at the White House. Every attendee deposed or interviewed by the Committee denied this charge. Roger Tamraz—a witness who testified quite explicitly that he gave money in order to gain access to the White House¹³—stated that he was not asked to and did not make a political contribution to enable him to attend a coffee on April 1, 1996.¹⁴ FEC records support this claim, showing that his last large contribution to the DNC was in October of 1995.¹⁵ Similarly, Beth Dozoretz, Robert Belfer, Karl Jackson, and Clark Wallace, all of whom attended a coffee on June 18, 1996, testified that they were not asked to make a specific contribution to attend this coffee.¹⁶ Richard Jenrette, who attended a coffee on September 7, 1995, testified in a similar fashion.¹⁷

The testimony is supported by documentary evidence. The records show that 466 of the 1,063 people who attended White House coffees—44 percent of the total—contributed nothing to the DNC during the 1995/96 election cycle.¹⁸ In the case of several of the coffees, the majority of the attendees did not contribute. For example, Minority Exhibit 2049M (reproduced in the endnotes to this chapter) shows that only three of the eight people who attended a coffee on November 9, 1995, contributed to the DNC during the 1995/96 cycle.¹⁹

The coffees as DNC events

Although the coffees were not traditional fundraisers, they were certainly related to Democratic fundraising. The coffees organized by the Finance Division of the DNC were intended to motivate and encourage political and financial supporters of the president. For example, when Harold Ickes testified before this Committee, he said, "There's no question that those coffees helped facilitate fundraising. There's no question about that, Senator. Nobody denies that, and anybody who denies that is sort of goofy, in my view."²⁰ In February 1997, the President Clinton's press secretary made the point this way: "Obviously, the coffees were held in the hope that people who talk to the President about these ideas and goals would share them and would continue to be or become political and financial supporters of the president."⁷

Other witnesses used a variety of terms to describe the link between the coffees and party fundraising. Karen Hancox, deputy director of the White House political office, called them "fundraising tools."²¹ DNC officials Marvin Rosen and Ari Swiller said there was a "fundraising component."²² Donald Fowler, former DNC chairman, said the coffees had a "fundraising aspect."²³ Richard Sullivan, former DNC finance director, said that the coffees were helpful to the DNC's overall "fundraising goal."²⁴

Sullivan's testimony about the coffees being helpful to reach DNC fundraising goals seems to be the best description. DNC records produced to this Committee show clearly that although there was no "admission price"—as in a traditional fundraising event—the party did hope to raise money from coffee attendees. The documents show that there were periods during which the DNC and the White House were keeping track of how much money was contributed by coffee attendees, making it possible to determine whether the coffees were helping with overall fundraising.²⁵

No convincing evidence was presented to the Committee indicating that campaign contributions were solicited or received during White House coffees, which could have violated the Pendleton Act. All but one of the coffees was held in an area of the White House which is exempt from the Pendleton Act's restrictions. In addition, campaign solicitations were not a feature of the coffees.²⁶ The only coffee attendee who claims he heard a solicitation is Karl Jackson, a former aide to Vice President Dan Quayle. According to Jackson, DNC fundraiser John Huang observed that elections are costly and then encouraged attendees at one coffee to "support the president."²⁷ It is worth noting that Jackson is the only one of the more than 1,000 coffee attendees to make such an allegation and that even Jackson did not state that financial support or contributions were mentioned by Huang. Other witnesses who attended the coffee with Jackson also contradict him in important respects as explained in Chapter 4.²⁸ Jackson's allegation that solicitation occurred at White House coffees is also undermined by videotapes of the opening segments of the coffees. None of the tapes contains any evidence of a solicitation. In fact, one tape shows an attendee attempting to give a contribution to DNC Chairman Donald Fowler and Fowler refusing to accept it.²⁹

The law and precedent

Under current law, it is not illegal for the President to invite supporters to the White House, or any other federal building, or even to hold a fundraising event in certain areas of the White House. As Harold Ickes told the Committee:

[A] president may entertain and meet with friends and political supporters, contributors, fund-raisers, and otherwise, as well as with members of Congress and heads of state in the White House. He may have coffee or even tea with his friends and political supporters, and it is perfectly permissible for them to stay overnight . . . [A] President and a Vice President, and certainly Senators and members of Congress, may—indeed, it is a custom of longstanding that they do—meet with supporters, including contributors and fund-raisers, as well as ordinary citizens, be gracious to them, discuss matters of public policy with them, and, yes, listen to their concerns. It simply is not illegal or untoward for a President or a Vice President to grant access to supporters any more than it is illegal or inappropriate for United States Senators or members of Congress to grant access to their supporters, constituents, political leaders, contributors, and fund-raisers alike, or any more than it is illegal or improper [for] the RNC to thank its members of its Team 100 or its Eagles Club by inviting them to dine at the Capitol to meet with congressional leaders.³⁰

Even the Majority's summary witness on the subject of the coffees—FBI detailee Jerome Campane—did not assert that the coffees were illegal or even improper. "I am not suggesting they are improper," he testified. "I am not suggesting anything illegal." His only conclusion, based on his analysis, was that the coffees were "in the nature of fund-raising tools."³¹ Moreover, many of President Clinton's predecessors have used the White House for political gatherings resembling the coffees, including former Presidents Gerald Ford, Ronald Reagan, and George Bush.³²

WHITE HOUSE OVERNIGHTS

The Clinton Administration has been heavily criticized for apparently using overnight visits to the White House to reward contributors. In late 1996, it was reported in the press that large numbers of campaign contributors had been invited to stay overnight at the White House, often in the Lincoln Bedroom. These reports prompted allegations that the Lincoln Bedroom was, in effect, being "rented" to contributors.

