FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1624

Date Filmed 5/10/84 Camera No. --- 2

Cameraman JRL

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FEDERAL ELECTION COMMISSION

Routing slips, 12 Day Report/Comment sheet
RAD update RFAI,

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

___	(1) Classified Information	___	(6) Personal privacy
✓	(2) Internal rules and practices	___	(7) Investigatory files
___	(3) Exempted by other statute	___	(8) Banking Information
___	(4) Trade secrets and commercial or financial information	___	(9) Well Information (geographic or geophysical)
✓	(5) Internal Documents		

Signed Deborah Curry

date 5-4-84

FEC 9-21-77

DC
5-4-84

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee, and its treasurer, Leif E. Noren	)	MUR 1624
Reagan/Bush '84 and its treasurer, Angela M. Buchanan and Ronald Reagan	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission executive session on April 3, 1984, do hereby certify that the Commission decided by a vote of 4-0 to take the following actions in MUR 1624:

1. Find no reason to believe that National Conservative Political Action Committee and its treasurer, Leif E. Noren, violated 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

2. Find no reason to believe Reagan/Bush '84 and its treasurer, Angela M. Buchanan violated 2 U.S.C §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe Ronald Reagan violated 2 U.S.C. §§ 441a of the Federal Election Campaign Act of 1971, as amended.

4. Approve the letters attached to the General Counsel's report dated March 21, 1984.

5. Close the file.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Harris and Reiche were not present at the time of the vote.

Attest:

4-4-84
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 6, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam & Herge
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22102

RE: MUR 1624
National Conservative
Political Action Committee

Dear Mr. Herge:

On February 1, 1984, the Commission notified your client National Conservative Political Action Committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on April 3, 1984, determined that on the basis of the information in the complaint and information provided by your client there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 6, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tony Coelho
Democratic Congressional Campaign Committee
400 North Capitol Street, N.W
Suite 319
Washington, D.C. 20001

Re: MUR 1624

Dear Mr. Coelho:

The Federal Election Commission has reviewed the allegations of your complaint dated January 30, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

8404045370 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 6, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald E. Robertson
Reagan/Bush '84
440 First Street, N.W.
Washington, D.C. 20001

RE: MUR 1624
Ronald Reagan and
Reagan/Bush

Dear Mr. Robertson:

On February 1, 1984, the Commission notified your clients Ronald Reagan and Reagan/Bush of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on April 3, 1984, determined that on the basis of the information in the complaint and information provided by your clients there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAR 21 A10: 33

FEDERAL ELECTION COMMISSION
1325 K Street, NW
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 3/21/84 10:25

MUR 1624
DATE COMPLAINT REC'D BY OGC 1-31-84
DATE OF NOTIFICATION TO RESPONDENT 2-1-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Democratic Congressional Campaign Committee

RESPONDENTS' NAMES: National Conservative Political Action Committee, and its treasurer, Leif E. Noren; Reagan/Bush '84 and its treasurer Angela M. Buchanan and Ronald Reagan

RELEVANT STATUTE: 2 U.S.C. §§ 431(8)(9), and 17; 434; 441a(a)(2); and 441a(a)(7)(B)(i)

INTERNAL REPORTS CHECKED: NCPAC

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATIONS

On January 31, 1984, Tony Coelho, on behalf of the Democratic Congressional Campaign Committee, (hereinafter "Complainant") submitted to the Commission a signed, sworn and notarized complaint (See Attachment 1 pages 1-56 of attachments) alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the National Conservative Political Action Committee (hereinafter "NCPAC")1/, Reagan/Bush '84 2/ and Ronald Reagan.

1/ NCPAC is registered with the Commission as a muticandidate committee. It is organized to support or oppose candidates seeking nomination or election to Federal Office.

2/ Reagan/Bush '84 is the principal campaign committee for the re-election of President Ronald Reagan.

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Complainant charges that expenditures made by NCPAC on behalf of Ronald Reagan's 1984 presidential campaign are not independent and therefore should be considered as in-kind contributions. Thus, Complainant alleges that NCPAC violated 2 U.S.C. § 441a by making excessive contributions to Reagan/Bush '84 and Ronald Reagan and that Reagan/Bush '84 and Ronald Reagan violated 2 U.S.C. § 441a by accepting these excessive contributions. Additionally, Complainant alleges that NCPAC and Reagan/Bush '84 have violated 2 U.S.C. § 434 by failing to report the making or receiving of these excessive contributions. Moreover, Complainant alleges that the non-independence of the independent expenditures precludes NCPAC from making independent expenditures on behalf of Ronald Reagan in the future.

On February 17, 1984, NCPAC submitted a response to the complaint (See Attachments 2 pages 57-62 of attachments). Reagan/Bush '84 and Ronald Reagan asked for and were granted an extension of time in which to answer the complaint. Reagan/Bush '84 and Ronald Reagan submitted their response on February 27, 1984 (See Attachment 3 pages 63-87 of attachments).

On March 1, 1984, Complainant submitted an additional letter to the Commission. (See Attachment 4 pages 88-89 of attachments.)

FACTUAL AND LEGAL ANALYSIS

Complainant alleges that the continuous and ongoing contacts between NCPAC and Reagan/Bush '84 and Ronald Reagan have tainted

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NCPAC's efforts to make independent expenditures on behalf of Ronald Reagan's 1984 presidential campaign. Complainant alleges that "NCPAC has violated, and plans to continue violating the [Act] by making contributions in excess of the limitations to Reagan/Bush '84 and Ronald Reagan, and Reagan/Bush and Ronald Reagan have violated, and will continue to violate, the [Act] by accepting these excessive contributions" (See Attachment 1 pages 1-2 of attachments). Complainant alleges that these violations result from so called "independent" expenditures by NCPAC which in fact are made in cooperation and consultation with Reagan/Bush and Ronald Reagan. Additionally, Complainant alleges that the committees (NCPAC and Reagan/Bush '84) have violated the Act by failing to report the making or receiving of excessive contributions in violation of 2 U.S.C. § 434.

These claims rest upon two assertions. First, that individuals associated with NCPAC have met with members of President Reagan's Administration. Second, that President Reagan participated with NCPAC in making a film entitled "Ronald Reagan's America." Therefore, Complainant contends that the ability of NCPAC to make independent expenditures has been compromised.

The issue in this case is whether or not expenditures made, or to be made, by NCPAC on behalf of Reagan are independent, that is, are the expenditures being made with the cooperation or with the prior consent of or in consultation with or at the request or suggestion of the candidate or any agent or authorized committee of the candidate. Disposition of this issue is pivotal to a

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determination of the issues of possible excessive in-kind contributions and reporting requirements under the Act.

The term "independent expenditure" is defined both at 2 U.S.C. § 431(17) and 11 C.F.R. § 109.1. Specifically:

> "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is <u>not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate</u>. 11 C.F.R. § 109.1(a)

The term "agent" is defined at 11 C.F.R. § 109.1(b)(5), as follows:

> "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

With regard to contributions, the Act and Commission regulations define the term to mean any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8) and 11 C.F.R. § 100.7(a)(1).

Contributions to candidates whether made in monetary form or in-kind are subject to limitation under 2 U.S.C. § 441a(a). Moreover, under § 441a(a)(7)(B)(i), expenditures by any person in cooperation, consultation, or concert with a candidate are

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considered contributions to that candidate. Accordingly, NCPAC as a multicandidate committee would be subject to the $5,000 contribution limitation of 2 U.S.C. § 441a(a)(2).

A. General Contacts between NCPAC, Reagan and Reagan/Bush '84

Complainant alleges that contacts between NCPAC have been frequent and open. To support this allegation Complainant attaches to the complaint a "Joint Stipulation of Fact" (hereinafter "Joint Stipulation") submitted to the United States Court of Appeals for the Third Circuit by NCPAC, the Fund for a Conservative Majority, the Democratic National Committee and the FEC, in Democratic Party of the United State, et al. v. National Conservative Political Action Committee, et al. (Civil Action No. 83-2329). Complainant contends that NCPAC in the Joint Stipulation makes admissions of regular meetings with the Reagan administration and its political representatives. (See Attachment 1 pages 7-10 of attachments) In brief, the meetings relied upon in the complaint are as follows:

1) A meeting between Secretary of Agriculture, John Block, and NCPAC contributors on July 22, 1982.

2) A meeting between then Secretary of Health and Human Services, Richard Schweiker, and NCPAC contributors on September 14, 1982.

3) A meeting between then Secretary of Transportation, Drew Lewis, and NCPAC contributors on September 14, 1982.

4) A meeting between then Secretary of Interior, James Watt, and NCPAC contributors on a date uncertain.

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5) A meeting between then Secretary of Energy, James Edwards, and NCPAC contributors on a date uncertain.

6) A meeting between President Reagan and NCPAC contributors held in February 1983, and arranged by James Baker at the request of Terry Dolan.

7) A meeting between Richard Richards, Chairman of the Republican National Committee; John T. Dolan, Chairman of NCPAC; Richard Viguerie, President of the Viguerie Company; Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress; Howard Phillips, Chairman of the Conservative Caucus; Thomas F. Ellis, Chairman of the Congressional Club; Phyllis Schlafly of Eagle Forum; Ronald Godwin of Moral Majority; Robert Richardson of Gun Owners of America; and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. The reported purpose of this meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. The meeting was supposedly set up by Lyn Nofziger.

8) Communications between Edward Rollins, then an employee of the White House Office of Political Affairs, and NCPAC with regard to 1982 Congressional campaigns.

It is the opinion of the Office of General Counsel that the evidence presented does not establish the requisite cooperation, consent or consultation that would destroy independence of the

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NCPAC expenditures. Based on the evidence submitted by Complainant, the necessary elements of coordination, cooperation, consultation, or consent, such that would taint future NCPAC expenditures, appear to be lacking.

There is no showing by the Complainant that substantive political discussions took place at these meetings, or that campaign contributions were sought, or that future NCPAC campaign activities and/or expenditure programs were discussed or coordinated with President Reagan or anyone associated with Reagan/Bush '84 (See Attachment 3 pages 79-80 of attachments). Also there is no evidence that President Reagan as a candidate or any authorized agent of his as defined by 11 C.F.R. § 109.1(b)(5) attended these meetings. In fact, as Respondent Reagan/Bush '84 notes, Ronald Reagan did not become a candidate for purposes of the Act until at the earliest October 7, 1983.3/ All of the alleged meetings took place prior to this date. In fact most of the alleged meetings took place in 1982 (See Attachment 3 pages 71-75 of attachments). Finally, as noted by Respondents, the Joint Stipulation signed by NCPAC and relied upon by the Complainant admitted "only that certain stories exist in print" and were "not admissions of the truth or accuracy of these stories" (See Attachment 1 Joint Stipulation of Fact pages 14-52 of attachments and Attachment 2 page 58 of attachments).

3/ Ronald Reagan filed a statement of candidacy with the Commission on October 17, 1983. Mr. Reagan announced his candidacy on January 29, 1984.

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In short, the timing of the meetings prior to the 1984 Presidential campaign and the paucity of support for substantive political discussion does not support Complainant's contention that expenditures made by NCPAC are not independent.

B. Film: Ronald Reagan's America

Complainant states that in 1983 NCPAC produced a film "extolling the virtues of Ronald Reagan's presidency and appealing for his re-election" (See Attachment 1 pages 10-11 of attachments). Complainant contends that the production of the film, "Ronald Reagan's America," is direct evidence of cooperation and consultation between NCPAC, Reagan/Bush '84 and Ronald Reagan. This assertion is based upon the fact that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. (See Attachment 1 page 10 of attachments).

According to Complainant the film lauds Reagan's achievements while it attacks Democratic Party opposition to Mr. Reagan and his policies[4/] (See Attachment 1 page 10 of attachments).

4/ Complainant also states relying on the Joint Stipulation of Fact, that after viewing the film Reagan called John T. Dolan to congratulate him on it (See Attachment 1 pages 9 and 26 of attachments). However, that same press report indicates that nothing substantive took place because Mr. Dolan informed the President, after thanking him, that the White House lawyers did not want them discussing what NCPAC was doing.

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The response of NCPAC states that the film footage at the beginning and end of "Ronald Reagan's America was excerpted from a video recording of a televised address (See Attachment 2 pages 59-61 of attachments). Attached to that response is a letter from Mark Barnes, President of Political Advertising & Consulting, Inc., the entity which produced the film. (See Attachment 2 page 62 of attachments). Mr. Mark Barnes confirms the source of the footage in question and states that the video recording is currently in the library of Political Advertising & Consulting, Inc. Likewise, Reagan/Bush '84 also states that the sources of the footage are from the nationally televised 1982 State of the Union Message and a speech by Mr. Reagan entitled "A Vision for America" televised nationally on November 3, 1980 (See Attachment 3 pages 67-68 of attachments). Therefore, both Respondents assert that the film in question was not made with the cooperation, consent or consultation with nor at the request or suggestion of Ronald Reagan.5/

Again, the requisite elements of cooperation and coordination appear to be missing. The film "Ronald Reagan's America" and footage therein was produced and aired prior to the candidacy of Ronald Reagan. Moreover, the footage in question was aired over national television providing an avenue for it to

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5/ Reagan/Bush '84 also asserts in its response that the film does not expressly advocate the election or defeat of a candidate for a Federal election and therefore no independent expending has occurred.

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be videotaped by the general public.

Complainant learned through the press channels that NCPAC and the vendor of Reagan film footage would claim that the footage was purchased by NCPAC. Therefore, on March 1, 1984, Complainant submitted a letter arguing that the complaint should not fail, even though the footage of Reagan was not made for the NCPAC film, "Reagan's America" See Attachment 4 pages of 88-89 of attachments). Complainant states that:

> whether NCPAC purchased the film footage is only marginally relevant to the central issue of [the] complaint. Instead, the question is whether any agent of President Reagan, his administration, or organ of the Republican Party such as the Republican National Committee, approved NCPAC's purchase of this film footage (See Attachment 4 pages 88-89 of attachments).

The response of Reagan/Bush '84 and the affidavit of Edward J. Rollins, attached thereto addresses this very issue (See Attachment 3 pages 68 and 84 of attachments). Edward J. Rollins states that from January 20, 1982, to October 17, 1983, he served as the Assistant to the President for Political Affairs and that any request for film footage of the President would have been processed through his office. Mr. Rollins then affirms that:

1) neither President Reagan nor any of his agents assisted, counselled, cooperated or communicated with NCPAC in anyway in the production and/or distribution of the film "Ronald Reagan's America"; 2) footage used in the film by NCPAC was

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not prepared by anyone on the White House Staff; and 3) neither the President nor any of his agents suggested that the film be produced and/or transmitted and/or made available any film footage to NCPAC for any purpose (See Attachment 3 page 84 of attachments).

- In short, the lack of any evidence that President Reagan or Reagan/Bush '84 participated in the production of the film or consented to use of the film does not support Complainants contention that expenditures made by NCPAC are not indpendent.

CONCLUSION

It is the opinion of the Office of General Counsel, that at this time, the facts alleged by Complainant does not establish the requisite cooperation, coordination and consent needed to destroy the independence of NCPAC expenditures which have been made and which may be made in the future. Therefore, there is no resulting in-kind contributions. Consequently, the Office of General Counsel recommends that the Commission find no reason to believe that NCPAC or Reagan/Bush '84 violated 2 U.S.C. §§ 441a and 434 or that Ronald Reagan violated 2 U.S.C. § 441a.

RECOMMENDATION

1. Find no reason to believe that National Conservative Political Action Committee and its treasurer, Leif E. Noren, 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

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2. Find no reason to believe Reagan/Bush '84 and its treasurer Angela M. Buchanan violated 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe Ronald Reagan violated 2 U.S.C. §§ 441a of the Federal Election Campaign Act of 1971, as amended.

4. Approve attached letters.

5. Close the file.

3/20/84
Date

Charles N. Steele
General Counsel

Kenneth A. Gross (by LF)
By: Kenneth A. Gross
Associate General Counsel

Attachments
1. Complaint (pages 1-56)
2. NCPAC Response (pages 57-62)
3. Ronald Reagan and Reagan/Bush Response (pages 63-87)
4. Addendum to Complaint (pages 88-89)
5. Letters to Respondents (pages 90-91)
6. Letter to Complainant (page 92)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald E. Robertson
Reagan/Bush '84
440 First Street, N.W.
Washington, D.C. 20001

D.C.

RE: MUR 1624
Ronald Reagan and
Reagan/Bush

Dear Mr. Robertson:

On February 1, 1984, the Commission notified your clients Ronald Reagan and Reagan/Bush of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on April 3, 1984, determined that on the basis of the information in the complaint and information provided by your clients there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tony Coelho
Democratic Congressional Campaign Committee
400 North Capitol Street, N.W
Suite 319
Washington, D.C. 20001

D.C.