Although such allegations received widespread attention, the Committee found no evidence of a systematic scheme to trade overnight visits to the White House for campaign contributions. Most of the visitors were longtime friends and supporters of the president;³³ continuing a practice of both Presidents Reagan and Bush. The Committee found no evidence that visits were tied to specific contributions.³⁴ Moreover, the Committee found no evidence that any of the overnight visitors was solicited for a contribution during the visit.

The use of the overnights as a fundraising tool was not illegal—and was not nearly as extensive as alleged by the Majority. As in the case of the White House coffees, the DNC and the administration used access to the White House and to the president as a way of cementing ties to campaign contributors.

CONCLUSION

The evidence presented to this Committee shows that the coffees were not traditional fundraising events, that money was not solicited or received at the coffees, and that the Lincoln Bedroom was not rented out to contributors.

FOOTNOTES

¹ Exhibit 1217: Memorandum from Terence McAuliffe to Nancy Hrenreich, 1/5/93 [sic], CGRO 1569–70.

² Terence McAuliffe deposition, 6/6/97, pp. 98–99.

³ Exhibit 1238: White House Political Coffees.

⁴ Jerome Campane, 9/18/97 Hrg., p. 184.

⁵ Exhibit 1238: White House Political Coffees.

⁶ Senator Levin, 9/18/97 Hrg., p. 227.

⁷ As explained by Richard Sullivan in his deposition and affirmed by him during the hearings: “The coffees weren’t fundraisers per se, they were not, I consider a fundraiser to be a—my general description of a fundraiser is we are holding a dinner at the Hilton Hotel; to have a seat we need to contribute a \$1,000 for a ticket or \$15,000 for a table. We would like your money to be in hand or to have a general commitment. That was not what they were.” Richard Sullivan deposition, 6/4/97, p. 91; Richard Sullivan, 7/9/97 Hrg., p. 82.

⁸ Harold Ickes, 10/8/97 Hrg., pp. 144–145; Harold Ickes deposition, 6/26/97, pp. 64–65.

⁹ Terence McAuliffe deposition, 6/6/97, p. 99.

¹⁰ Richard Sullivan deposition, 6/4/97, pp. 86–89.

¹¹ Jerome Campane, 9/18/97 Hrg., p. 208.

¹² Ann Braziel deposition, 5/13/97, pp. 117, 126; Ari Swiller deposition, 5/6/97, p. 148; Terence McAuliffe deposition, 6/6/97, pp. 98–99.

¹³ Senator Levin, 9/18/97 Hrg., p. 63: “Was one of the reasons that you made these contributions because you believed it might get you access? That is my question.

Mr. Tamraz. Senator, I’m going even further. It’s the only reason to get access . . .”

¹⁴ Referring to Tamraz’s last substantial contribution to the DNC, Minority Chief Counsel asked Tamraz: “[W]hen you made the \$100,000 contribution you knew that you had no expectation at that time of going to an event at the White House, right?” Tamraz replied: “No, but the way I view my relationship with the DNC or the RNC is not one or two years. It’s a life-long relationship.” Roger Tamraz deposition, 5/13/97, p. 139.

¹⁵ FEC records.

¹⁶ Beth Dozoretz, 9/16/97 Hrg., pp. 129–32; Robert Belfer deposition, 9/6/97, pp. 9–10; Karl Jackson, 9/16/97 Hrg., pp. 43–44; Clark Wallace, 9/16/97 Hrg., pp. 127–28.

¹⁷ Jenrette was asked: “Were you asked to contribute a certain amount of money in order to attend this event?” and he responded, “No.” Richard Jenrette, 10/29/97 Hrg., p. 74.

¹⁸ This analysis was based on records of coffee attendees. Duplicate names were counted once. Spouses who attended a coffee were counted separately. All employees of the DNC and White House, including those in the offices of the President and the Vice-President were not counted. Soft money contributions to the DNC from coffee attendees or organizations with which they were affiliated were reviewed.

The Minority found that 1063 different people attended the 103 coffees. This figure includes 537 people at the 60 DNC-sponsored coffees; 422 people at the 32 Political and Community Leaders Coffees; and 104 people at the 11 Clinton sponsored coffees. (At the hearing, the Majority found that 532 individuals attended the 60 DNC-sponsored coffees, a difference of five people compared to the Minority analysis.)

Regarding coffee attendees who did not contribute to the DNC, the Minority found that 41 individuals, or 39 percent, of the Clinton campaign sponsored coffees did not contribute. For the Political and Community Leaders Coffees, the total was 313, or 74 percent who did not contribute to the DNC. For the DNC-sponsored coffees, the total was 112, or 21 percent who did not contribute to the DNC in the 1996 election cycle. Overall, 466 coffee attendees, or 44 percent of the 1,063 total attendees did not appear to have contributed personally or through their organizations to the DNC in the 1996 election cycle. It is possible that coffee attendees may have contributed directly to other Democratic party committees, such as the DCCC or the DSCC, or to President Clinton’s re-election campaign.

The Majority did not do a similar analysis.

¹⁹ Minority Exhibit 2049M describes a DNC-sponsored coffee at the White House that was held on November 9, 1995:

NOVEMBER 19, 1995 DNC-SPONSORED COFFEE AT THE WHITE HOUSE

Contributor	Contributions within one week of Coffee	Total contributions in 1996 election cycle
David F. Babensee	\$0	\$0
Joe Barreto	0	0
Javier Bianco	0	0
Greg Cortes	0	26,000
Maxinne Lausell	0	0
Miguel D. Lausell	100,000	100,000
Fernanco Lloveras	0	0
Richard Machado	0	52,100

²⁰ Harold Ickes, 10/8/97 Hrg., p. 170.

²¹ Karen Hancox deposition, 6/9/97, p. 64.

²² Marvin Rosen deposition, 5/19/97, p. 35; Jacob Aryeh Swiller deposition, 5/6/97, p. 141.

²³ Donald Fowler deposition, 5/21/97, p. 111.

²⁴ Richard Sullivan, 7/9/97 Hrg., p. 86.

²⁵ Jerome Campane, 9/18/97 Hrg., p. 182.

²⁶ See Chapter 24, *supra*.

²⁷ Karl Jackson, 9/16/97 Hrg., p. 11.

²⁸ Beth Dozoretz, 9/16/97 Hrg., p. 119; Robert Belfer deposition, 9/6/97, pp. 77, 81–82. For more information, see Chapter 4 on Huang.

²⁹ 12/13/95 Coffee tape.

³⁰ Harold Ickes, 10/7/97 Hrg., pp. 91–92 (emphasis added).

³¹ Jerome Campane, 9/18/97 Hrg., p. 218.

³² See Chapter 28: Republican Use of Federal Property and Contributor Access.

³³ *New York Times*, 3/2/97; SUP 005303; Exhibit 1229: Overnight Guests in Response to Request, EOP 029074.

³⁴ During testimony to the Committee, Special Agent Campane presented an analysis of 38 persons who stayed overnight from 1993 through 1996. He testified that he did not examine the other 13 overnight guests. He indicated that of the 38 persons he examined, 37 combined to contribute more than \$4 million to the DNC in the 1996 election cycle and 21 of the 38 contributed more than \$880,000 to the DNC within one month of the stay. This chart was based on Exhibit 1229 which identifies 51 individuals and the specific dates on which they stayed overnight at the White House.

Mr. Campane did not attempt to determine whether the contributions were, in fact, linked to the overnight stays or were instead attributed to other events or corporate contributions. He also did not attempt to determine whether any of the persons had personal or professional relationships with the President beyond that of political donors. As Mr. Campane admitted:

Q: So Roy Furman, who appears as a former finance chair of the DNC; Mr. Grossman is the current national chair of the DNC; Mr. Solomont is the current finance chair of the DNC—these are all people who have other relationships with the President than simply giving money; isn't that right? There might be other reasons why he would ask them to stay at the White House.

A: Yes, there may be other relationships other than just giving money.

Jerome Campane, 9/18/97 Hrg., p. 214.

Exhibit 2051M also demonstrates that individuals who stayed overnight at the White House did not contribute solely to the DNC. This chart lists two individuals who stayed overnight at the White House and contributed both to the DNC and the RNC. One of them, Carl H. Lindner, contributed more to the RNC than to the DNC and gave \$35,000 to the RNC and nothing to the DNC within one month of his overnight stay. Campane conceded that he did not analyze if any White House coffee or overnight guests contributed to the RNC. Jerome Campane, 9/18/97 Hrg., p. 215.

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PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE
NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 28: Republican Use of Federal Property and Contributor
Access

In response to claims that practices under the Clinton Administration were “unprecedented,” this Chapter examines how the Republican Party and preceding Republican Administrations have used the White House as a fundraising tool, provided access to elected officials for large contributors, and appointed large contributors to positions within the government.

FINDINGS

(1) In the 1996 election cycle, the Republican Party continued its longstanding practice of raising money by offering, and providing, major contributors with access to top Republican federal officials. These offers of access are central components of Republican donor programs such as Team 100 and the Republican Eagles. They started in the 1970s and continue today.

(2) Federal property has routinely been used by the Republican Party in its fundraising efforts. The RNC has hosted fundraising events on Capitol Hill, at the Bush White House, the Pentagon, and at other federal government locations.

(3) The Bush Administration rewarded major contributors with significant government positions, including ambassadorships.

MAJOR CONTRIBUTOR ACCESS TO ELECTED OFFICIALS

The Republican National Committee’s two principal donor programs are Team 100, which requires “an initial contribution of \$100,000 upon joining, and \$25,000 in the subsequent 3 years,”¹ and the Republican Eagles, which requires members to contribute \$15,000 annually.² To recruit members, the RNC’s promotional materials promised that participants in the Team 100 and Eagles programs would receive special access to high-ranking Republican elected officials, including governors, senators, and representatives.

Republican Eagles

Since its inception, the Republican Eagles program has granted its members special access to top Republican officials. In 1975, the Eagles held their very first meeting in the Roosevelt Room of the White House with President Gerald Ford.³ Eagles’ access to elected officials continued throughout the Reagan Administration. For example, a September 16, 1982, memorandum on White House stationery indicates that, in 1982, President Reagan made a fundraising-related phone call to an RNC event for the Eagles held in an auditorium at the Department of Commerce.⁴ President Reagan’s talking points for this call illustrate the perks provided to the RNC’s largest donors and verify that the President made the phone call from the White House with full knowledge that this particular event was directly related to the RNC’s fundraising efforts on federal property:

Footnotes appear at end of chapter 28.

Hello to all of you high flying Eagles. I am genuinely sorry I couldn't be there in person with you today. Events here at the White House and the trip to New Jersey this afternoon have prevented me from coming over. *But we have the Eagles down to the White House quite often so I will be seeing you soon.*

In the meantime, *I'm sending Secretary Shultz, Secretary Regan and other members of the Cabinet over to keep you abreast of what's going on.* In fact, you will be seeing more of my Cabinet today than I will.

* * * * *

Let me say to you Eagles how important your contributions are to the Republican Party. I know a lot of people must tell you that, but we tell you so often because it is so true. We are so appreciative. You are pillars of the party.⁵ [emphasis added]

It is clear that this reception was designed to reward and encourage RNC donors; that large donors were given special access to members of the President's cabinet; that President Reagan made the call to the event from the White House; and that the RNC fundraising-related event was held on federal property.