Re: MUR 1624

Dear Mr. Coelho:

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam & Herge
Suite 1100
8300 Greensboro Drive
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D.C.

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Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel

DATE: March 21, 1984

SUBJECT: MUR 1624 - First General Counsel's Report

The attached is submitted as an Agenda document for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS		DISTRIBUTION	
48 Hour Tally Vote	[X]	Compliance	[X]
Sensitive	[X]		
Non-Sensitive	[ ]	Audit Matters	[ ]
24 Hour No Objection	[ ]	Litigation	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Closed MUR Letters	[ ]
Information	[ ]	Status Sheets	[ ]
Sensitive	[ ]		
Non-Sensitive	[ ]	Advisory Opinions	[ ]
Other	[ ]	Other (see distribution below)	[ ]

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

84 MAR 21 AM 9: 33

FEDERAL ELECTION COMMISSION
1325 K Street, NW
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 3/21/84 10:25

MUR 1624
DATE COMPLAINT REC'D BY OGC 1-31-84
DATE OF NOTIFICATION TO RESPONDENT 2-1-84
STAFF MEMBER: Deborah Curry

COMPLAINANT'S NAME: Democratic Congressional Campaign Committee

RESPONDENTS' NAMES: National Conservative Political Action Committee, and its treasurer, Leif E. Noren; Reagan/Bush '84 and its treasurer Angela M. Buchanan and Ronald Reagan

RELEVANT STATUTE: 2 U.S.C. §§ 431(8)(9), and 17; 434; 441a(a)(2); and 441a(a)(7)(B)(i)

INTERNAL REPORTS CHECKED: NCPAC

FEDERAL AGENCIES CHECKED: None

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SUMMARY OF ALLEGATIONS

On January 31, 1984, Tony Coelho, on behalf of the Democratic Congressional Campaign Committee, (hereinafter "Complainant") submitted to the Commission a signed, sworn and notarized complaint (See Attachment 1 pages 1-56 of attachments) alleging violations of the Federal Election Campaign Act of 1971, as amended (hereinafter the "Act") by the National Conservative Political Action Committee (hereinafter "NCPAC")1/, Reagan/Bush '842/ and Ronald Reagan.

1/ NCPAC is registered with the Commission as a muticandidate committee. It is organized to support or oppose candidates seeking nomination or election to Federal Office.

2/ Reagan/Bush '84 is the principal campaign committee for the re-election of President Ronald Reagan.

Complainant charges that expenditures made by NCPAC on behalf of Ronald Reagan's 1984 presidential campaign are not independent and therefore should be considered as in-kind contributions. Thus, Complainant alleges that NCPAC violated 2 U.S.C. § 441a by making excessive contributions to Reagan/Bush '84 and Ronald Reagan and that Reagan/Bush '84 and Ronald Reagan violated 2 U.S.C. § 441a by accepting these excessive contributions. Additionally, Complainant alleges that NCPAC and Reagan/Bush '84 have violated 2 U.S.C. § 434 by failing to report the making or receiving of these excessive contributions. Moreover, Complainant alleges that the non-independence of the independent expenditures precludes NCPAC from making independent expenditures on behalf of Ronald Reagan in the future.

On February 17, 1984, NCPAC submitted a response to the complaint (See Attachments 2 pages 57-62 of attachments). Reagan/Bush '84 and Ronald Reagan asked for and were granted an extension of time in which to answer the complaint. Reagan/Bush '84 and Ronald Reagan submitted their response on February 27, 1984 (See Attachment 3 pages 63-87 of attachments).

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These claims rest upon two assertions. First, that individuals associated with NCPAC have met with members of President Reagan's Administration. Second, that President Reagan participated with NCPAC in making a film entitled "Ronald Reagan's America." Therefore, Complainant contends that the ability of NCPAC to make independent expenditures has been compromised.

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> "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. 11 C.F.R. § 109.1(a)

The term "agent" is defined at 11 C.F.R. § 109.1(b)(5), as follows:

> "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

With regard to contributions, the Act and Commission regulations define the term to mean any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8) and 11 C.F.R. § 100.7(a)(1).

Contributions to candidates whether made in monetary form or in-kind are subject to limitation under 2 U.S.C. § 441a(a). Moreover, under § 441a(a)(7)(B)(i), expenditures by any person in cooperation, consultation, or concert with a candidate are

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considered contributions to that candidate. Accordingly, NCPAC as a multicandidate committee would be subject to the $5,000 contribution limitation of 2 U.S.C. § 441a(a)(2).

A. General Contacts between NCPAC, Reagan and Reagan/Bush '84

Complainant alleges that contacts between NCPAC have been frequent and open. To support this allegation Complainant attaches to the complaint a "Joint Stipulation of Fact" (hereinafter "Joint Stipulation") submitted to the United States Court of Appeals for the Third Circuit by NCPAC, the Fund for a Conservative Majority, the Democratic National Committee and the FEC, in Democratic Party of the United State, et al. v. National Conservative Political Action Committee, et al. (Civil Action No. 83-2329). Complainant contends that NCPAC in the Joint Stipulation makes admissions of regular meetings with the Reagan administration and its political representatives. (See Attachment 1 pages 7-10 of attachments) In brief, the meetings relied upon in the complaint are as follows:

1) A meeting between Secretary of Agriculture, John Block, and NCPAC contributors on July 22, 1982.

2) A meeting between then Secretary of Health and Human Services, Richard Schweiker, and NCPAC contributors on September 14, 1982.

3) A meeting between then Secretary of Transportation, Drew Lewis, and NCPAC contributors on September 14, 1982.

4) A meeting between then Secretary of Interior, James Watt, and NCPAC contributors on a date uncertain.

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5) A meeting between then Secretary of Energy, James Edwards, and NCPAC contributors on a date uncertain.

6) A meeting between President Reagan and NCPAC contributors held in February 1983, and arranged by James Baker at the request of Terry Dolan.

7) A meeting between Richard Richards, Chairman of the Republican National Committee; John T. Dolan, Chairman of NCPAC; Richard Viguerie, President of the Viguerie Company; Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress; Howard Phillips, Chairman of the Conservative Caucus; Thomas F. Ellis, Chairman of the Congressional Club; Phyllis Schlafly of Eagle Forum; Ronald Godwin of Moral Majority; Robert Richardson of Gun Owners of America; and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. The reported purpose of this meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. The meeting was supposedly set up by Lyn Nofziger.

8) Communications between Edward Rollins, then an employee of the White House Office of Political Affairs, and NCPAC with regard to 1982 Congressional campaigns.

It is the opinion of the Office of General Counsel that the evidence presented does not establish the requisite cooperation, consent or consultation that would destroy independence of the

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NCPAC expenditures. Based on the evidence submitted by Complainant, the necessary elements of coordination, cooperation, consultation, or consent, such that would taint future NCPAC expenditures, appear to be lacking.

There is no showing by the Complainant that substantive political discussions took place at these meetings, or that campaign contributions were sought, or that future NCPAC campaign activities and/or expenditure programs were discussed or coordinated with President Reagan or anyone associated with Reagan/Bush '84 (See Attachment 3 pages 79-80 of attachments). Also there is no evidence that President Reagan as a candidate or any authorized agent of his as defined by 11 C.F.R. § 109.1(b)(5) attended these meetings. In fact, as Respondent Reagan/Bush '84 notes, Ronald Reagan did not become a candidate for purposes of the Act until at the earliest October 7, 1983.3/ All of the alleged meetings took place prior to this date. In fact most of the alleged meetings took place in 1982 (See Attachment 3 pages 71-75 of attachments). Finally, as noted by Respondents, the Joint Stipulation signed by NCPAC and relied upon by the Complainant admitted "only that certain stories exist in print" and were "not admissions of the truth or accuracy of these stories" (See Attachment 1 Joint Stipulation of Fact pages 14-52 of attachments and Attachment 2 page 58 of attachments).

3/ Ronald Reagan filed a statement of candidacy with the Commission on October 17, 1983. Mr. Reagan announced his candidacy on January 29, 1984.

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In short, the timing of the meetings prior to the 1984 Presidential campaign and the paucity of support for substantive political discussion does not support Complainant's contention that expenditures made by NCPAC are not independent.

B. Film: Ronald Reagan's America

Complainant states that in 1983 NCPAC produced a film "extolling the virtues of Ronald Reagan's presidency and appealing for his re-election" (See Attachment 1 pages 10-11 of attachments). Complainant contends that the production of the film, "Ronald Reagan's America," is direct evidence of cooperation and consultation between NCPAC, Reagan/Bush '84 and Ronald Reagan. This assertion is based upon the fact that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. (See Attachment 1 page 10 of attachments).

According to Complainant the film lauds Reagan's achievements while it attacks Democratic Party opposition to Mr. Reagan and his policies[4/] (See Attachment 1 page 10 of attachments).

4/ Complainant also states relying on the Joint Stipulation of Fact, that after viewing the film Reagan called John T. Dolan to congratulate him on it (See Attachment 1 pages 9 and 26 of attachments). However, that same press report indicates that nothing substantive took place because Mr. Dolan informed the President, after thanking him, that the White House lawyers did not want them discussing what NCPAC was doing.

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The response of NCPAC states that the film footage at the beginning and end of "Ronald Reagan's America was excerpted from a video recording of a televised address (See Attachment 2 pages 59-61 of attachments). Attached to that response is a letter from Mark Barnes, President of Political Advertising & Consulting, Inc., the entity which produced the film. (See Attachment 2 page 62 of attachments). Mr. Mark Barnes confirms the source of the footage in question and states that the video recording is currently in the library of Political Advertising & Consulting, Inc. Likewise, Reagan/Bush '84 also states that the sources of the footage are from the nationally televised 1982 State of the Union Message and a speech by Mr. Reagan entitled "A Vision for America" televised nationally on November 3, 1980 (See Attachment 3 pages 67-68 of attachments). Therefore, both Respondents assert that the film in question was not made with the cooperation, consent or consultation with nor at the request or suggestion of Ronald Reagan.5/

Again, the requisite elements of cooperation and coordination appear to be missing. The film "Ronald Reagan's America" and footage therein was produced and aired prior to the candidacy of Ronald Reagan. Moreover, the footage in question was aired over national television providing an avenue for it to

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5/ Reagan/Bush '84 also asserts in its response that the film does not expressly advocate the election or defeat of a candidate for a Federal election and therefore no independent expending has occurred.

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be videotaped by the general public.

Complainant learned through the press channels that NCPAC and the vendor of Reagan film footage would claim that the footage was purchased by NCPAC. Therefore, on March 1, 1984, Complainant submitted a letter arguing that the complaint should not fail, even though the footage of Reagan was not made for the NCPAC film, "Reagan's America" See Attachment 4 pages of 88-89 of attachments). Complainant states that:

> whether NCPAC purchased the film footage is only marginally relevant to the central issue of [the] complaint. Instead, the question is whether any agent of President Reagan, his administration, or organ of the Republican Party such as the Republican National Committee, approved NCPAC's purchase of this film footage (See Attachment 4 pages 88-89 of attachments).

The response of Reagan/Bush '84 and the affidavit of Edward J. Rollins, attached thereto addresses this very issue (See Attachment 3 pages 68 and 84 of attachments). Edward J. Rollins states that from January 20, 1982, to October 17, 1983, he served as the Assistant to the President for Political Affairs and that any request for film footage of the President would have been processed through his office. Mr. Rollins then affirms that:

1) neither President Reagan nor any of his agents assisted, counselled, cooperated or communicated with NCPAC in anyway in the production and/or distribution of the film "Ronald Reagan's America"; 2) footage used in the film by NCPAC was

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not prepared by anyone on the White House Staff; and 3) neither the President nor any of his agents suggested that the film be produced and/or transmitted and/or made available any film footage to NCPAC for any purpose (See Attachment 3 page 84 of attachments).

In short, the lack of any evidence that President Reagan or Reagan/Bush '84 participated in the production of the film or consented to use of the film does not support Complainants contention that expenditures made by NCPAC are not indpendent.

CONCLUSION

It is the opinion of the Office of General Counsel, that at this time, the facts alleged by Complainant does not establish the requisite cooperation, coordination and consent needed to destroy the independence of NCPAC expenditures which have been made and which may be made in the future. Therefore, there is no resulting in-kind contributions. Consequently, the Office of General Counsel recommends that the Commission find no reason to believe that NCPAC or Reagan/Bush '84 violated 2 U.S.C. §§ 441a and 434 or that Ronald Reagan violated 2 U.S.C. § 441a.

RECOMMENDATION

1. Find no reason to believe that National Conservative Political Action Committee and its treasurer, Leif E. Noren, 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

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2. Find no reason to believe Reagan/Bush '84 and its treasurer Angela M. Buchanan violated 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended.

3. Find no reason to believe Ronald Reagan violated 2 U.S.C. §§ 441a of the Federal Election Campaign Act of 1971, as amended.

4. Approve attached letters.

5. Close the file.

3/20/84
Date

Charles N. Steele
General Counsel

Kenneth A. Gross (by LPT)
By: Kenneth A. Gross
Associate General Counsel

Attachments
1. Complaint (pages 1-56)
2. NCPAC Response (pages 57-62)
3. Ronald Reagan and Reagan/Bush Response (pages 63-87)
4. Addendum to Complaint (pages 88-89)
5. Letters to Respondents (pages 90-91)
6. Letter to Complainant (page 92)

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Gcc # 1528

Attachment 1

BEFORE THE
FEDERAL ELECTION COMMISSION

COMPLAINT

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE, Petitioner,	)	
v.	)	MUR No. 1624
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	)	

I. INTRODUCTION

Yesterday, January 29, 1984, Ronald Reagan announced his candidacy for reelection for the Office of President. Today, the Democratic Congressional Campaign Committee ("DCCC") seeks immediate relief from illegal "independent" spending which has already been made on Mr. Reagan's behalf and which will continue to be made through November 1984, in the millions of dollars, unless this Commission acts.

This Complaint specifically alleges violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), by the National Conservative Political Action Committee ("NCPAC"), in its continuing efforts to promote the re-election of Ronald Reagan. NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan/Bush '84 and Ronald Reagan, and Reagan/Bush '84 and Ronald Reagan have violated, and will continue to violate, the

FECA by accepting these excessive contributions.* 2 U.S.C. §441a. These violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, in reality, have been and will continue to be coordinated with, and made in cooperation and consultation with, Reagan/Bush '84 and Ronald Reagan.

Furthermore, all the committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. §434.

The Democratic Party's nominee in the 1984 Presidential election may or may not be victorious at the polls. The outcome, however, should not be tainted because one side plays by the rules, and the other--to gain an advantage of millions of dollars--refuses to do so. The Commission must act to rectify these violations, including expedited investigation into this complaint, prompt conciliation with the respondents, and the imposition of appropriate civil penalties.

II. NCPAC "INDEPENDENT" ACTIVITY ON BEHALF OF RONALD REAGAN AND HIS PRINCIPAL CAMPAIGN COMMITTEE

According to FEC records, NCPAC is a political committee which supports or opposes numerous candidates for Federal

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*The Democratic Congressional Campaign Committee is a registered national party multi-candidate committee. The National Conservative Political Action Committee is a registered multi-candidate committee organized to support or oppose candidates seeking nomination or election to Federal office. Reagan/Bush '84 is the principal campaign committee for the re-election campaign of President Ronald Reagan. Ronald Reagan is the President of the United States and a candidate for re-election to that office in 1984.

office through direct financial support and through "independent" expenditures. It is registered and reports as a political committee under the FECA.

NCPAC has a history of claiming to make "independent" expenditures in Federal elections, Advisory Opinion 1981-44, and it has specifically vowed to continue these independent expenditures during the 1984 election. Advisory Opinion 1983-10. Moreover, and most specifically, NCPAC has consistently solicited contributions for the specific purpose of making independent expenditures on behalf of Ronald Reagan's campaigns for the Presidency of the United States. And NCPAC has consistently made such "independent" expenditures--if "independent" in name only--to promote Mr. Reagan's presidential candidacy. As in the 1980 Presidential campaign of Ronald Reagan, when NCPAC sponsored a Ronald Reagan Victory Fund to support his candidacy through independent expenditures, Exhibit A, ¶¶46-49, a massive new independent expenditure program to support the President's 1984 re-election campaign has already been initiated by NCPAC. This new 1984 independent spending campaign on behalf of Ronald Reagan is expected to result in some $5,000,000 in independent expenditures in support of his candidacy (or in opposition to his opponent when nominated). Exhibit A, ¶¶63-64.

The traditionally extensive, ostensibly "independent" activities by NCPAC on behalf of Ronald Reagan's presidential aspirations were reviewed extensively in the course of recent litigation in the United States Court of Appeals for the Third Circuit, in Democratic Party of the United States, et. al. v. National Conservative Political Action Committee, et. al. (Civil Action No. 83-2329). A "Joint Stipulation Of Fact", signed by all parties, including NCPAC, thoroughly reviews

these activities and is attached hereto as Exhibit A. In fact, this Joint Stipulation reveals that NCPAC's association with Ronald Reagan has not been one-sided: Ronald Reagan has returned NCPAC's financial favors, beginning with active fundraising efforts on behalf of NCPAC shortly after that committee came into existence in 1975. See Exhibit A, ¶¶40-41. As this Complaint will show, continuing reciprocal support and intimate contact between NCPAC and Ronald Reagan has characterized their relationship from 1975, when NCPAC was first organized, until the present day.

As set forth below, the DCCC asserts that the expenditures made by NCPAC to date to support Ronald Reagan's re-election in 1984 have not been independent. Moreover, because these expenditures have not been independent, NCPAC is precluded from making any independent expenditures on behalf of Ronald Reagan in the future.

III. THE RELATIONSHIP OF NCPAC, RONALD REAGAN AND REAGAN/BUSH '84

A. The Law

Under the FECA, an independent expenditure must be made "without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate." 2 U.S.C. §431(17). The Federal Election Commission ("FEC") in its regulations, defines "[m]ade with the cooperation or with the prior consent of ..." as, among other things:

> (i) Any arrangement, coordination or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication.

11 CFR §109.1(b)(4)(i).

In Advisory Opinion 1979-80, requested by NCPAC, the FEC found that cooperation may be found where an independent expenditure committee uses an agent (e.g., a consulting firm or advertising firm) which is also engaged by a candidate on whose behalf the committee is making independent expenditures. If cooperation sufficient to bar a claim to independence can be found in this indirect, third-party context, it is clear that direct contacts with the candidate or the candidate's committee would also violate true "independence".

NCPAC may not take comfort from, or base any legitimate defense on, any claim that its contacts with Mr. Reagan and his political agents have occurred to date only before the candidacy declared yesterday. NCPAC has attempted to travel this road before, and the FEC has blocked the way. In this situation, the Commission has declared,

> activities of NCPAC on its own or in conjunction with the individual [before candidacy] could trigger candidate status... and even impact on NCPAC's ability to make independent expenditures ...

Advisory Opinion 1979-80.

Indeed, in Matter Under Review ("MUR") 1231, the General Counsel concluded upon a review of the law that even pre-primary, pre-candidacy support by NCPAC for an individual considering a race for Federal office can constitute a bar to subsequent support for that candidate through independent expenditure activity. First General Counsel's Report, MUR 1231.

NCPAC itself requested an Advisory Opinion that is directly on point here, and demonstrates that illegal pre-primary, pre-candicacy coordination bars subsequent "independent" spending. In Advisory Opinion Request 1983-12, NCPAC requested

FEC approval to run "congratulatory messages" on behalf of incumbent United States Senators both during and before election years. In a clear echo of a technique used on behalf of Ronald Reagan only last year, and discussed below, NCPAC admitted that certain of the officeholders "congratulated" would provide film footage for the ad to NCPAC or would cooperate in the shooting of the film.

In its opinion, the Commission found that the film ads clearly had a purpose of influencing Federal elections and were fully subject to statutory requirements, including contribution limitations. Moreover, spending for these films constituted contributions in-kind, not independent expenditures. The FEC relied on such factors as:

- the incumbent Senators' terms would expire soon after the ads were run and they were seeking, or expected to seek, re-election;

- NCPAC's status as a registered political committee;

- The content of the messages, which, while not advocating the election of any of the incumbents, mentioned their names numerous times, complimented their activities, and referred to their electorate and past elections specifically;

- The timing of the broadcasts.

As will be seen below, a NCPAC film, prepared in 1983 to promote Ronald Reagan's re-election in 1984, "Ronald Reagan's America," falls squarely within the purview of this ruling.

The law is clear. Sustained contact by a political committee with an individual before candidacy, to encourage and promote such candidacy, is antithetical to true legal independence. As Complainant will show, NCPAC has admitted to sustained contact with Ronald Reagan and his political agents throughout the last ten years with a view toward securing and promoting his presidential candidacy--including his candicacy for re-election in 1984 announced yesterday. These contacts were, moreover, accompanied by significant spending, both to solicit contributions to support Mr. Reagan through independent expenditures and to mount public appeals for his 1984 re-election in both media and direct mail appeals.

B. THE FACTS

1. General Contacts between NCPAC, Reagan and Reagan/Bush '84.

Contacts between NCPAC and Reagan/Bush '84 have been frequent and open. In DNC v. NCPAC, supra, challenging NCPAC's right to make independent expenditures in the presidential elections, NCPAC has admitted regular, frequent, and open contact with the Reagan Administration and its political representatives, including current officials of Ronald Reagan's re-election campaign organization. The range of these contacts, and their relationship to NCPAC's program of "independent" support for the President, is nothing short of brazen. The Commission should note specifically:

- The Reagan Administration provided these policy briefings and intimate interviews with major contributors as a political favor to, and reward for, NCPAC as one of the President's key political supporters. NCPAC's Chairman, Mr. John T. Dolan, has described these briefings as "one of the ways we [NCPAC] raise high-dollar money". Exhibit A, ¶54.

- NCPAC has admitted that its contributors have received "off-the-record" and confidential policy briefings from key members of the Reagan cabinet, including the Secretary of Agriculture (John Block), the (former) Secretary of Health and Human Services (Richard Schweiker), the (former) Secretary of Transportation (Drew Lewis), the (former) Secretary of the Interior (James Watt), and the (former) Secretary of Energy (James Edwards). Exhibit A, ¶50.

- NCPAC has admitted that Secretary Block met with major NCPAC contributors in his office on July 22, 1982, at the Department of Agriculture. Exhibit A, ¶51.

- NCPAC has admitted that former Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. Exhibit A, ¶52.

- NCPAC has admitted that major contributors to NCPAC were briefed by Secretary Lewis in his office at the Department of Transportation on September 14, 1982. Exhibit A, ¶53.

- The Reagan Administration provided these policy briefings and intimate interviews with major contributors as a political favor to, and reward for, NCPAC as one of the President's key political supporters. NCPAC's Chairman, Mr. John T. Dolan, has described these briefings as "one of the ways we [NCPAC] raise high-dollar money". Exhibit A, ¶54.

- NCPAC has admitted, that the Republican National Committee has maintained continued close relations with NCPAC, including a widely reported "peace mission" to ensure continued support from NCPAC and other "New Right" groups for the President. Indeed one such reported meeting specifically addressed the role that "independent" spending would play in the re-election of Ronald Reagan. The same press reports have stated, and NCPAC has admitted, that the meeting was arranged by Lyn Nofziger, an advisor to President Reagan, and formerly his Assistant to the President for Political Affairs. Exhibit A, ¶¶56-59.

- NCPAC has admitted that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides as requested by John T. Dolan, Chairman of NCPAC. Exhibit A, ¶¶61-61.

- NCPAC has admitted that President Reagan has followed, and communicated with NCPAC about, NCPAC's current program of independent expenditures in support of his own re-election. Specifically, NCPAC has admitted the truth of press reports on October 3, 1983, that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program "Ronald Reagan's America". Exhibit A, ¶65.

- o President Reagan's principal advisors have specifically communicated to NCPAC on other campaigns, not involving the President, which presage similar close cooperation in support of the President's own re-election campaign. Edward Rollins, formerly in the White House Office of Political Affairs and now a member of the President's re-election committee, stated specifically that he would work closely with NCPAC in the 1982 Congressional campaigns. Exhibit A, ¶72.

2. A Case in Point: "Ronald Reagan's America" - Cooperation and Consultation on Production of the Film.

In 1983, NCPAC produced a film, extolling the virtues of Ronald Reagan's presidency and appealing for his re-election. In the film, the President appears in numerous news clips. In addition, however, at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film.

The film generally reviews Ronald Reagan's activities as President, and lauds his achievements. Further, the film attacks Democratic Party opposition to Mr. Reagan and his policies. This attack includes, by photographic reference, Democratic candidates who are currently seeking the nomination of the Democratic Party for the Presidency--potential opponents of Ronald Reagan. As mentioned earlier, Ronald Reagan was so favorably impressed by this film that he called to congratulate NCPAC. Exhibit A, ¶65.

3. NCPAC's General Disregard for Federal Election Laws

These continuous contacts between NCPAC, the Reagan Administration, Reagan/Bush '84 and Ronald Reagan are evidence of widespread and ongoing cooperation to promote the presidential candidacy of Ronald Reagan. NCPAC no doubt is proceeding with minimal concern about the legality of its actions. It is well known for its flaunting of the independent expenditure laws and for its continuous efforts to avoid the independent expenditure rules and regulations. See generally, Exhibit B.**

IV. CONCLUSION

The DCCC has offered evidence above of possible violations of the FECA. This evidence justifies, at the least, a "reason to believe" finding and a full investigation by the FEC. The FEC's Office of General Counsel has maintained that reason to believe findings rest on a de minimus showing, sufficient to justify the amplication of the FEC's full investigatory powers. The evidence above shows that NCPAC, Reagan/Bush '84 and Ronald Reagan have violated the FECA in the following manner:

1. Violation of §441a.. The DCCC has shown that NCPAC, Reagan/Bush '84 and Ronald Reagan have had continuous and ongoing contacts with one other. Further, there is direct evidence that Ronald Reagan directly cooperated with NCPAC in

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** A fresh and graphic example of NCPAC's indifference to the law may be found in the recently discloed enforcement action by the FEC to remedy NCPAC's illegal "independent" spending on behalf of Mr. Bruce Caputo, Senator Moynihan's early opponent for re-election in 1982. The record of that case shows intimate contact between Mr. Caputo's campaign and agents of NCPAC, including participation by NCPAC's New York Chairman in staff meetings of the Caputo Committee. See Exhibit B ("Election Law Violations Admitted in '82 Race", The Washington Post, January 28, 1984. at A4.)

producing the film "Ronald Reagan's America". By acquiesing in the making of the film, Ronald Reagan tainted any efforts of NCPAC to make independent expenditures on his behalf in the future. Nonetheless, NCPAC is currently soliciting contributions and is proposing to make voluminous independent expenditures on President Reagan's behalf.

Under the FECA, FEC regulations and FEC rulings, NCPAC cannot claim independence here. There can be no "independence" when the committee coordinates its activities with the campaign of the candidate who will benefit from the "independent" expenditures or with candidate himself. Furthermore, contacts with an individual or his agents, prior to becoming a candidate but with the express purpose of encouraging and promoting his candidacy, fatally taint any claims of true independence in the future.

For these reasons, NCPAC's current and planned expenditures on behalf of Ronald Reagan are serious violations of the law. These expenditures are not independent, but instead are contributions subject to the limitations established in §441a of the FECA.

2. Violation of §434. As contributions in-kind, NCPAC must report its expenditures on behalf of Ronald Reagan as contributions. As such, they must also be disclosed by Reagan/Bush '84. These committees have failed to report any contributions.

On the basis of the foregoing, the DCCC requests that the FEC:

1. Conduct a prompt and immediate investigation of the facts and legal conclusions stated in this complaint;

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2. Enter into a prompt conciliation with NCPAC and Reagan/Bush '84 to remedy the violations alleged in this complaint, and most importantly, to ensure that no further violations occur; and

3. Impose any and all civil penalties appropriate to the violations alleged in this Complaint.

Respectfully submitted,

Tony Coelho

Tony Coelho
Chairman
Democratic Congressional
Campaign Committee
400 North Capitol St., N.W., Suite 319
Washington, D.C. 20001 (202) 224-2447

Subscribed and sworn to me on this 30th day of January, 1984.

Notary Public

My Commission Expires January 1, 1987

14

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

DEMOCRATIC PARTY OF THE UNITED STATES, et al., Plaintiffs, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants, and FEDERAL ELECTION COMMISSION, Intervenor.	Civil Action No. 83-2329
FEDERAL ELECTION COMMISSION, Plaintiff, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants.	Civil Action No. 83-2823 Consolidated Three-Judge Court

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JOINT STIPULATION OF FACT

A. The Internal Structure of the National Conservative Political Action Committee

1. The National Conservative Political Action Committee (NCPAC) is a nonprofit, nonmembership corporation formed under the District of Columbia Nonprofit Corporation Act on August 12, 1975. [Exhibit 1, Stipulated Findings from Mott v. FEC, pp. 9-13].

2. NCPAC is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office. [Exhibit 1].

3. NCPAC attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures*/ in support of and against candidates for public office. [Exhibit 1].

4. NCPAC registered with the FEC as a political committee on or about March 27, 1975. [Exhibit 1].

5. In order to carry out its activities, NCPAC solicits and receives contributions from the public. [Exhibit 1].

6. NCPAC conducts general solicitations for contributions to NCPAC, not related to any specific candidate, for the purpose of receiving funds to carry out its activities. [Exhibit 2, p. 12, #51].

7. NCPAC also conducts solicitations for the specific purpose of raising funds to spend on NCPAC's independent expenditure programs aimed at electing or defeating specific candidates. [Exhibit 2, p. 12, #53].

8. NCPAC does not maintain and is not required by law to maintain separate accounts for the receipts from its general solicitations and specific solicitations. [Exhibit 1, Mott v. FEC].

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*/ The term "independent expenditure" is used throughout this stipulation for the convenience of the parties and court. By so using this term, the plaintiffs do not take a position as to whether any specific expenditure was or is independent within the meaning of the law.

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(16)

9. Listed on reports filed with the FEC as original (March 27, 1975) Treasurer and Custodian of NCPAC's records was Roger J. Stone, Jr. Other officers listed were Charles R. Black, Chairman; John Carbaugh, Vice Chairman; Frank J. Donatelli, Director-at-Large; and J. David Nickles, Secretary. NCPAC amended its registration with the FEC on October 10, 1975, naming Black as Chairman, Nickles as Secretary, and Stone as Treasurer and Custodian of Records. In an amendment dated March 8, 1978, John T. Dolan is listed as Chairman; J. Curtis Herge as Secretary; Becki A. Cecil [Burlingame] as Treasurer; with Stone and Donatelli having resigned. Effective April 8, 1980, Susan S. Hannegan became Treasurer of the Committee, replacing Becki Cecil Burlingame. Effective February 13, 1981, Susan Hannegan resigned as Treasurer, and Lisa Stoltenberg became Treasurer. Effective on or about July 27, 1981, Lisa Stoltenberg resigned as Treasurer, and was replaced by Candace Taw. Effective on or about February 10, 1982, Candace Taw resigned as Treasurer, and was replaced by Leif Noren, who also assumed duties as Custodian of Records on August 4, 1983. [Exhibits 2, (pp. 10-11, #49), 3, 4 and 5].

10. NCPAC is incorporated in the District of Columbia and qualified to do business in the State of Virginia. The current principal officers of NCPAC are: John T. Dolan, Chairman; Leif Noren, Treasurer; J. Curtis Herge, Secretary; Eleanor Hannegan, Asst. Treasurer; and Cheryl Bendis, Asst. Treasurer. [Exhibit 6, NCPAC's 1982 Annual Corporate Report].

11. NCPAC's current Board of Directors consists of: John T. Dolan, Rhonda K. Stahlman and Robert L. Shortley. [Id.].

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12. NCPAC is governed by a three member Board of Directors which is elected annually by the then current members of the board. [Exhibit 1, p. 11, ¶48].

13. The decision as to which candidates to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition are decided by NCPAC's Chairman and its Board of Directors. [Id.].

14. NCPAC's and FCM's direct mail fundraising solicitations typically include discussions of issues which are the subject of popular debate at the time that the solicitations are made. NCPAC's and FCM's direct mail fundraising solicitations have in the past solicited funds to assist in the independent expenditure efforts of those groups on behalf of Mr. Reagan in 1980, and have solicited funds to be expended by those groups in support of or in opposition to various legislative proposals, social and national defense issues, and to support or oppose the candidacies of various individuals for public office.

15. NCPAC's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights or participation in the conduct of NCPAC affairs. [Exhibit 8, NCPAC's Articles of Incorporation].

16. Individual contributors to NCPAC do not determine which candidates NCPAC supports or opposes with their contributions. [Id.].

17. For the 1980 presidential election, the Board of Directors of NCPAC did not make decisions concerning campaign strategy or day-to-day expenditures of NCPAC. [Exhibit 10, Dolan depo., p. 12].

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18. The press has reported that John T. Dolan has stated that the Board of Directors of NCPAC only does whatever is necessary to keep the organization legal by fulfilling certain nominal responsibilites set out in NCPAC's by-laws, such as holding an annual meeting. [Exhibit 11, p. 45, Statement of John T. Dolan, The Sun, 7/13/82; and Exhibit 10, Dolan depo., p. 12].