The practice of granting access to Eagles members continued throughout the 1996 election cycle. For example, a 1995 Eagles brochure contains photographs of Eagles members meeting with former President George Bush, former Vice President Dan Quayle, Governor Pete Wilson, Senators Connie Mack and Kay Bailey Hutchison, and Mayor Rudolph Giuliani.⁶ The brochure states:

Each year Eagles receive invitations to four national meetings. At least two of these meetings take place in Washington, D.C., and feature strategy and issue committee sessions with prominent elected Party leaders from the U.S. Senate and House on such topics as the budget and tax reform, international trade and regulatory reform, health care and foreign policy. Other participants have included Republican Presidents (*at the White House*), Governors and former Administration officials.⁷ [emphasis added]

On January 24, 1996, Eagles members attended a "legislative update" by Senate Majority Leader Bob Dole and House Speaker Newt Gingrich, a "private pre-Gala cocktail reception" with Republican governors, and "Eagles Issues Discussions" with six senators and eight representatives.⁸

Eagles members were granted access not just to American officials, but to foreign officials as well. The 1995 Eagles brochure explains that "International Trade Missions" are arranged to allow Eagles to meet foreign government and business officials:

Reflecting the unequaled position enjoyed by Republican Eagles, foreign economic and trade missions to Europe and Asia are also periodically scheduled. We have been welcomed enthusiastically by heads of state, such as Premier Li Peng of the People's Republic of China and King Carl XVI Gustaf of Sweden, as well as high-ranking govern-

ment and business officials in London, Paris, Budapest, Vienna, Beijing, Taipei, and Hong Kong.⁹

Membership in the Eagles also entitles contributors to sit on "Eagles Issues Committees" which, according to the Eagles brochure, "provide members the opportunity to communicate their views directly to the elected leadership of the Party and the Congress."¹⁰ The Eagles Issues Committees prepare reports which are "distributed to the leadership of the Republican National Committee, members of the United States Senate and House of Representatives, Republican Governors, the National Policy Forum and the 1996 Republican Platform Committee."¹¹

Team 100

Team 100 membership conferred similar benefits. A 1994 RNC Team 100 brochure promised that RNC contributors who meet the Team 100 \$100,000 threshold contribution level would get meetings with :

Former Presidents Gerald Ford and George Bush, Dan Quayle, Bob Dole, Phil Gramm, Trent Lott, Newt Gingrich, Dick Armey, Lamar Alexander, Richard Lugar, Jack Kemp, Dick Cheney, and other Republican leaders. Past participants include: Connie Mack, Bob Packwood, Alfonse D'Amato, Thad Cochran, Pete Wilson, Bill Paxon, Bill Archer, Susan Molinari.¹²

The RNC also promised Team 100 members:

[E]xclusive missions abroad including meetings in China, Rome, Paris, Moscow, St. Petersburg, Prague, Vienna, Warsaw and Madrid. Team 100's stature enables them to meet with some of the highest ranking government and business officials during these international exchanges.¹³

DNC fundraisers saw this brochure and decided to make a similar brochure to compete with the RNC's fundraising. However, the DNC brochure was never used because the President determined that the written promise of access to large contributors was offensive and should not be published. As DNC Finance Director Richard Sullivan explained in his testimony:

Senator Torricelli. In 1994, were you aware that the Republican National Committee had produced an Eagles and a Team 100 brochure outlining activities, perks, that contributors would have if they gave \$25,000 or other significant sums to the Republican National Committee?

Mr. Sullivan. Yes. Not only in 1994, but over the course of the last 10 years.

Senator Torricelli. And at that point, in fact, the Democratic National Committee had no similar brochure outlining its programs?

Mr. Sullivan. That's correct . . .

Senator Torricelli. And as a result of this, the Democratic National Committee decided to issue a brochure of its own?

Mr. Sullivan. That's correct.

* * * * *

Senator Torricelli. And when Bill Clinton received this Democratic National Committee brochure, which by your own authorship was reduced in its scope and its promises because you found a similar program by the Republican National Committee offensive, Bill Clinton was not pleased with this brochure; is that accurate?

Mr. Sullivan. That's what I understand.

* * * * *

Senator Torricelli. Right. And, in fact, the president ordered that these not be distributed and they be destroyed because he found them offensive.

Mr. Sullivan. That's correct.¹⁴

Although the Democratic Party decided not to use similar promotional material, RNC promotional materials promising access to large contributors were distributed throughout the 1996 election cycle and into the 1998 cycle. For example, on December 15, 1995, RNC Chairman Haley Barbour wrote a letter to Republican members of the Senate Finance Committee that stated:

[T]he RNC's premier fundraising organization, Team 100, will hold its Winter National Meeting on [January 24, 1996]. The members of Team 100 have requested to meet with the Senate Finance Committee. I hope you will plan to participate in this discussion on the budget from 10:00 a.m. to 11:00 a.m. in the Dirksen Senate Office Building, Room 106. You are also invited to attend a luncheon hosted by Speaker Newt Gingrich and Senate Majority Leader Bob Dole following the discussion.¹⁵

The RNC arranged for Team 100 members to meet with Republican senators on the Finance Committee, and with Senator Dole, Speaker Gingrich, Republican presidential candidates, and Republican members of the House Ways and Means Committee on January 24, 1996.¹⁶ Following this meeting, at least one Team 100 member boasted about the access he had bought. In a July 10, 1996, letter to a prospective Team 100 member, John Palmer of Mobile Telecommunication Technologies wrote:

I feel we have a rare opportunity with Haley [Barbour], Trent [Lott], and Thad [Cochran] in the positions they are [in] today.

Ed Lupberger, CEO of Entergy, joined Team 100 earlier this year, and this past Spring, I saw Haley escort him on four appointments that turned out to be very significant in the legislation affecting public utility holding companies. In fact, it made Ed a hero in his industry.

If you have been considering this or if there is a chance you might, I feel it significant to Haley and the Senators if you could do this . . .¹⁷

Other Republican events and meetings for contributors

In addition to Team 100 and the Eagles, the Republican Party sponsored a number of other donor organizations and programs that offered contributors access to top Republican elected officials. During the Reagan and Bush years, the RNC sponsored "President's Dinners," which offered contributors a menu of access that they could buy. For example, a document entitled "Benefits for Tablebuyers and Fundraisers" describes the access that contributors purchased during a Bush Administration President's Dinner. "Tablebuyers" were entitled to:

- "[p]rivate reception hosted by President and Mrs. Bush at the White House" or a "[r]eception hosted by The President's Cabinet."
- "[l]uncheon at the Vice President's Residence hosted by Vice President and Mrs. Quayle"
- "Senate-House Leadership Breakfast hosted by Senator Bob Dole and Congressman Bob Michel"
- "Option to request a Member of the House of Representatives to complete the table of ten. With the purchase of a second table, option to request one Senator or one Senior Administration Official."¹⁸

"Top Fundraisers" got the "[o]pportunity to be seated at a head table with The President or Vice President based on ticket sales."¹⁹ The document did not try to conceal the fact that the Republican Party was rewarding major contributors with access. It concluded by saying, "Benefits based on receipts."²⁰

The Republican Senate Council, which is a fundraising arm of the National Republican Senatorial Committee, offers contributors access to Republican senators. According to a 1993 Senate Council fundraising letter:

The standard membership in the Republican Senate Council is \$5,000 a year and the Policy Board is \$15,000. The standard membership entitles you to monthly meetings while the Senate is in session. Our program generally consists of discussion on current pending legislation with the ranking Republican on the pertinent committee addressing the membership.

The Policy Board level is entitled to all the standard membership benefits in addition to quarterly dining with this smaller group and the Republican Senators. The meetings serve as a virtual one-on-one as the Senators may outnumber the Policy Board members.²¹

The National Republican Congressional Committee ("NRCC") promises contributors to its Congressional Forum and House Council donor programs access to key House Republicans. Congressional Forum membership, which requires a \$15,000 annual contribution for individuals and PACs and a \$25,000 annual contribution for corporations, confers the following benefits:

- "Monthly private dinners with the Chairmen and Republican Members of key Congressional Committees"
- "Private dinner with Speaker Newt Gingrich and the GOP House Leadership"
- "Private dinner with House Committee Chairmen"

- “An invitation to the Chairman’s Skeet and Trap Shoot”
- “VIP preference at House Council and NRCC events.”²²

The Republican House Council, membership in which cost \$5,000 per year for individuals and Political Action Committees (“PACs”) and \$10,000 per year for corporations, offers members:

- Regular briefings with key Republican members and staff who work directly on the discussion topic
- Regular political briefings focusing on national trends and activities crucial to maintaining Republican control of the House in 1996
- Invitations to the NRCC Winter and Summer Meetings. Each two-day event features political and legislative discussions with key House members and keynote addresses by prominent GOP leaders.²³

The RNC also organized ad hoc fundraising events that offered donors access to politicians. At its 1996 Annual Gala, the RNC invited those who had raised or contributed \$250,000 to:

- a private reception and photo opportunity with the Republican presidential candidates;
- lunch and photo opportunity with the Speaker of the House of Representatives Newt Gingrich and Senate Majority Leader Bob Dole;
- a “[p]rivate meeting” with members of selected Senate and House of Representatives Committees; and
- an “[e]xclusive reception with Governor Pete Wilson and Republican Governors in private residence/yacht.”²⁴

The invitation to the 1997 Annual Gala promised those raising \$250,000 similar benefits, including a separate lunch with the “Republican Senate and House Committee Chairmen of your choice.”²⁵

Similarly, on February 9, 1995, the RNC held the “Official 1995 Republican Inaugural.” For \$150,000, contributors were offered:

- a “private reception” and photo opportunity with U.S. Senate and House Leadership;
- an invitation to a “Speaker of the House VIP reception;” and
- breakfast in the U.S. Capitol with Senate Majority Leader Bob Dole and Speaker of the House Newt Gingrich.²⁶

One of the more glaring examples of a Republican sale of access is memorialized in an undated memo from an RNC aide to Tim Barnes, the chairman of Team 100, relating to Ole Nilssen, a contributor Barnes referred to as “hot.” In the memo, the aide informed Barnes, “We are working on getting him an appointment with [Representative] Dick Armey, so we can get his other \$50,000. We had a meeting set up for this week, but Armey canceled his Florida leg of his trip.”²⁷ The implication of the memo is clear—to raise money for the RNC, the Team 100 Chairman would arrange one-on-one meetings with the House Majority Leader.

The RNC arranged for major contributors to gain special access to Senate Majority Leader Bob Dole. In a memo to an RNC fundraiser, Tim Barnes wrote:

Kim White of Mr. Louis Bacon’s office (Moore Capital Management) has been trying to reach Dennis Shea recently with no success. Kim is trying to establish a contact in Senator Dole’s office for Mr. Bacon. As you know, Mr.