19. John T. Dolan is on the Board of Directors of NCPAC. [Exhibit 11, The Sun, 7/13/82].

20. The press has reported that NCPAC is dominated by its Chairman, John T. Dolan. [Exhibit 12, The Wall Street Journal, 5/29/81, Hunt article].

21. For the 1980 presidential election, John T. Dolan had primary authority to make expenditures on behalf of NCPAC. [Exhibit 13, Dolan depo., p. 11].

22. Subject to the director of the Board of Directors, there are no other restrictions on the amount or nature of expenditures that John T. Dolan is authorized to make on behalf of NCPAC. [Exhibit 10, Dolan depo., p. 12].

B. The Internal Structure of the Fund For A Conservative Majority

23. The Fund For A Conservative Majority (FCM) is a multi-candidate political committee registered with the Commission. [Exhibit 2].

24. FCM originally registered in 1972 with the General Accounting Office as "Young America's Campaign Committee" (YACC). On October 13, 1976, in reports filed with the Commission, YACC changed its name to the "Fund for a Conservative Majority". [Exhibit 2, p.3, ¶11; Exhibit 15, FEC Committee Index; Exhibit 16, FEC Committee Index].

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25. FCM is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office.

26. FCM attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures in support of and against candidates for public office.

27. In order to carry out its activities, FCM solicits and receives contributions from the general public.

28. FCM conducts general solicitations for contributions to FCM, not related to any specific candidate, for the purpose of receiving funds to carry out its activities.

29. FCM conducts solicitations for the specific purpose of raising funds to spend on FCM's independent expenditure programs.

30. FCM does not maintain and is not required to maintain separate accounts for the receipts from its general solicitations and specific solicitations.

31. Original FCM officers were Ronald Robinson, Chairman, and John S. Buckley, Secretary and Treasurer. On or about March 15, 1979, in reports filed with the Commission, FCM changed its officers to Robert C. Heckman, Chairman and Kenneth F. Boehm, Treasurer. Effective October 24, 1981, Kenneth Boehm resigned, and was replaced by Robert C. Heckman, who also assumed duties as Custodian of Records on January 6, 1982. [Exhibit 2, p. 3, #11; Exhibit 82, Amended Statement of Organization, 10/24/81; Exhibit 87, Amended Statement of Organization, 1/6/82].

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32. FCM is incorporated in the State of Virginia. The current principal officers of the Fund For A Conservative Majority are: Robert C. Heckman, who is both Chairman and Treasurer, and Suzanne Scholte, Secretary. [Exhibit 17, FCM's Annual Corporate Reports].

33. The current Board of Directors of FCM consists of Robert C. Heckman, Jeffrey D. Kane, Kenneth Grasso and Kenneth F. Boehm. [Id.].

34. Paul Dietrich was Executive Director of FCM from January, 1981, until August 3, 1983.

35. The decision as to which candidates or issues to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition is decided by FCM's Board of Directors.

36. Robert C. Heckman has authority to oversee all facets of the operation of FCM, on a day-to-day basis, including FCM's expenditures. [Exhibit 88, Heckman depo., p. 10].

37. FCM's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights of participation in the conduct of FCM's affairs. [Exhibit 18, FCM's Articles of Incorporation].

38. Individual contributors to FCM do not determine which candidates FCM supports or opposes with their contributions. [Id.].

39. For the 1980 presidential election, the Board of Directors was responsible for deciding which candidate FCM would support

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and for deciding the amount of support candidates received from FCM.

C. NCPAC and FCM's Associations with Ronald Reagan, 1980 Presidential Campaign, and the Reagan Administration

40. Soon after NCPAC came into existence in 1975, Ronald Reagan wrote a personal letter to his supporters soliciting financial support for NCPAC. The press has reported that John T. Dolan has credited Reagan with helping to establish NCPAC, saying "He [Reagan] is one of the main reasons NCPAC is here today." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

41. After he lost the Republican nomination for president in 1976, Ronald Reagan helped raise money by signing fundraising letters and attending a fundraising event in Washington, D.C., for NCPAC. One such solicitation letter was signed by Ronald Reagan, dated Sept. 29, 1976, and was mailed to 187,422 potential contributors to NCPAC. [Exhibit 21, p. 9 Dolan's Depo.; Exhibit 22, p. 2 Dolan's letter dated 1/28/77 from MUR 322].

42. According to John T. Dolan, Ronald Reagan was probably responsible for raising $1 million on behalf of NCPAC in 1976. [Exhibit 21, Dolan depo., p. 9].

43. The press has reported that John T. Dolan said that NCPAC's independent expenditures for commercials for the 1980 presidential race would depend on the Reagan campaign stategy. [Exhibit 20, Washington Post, 8/10/80, MacPherson Article].

44. John T. Dolan claimed that NCPAC's sole source of information about what the Reagan campaign was doing was through the media. [Exhibit 23, Dolan depo., p. 64].

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45. The press has reported that Lyn Nofziger, former Assistant to the President for Political Affairs, and a Reagan campaign official in 1980, in describing how the head of an independent committee in 1980 could have found out how to aid the Reagan campaign in 1980, stated that "I wouldn't have to talk to Bill Casey [Reagan's 1980 campaign director]. I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem getting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick Wirthlin's [a Reagan pollster] data or talk to the chairman of the Republican National Committee, or whatever." [Exhibit 24, The New Yorker, 12/13/82, pp. 91-92].

46. The Ronald Reagan Victory Fund was described by NCPAC as a "project" of NCPAC for the 1979-80 presidential campaign. The purpose of the Ronald Reagan Victory Fund was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures. [Exhibit 2; Exhibit 26, Dolan depo. p. 41; Exhibit 27].

47. Prior to May 15, 1980, John T. Dolan, Chairman of NCPAC sent an "Urgentgram" to NCPAC supporters which indicated that "Governor Reagan's campaign is desperately short of funds going into crucial May-June primaries." This solicitation letter further indicated that NCPAC "has and will run 'independent' pro-Reagan advertisements and stated that Reagan will lose valuable momentum if he cannot maintain his campaign advertising program in high gear in the May-June primaries." [Exhibit 28, NCPAC solicitation letter].

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48. In that "Urgentgram" fundraising letter, NCPAC promised to expose President Carter's weaknesses as well as promote candidate Reagan. "These advertisements will be produced by top notch professionals.... We will run these advertisements in major cities and places where many voters will be making up their minds between Carter and Reagan in the next two months." [Id.].

49. That letter also solicited funds on behalf of NCPAC's pro-Reagan independent expenditure effort. The letter requested that if the recipient could send a contribution to NCPAC, NCPAC would also ask that recipients send to Governor Reagan an enclosed postcard telling him of their support. The letter closes with the statement "Whatever you can sehd I know Governor Reagan would deeply appreciate it." [Id.].

50. The press has reported that John Block, Secretary of Agriculture, Richard Schweiker, (former) Secretary of Health and Human Services, Drew Lewis, (former) Secretary of Transportation, James Watt, Secretary of the Interior, and James Edwards, (former) Secretary of Energy, personally provided major contributors to NCPAC with "off the record" and confidential policy briefings. [Exhibit 29, The Sun, 9/5/82].

51. The press has reported that John T. Dolan stated that Secretary Block met with major contributors to NCPAC in his office on July 22, 1982, at the Department of Agriculture. [Id.].

52. The press has reported that John T. Dolan stated that Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. [Id.].

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53. The press has reported that John T. Dolan stated that Secretary Lewis briefed major contributors to NCPAC in his office at the Department of Transportation on September 14, 1982. [Id.].

54. The press has reported that John T. Dolan described the "off the record" and confidential policy briefings with Reagan Administration Cabinet Secretaries and White House Personnel as "one of the ways we [NCPAC] raise high dollar money." [Id.].

55. According to published reports, Lyn Nofziger, now working as a political consultant, will act as an outside link between Ronald Reagan's re-election campaign and conservatives, should President Reagan seek a second term. [Exhibit 30, U.S. News & World Report, August 29, 1983, p. 19].

56. In a Washington Post article entitled "GOP 'Peace Mission' Becomes Stormy," it was reported that a meeting was called to smooth relations between RNC Chairman Richard Richards and conservatives John T. Dolan, Chairman of NCPAC, Richard Viguerie, President of the Viguerie Company, Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress, Howard Phillips, Chairman of the Conservative Caucus, Thomas F. Ellis, Chairman of the Congressional Club, Phyllis Schlafly of Eagle Forum, Ronald Godwin of Moral Majority, Robert Richardson of Gun Owners of America, and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. [Exhibit 31, Washington Post, 5/20/81, Peterson article].

57. According to that article, the purpose of their meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. [Id.].

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58. According to that article, the May 19, 1981, meeting was arranged by Lyn Nofziger, a former advisor to President Reagan who held the position of Assistant to the President for Political Affairs. [Id.].

59. In that article it was reported that Richard Richards, Chairman of the Republican National Committee, stated that "We [the independent political groups and the Republican National Committee] will attempt to formulate an agreement as to our respective positions, including how we will disagree, if at all, in the future." [Id.].

60. In that article it was reported that the meeting was acrimonious and that, according to one participant, although there may have been some fiery words, nobody swung a punch. Mr. Richards is reported to have said, "My quarrel is that independent expenditure groups butt in on the strategy of the campaign. The problem is they stay too long, they say the wrong things and ultimately they may be counterproductive." [Id.].

61. It has been publicly reported in an article in The Sun entitled "Unlikely Allies: White House Staff Chief and New Right Leader," that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides. [Exhibit 32, The Sun, 5/19/83, p. A16, Barnes article].

62. In that article it was reported that the briefing session for major NCPAC contributors, which was held in February, 1983, was requested by John T. Dolan, Chairman of NCPAC, prior to President Reagan's inauguration. [Id.].

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63. The press has reported that NCPAC has established a $5 million project which will exclusively support the reelection effort of Ronald Reagan in 1984. [Exhibit 33, The Sun, 2/24/83, Barnes article; Exhibit 32, The Sun, 2/24/83, p. 9A].

64. This $5 million NCPAC project is called, "American Heros for Reagan." All money received by NCPAC for this project is deposited into NCPAC's general political account. [Exhibit 32].

65. The press has reported on October 3, 1983, that President Ronald Reagan liked NCPAC's television program "Ronald Reagan's America" so much that he telephoned NCPAC's Chairman, John T. Dolan, to congratulate him. Dolan thanked Reagan, then informed the President that White House lawyers didn't want them discussing what NCPAC was doing. [Exhibit 112, Washington Post, 10/3/83, p. A3].

66. NCPAC has distributed a letter to conservative supporters which appears on stationery bearing the letterhead of the "Re-elect Reagan Campaign Committee." [Exhibit 33, The Sun, 5/19/83, p. A16, Barnes article].

67. The press has reported that John T. Dolan, Chairman of NCPAC, has publicly warned President Reagan that he had better heed the "massive conservative mandate" or "pay a political price." [Exhibit 34, L.A. Times, 11/6/80, Shaw article].

68. The press has reported that John T. Dolan said that, "groups like ours [NCPAC and other political committees making independent expenditures] are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in

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politics." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

69. According to newspaper accounts of statements made by John T. Dolan, the rise of independent political committees such as NCPAC is "potentially very damaging to the political system." [Exhibit 35, Washington Post, 6/27/81, p. A4, Walsh article].

70. In the same article, it was reported that the Chairman of the Republican National Committee had asked independent political action committees to stay out of campaigns when they are asked to do so by Republican candidates or State Republican Chairmen. It was also reported that John T. Dolan said that lawyers for NCPAC and for the Republican National Committee had concluded that such an agreement to abide by the wishes of Republican officials would violate federal election laws. [Id.].

71. The press has reported that John T. Dolan has publicly stated that NCPAC successfully manipulated 70% of the elections which it had targeted in 1982. In the same article Dolan claimed that David Broder said NCPAC's win record was one in seventeen. [Exhibit 36, Washington Post, 11/7/82, Dolan article].

72. Edward Rollins, a political advisor to President Reagan with the title of Assistant to the President for Political Affairs, has stated that he expects to work closely with NCPAC in the 1982 Congressional campaigns. [Exhibit 37, Washington Post, 12/31/81, Emory article].

73. The press has reported that Edward Rollins will become the political director of President Reagan's reelection campaign should Reagan choose to seek reelection. [Exhibit 30, U.S. News & World Report, August 29, 1983].

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74. The press has reported that NCPAC and the Fund for a Conservative Majority (FCM) have publicly announced that they intend to spend at least $10 million to help re-elect President Reagan in 1984. [Exhibit 38, Washington Post, 5/13/83].

75. Frank Donatelli was a founder and former Director-at-Large of NCPAC (1975-79). [Exhibit 2].

76. Frank Donatelli was a member of the Board of Directors of FCM (1978-79). [Exhibit 6].

77. Frank Donatelli was the Midwest coordinator for the Reagan for President Committee in 1980. [Exhibit 87].

78. Robert Shortley, John T. Dolan's brother-in-law, has been a member of NCPAC's Board of Directors. [Exhibit 11, The Sun, 7/13/82; Exhibit 6, NCPAC Annual Corporate Report].

79. John T. Dolan's brother, Anthony Dolan, was a staff member for the Reagan campaign, and currently works for the Reagan Administration. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 39, personnel list (campaign); and Exhibit 40, Dolan's depo., p. 49].

80. In 1980, John T. Dolan was a business partner in a joint venture with Lyn Nofziger, Paul Russo, David Keene, and Roger Stone. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 41, Dolan's depo., p. 22].

81. Lyn Nofziger was an official on Ronald Reagan's presidential campaign and held the title of Assistant to the President for Political Affairs at the beginning of President Reagan's administration.

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82. David Keene worked for Ronald Reagan in 1976 and was a staff member on the Bush campaign in 1980. [Exhibit 20].

83. Roger Stone, one of the founders and the original treasurer of NCPAC, was the Northeast coordinator for the Reagan campaign in 1980. [Exhibit 20].

84. The press has reported that a company owned by Richard Viguerie was a tenant in the Dolan, Nofziger, Russo, Keene and Stone partnership's Alexandria office building in 1980. [Id.].

85. The press has reported that NCPAC has already spent approximately $2 million on behalf of Ronald Reagan for president in 1984 and projects to spend at least $5 million. [Exhibit 132, Washington Post, 10/6/83].

86. Arthur J. Finkelstein and Associates has performed polling services for FCM. [Exhibit 42, Heckman's depo., p. 48].

87. Arthur J. Finkelstein has conducting polls for the Reagan for President Committee, NCPAC, and FCM. [Exhibits 39, 20, 36 and 43].

88. According to Robert Heckman, Chairman of FCM, "simply from reading the newspapers and magazines and so forth, the general analysis seemed to be that the Texas primary would be critical for Reagan." Heckman allegedly used the same authorities to also target Pennsylvania, Iowa, New Hampshire, South Carolina and Florida as important states to support the Reagan candidacy. [Exhibits 43, 90, 91, 92, 93 and 94].

89. The press has reported that Paul Dietrich, former Executive Director of FCM, who worked for the Reagan campaign in 1980, and who also headed the Republican National Committee's State Fund

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Operation in Missouri in 1980, has publicly stated that, "there is no way to enforce independence as long as there is a press corps giving us (FCM) information and as long as one group puts out information and gets it to others." [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

90. The press has reported that Paul Dietrich stated that, "If I really want a poll from the Republican National Committee or a campaign, I can get it. They'll leak it to me." [Id.].

91. The press has reported that Paul Dietrich stated that, "All the independent PAC's... have a little dance [where] we dance around the law in a way that never breaks the letter but breaks the spirit of the law -- but we don't agree with the law anyway." [Id., p. 101].

92. FCM spent approximately $60,000 on behalf of Ronald Reagan in New Hampshire. FCM also bussed 40-50 students from New York and other locations to hand out literature in New Hampshire on behalf of Ronald Reagan. [Exhibits 116, 117].

93. According to FEC reports, Ronald Reagan exhausted nearly all of the $294,400 he was limited to by the federal election laws in connection with the New Hampshire primary. [Id.].

94. FCM made approximately $60,000 in expenditures on behalf of the candidacy of Ronald Reagan in New Hampshire after the Reagan campaign reached its spending limit. [Id.].

95. FCM sponsored activities on behalf of Mr. Reagan in connection with the New Hampshire primary also included voter mailings, newspaper advertising, and radio spots. FCM produced

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radio advertisements attacking Mr. Reagan's opponent George Bush. [Id.; Exhibit 45, letter from William Loeb].

96. The press has reported that FCM publicly took credit for Ronald Reagan's victory in New Hampshire. [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

97. Prior to the May 6, 1980, primary in Texas, Ronald Reagan had utilized most of the $14.7 million limit under the Primary Matching Account Act. FCM then expended approximately $80,000 on behalf of Ronald Reagan in connection with the Texas primary. With this $80,000 FCM bought radio advertisements and financed a 250,000 piece mailing campaign. [Exhibits 24, 89].