Bacon has been very generous to the RNC. If there is any way you can assist, it would be greatly appreciated.²⁸

Also, as shown in Chapter 3, the Republican Party offered Ambrous Young, the Chairman of Young Brothers Development Corporation (“YBD”) access to Speaker Gingrich and Senator Dole as an incentive for YBD’s \$2.1 million loan guarantee to the National Policy Forum (“NPF”). On August 15, 1994, Fred Volcansek, an NPF fundraiser, wrote a memo to Ambrous Young asking that YBD extend NPF a loan guarantee. The memo concludes: “The timing of this effort is crucial. The loan needs to be arranged and funded in the next two weeks. Chairman Barbour, Senator Dole and Congressman Gingrich, who are committed to the NPF, will make themselves available to express their support for your participation on this project.”²⁹ After YBD provided the loan guarantee, Young did meet with and have his photograph taken with Speaker Gingrich and Senator Dole.³⁰ Following the visit, Chairman Barbour wrote to Young, “I am delighted you were able to meet with both Senator Dole and Speaker Gingrich. They were pleased to hear your views on developments in Asia. . . . Your role as a key advisor on Asian policy is essential to both me and the NPF.”³¹

These meetings are not unlike the meetings with Clinton Administration officials arranged by DNC Chairman Donald Fowler that have been publicly criticized by members of both political parties. In fact, the DNC policies and procedures manuals prohibited the DNC staff from arranging meetings with officials on behalf of contributors. But, while members of this Committee were criticizing Fowler for violating DNC policy, the RNC continued to arrange for large contributors to meet with elected officials. On February 27, 1997, Senate Majority Leader Trent Lott sent out a fundraising letter on behalf of the National Republican Senatorial Committee (“NRSC”) promising contributors “plenty of opportunities to share [their] personal ideas and vision with some of our top Republican leaders, senators, and panel members.” Failure to contribute meant that “you could lose a unique chance to be included in current legislative policy debates—debates that will affect your family and your business for many years to come.”³² This year, Senator Mitch McConnell of Kentucky, the leading Republican opponent of campaign-finance reform, sent out an NRSC fundraising letter filled with promises to contributors:

You’ll be invited twice a year to attend high-level Washington policy briefings, receptions and special dinners with my Republican Senate colleagues as well as the top leaders of our Republican Party. These are names you know well . . . Senator Lott and the entire leadership of Senate Chairmen and Subcommittee Chairmen who are driving the national Republican agenda By signing on today, you will also be able to join in our Fall Briefing and attend one of our small dinners hosted by Republican Senators and dignitaries. Over the years, these intimate gatherings have become the hallmark events of our Inner Circle membership.³³

As explained in Chapter 24, it is not illegal to reward contributors with access to politicians. The current laws regulating fund-

raising do not prohibit providing access to elected officials in exchange for contributions, as long as policy decisions are not “sold.” These Republican practices simply demonstrate that both parties provided access to elected officials in exchange for contributions and neither can claim the practices of 1996 were unprecedented or confined to one party.

USE OF FEDERAL PROPERTY FOR FUNDRAISING

A significant amount of public attention has focused on the use of coffees at the White House as a fundraising tool. While the use of the White House and other federal buildings as a fundraising tool has been the subject of significant scrutiny and criticism, it is a longstanding practice that has been exploited by both political parties. Republicans have frequently held fundraising-related events on federal property. These events have occurred in venues such as Capitol Hill and the White House.

The RNC has frequently sponsored events on federal property for its Team 100 and Eagles members. For example, on January 23, 1996, Team 100 sponsored a “Senate/House Leadership Reception” at the Library of Congress.³⁴ A day later, the RNC invited Team 100 members to meetings at the Dirksen Senate Office Building with Republican members of the Senate Finance and House Ways and Means Committees as noted above.³⁵ At the RNC’s February 9, 1995, “Official 1995 Republican Inaugural,” those who contributed \$150,000 were invited to “[b]reakfast in the U.S. Capitol with Senate Majority Leader Bob Dole and Speaker of the House Newt Gingrich.”³⁶

Moreover, as demonstrated by the chronology in the Appendix to this chapter, the Republican Party held numerous fundraising events at the White House during both the Bush and Reagan Administrations. Even though the Minority was not permitted access to the Bush Library or testimony from Bush Administration officials or RNC personnel, the Minority was able to identify multiple events at the Bush and Reagan White Houses for Republican Eagles or Team 100 members that appeared to use the White House as a fundraising tool. The Team 100 brochure used during the 1996 election cycle even predicted, “Team 100 will be entertaining in the White House again in January, 1997.”³⁷

The Minority was also able to obtain videotapes of a number of Reagan White House events in which President Reagan thanked donors for giving money to the Republican Party and asked them for additional contributions:

At a September 30, 1987, White House reception for the Eagles, President Reagan said, “I will campaign hard for the nominee of our party and let me ask you now—I know this is silly, but can I count on you to help?”³⁸

- On April 29, 1987, President Reagan told guests at a White House reception for the President’s Dinner: I want each of you to know how grateful we are for your generous support to our cause. When we get to the dinner, you’ll hear me give credit for all that’s been accomplished . . . I don’t know if I’m jumping the gun or not, but if it’s finally official and the last thing has been tallied, I am expecting tonight that they will tell us that last year we set the record for a political fundrais-

ing event and tonight we're going to break that all-time record.³⁹

- On September 12, 1985, President Reagan told guests at a White House Eagles reception: "Yes, I'm grateful for all you've done in the past, but now that we have the chance, now that we know the American people are with us, join me in leaving America and the world a legacy of prosperity and freedom that future generations will honor and thank us for. Please just don't keep up your tremendous work, redouble your efforts. Make the Eagles even bigger and better than they are now."⁴⁰