98. FCM set aside $100,000 for use in support of Ronald Reagan for the California primary, but decided to save that amount for use on behalf of Mr. Reagan in the general election, as reports and communications in the press indicated that the Reagan campaign did not require assistance in that state. [Exhibit 24].

99. FCM also budgeted for expenditures in connection with the Reagan 1980 candidacy in primaries held in Florida, Illinois, Connecticut, Pennsylvania, Ohio and New Jersey and in state conventions in Virginia and Missouri. These budgeted expenditures included radio and newspaper advertising, voter mailings, polling and literature distribution. [Exhibits 24, 46, 91, and 94].

100. FCM sent other solicitation letters in connection with its "Citizens for Reagan in '80" project in envelopes which read, "Dateline: Republican Convention, Detroit 11:30 p.m. Weds. July 16, 1980" which solicited funds for "national advertising

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on television and radio, full page advertisements in newspapers, election mailings pin-pointed to selected voters... which will be carefully and professionally used to help elect Ronald Reagan president." [Exhibit 2, p. 5, #21; Exhibit 47].

101. This solicitation letter indicated FCM believed it needed to raise at least $3,476,000 on behalf of Ronald Reagan for the general election and expressed its immediate need to raise $755,000 over the following three weeks to reserve advertising space and television and radio time for the fall. [Exhibits 24, 47].

102. FCM's direct mail campaigns are in whole or in part computerized. The employees, consultants and agents of FCM include professional speechwriters, public relations and advertising specialists, media experts and firms which maintain and rent professionally compiled mailing lists. [Exhibit 2, p. 5, #24; Exhibit 48].

103. FCM had posters bearing the name of its project, "Citizens for Reagan in '80" at the Republican National Convention for use in connection with floor demonstrations and rallies during the convention. [Exhibit 2, p. 5, #23].

D. <u>Other Independent Expenditure Campaigns for Reagan for President</u>

104. The National Congressional Club (NCC), formerly known as North Carolina Congressional Club (NCCC), a political committee registered with the FEC, undertook activities on behalf of the nomination and election of Ronald Reagan, in the 1980 election

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cycle which were similar in nature to those undertaken by NCPAC and FCM. [Exhibits 50, 116, 118].

105. NCC is a political committee that originally registered with the Clerk of the U.S. House of Representatives on October 29, 1974. [Exhibit 50].

106. NCC has as its Honorary Chairman, Senator Jesse Helms. NCC had a "project" entitled "Americans for Reagan" which was organized for the purpose of raising and expending money on behalf of the candidacy of Ronald Reagan for president in 1980. Jesse Helms is also the Honorary Chairman of "Americans for Reagan." [Id., p. 9, #43; Exhibit 49, NCC solicitation, p. 2].

107. The purpose of Americans for Reagan was to help elect Ronald Reagan president. This was accomplished through independent expenditures. [Exhibit 49].

108. During the last week of May, 1980, "Americans for Reagan" sent out its initial mailing of 250,000 letters soliciting funds to purchase television time on behalf of the Reagan candidacy for the nomination as the Republican Party candidate for president. The letter solicited funds to "Americans for Reagan" in order to amass $26,800 in the following 30 days for the purchase of air time for television advertisements, was written by Jesse Helms and sent on Senator Helms' personal stationery. The letter stated "Americans for Reagan"'s first goal as being to purchase over $500,000 of television time for the fall on behalf of Ronald Reagan's campaign for the general election. Checks were to be made payable to "Americans for Reagan." [Exhibit 2, p. 9, #44; Exhibit 49, pp. 1-2].

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109. Another solicitation letter on behalf of NCC's project "Americans for Reagan," dated July 14, 1980, was written by Senator Helms from the Republican National Convention. This letter solicited funds for the purchase of television spots, newspaper advertisements, and radio commercials which were already prepared for "Americans for Reagan." The letter further indicated that "Americans for Reagan" would also be ordering brochures and other campaign materials. The solicitation letter asked recipients to "Remember, Ronald Reagan and our nation need your financial help." [Exhibit 2, p. 10, #45; Exhibit 51, pp. 1-3].

110. "Americans for Reagan" was specifically organized to solicit funds from the general public on behalf of the candidacy of Ronald Reagan "because the Reagan campaign cannot accept your contribution." [Exhibit 2, p. 10, #46; Exhibit 51].

111. The press has reported that Arthur J. Finkelstein and Associates performed polling services for NCC during the 1980 presidential election. [Exhibit 24, The New Yorker, December 13, 1982, p. 92].

112. The press has reported that Senators Jesse Helms and Harrison Schmitt, Chairman for Americans for Change (AFC) (another registered political committee similar in nature to NCPAC, FCM and NCC), were delegates who supported Ronald Reagan at the July, 1980, Republican National Convention. [Exhibit 20, Washington Post, August 10, 1980, MacPherson article].

113. Americans For Change (AFC) is an unincorporated association which registered with the Federal Election Commission as a multi-candidate political committee by filing a Statement of

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Organization on May 23, 1980. Its officers were listed as Harrison H. Schmitt, Chairman; Carl T. Curtis, Treasurer; and Stan Huckaby, Assistant Treasurer, who is also the custodian of the committee's records. AFC did not file with the Commission as an "authorized committee" of Ronald Reagan or George Bush or any other presidential or vice presidential candidates for the 1980 election. Nor has it filed with the Commission as an "authorized committee" of Ronald Reagan, or for any other presidential or vice presidential candidates for the 1984 election. [Exhibit 128].

114. AFC held a press conference at the Republican National Convention as was listed on the official Calendar of Events for the 1980 Republican National Convention. Appearing on behalf of AFC at that press conference were Senator Harrison Schmitt, Chairman of AFC, John Harmer, former Lt. Governor of California and co-chairman of AFC, appointed by Mr. Reagan in 1974, and Howard Ruff. [Exhibit 129].

115. On July 18, 1980, Americans for Change, as advertised by letter from AFC Chairman, Senator Harrison Schmitt, held the first fundraiser on behalf of Ronald Reagan subsequent to the Republican National Convention. Tickets to the fundraiser held in Houston, Texas, cost $1,000 per couple and were payable to "Reagan for President in '80". [Exhibit 2, p. 3, #10].

116. Harrison Schmitt, the Chairman of AFC, was, at the same time, a member of the Republican National Committee Advisory Council on Economic Affairs and a Reagan delegate to the 1980 Republican National Convention. [Exhibit 135].

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117. John Harmer, the Co-Chairman of AFC, was Ronald Reagan's former Lieutenant Governor. [Exhibits 117, 122, 129].

118. Stan Huckaby, the Assistant Treasurer and Custodian of Records of AFC, was, at the same time, the Treasurer of the 1980 Republican Presidential Unity Committee, an authorized committee of Ronald Reagan, and has served as a paid consultant to the Republican National Committee. [Exhibits 128 and 138].

119. He maintained his office at the Republican National Committee headquarters. [Id.].

120. James Edwards, former Governor of South Carolina and a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Council and a Reagan delegate to the 1980 Republican National Convention. [Exhibits 120, 121, 135 and 137].

121. Anna Chennault, a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Committee on Fiscal Affairs, and an ex-officio member of the Republican National Committee Executive Committee. [Exhibits 120, 121, 135].

122. After the 1980 election, AFC invited contributors and their families to attend various events sponsored by AFC in conjunction with the Inauguration of President-elect Reagan. The invitation was signed by then-Senator Harrison Schmitt and stated that the purpose of these events was to provide AFC supporters "an opportunity to meet the Republican men and women who will play an

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important part in shaping the destiny of our country." The invitation also stated:

> We intend to hold attendance at each of our functions to a limited number of guests to allow everyone ample opportunity to visit with Senators or Cabinet officials who may be in attendance.

[Exhibit 119].

123. James Edwards, a member of the steering committee of AFC, was appointed Secretary of Energy by President Reagan. [Exhibits 135, 137].

124. Senator Jesse Helms (R, N.C.), Honorary Chairman of the National Congressional Club, has stated that "I've had to... talk indirectly with [Senator] Paul Laxalt (R. Nev.) [President Reagan's national campaign chairman]" to avoid a direct consultation with then-candidate Reagan. [Exhibit 24, The New Yorker, December 13, 1982, pp. 90-91; Exhibit 20, p. 28].

125. Senator Helms has also stated that "I hope that the Senator [Laxalt] would pass along [the messages], and I think the messages have gotten through all right." [Exhibit 20, p. 28].

126. Independent expenditures by PACs, individuals and other groups exceeded $16 million for the 1979-80 election cycle. A total of $13.7 million was spent to influence the presidential race. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980; Exhibit 115].

127. Americans For An Effective Presidency (AEP) is an unincorporated association which registered with the Commission as a multi-candidate committee by filing a Statement of

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Organization. AEP was formed for the express purpose of electing Ronald Reagan president. The only officer lised on its statement was its Treasurer, Robert H. Masson. Serving as AEP's Chairman is Peter Flanigan and as Chairman of the Expenditures Committee, Thomas Reed. [Exhibits 130, 131].

128. It has been reported in the press that Peter Flanigan, the Chairman of AEP, was, at the same time, a member of the Policy Board of the Republican National Committee Advisory Council on Economic Affairs. [Exhibits 133 and 135].

129. Stuart Spencer, who was involved in the organization of AEP and who was to run its operation, subsequently worked for the official Reagan campaign. He ran Mr. Reagan's campaigns for Governor of California in 1966 and 1970 and was the national political director for the official 1976 general election campaign for the Republican Party candidate. [Exhibits 123, 124, 125 and 126].

130. William Clements, who was involved in the organization of AEP, served as the Chairman of the official Reagan campaign in Texas and is a member of the Republican National Committee Advisory Council on National Security and International Affairs. [Exhibits 19, 135, 136].

131. Bailey, Deardourff & Associates, the Media Directors of AEP, served as the advertising agency for the official 1976 general election campaign for the Republican Party candidate. [Exhibit 131].

132. Douglas L. Bailey, a prominent media consultant and a Media Director for AEP during the 1980 Presidential campaign, has

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expressly acknowledged the power and influence wielded by large private fundraisers.

> The people who wield the authority coming out of private fundraising are not the people who give the money so much as the people who raise the money, and that has not significantly changed. If anything, it may have been accelerated [by the $1,000 limit on contributions] because the guy who can raise $51,000 in contributions is the guy who is incredibly important to that campaign and therefore has a significant amount of power.

[Exhibit 131 and Deposition of Douglas L. Bailey, p. 28, in RNC v. FEC, 487 F. Supp. 280 (S.D.N.Y.), aff'd mem, 445 U.S. 955 (1980)].

133. AEP had a stated objective in 1980, which was to raise and expend funds to defeat the re-election of Jimmy Carter, to elect Ronald Reagan president, and to further Governor Reagan's prospects for victory should the presidential election have to be decided in the U.S. House of Representatives. [Exhibit 131].

134. AEP considered every contributor to be a member of that organization. [Id.].

135. An Expenditures Committee determined which expenditures were to be made by AEP, it hired all staff, provided legal counsel, supervised all recordkeeping, authorized all fundraising and represented the organization to the media and public. [Id.].

136. Professional staff was retained by AEP to implement all aspects of AEP's programs. [Id.].

137. AEP hired as staff director, Don Pierce, the 1976 regional political director for former President Ford who has also managed numerous Congressional campaigns. [Id.].

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138. AEP devoted at least 75% of all its funds to telephone, radio, and newspaper advertising to defeat Jimmy Carter and elect Ronald Reagan. The timing and location of such advertising was determined by the Expenditure Committee after having received input from "Participating Members" of AEP and AEP's professional staff. [Id.].

139. AEP ran a complete press office that sought free radio and television time and newspaper space by making prominent Republicans available for interviews as part of its strategy for achieving the election of Mr. Reagan and Mr. Bush in 1980. [Id.].

E. Independent Expenditures and Other Political Activity

140. The press has reported that, to counter NCPAC's efforts in support of and in opposition to certain candidates, at least five new political action committees were created. Those committees, the press has reported, were not formally connected with the Democratic Party, but like the National Committee for an Effective Congress, which spent more than $1,420,000 in 1979-80, the committees ranged from general to exclusive support of Democratic candidates. [Exhibit 14].

141. During 1975-76, NCPAC's reports filed with the FEC indicate receipts of $3,006,292.09 and disbursements of $2,954,147.83. Of this latter amount NPCAC reported spending:

a. $2,123,588.20 for operating expenses.*/

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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b. $88,537.08 for independent expenditures.

c. $400,189.16 for direct/in-kind contributions to federal candidates.

[Exhibit 53, 1975 year end amendment; Exhibit 54, 1976 year end amendment].

142. During 1979-80, NCPAC's reports filed with the FEC indicate receipts of $7,648,551.34 and disbursements of $7,530,378.09. Of this latter amount NCPAC reported spending:

a. $3,813,929.29 for operating expenses.*/

b. $3,402,616.81 for independent expenditures.

c. $253,326.99 for direct/in-kind contributions to federal candidates.

[Exhibit 55, 1979 year end amendment; Exhibit 56, 1980 year end amendment, Exhibit 83, FEC 1979-80 D Index].

143. During the 1979-80 presidential race, NCPAC spent $1,859,168 as independent expenditures advocating the election of Ronald Reagan for president. NCPAC spent an additional $108,077 against Jimmy Carter for president. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980, p. 31].

144. During 1983 (7/83), NCPAC reported to the FEC, receipts of $3,015,930.44 and disbursements of $2,998,504.54. Of this latter amount, NCPAC reported spending:

a. $2,711,558.52 for operating expenses.*/

b. $83,575.84 for independent expenditures.

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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c. $6,646.43 for direct/in-kind contributions to federal candidates.

[Exhibit 58, 1983 August Monthly Report].

145. The press has reported that John T. Dolan stated that independent expenditures made by political committees, including NCPAC, made the difference in Louisiana and Mississippi during the 1980 presidential election. [Exhibit 59, Miami Herald, 3/29/81].

146. According to FEC Records, NCPAC had received $8,772,146 in contributions and made $9,003,776 in expenditures by October 13, 1982. [Exhibits 113, 114, NCPAC 1981 Year End and 1982 Pre-General Reports].

147. Of the $9,003,776 in expenditures which NCPAC made for the 1981-82 election by October 13, 1982, $5,760,320, went to fundraising, salary, travel and administrative costs. [Id.].

148. In 1978, NCPAC received 122 contributions between $500 and $1,000, 5 contributions between $1,001 and $2,500, and 5 contributions between $2,501 and $5,000. [FEC Data Base].

149. In 1980, NCPAC received 763 contributions between $500 and $1,000, 93 contributions between $1,001 and $2,500, and 54 contributions between $2,501 and $5,000. [Id.].

150. In 1982, NCPAC received 908 contributions between $500 and $1,000, 178 contributions between $1,001 and $2,500, and 114 contributions between $2,501 and $5,000. [Id.].

151. In 1983, NCPAC has received 264 contributions between $500 and $1,000, 48 contributions between $1,001 and $2,500, and 85 between $2,501 and $5,000. [Id.].

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152. From 1978 to the present, NCPAC has received 2,057 contributions between $500 and $1,000, 324 contributions between $1,001 and $2,500, and 258 contributions between $2,501 and $5,000. [Id.].

153. During 1975-76, FCM's reports filed with the FEC, indicate receipts of $474,642.09 and disbursements of $484,344.70. Of this latter amount, FCM reported spending:

a. $391,095.60 for operating expenses.*/

b. $39,655.26 for independent expenditures.

c. $50,943.84 for direct/in-kind contributions to federal candidates.

[Exhibit 61, 1975 year end amendment; Exhibit 62, 1976 comprehensive amendment; and Exhibit 63, conciliation agreement, MUR 503].

154. During 1979-80, FCM's reports filed with the FEC indicate receipts of $3,163,537.68 and disbursements of $3,150,292.79. Of this latter amount, FCM reported spending:

a. $937,192.93 for operating expenses.*/

b. $2,062,908.29 for independent expenditures.

c. $143,082.00 for direct/in-kind contributions to federal candidates.

[Exhibit 64, 1979 year end amendment; Exhibit 65, 1980 year end amendment; Exhibit 84, FEC 1979-80 D Index].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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155. During 1979-80, 100% of FCM's independent expenditures were made to aid Ronald Reagan in his race for president [Exhibit 66, FEC Index of Independent Expenditures, 1979-80, p. 168].

156. FCM spent more than $500,000 during the 1980 primaries in connection with its "project" entitled "Citizens for Reagan in '80". [Exhibit 2, p. 3, #13].

157. The purpose of Citizens for Reagan in '80 was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures.

158. Many of FCM's expenditures on behalf of Ronald Reagan for the 1980 primaries were made to purchase advertisements which attacked Ronald Reagan's chief rival, George Bush. [Exhibit 2, p. 3, #13].