- On April 22, 1985, President Reagan remarked to guests at a White House meeting for the Republican Congressional Leadership Council, "Many of you were instrumental in giving us the means to keep control of the Senate. I hope I can count on all of you next time around."⁴¹

- At a May 10, 1984, White House reception for the President's Dinner committee, President Reagan said, "We still have a lot to do and that's why your support in this campaign was so vital. This year, we must keep the White House, retain our majority in the Senate and increase our seats in the House."⁴²

The RNC played a significant role in determining who would attend dinners and other events at the Reagan and Bush White Houses. Judith Spangler, the assistant chief for arrangements at the White House, who has been a White House employee for 18 years, testified that the RNC supplied the names of invitees to White House events during the Reagan and Bush presidencies.⁴³

During the Bush Administration, Republicans also held fundraising events at other federal venues. For example, on August 19, 1992, Secretary of Defense Richard Cheney met at the Pentagon with members of the Presidential Roundtable, a Republican donor program.⁴⁴ That month, the Presidential Roundtable held "[b]riefings and tours of the NASA Center limited to Roundtable members and their guests, hosted by Senators from the Committee on Commerce, Science, and Transportation."⁴⁵ On October 15, 1992, the "House Council," a fundraising arm of the National Republican Congressional Committee, invited members to a luncheon with Vice President Quayle at the "Vice President's House."⁴⁶ In August 1990, Senator Don Nickles, chairman of the Republican "Inner Circle," invited contributors to the Vice President's Mansion. "It's one of the most historic homes in America," the letter began. "And because it's also the home of one of America's most famous families, few individuals decline an invitation to attend an event there." The letter was accompanied by an appeal for money.⁴⁷

These uses of the White House and other federal buildings were not necessarily illegal. The Minority was unable to determine whether there were solicitations or receipts of contributions at these events because the Majority refused to require individuals who would not voluntarily appear for depositions to do so. Hence, we cannot say with certainty whether these events were "fundraisers" or fundraising tools similar to the coffees at the White House organized by the DNC during the 1996 election cycle. However, there is no doubt that these events had a fundraising component; the invitation of contributors to the Bush and Reagan White

Houses was obviously designed to aid fundraising efforts. Indeed, the Majority's summary witness, FBI detailee Jerome Campane, who analyzed the coffees in testimony before the Committee agreed that these Republican events were the same as the coffees—fundraising tools designed to encourage contributions.⁴⁸ He testified:

Q: [L]et me read to you from the Republican Eagles document produced to the Committee. The Bates number is R3188: "Befitting its unequaled stature within our party, exclusive activities are reserved solely for the Republican Eagles. National meetings. Each year, Eagles receive invitations to four national meetings. At least two of these meetings take place in Washington, D.C. and feature strategy sessions with prominent elected party leaders from the U.S. Senate and House. Other participants have included Republican Presidents, Governors and former administration officials." *Would that meet your notion of a fundraising tool?*

A: I speak of it very broadly. So I would—I concede that I would characterize that as a fundraising tool; yes, sir.⁴⁹

POLITICAL APPOINTMENTS AWARDED TO REPUBLICAN CONTRIBUTORS

Republicans have also used political appointments as a fundraising tool. Secretary of Commerce Robert Mosbacher turned this practice into an art form in President George Bush's administration. In 1989, Mosbacher, who had been finance chairman of George Bush's 1988 campaign, complained that not enough campaign fundraisers had been rewarded with political appointments. Mosbacher said that there were "several hundred" fundraisers who deserved appointments to ambassadorships, sub-Cabinet posts, or lower-level jobs on commissions who were being neglected. Mosbacher apparently stated at the time that, "[t]here's this perception in Washington and politics, and to some degree in Government, that fund-raisers and fund-givers are nice, interesting people to be sort of patted on the head when you need them and ignored the rest of the time because they don't really understand the process."⁵⁰ He also reportedly complained that "at least 50 percent" of "those who [had] been helpful" had not received appointments.⁵¹

Mosbacher filled the Commerce Department with appointees whose main credential was that they were major Republican fundraisers or contributors. One of Mosbacher's favorite ways to reward top fundraisers and contributors was to appoint them to the President's Export Council, a quasi-official panel that advised the White House on trade matters. Mosbacher solicited recommendations for appointments to the Export Council from RNC Chairman Lee Atwater and Team 100 Chairman Alec Courtelis.⁵² Six of President Bush's appointees to the Council were Team 100 members.⁵³ Mosbacher also appointed four Team 100 members to the Industry Policy Advisory Committee for Trade Policy Matters, which advised the Commerce Department and the U.S. trade representative.⁵⁴

The Bush Administration also appears to have rewarded major contributors with ambassadorships. President Bush nominated for ambassadorships 11 people who had each given the Republican Party over \$100,000.⁵⁵ Three of these eleven were rated "unquali-

fied” by the American Academy of Diplomacy, a nonpartisan organization of former senior diplomats, including all living former secretaries of state.⁵⁶ The Bush nomination for the ambassador to Australia was particularly egregious. The nominee admitted that he and his wife had “never even been to Australia. When the president told me he had Australia in mind for me, at first I thought he meant Austria.”⁵⁷ The Bush nominee to be ambassador to Barbados and seven other Caribbean nations, whom the Senate refused to confirm, was even less qualified. That nominee had no foreign-policy experience, no college degree, and no job history. She told the Senate that her most recent employment was helping her husband “by planning and hosting corporate functions.”⁵⁸

One Bush appointee candidly admitted that his fundraising was key to getting his appointment. In 1989, George Bush’s nominee to head the United States Information Agency reportedly conceded that were it not for the fact that he had helped raise \$3 million for Bush’s campaign, he might “have been selected to be dog catcher.”⁵⁹

CONCLUSION

For years, the Republican Party has rewarded campaign contributors with appointments and with access to top Republican politicians and used federal property for fundraising and campaign-related activities. The Republicans have continued these practices at the same time that they have criticized the Democratic Party for its fundraising practices and adamantly opposed Democratic efforts to reform the campaign finance system.