159. From January through June of 1980, FCM reported making expenditures on behalf of Ronald Reagan totalling $656,467.26. Included in this amount, FCM reported spending: $465,727.22 on written communications; $29,200.80 on radio ads; $27,054.69 on newspaper ads; $61,080.39 on the rental of mailing lists; $3,163.75 on computer services; $3,143.87 on bumper stickers; $4,405.00 on consulting services, $7,822.86 on television ads; $2,172.00 for buttons; $21,675.00 for surveys; $9,991.92 on promotional paraphernalia; $1,475.00 on video. [Exhibit 2, p. 6, #25; Exhibit 67; Exhibit 48].

160. During 1983 (6/83), FCM reported to the FEC, receipts of $822,229.23 and disbursements of $818,968.69. Of this latter amount, FCM reported spending:

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a. $725,824.12 for operating expenses.*/

b. $55,448.37 for independent expenditures.

c. $18,355.31 for direct/in-kind contributions to federal candidates.

[Exhibit 85, FCM's July Monthly Report].

161. The 1980 presidential general election campaigns of Ronald Reagan and Jimmy Carter were publicly financed. The Reagan and Carter Committees received $29.4 million from the United States Treasury. [26 U.S. § 9001, et. seq.].

162. Over $13.7 million was spent as independent expenditures to influence the 1980 presidential race by political committees, individuals, and other groups. [Exhibits 57 and 115].

163. Over $12.2 million was spent as independent expenditures by political committees, individuals, and other groups, on behalf of Ronald Reagan for president during the 1980 election cycle. [Id.].

164. In addition to the $12.2 million spent on behalf of Ronald Reagan, an additional $747,000 was spent against Reagan's 1980 presidential opponents. [Id.].

165. As of July 1, 1983, there were 3,461 political committees eligible to make independent expenditures for the 1984 presidential election. [FEC Data Base].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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166. For the 1979-80 election cycle the following political committees reported spending the most money on independent expenditures:

1.	Congressional Club	$ 4,601,069
2.	NCPAC	3,307,962
3.	Fund for a Conservative Majority	2,062,456
4.	Americans for an Effective Presidency	1,270,208
5.	Americans for Change	711,856
6.	NRA Political Victory Fund	441,891
7.	Christian Voice Moral Government Fund	406,199
8.	1980 Republican Presidential Campaign Committee	314,740
9.	American Medical Political Action Committee	172,397
10.	Gun Owners of America Campaign Committee	119,891

[Exhibits 57 and 115].

167. For the 1979-80 election cycle the following individuals reported spending the most money on independent expenditures:

1.	Cecil R. Haden	$ 599,333
2.	Stewart Rawlings Mott	110,179
3.	Norman Lear	108,301
4.	Richard M. Devos	70,575
5.	Fay Van Andel	68,433
6.	Theo N. Law	66,230
7.	David B. Melville	35,159
8.	Henry C. Grover	29,076

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9.	Michael Rosen	25,940
10.	Dwight G. Vedder	20,000

[Exhibits 57 and 115].

168. In 1978, FCM received 22 contributions between $500 and $1,000, 2 contributions between $1,001 and $2,500, and 1 contribution between $2,501 and $5,000. [FEC Records].

169. In 1980, FCM received 265 contributions between $500 and $1,000, 15 contributions between $1,001 and $2,500, and 9 contributions between $2,501 and $5,000. [Id.].

170. In 1982, FCM received 157 contributions between $500 and $1,000, 13 contributions between $1,001 and $2,500, and 7 contributions between $2,501 and $5,000. [Id.].

171. In 1983, FCM has received 27 contributions between $500 and $1,000, and 61 contributions between $1,001 and $2,500. [Id.].

172. From 1978 to the present, FCM has received 471 contributions between $500 and $1,000, 91 contributions between $1,001 and $2,500, and 17 contributions between $2,501 and $5,000. [Id.].

173. Independent expenditures by PACs, individuals and other groups exceeded $2 million for the 1975-76 election cycle (figures are approximated and unverified). A total of $1.6 million was spent to influence the presidential race. [Exhibit 68, FEC Press Release, 10/9/80].

174. For the 1979-1980 election cycle, 51 individuals spent over $1,000 to influence the 1980 presidential election. [Exhibit 134, Affidavit].

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175. These 51 individuals spent over $1.7 million to influence the 1980 presidential election. [Exhibit 134, Affidavit].

F. Common Vendors

176. The Reagan for President Committee and the Reagan/Bush Committee as well as NCPAC and FCM employed many of the same vendors. The Reagan for President Committee employed these vendors to assist in the 1980 presidential campaign while NCPAC and FCM used many of the same vendors while making independent expenditures on behalf of Ronald Reagan for president during the 1980 election.

177. Ed Nichols Associates, a direct mail firm, was performing services as early as August, 1979, through July, 1980, for the Reagan for President Committee, in September, 1980, for the Reagan/Bush Committee, and as early as November, 1980, for NCPAC. [Exhibits 73, 101 and 102].

178. Arthur J. Finkelstein was on the Board of Directors of NCPAC in 1979. [Exhibit 6, NCPAC's Annual Report].

179. Arthur J. Finkelstein was the chief political pollster for NCPAC during the presidential election of 1980 and continued in that capacity through 1981. [Exhibit 37, Washington Post, 12/31/81, Emory article; Exhibit 78, Dolan's depo. p. 94].

180. Arthur J. Finkelstein and Associates, a political consulting firm owned by Arthur J. Finkelstein, performed services for the Reagan for President Committee as early as September, 1979, through February, 1980. This firm first provided political services to NCPAC as early as April, 1976. [Exhibits 78, 79 and 111].

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181. Arthur J. Finkelstein and Associates conducted political polls for NCPAC, FCM, and the Reagan for President Committee and the Reagan/Bush Committee during 1979-80. [Exhibits 52, 110 and 111].

182. The press has reported that Arthur J. Finkelstein and his firm, Arthur J. Finkelstein and Associates, received payments from NCPAC of $261,533 between 1975 and January, 1982. [Exhibit 11, The Sun, 7/13/83].

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184. The press has reported that Richard Geske is a direct mail specialist. [Exhibit 11, The Sun, 7/1/82, p.45].

185. The press has reported that Richard Geske and the National Conservative Political Action Committee - State Election Fund, a NCPAC affiliate, were joint owners of Mediamerica, Inc. during the period of 1978-79. [Id.].

186. The press has reported that Richard Geske bought NCPAC State Election Fund's share in Mediamerica, Inc., during 1979. [Id.].

187. Richard Geske's firm Mediamerica, Inc., received payments from NCPAC totalling $1.3 million between 1975 and January, 1982. This figure represents approximately 12% of NCPAC's total operating funds for these years. [Exhibit 11, Sun, 7/13/82; Exhibit 80, Dolan's depo., p. 88].

188. Mediamerica, Inc., a media production and advertising firm, provided services to the Reagan for President Committee as early as January, 1980 through October, 1980, and for NCPAC as early as April, 1980 through November, 1980. [Exhibits 80, 108 and 110].

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189. The press has reported that Rhonda Stahlman was director of NCPAC's lobbying arm, Conservatives Against Liberal Legislation (CALL). She held this position from 1978 to 1982. [Exhibit 11, The Sun, 7/13/82, p. 45].

190. Rhonda Stahlman was a member of Mediamerica's Board of Directors from 1979 through 1982. [Id.].

191. Rhonda Stahlman was a member of both NCPAC's Board of Directors and Executive Committee from 1979 to 1983. [Exhibit 7, NCPAC's Annual Reports; Exhibit 10, Dolan depo., p. 13].

192. John T. Dolan, Rhonda Stahlman, and Dolan's sister, Maiselle Shortley, all acted as unpaid members of Mediamerica's Board of Directors. [Exhibit 11, The Sun, 7/13/82].

193. John T. Dolan was a member of the Mediamerica's Board of Directors from 1978-79. [Id.].

194. Maiselle Shortley, John T. Dolan's sister, was Vice President and a member of the Board of Directors of Mediamerica, Inc., from the company's inception in 1978 through 1982. [Exhibit 81, Mediamerica's Annual Report].

G. Additional Facts

195. According to FCM, the Committee received the following contributions during the following years:

Year	Number of Contributions	Total Dollar Amount
1983 (to date)	38,549	$1,057,176.00
1982	82,107	1,707,347.00
1981	49,060	949,705.00
1980	100,353	2,526,824.00
1979	8,619	168,493.00
1978	14,862	208,058.00

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196. Exhibit 139 sets forth the costs of placing ads in various forms of media. The information contained in this exhibit is incorporated herein by reference.

197. Exhibit 140 is a videotape of a commerical entitled "Ronald Reagan's America" which was produced and financed by NCPAC and which has been and will be used during the 1984 presidential cycle.

198. On July 24, 1979, then-candidate Ronald Reagan sent to FCM a mailgram requesting that FCM immediately stop its independent effort. [Exhibit 141].

199. Twenty-five labor unions and five incorporated membership organizations reported spending a total of $2.2 million on partisan communications directed to their members during the 1981-82 election cycle. [Exhibit 142, FEC newsletter, Vol. 9, #10, October 1983].

200. The Internal Revenue Service has reported that in 1977, only 29% of those taxpayers who filed income tax returns chose to have $1.00 of their taxes earmarked for the Presidential Election Campaign Fund Act. In 1981, the last year for which figures are available, 48.2% of returns were marked "no" and 26.1% were marked "yes" to the questions whether $1.00 of a taxpaper's tax liability should go to the Fund. [Exhibit 143, "Campaign Practices Reports," Congressional Quarterly, Vol. 10, #7, 4/11/83].

201. Although only a minority of taxpayers check the "yes" presidential campaign box, the election fund is in no financial difficulty. The presidential fund had a total of $153.4 million at the end of 1982. [Id.].

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202. During the 1979 election cycle, NCPAC received contributions from approximately 101,000 contributors. During the 1981-82 election cycle, NCPAC received contributions from approximately 143,000 contributors. [Review of NCPAC's contributor data base].

Respectfully submitted,

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THE WASHINGTON POST -
August 10, 1980

(front page of Style Section
in Sunday paper)

The New Right Brigade

John Terry Dolan's NCPAC Targets Liberals And the Federal Election Commission

By Myra MacPherson

"GROUPS LIKE ours are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in politics. We could say whatever we want about an opponent of a Senator Smith and the senator wouldn't have to say anything. A group like ours could lie through its teeth and the candidate it helps stays clean."

So speaks John Terry Dolan, 29, one of the foremost leaders of the New Right. A collection of far right groups, they have become a phenomenon in this election year. They are the "independent expenditures" brigade. They have been denounced by liberals and some mainstream conservatives alike. Dolan is chairman of the National Conservative Political Action Committee (NCPAC). It is, according to preliminary Federal Election Commission reports from January 1979 until this June, the leader of all PACs in gross receipts—over $4 million. "We're bugging the hell out of them," says Dolan, with a self-satisfied grin.

A short, slim, mustachioed young man, Dolan proudly shows off his suite of offices in Arlington, where he creates his "attack" ads, brochures and fund-raising pleas, collecting and spending thousands a month. NCPAC is active on two fronts. (1) Targeting six liberal Democratic senators— Frank Church, George McGovern, Alan Cranston, John Culver, Birch Bayh and Thomas Eagleton—spending almost $700,000 on predominately negative advertising. (2) It is one of five committees dedicated to raising millions in support of Reagan's candidacy.

Dolan goes after his opponents with the ferocity of an enraged terrier; senators hit by his ads howl that they are spurious, distorting, often inaccurate, and that there is at very least a tacit acceptance of Dolan's function by some of their opponents. Let them howl, says Dolan. For Dolan is not only finding loopholes in the Federal Election Reform law, he is taunting the FEC, the lawmakers and everyone else. "It's a stupid law. They're gonna take me kicking and screaming to jail before I stop my activities. Look," says Dolan, punching out his sentences in fast bursts, revealing his true intention in a repeated battle cry, "we're saying 'come and get us.' That law should go."

Dolan's theories often have an interesting simplicity to them. Take government management, for instance. He scathingly says Reagan does not go far enough with proposed budget and tax cuts. The federal budget, under Dolan, would be doled out this way: "99 percent for Defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

Critics of the New Right decry what they perceive as a no-compromise, no-accommodation stance. Liberal George McGovern calls them members of the new right, "angry and intolerant, equally incapable of believing that they can be mistaken or that those with whom they disagree might have honorable intentions. They call themselves 'conservative' but their zealotry, self-righteousness and ruthlessness toward those with whom they disagree connote something radically different from authentic conservatism."

And some Republican officials have characterized NCPAC as a "loose cannon on the deck." William Brock, national chairman of the Republican Party, commented, "You can't build a party around those emotional social issues. The New Right groups divert attention in Congress away from the broad issues of tax reduction, job creation, health care, housing—the American Dream issues."

Says Dolan, "Brock should have been fired long ago." Dolan once said, "The Republican Party is a fraud. It's a social club where the rich people go to pick their noses."

What are NCPAC and other similar groups managing to do, and why is everyone so angry? And why have lawsuits, charges and counterchargers been flung with all the regularity of campaign promises? A brief explanation:

• The staggering facts department of elections, American style, revealed that in 1972 a mere 153 individuals contributed $20 million to President Nixon's campaign. Reacting to Watergate and such contribution practices, Congress passed the 1974 Election Reform Act. Individuals can contribute only $1,000 per election to a candidate for federal office, including president. And groups like NCPAC are allowed to contribute $10,000 directly to a Congressional and presidential candidate ($5,000 primary and $5,000 general. Once a Democratic or Republican presidential nominee accepts federal funds, private contributions are prohibited. But now, in 1980, various "independent" groups—including NCPAC—are gleefully spending millions to defeat senatorial candidates and additional millions on Ronald Reagan's campaign. How so?

• In 1976 a collection of odd couples in politics—from leftist Eugene McCarthy to rightist James Buckley, from the ACLU to Human Events, the conservative weekly—challenged the election reform law on the ground that it violated their first amendment rights. The Supreme Court ruled in basically upholding the act that independent groups cannot be prohibited from spending any money in support of or in opposition to a candidate so long as there is no collaboration or cooperation between the campaign and the people making these independent expenditures.

• Now enter the "independents"—who have seized upon this loophole to spend their millions. These PACs differ from corporate and labor union PACs. Independents can, as one FEC official said, "solicit the world," reaching out to the public while corporate and labor union PACs can only go to a targeted group for their money—the corporation to its stockholders, executives and administrative personnel; the union to its membership. In addition to its activity in senatorial races, NCPAC is one of five committees aiming to raise from $35 to $55 million to support Reagan's candidacy. Reagan has already picked up his $29.4 million check from the U.S. Treasury. The Reform law said that was all he was supposed to get. But NCPAC and other groups which include among them longtime Reagan supporters Senators Jesse Helms and Harrison Schmitt, who were Reagan delegates at last month's convention) say they are independent enough to raise the megabucks on Reagan's behalf. Dolan's "Ronald Reagan Victory Fund" plans to spend $4 million (they spent almost $100,000 last month alone) and Dolan proudly claims, "We're the first of the indepen-

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August 30, 19[illegible]

"A [illegible] 1976, Jimmy Carter said, 'Why Not the Best?' That's what he said. Now look what he gave us: Andy Young, the man who called Ayatollah Khomeini a saint, forced to resign after lying to the president; Bert Lance, forced to resign for questionable banking practices; Peter Bourne, forced to resign for supplying drugs to a White House staffer."

A definition of "independent" is a sometime thing. Terry Dolan has more than a passing awareness of Ronald Reagan. NCPAC filed with the FEC in 1975 and a few months later a personal letter from Reagan asked his legion of supporters all over the country to support the Virginia-based outfit. "He is," claims Dolan, "one of the main reasons NCPAC is here today." Terry Dolan's brother works for the Reagan campaign. Dolan's chief pollster, Art Finkelstein, does work for Reagan. Dolan is co-owner of an Alexandria office building along with longtime Reagan aide Lyn Nofziger; Paul Russo, a 1980 Reagan campaign staffer; and Roger Stone, Reagan's northeast coordinator in the primaries and now a consultant to Reagan and former NCPAC treasurer. A tenant is Richard Viguerie—NCPAC's virtual creator and right-wing fund-raising czar for Reagan as well as many of the independent expenditure groups. A network of friendship and contacts began when most were Yaffers (members of Young Americans for Freedom). "There is no crime in being friends," argues Dolan.

The Democratic National Committee charges in its complaint to the FEC that all this coziness of New Right leadership forms a "seamless web" and that they are "probably incapable of acting truly independently of each other." Common Cause is suing one of the committees, Americans for Change. (Arguments will be heard this week.) "There is collusion in this," charges DNC Chairman John White. "It's the same old heavy-handed misuse of the political system." Archibald Cox, chairman of Common Cause, claims such independent groups "threaten a return to the old Watergate tactics and influence of money in politics."