FOOTNOTES

¹ Republican National Finance Committee Summary of Programs, p. 1, R 003169–70.

² Republican National Finance Committee Summary of Programs, p. 2, R 003169–70.

³ 1995 Republican Eagles Manual, p. 3, R 000848–69.

⁴ Memorandum from A. Morgan Mason to Michael K. Deaver, 9/16/82; Presidential Talking Points: Phone Call to Eagles Meeting, 9/17/82 (emphasis added).

⁵ Presidential Talking Points: Phone Call to Eagles Meeting, 9/17/82 (emphasis added).

⁶ 1995 Republican Eagles Manual, pp. 6–14, R 000848–69.

⁷ 1995 Republican Eagles Manual, p. 16, R 000848–69 (emphasis added).

⁸ Republican Eagles 1996 Annual Gala Agenda, R 00386–89. The participants were Senators Pete Domenici, Nancy Kassebaum, Dan Coats, John McCain, Richard Lugar, and Kit Bond, and Congressmen John Kasich, John Boehner, Roger Wicker, Benjamin Gilman, Larry Combest, Jan Meyers, and Robert Walker.

⁹ 1995 Republican Eagles Manual, p. 17, R 000848–69.

¹⁰ 1995 Republican Eagles Manual, p. 6, R 000848–69.

¹¹ 1995 Republican Eagles Manual, p. 6, R 000848–69.

¹² 1994 Team 100 Brochure, CGRO–2112–27.

¹³ 1994 Team 100 Brochure, CGRO–2112–27.

¹⁴ Richard Sullivan, 7/9/97 Hrg. Pp. 110–11.

¹⁵ Letter from Haley Barbour to Bob Dole, 12/15/96, R 048192.

¹⁶ Team 100 Gala Speakers Agenda, R 003195–97.

¹⁷ Letter from John N. Palmer (addressee redacted), 7/10/96, R 015772.

¹⁸ Benefits for Tablebuyers and Fundraisers for the President’s Dinner.

¹⁹ Benefits for Tablebuyers and Fundraisers for the President’s Dinner.

²⁰ Benefits for Tablebuyers and Fundraisers for the President’s Dinner.

²¹ Letter from Senator Christopher Bond, Vice Chairman, NRSC, 7/1/93.

²² Congressional Forum and House Council Announcement.

²³ Congressional Forum and House Council Announcement.

²⁴ 1996 RNC Annual Gala: Benefits for Gala Leadership, R 003186–89.

²⁵ 1997 RNC Annual Gala, 5/13/97.

²⁶ Tentative Structure and Benefits for the Official 1995 Republican Inaugural, R 003161.

²⁷ Memorandum from Kevin Kellum to Tim Barnes and Kelley Goodsell, R 003152.

²⁸ Memorandum from Tim Barnes to Royal Roth, 3/2/95, R 15029.

²⁹ Exhibit 278M: National Policy Forum Proposal for Ambrous Young.

³⁰ Ambrous Young deposition, 6/24/97, pp. 50–51, 71.

³¹ Letter to Ambrous Young from Haley Barbour, January 31, 1995, NPF 000199.

- ³² *Associated Press*, 3/11/97.
- ³³ *Fort Worth Star Telegram*, 9/21/97.
- ³⁴ Team 100 Gala Speakers Agenda, R 3195–97.
- ³⁵ Team 100 Gala Speakers Agenda, R 3195–97.
- ³⁶ Tentative Structure and Benefits for the Official 1995 Republican Inaugural, R 3161.
- ³⁷ 1995 Team 100 Brochure, Membership Benefits Section.
- ³⁸ Videotape of 9/30/87 Reception for the Republican Eagles.
- ³⁹ Videotape of 4/29/87 Reception for President's Dinner.
- ⁴⁰ Videotape of 9/12/85 Reception for the Republican Eagles.
- ⁴¹ Videotape of 4/22/85 Meeting for the Republican Congressional Leadership Council.
- ⁴² Videotape of 5/10/84 Reception for President's Dinner Committee.
- ⁴³ Deposition of Judith Spangler, 5/9/97, pp. 39–40.
- ⁴⁴ 1997–98 Republican Presidential Roundtable Membership Prospectus.
- ⁴⁵ 1997–98 Republican Presidential Roundtable Membership Prospectus.
- ⁴⁶ Memorandum from Guy Vander Jagt to Members of the House Council, 10/9/92.
- ⁴⁷ Letter from Senator Don Nickles to Inner Circle Nominee, 8/31/90; *Fort Worth Star Telegram*, 9/21/97.
- ⁴⁸ Jerry Campana, 9/18/97 Hrg., p. 225.
- ⁴⁹ Jerry Campana, 9/18/97 Hrg., p. 217.
- ⁵⁰ *New York Times*, 2/20/89.
- ⁵¹ *New York Times*, 2/20/89.
- ⁵² Common Cause Report, 4/92.
- ⁵³ *Houston Chronicle*, 8/21/92; Common Cause Report, 4/92.
- ⁵⁴ Common Cause Report, 4/92.
- ⁵⁵ *Los Angeles Times*, 7/6/92.
- ⁵⁶ *Seattle Times*, 5/26/92.
- ⁵⁷ *St. Petersburg Times*, 4/26/92.
- ⁵⁸ *Newsday*, 11/9/92.
- ⁵⁹ *New York Times*, 2/20/89.

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Offset Folios 1775 to 1850 insert here