Dolan says he makes few moves without checking it out first with his lawyers. "We got an advisory opinion from the FEC which says the use of polling data is not an independent expenditure; it's an operating expense. So whether Finkelstein does stuff for us and Reagan is beside the point. I know it's a ridiculous ruling but the [illegible] is stupid. We asked them the nine [illegible] questions we could think of on what constitutes independent and they came up with nine of the stupidest answers. The lawyers check over our ads for libel. So if Andy Young wants to sue, sue."

So the challenge goes on as to whether these groups of friends are independent (they claim they do not consult with Reagan or his staff). Fred Wertheimer of Common Cause contends, "If they figure out a way not to make direct contact, their actual philosophy is one of coordination and it is quantitatively different from a truly independent guy out in Des Moines taking out a full-page ad because he likes the candidate."

In a display of candor, Jesse Helms—the Patron Saint of NCPAC—allowed as how at the Republican convention it's been an "awkward situation" since the federal election law "forbids me to consult with him [Reagan]. I've had to sort of, talk indirectly with [Sen.] Paul Laxalt [Reagan's national campaign chairman]." Helms drawled, "I hope that he would pass along, uh, and I think the messages have gotten through all right." Dolan says his commercials will "depend on the Reagan campaign strategy." And how is he [illegible] the

The chuckles in NCPAC circles are long and loud. But for those who see a troublesome subversion of the intent of the law, it is no laughing matter. Says Wertheimer, "NCPAC and Dolan and these other groups are out to destroy campaign financing laws. They want to eliminate the parts that have been effective. Today you don't see huge sums from single contributors looking for favors. These groups want to unravel the whole process and get back as quickly as they can to the big spender days when 153 individuals contributed $20 million to Nixon."

As for the FEC, its critics form a long line; the agency seems to have all the clout of a moth hitting a summer screen. One FEC official admitted that the battle could drag on indefinitely, that the FEC, with its makeup of three Democrats and three Republicans, is leery of "interjecting itself. Either way it acts it's going to be perceived as political." With a sigh, he delivered a true bureaucrat's lament. "This is a very strange place. We've achieved the distinction of being disliked by everybody—those who think we can do something and those who think we can't."

Dolan sits in his office in front of pictures of some of the senators he's targeted this year. The hair is close clipped, the mustache trim. From time to time, Dolan opens his bottom drawer, gets out a roll of toilet paper, rips off a few pieces, blows his nose and puts the roll back.

Some of Dolan's views sound like slogans of raw anger. "The biggest threat to America—it isn't the commies, it isn't the oil companies. The biggest problem is the United States government. The U.S. government has done more to destroy the American spirit." "There's nothing unjustified in ridding the world of Fidel Castro. He's the same as Idi Amin. The only difference is one has a beard," and then the smile, "and one has darker skin." He admires William Buckley because he can "knock anybody down in two seconds." He admires "the strength of a Patton or a MacArthur." Carter is "our weakest president ever." It is easy to get around the FEC because "they're a bunch of mindless bureaucrats who know less about the first amendment than they do politics."

Dolan says "Liberals never bother to find out if conservatives are right. Take a voucher system for education—if you paid for private education, you'd get tax breaks." How would that help families with children in public schools? "Who said it would?" Well, what if you can't afford private schools? "Well, that's who public school is for," he says, indifferently.

Dolan is also for getting the government out of nearly everything that doesn't please him. Federal social programs should be done away. "Say next year we cut all food stamps. It would take moral courage, if that's what it takes, to, if you were a local politician, decide your state was going to give out food stamps. Gov. Carey, say, is going to have to have the courage to give out the food stamps, not the federal government. Of course, I don't think people should *starve* in America. But our system discourages *responsibility*."

A special scorn is reserved for the liberal targets of his negative advertising—Senators Church, McGovern, Bayh, Cranston, Eagleton, Culver. "I like to see 'em squirm. They deserve it." Dolan proudly points to his polls that show Church and McGovern behind, and thinks there is a good chance "at least two, possibly four, can be defeated. It's just possible that the conservatives could take control of the Senate."

Dolan has been called everything from irresponsible to nasty by those he targets. A few years ago his heavily negative espousals would have been considered on the fringe. RNC Chairman Brock has denounced the independent approach as detrimental to the RNC mainstream fund-raising. Dolan sneers, "Every chance he's got Brock tries to screw Reagan. He's frustrated by jealousy. We're raising the funds. We're on the cutting edge of politics."

Lest one confuse Dolan with mainstream Republicanism, Dolan hastens to thumb his nose at both parties. "The only difference between Republicans and Democrats on a presidential level is the Democrats tell you they're going to screw you and the Republicans tell you they're not going to screw you—and do it anyhow."

He likes to appear impervious to the charges leveled at him. "I'm not after respectability. That doesn't bother me. The only thing I care about is if we're effective. I'm absolutely convinced our negatives on Carter will stick. We've got a couple more 'attack' spots planned." One will include Billy Carter. Ethnics and southern accents will be prominent as Dolan develops plans for his rural markets, but there will be no blacks. "Let Brock spend the RNC's money to try to get that vote," he said.

Some Reagan aides murmur that Reagan privately wonders if Dolan and others like him will create a backlash with their negative advert[illegible] but Reagan so far has done not[illegible] licly disavow them.

Dolan's ads are more oft[illegible] "against" a candidate, rather than "for" someone. Alan Craw[illegible] book "Thunder on the Right," [illegible] New Right the "politics of [illegible] ment."

Dolan retorts, "I know I'm screwed up, but at least I admit it. That's more than I can say for the author of that silly book."

Dolan seldom loses his cool but one subject that causes a bit of nervous fumbling is something his opponents discovered last week. NCPAC had not reported a single itemized contribution since October 1979—despite over $2 million in receipts. Dolan admits the omission. "I just found that out. We're going to take immediate action, of course we're going to amend the reports," he says quickly. "It was just a comedy of errors," he contends. "We had, ah, a new bookkeeper and she just discontinued itemizing them." (According to federal statute, any contribution over $200 has to be itemized; failure to do so could be ruled a serious violation of disclosure laws.) "I just don't know what happened. We're not trying to hide anybody. We don't have any H.L. Hunts. I wish we did. Joe Coors has contributed but not this year."

One irony is that the very law he lambastes created the Dolans and Vigueries. The direct mail mills (Viguerie has a reported 5 million names) sprang up when small donors became vital to campaigns after large individual contributions were ruled out.

Opponents accuse Dolan of bending and distorting the facts. Dolan himself seems to indeed have a casual attitude toward some of the details in his advertising.

• In a spoof of the Dating Game, Dolan put together a minute radio spot called The Rating Game. It was used against Cranston, Bayh, McGovern, Church and Culver. In each ad there is a "Mrs. Verna Smith"—from Sacramento in one, Indianapolis in another, and so on. "Oh yeah, that name appeared in all the ads. It's a phony name, but I don't think anyone listening to the ad would take [illegible]."

"The federal budget, under Dolan: 'Ninety-nine percent to Defense—keep America strong—and one percent on delivering the mail. That's it. Leave us alone.'"

• Dolan also plans a half-hour film using Ronald Reagan. That'll drive the FEC crazy. It's a part of his acceptance speech. I think we are violating the regulation—it says you cannot rebroadcast something of the candidate—but as far as I'm concerned, the regulation is unconstitutional," says Dolan.

• An exasperated Frank Church accused Dolan of "scummy tactics" and was successful in getting NCPAC to withdraw an ad that erroneously accused him of voting to increase his Senate pay. Another ad—which stayed on—showed an empty missile silo and stated that because they were empty, "they won't be of much help in defense of your family or mine. You see, Senator Church has almost always opposed a strong national defense . . ." The obvious implication was that Church's votes had emptied out that silo— even though it had been made obsolete by a more advanced weapons system. "Innuendo? Sure," says Dolan. "But I have absolutely no ethical qualms about that. It's symbolic of his record."

• Ads against George McGovern charge that he is a "baby killer" (he is pro-choice) and one has him in the gunsights as a 1980 target. "That's not our stuff, even though he *is* a baby killer. We wouldn't use such rhetoric. McGovern in the gunsight, I don't see anything wrong with that. It was not intended to mean you ought to shoot McGovern." Who did those ads? A man named Dave Bell. "Well, Bell used to be an employe of ours—but not in this campaign." Some NCPAC ads attack McGovern as favoring "a gas tax that could reach 50 cents a gallon . . . and voting "against energy tax incentives." McGovern staffers protest "that's dead wrong. He has never proposed such a tax measure in the Senate." To that Dolan says, "Well, he supported Anderson's plan." Back to the McGovern staff: "He never did! And McGovern has cosponsored measures and voted for energy tax credits for individuals and companies installing energy conservation devices." Dolan says "They're lying."

• Dolan uses The American Farm Bureau Federation, a right wing, anti-union group, to base his rating on farm votes. Senators he attacks howl that this distorts the vote and that Dolan should use the National Farmers Union rating. Dolan says, "That's just a pro-union, anti-business organization."

• When Dolan kicked off his Get Eagleton campaign, the senator's staff fired off a letter to Dolan: "Your 'analysis' of the Eagleton record which you distributed yesterday fully lives up to your earned reputation for inaccuracy, distortion and untruths." NCPAC castigated Eagleton for "giving $75 million of taxpayers' money in aid to revolutionary government in Nicaragua." Eagleton voted against aid to Nicaragua, his staff pointed out. NCPAC said Eagleton voted against the Hatfield amendment which would cut off funds for the neutron bomb. Eagleton, in fact, supported only one restriction on the neutron bomb. Shrugs Dolan, "We had corrections passed out at that time. We sent letters to radios and newspapers and said we did make a couple of mistakes in the analysis of the record—but that just proves he doesn't vote all bad all the time. They're just trying to discredit us. Want to make out we're schoolks."

• In a last minute fund-raising letter to "stop Kennedy," Dolan charged that Kennedy "can legally spend as much of his own money [on his own campaign] as he wants—and he's got millions." When asked about it, Dolan seemed vague about the details, even though he signed the letter. This is, of course, inaccurate, as Kennedy had applied for matching funds and is therefore limited to spending $50,000 of his own money. "Oh, our statement was an accurate statement of the law—we didn't mention matching funds. It's all so incredibly irrelevant."

Dolan's father was manager of the Sears Roebuck store when he was growing up in Fairfield, Conn. Irish Catholic—except for "one quarter Swiss"—Dolan learned about politics early. His mother ran for local office when he was young. At first the Dolans were Democrats but switched to the GOP. "They even voted *for* Jack Kennedy because he was Irish," Dolan recalls. Dolan attended private high school in Connecticut and then Georgetown University. "I managed to survive four years of their (Georgetown's) socialist doctrine," he says witheringly (1968 to 1972). Dolan was in school during the Vietnam War although he "firmly believed it was a moral duty, trying to resist communist aggression." Dolan was heavy in the Yaffer movement and in such counter-protests as Honor America Day.

He majored in government and German.

His brother, Anthony, went on to become a Pulitzer Prize-winning journalist and Dolan drifted more to the right in his interests. "I used to be a Republican. I used to be a political hack, but then in 1972, it was like a sexual awakening. I couldn't understand these strange urgings to do conservative things. On the ballot I saw John Schmitz [the American Party presidential candidate who once quipped that he had "gone pretty far in life for a Catholic Bircher with a mustache"] and I had this urge to pull the lever."

Dolan worked for right wing causes and then got in on the ground floor when NCPAC was formed in 1975—along with Charles Black, a former Helms aide who worked for Reagan until he was fired along with campaign chairman John Sears this spring. Dolan describes NCPAC as a "central bureau" to help conservatives—both Democrats and Republican. Helms was "the prime mover. He gave us credibility." A huge stockpile of lists and names in Viguerie's and Helms' possession were fed into the NCPAC operation. "Helms just went to his magic computer," says Dolan. The appeals are often on emotional social issues. "Oh, no question," says Dolan. "It is a perfect list for anti-abortion, anti-ERA, anti-gun control and pro-Human Events [magazine]."

Dolan acknowledges that NCPAC was a creation of Dick Viguerie. "In 1978 about 90% of our money was Viguerie-raised. Now he does about 50% —probably a little over $2 million by the end of the year." At one time he was heavier in debt to Viguerie but now says NCPAC owes "only about $50,000."

There seems to be no getting around Dolan's luck with the FEC—the group he constantly belittles. The South Dakota Democratic party filed a suit challenging Dolan's independent status, charging that he openly encouraged Jim Abdnor to run against McGovern. "I *know* we did," says Dolan with a chuckle. "We admit it. He admits it. We just led him up to the nomination. We got an advisory from the FEC that we could do it." The FEC has reportedly decided to rule 4-2 to dismiss the suit.

Dolan leads a visitor around his empire—a whole floor of an Arlington office building. Next to his office is the National Conservative Research and Education Foundation and next to that is Conservatives Against Liberal Legislation (CALL). Dolan is on the board of directors. Rhonda Stahlman, who runs CALL, a lobbying outfit, can be burned on Dolan's telephone. A handful of volunteers are working xerox machines; there are "Nuke Now" signs around.

"There is a commonality of board of directors but we keep the finances separate. We used to do post-election analysis—but why should NCPAC do it when a tax deduction agency [his research outfit] can do it? It's totally legitimate. Sure we use the information in upcoming elections but there is nothing wrong with that."

There is, in fact, a real sense of expansiveness as Dolan brags, "Nothing that NCPAC does is illegal. If we went out of business tomorrow I could pocket everything. Of course, I wouldn't—but I could. Why? Because the law makes no sense. They ought to scrap it." The smile is there to the last. "You can do what you want with PACs."

"It is easy to get around the FEC because 'they're a bunch of mindless bureaucrats who know less about the First Amendment than they do about politics.'"

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Election Law Violations Admitted in '82 Race

By Thomas B. Edsall
Washington Post Staff Writer

Officials of the 1982 Senate campaign of Bruce F. Caputo in New York have admitted to the Federal Election Commission that they violated federal election law by working in coordination with the National Conservative Political Action Committee (NCPAC).

The admission, in a consent agreement with the FEC, could prove damaging to NCPAC, which specializes in controversial "independent" campaigns against liberal candidates and in support of conservative ones.

The consent agreement declares that the "independence" of a NCPAC campaign against Sen. Daniel Patrick Moynihan (D-N.Y.) was "compromised" by illegal ties to the Caputo camp.

However, NCPAC officials reject any suggestion of illegal activity, and intend to fight the case through FEC proceedings and in court, if necessary, according to Craig Shirley, a spokesman for the group.

Shirley, who confirmed the FEC agreement, said the Caputo campaign was forced by lack of funds to give up fighting the case.

In the agreement, the Caputo campaign agreed to pay a $3,000 fine. Attempts to reach officials of the campaign were unsuccessful.

By law, organizations such as NCPAC may spend unlimited sums for or against federal candidates as long as the expenditures are made without consultation with the campaign that benefits from them. The FEC consent agreement raises questions about NCPAC's claims that it has run independent campaigns.

In 1982, Caputo, a former Republican House member, entered the GOP senatorial primary with the intention of challenging Moynihan, the Democratic incumbent, in the general election. At the same time, NCPAC conducted an independent campaign against Moynihan budgeted at $750,000, although only $73,775 was spent.

In the consent agreement, which has not been made public, Caputo campaign officials acknowledged that Robin R. Martin, the chairman of NCPAC's anti-Moynihan campaign, attended "some of the staff meetings of the Caputo for Senate Committee."

In addition, Caputo and NCPAC hired the same pollster, Arthur Finkelstein & Associates, to conduct surveys and provide advice. The New York Democratic Committee, which originated the FEC complaint against NCPAC and the Caputo campaign, charged that the similar rhetoric of the two campaigns suggested illegal collusion.

Both campaigns came to an abrupt halt in March, 1982, when it was disclosed that Caputo had exaggerated claims concerning his military service and academic training. The disclosures forced Caputo to drop out of the race for the GOP nomination.

RECEIVED AT THE FEC

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February 16, 1984

Attachment 2

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Mr. Gary Johansen

Re: MUR 1624

84 FEB 21 A9:56

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Dear Mr. Gross:

This letter is written on behalf of our client, National Conservative Political Action Committee (hereinafter "NCPAC"), in substantive response to the complaint filed with the Federal Election Commission on January 30, 1984 by the Democratic Congressional Campaign Committee (hereinafter "DCCC"). You forwarded a copy of that complaint to NCPAC by letter dated February 1, 1984, it having been received by NCPAC on February 3, 1984. This matter has been numbered MUR 1624.

Enclosed, for your records, is a Statement of Designation of Counsel, signed by the Treasurer of NCPAC, which designates this firm as its counsel in connection with this matter.

This letter is submitted in accordance with the provisions of 2 U.S.C. 437g(a)(1) and 11 CFR 111.6(a), which afford a respondent an opportunity to demonstrate that no action should be taken on the basis of the complaint. NCPAC welcomes having this opportunity, because it confidently believes that it can demonstrate that this complaint should be summarily dismissed.

The regulations promulgated by the Federal Election Commission provide that a complaint should contain "a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 CFR 111.4(b)(3). In addition, the regulations provide that a complaint should be accompanied by documentation "supporting the facts alleged" if such documentation is known or available to the complainant. 11 CFR 111.4(b)(4). The DCCC failed dismally in its effort to meet these fundamental threshold requirements.

The complaint of the DCCC contains a number of flamboyant, specious, yet spurious, charges. "Contacts between NCPAC and Reagan/Bush '84 have been frequent and open," the DCCC charges on page 7 of its complaint. "(T)here is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film, 'Ronald Reagan's America'," the DCCC blasts on pages 11 and 12 of its complaint. These allegations are little more than political rhetoric, perhaps suitable for direct-mail copy, but entirely inappropriate in the context of an administrative proceeding that demands supporting facts. An analysis of the complaint can lead to only one conclusion: there is not a single shred of evidence advanced by the DCCC in support of its charges.

In an effort to camouflage its inability to proffer facts in support of its allegation that there have been frequent and open "contacts" between NCPAC and Reagan/Bush '84, the DCCC attached to its complaint a copy of a "Joint Stipulation of Facts," which was submitted to the United States Court of Appeals for the Third Circuit by the parties in Democratic Party of the United States, et al. v. National Conservative Political Action Committee, et al. (Civil Action No. 83-2329). The DCCC claims, citing various provisions of the "Joint Stipulation of Facts," that NCPAC has "admitted" this and NCPAC has "admitted" that. In fact, NCPAC has not admitted any of the alleged activities. An analysis of the cited paragraphs in the "Joint Stipulation of Facts," reveals that NCPAC only "admitted" that "the press has reported," or that "according to published reports," or that "in a Washington Post article...it was reported," etc. These were admissions only that certain stories exist in print, not admissions of the truth or accuracy of those stories. Thus, even as the Court of Appeals found in its unanimous decision, these press accounts are inadmissible and they do not support the alleged "facts" as required by 11 CFR 111.4(b)(4).

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Not only does it misread, misquote and miscite the provisions of the "Joint Stipulation of Facts," the DCCC misuses them to create additional allegations. One such hyperbole and non sequitur appears on page 10 of the complaint. There the DCCC attempts to fabricate a charge that reported contacts between NCPAC and White House officials about 1982 Congressional campaigns "presage similar close cooperation in support of the President's own re-election campaign." It does no such thing. NCPAC and Reagan/Bush '84 are very well aware that the Federal Election Campaign Act prohibits such contacts and, as a result, none have taken or will take place. If the DCCC thinks otherwise, let it advance specific facts for consideration.

Another example of a specious, but spurious, allegation is the statement on page 9 of the complaint that "NCPAC has admitted the truth of press reports...that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program, 'Ronald Reagan's America'." First, the paragraph of the "Joint Stipulation of Facts" cited in support of that allegation states only that the press carried such a story, not that NCPAC "admitted" the truth or accuracy of the story. But then the DCCC compounds its error by failing to point out in its complaint that that same newspaper story reported that Mr. Dolan advised the President that, because of the law governing independent expenditures, they could not discuss the film or NCPAC's plans.

Notwithstanding the foregoing, the bulk of the "charges," made by the DCCC relate to activities previously investigated and dismissed by the Commission. (See, MUR 1252 (1299). The balance of the charges are of similar ilk. None suggests "frequent and open" contacts between NCPAC and Reagan/Bush '84 or that the expenditures made by NCPAC were made at the request or suggestion of the candidate or his agents. The DCCC can find no comfort in the First General Counsel's Report in MUR 1231, the recommendation contained therein having been rejected by the Commission because the complaint failed to allege actionable facts.

With respect to the allegations by the DCCC that the film, "Ronald Reagan's America," is "a case in point," proving "cooperation and consultation," the DCCC's "evidence" is less than ephemeral. It is non-existent. The DCCC wants the Federal

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Election Commission to find reason to believe that the respondents have violated the law solely on the strength of the following statement:

> "...at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film." (Complaint, page 10.)

Ignorance of the source of the footage does not translate into knowledge that the clips were created specifically for the purpose of NCPAC's film. Further, the DCCC cannot bootstrap its allegation by citing Advisory Opinion 1983-12 and stating that "'Ronald Reagan's America' falls squarely within the purview of this ruling." (Complaint, pages 5 and 6.)

The facts are that the footage of the President at the beginning and end of the film, "Ronald Reagan's America," were excerpted from a video recording of a televised address. The video recording is in the library of the firm that produced the film for NCPAC, Political Advertising and Consulting, Inc., of Los Angeles, California. Enclosed is a copy of a letter from the film's producer, which confirms the source of the footage in question.

In conclusion, it has been amply demonstrated that the complaint of the DCCC fails abysmally. It provides no foundation in fact for a finding of reason to believe that the respondents have violated the law which regulates independent expenditures. It is a sine qua non that, to be actionable, a complaint must allege a suspected violation of law based upon a specific set of facts. Emotional distress over the activities of another, or a rehash of old newspaper clippings, does not make a complaint actionable. There is little doubt that the complaint of the DCCC is only the first of many that will register little more then

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general aggravation with independent expenditures. To treat this complaint as actionable, will result in an intolerable abuse of the regulatory functions of the Commission. For the foregoing reasons, the complaint of the DCCC must be dismissed.

Respectfully submitted,

J. Curtis Herge
Counsel to National
Conservative Political Action
Committee

Enclosure

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PAC Political Advertising & Consulting Inc.

62

February 14, 1984

Mr. J. Curtis Herge
Sedam & Herge
8300 Greensboro Drive, Suite 1100
McLean, Virginia 22102

Dear Mr. Herge:

It has come to our attention that it has been alleged that certain film clips of Ronald Reagan in "Ronald Reagan's America" were filmed separately and exclusively for inclusion in that film. As the producers for the National Conservative Political Action Committee's film "Ronald Reagan's America", we can assure you that the footage in question was in fact not filmed for the film but was excerpted by us from a video recording of a Reagan televised address.

That video recording is currently in our library and I would be happy to send it to you upon request.

I trust this clears up any questions on the film clips used in production.

Sincerely,

Mark Barnes

MARK BARNES
President

MB:mh

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8820 S. Sepulveda Blvd., Suite 212 / Los Angeles, California 90045

REAGAN-BUSH '84
The President's Authorized Campaign Committee

(63)

February 27, 1984

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attachment 3

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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84 FEB 27 P4:38
GENERAL COUNSEL

440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

(64)

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue [illegible] be coordinated with, and [illegible]de in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum)

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

81

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

(84)

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Stetson

Notary Public

EXHIBIT A

R40453R18

(85)

REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

86

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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EXHIBIT B

87

NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

Johnson (88)

February 29, 1984

Attachment 4

MUR 1624

Charles Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Dear General Counsel Steele:

As you know, on January 30, 1984, the Democratic Congressional Campaign Committee ("DCCC") filed a complaint with the Federal Election Commission, alleging that the National Conservative Political Action Committee ("NCPAC") and the Reagan/Bush '84 Committee had committed, and will continue to commit, violations of the Federal Election Campaign Act in connection with NCPAC's program of "independent" spending in support of President Reagan's reelection.

Specifically, DCCC alleged that NCPAC's program of "independent" expenditures in support of Mr. Reagan could not, in fact, be "independent," but instead were made in coordination and consultation with Reagan/Bush '84 and other agents of President Reagan. DCCC cited, as evidence, both an extended history of contacts between NCPAC and high political operatives in both the Reagan Administration and now Reagan/Bush '84, and Mr. Reagan's personal appearance in a film, produced and broadcast by NCPAC in support of his reelection, entitled "Ronald Reagan's America." DCCC contends in its Complaint that the evidence so far available of NCPAC/Reagan/Bush '84 collusion is sufficient to justify a "reason to believe" recommendation by your office and finding by the Commission, which would trigger, in turn, the full investigation which is needed.

This letter serves to bring to your and the Commission's attention certain important questions relating to Mr. Reagan's appearance in the NCPAC campaign film "Ronald Reagan's America." DCCC has learned through press channels that NCPAC and a purported "vendor" of Reagan film footage used in "Ronald Reagan's America" have both claimed that the footage was purchased by NCPAC in an ordinary course, arms-length commercial transaction. DCCC would point out, however, that the question of whether NCPAC purchased the film footage is only marginally relevant to the central issue of this Complaint. Instead, the question is whether any agent of President Reagan, his Administration, or organ of the Republican

Democratic Congressional Campaign Committee
Tony Coelho, CA, *Chairman*
Suite 319, 400 North Capitol Street
Washington, D.C. 20001
(202) 789-2920

Authorized and paid for by the Democratic Congressional Campaign Committee.

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party such as the Republican National Committee, approved NCPAC's purchase of this film footage. It strains credulity to assume that Mr. Reagan, as a long-time public figure, retains no control whatsoever over the distribution of filmed speeches or other appearances (other than those recorded by television and radio news media in ordinary course news coverage).

Stated another way, the question is whether the DCCC could also have entered into an "arms-length commercial transaction" to purchase the same footage of President Reagan for use in films or advertisements criticizing his performance in office or advocating his defeat in any reelection campaign. This is the relevant inquiry, and it should be pursued by your office in a fair attempt to determine the full factual background of NCPAC's relationship to the reelection campaign of President Reagan.

Sincerely,

T. Coelho

TONY COELHO
CHAIRMAN

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Attachment 5

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

J. Curtis Herge
Sedam & Herge
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22102

RE: MUR 1624
National Conservative
Political Action Committee

Dear Mr. Herge:

On February 1, 1984, the Commission notified your client National Conservative Political Action Committee of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1984, determined that on the basis of the information in the complaint and information provided by your client there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ronald E. Robertson
Reagan/Bush '84
440 First Street, N.W.
Washington, D.C. 20001

RE: MUR 1624
Ronald Reagan and
Reagan/Bush

Dear Mr. Robertson:

On February 1, 1984, the Commission notified your clients Ronald Reagan and Reagan/Bush of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

The Commission, on March , 1984, determined that on the basis of the information in the complaint and information provided by your clients there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Attachment 6

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tony Coelho
Democratic Congressional Campaign Committee
400 North Capitol Street, N.W
Suite 319
Washington, D.C. 20001

Re: MUR 1624

Dear Mr. Coelho:

The Federal Election Commission has reviewed the allegations of your complaint dated January 30, 1984, and determined that on the basis of the information provided in your complaint and information provided by the Respondent there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended ("the Act") has been committed.

Accordingly, the Commission has decided to close the file in this matter. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

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

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure
General Counsel's Report

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February 29, 1984

MUR 1624

'84 MAR 1 A10:56

Charles Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Dear General Counsel Steele:

As you know, on January 30, 1984, the Democratic Congressional Campaign Committee ("DCCC") filed a complaint with the Federal Election Commission, alleging that the National Conservative Political Action Committee ("NCPAC") and the Reagan/Bush '84 Committee had committed, and will continue to commit, violations of the Federal Election Campaign Act in connection with NCPAC's program of "independent" spending in support of President Reagan's reelection.

Specifically, DCCC alleged that NCPAC's program of "independent" expenditures in support of Mr. Reagan could not, in fact, be "independent," but instead were made in coordination and consultation with Reagan/Bush '84 and other agents of President Reagan. DCCC cited, as evidence, both an extended history of contacts between NCPAC and high political operatives in both the Reagan Administration and now Reagan/Bush '84, and Mr. Reagan's personal appearance in a film, produced and broadcast by NCPAC in support of his reelection, entitled "Ronald Reagan's America." DCCC contends in its Complaint that the evidence so far available of NCPAC/Reagan/Bush '84 collusion is sufficient to justify a "reason to believe" recommendation by your office and finding by the Commission, which would trigger, in turn, the full investigation which is needed.

This letter serves to bring to your and the Commission's attention certain important questions relating to Mr. Reagan's appearance in the NCPAC campaign film "Ronald Reagan's America." DCCC has learned through press channels that NCPAC and a purported "vendor" of Reagan film footage used in "Ronald Reagan's America" have both claimed that the footage was purchased by NCPAC in an ordinary course, arms-length commercial transaction. DCCC would point out, however, that the question of whether NCPAC purchased the film footage is only marginally relevant to the central issue of this Complaint. Instead, the question is whether any agent of President Reagan, his Administration, or organ of the Republican

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Authorized and paid for by the Democratic Congressional Campaign Committee

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Stated another way, the question is whether the DCCC could also have entered into an "arms-length commercial transaction" to purchase the same footage of President Reagan for use in films or advertisements criticizing his performance in office or advocating his defeat in any reelection campaign. This is the relevant inquiry, and it should be pursued by your office in a fair attempt to determine the full factual background of NCPAC's relationship to the reelection campaign of President Reagan.

Sincerely,

Tony Coelho

TONY COELHO
CHAIRMAN

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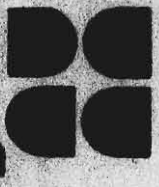

Charles Steele, General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

BY MESSENGER

Democratic Congressional Campaign Committee
Suite 319, 400 North Capitol Street
Washington, D.C. 20001

Johnson

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: FEBRUARY 1, 1984

SUBJECT: ORIGINAL COMPLAINT - MUR 1624

The attached has been circulated for your information.

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Attachment

Doc # 1528

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BEFORE THE
FEDERAL ELECTION COMMISSION

COMPLAINT

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE, Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR No. 1624

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I. INTRODUCTION

Yesterday, January 29, 1984, Ronald Reagan announced his candidacy for reelection for the Office of President. Today, the Democratic Congressional Campaign Committee ("DCCC") seeks immediate relief from illegal "independent" spending which has already been made on Mr. Reagan's behalf and which will continue to be made through November 1984, in the millions of dollars, unless this Commission acts.

This Complaint specifically alleges violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), by the National Conservative Political Action Committee ("NCPAC"), in its continuing efforts to promote the re-election of Ronald Reagan. NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan/Bush '84 and Ronald Reagan, and Reagan/Bush '84 and Ronald Reagan have violated, and will continue to violate, the

FECA by accepting these excessive contributions.* 2 U.S.C. §441a. These violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, in reality, have been and will continue to be coordinated with, and made in cooperation and consultation with, Reagan/Bush '84 and Ronald Reagan.

Furthermore, all the committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. §434.

The Democratic Party's nominee in the 1984 Presidential election may or may not be victorious at the polls. The outcome, however, should not be tainted because one side plays by the rules, and the other--to gain an advantage of millions of dollars--refuses to do so. The Commission must act to rectify these violations, including expedited investigation into this complaint, prompt conciliation with the respondents, and the imposition of appropriate civil penalties.

II. NCPAC "INDEPENDENT" ACTIVITY ON BEHALF OF RONALD REAGAN AND HIS PRINCIPAL CAMPAIGN COMMITTEE

According to FEC records, NCPAC is a political committee which supports or opposes numerous candidates for Federal

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*The Democratic Congressional Campaign Committee is a registered national party multi-candidate committee. The National Conservative Political Action Committee is a registered multi-candidate committee organized to support or oppose candidates seeking nomination or election to Federal office. Reagan/Bush '84 is the principal campaign committee for the re-election campaign of President Ronald Reagan. Ronald Reagan is the President of the United States and a candidate for re-election to that office in 1984.

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office through direct financial support and through "independent" expenditures. It is registered and reports as a political committee under the FECA.

NCPAC has a history of claiming to make "independent" expenditures in Federal elections, Advisory Opinion 1981-44, and it has specifically vowed to continue these independent expenditures during the 1984 election. Advisory Opinion 1983-10. Moreover, and most specifically, NCPAC has consistently solicited contributions for the specific purpose of making independent expenditures on behalf of Ronald Reagan's campaigns for the Presidency of the United States. And NCPAC has consistently made such "independent" expenditures--if "independent" in name only--to promote Mr. Reagan's presidential candidacy. As in the 1980 Presidential campaign of Ronald Reagan, when NCPAC sponsored a Ronald Reagan Victory Fund to support his candidacy through independent expenditures, Exhibit A, ¶¶46-49, a massive new independent expenditure program to support the President's 1984 re-election campaign has already been initiated by NCPAC. This new 1984 independent spending campaign on behalf of Ronald Reagan is expected to result in some $5,000,000 in independent expenditures in support of his candidacy (or in opposition to his opponent when nominated). Exhibit A, ¶¶63-64.

The traditionally extensive, ostensibly "independent" activities by NCPAC on behalf of Ronald Reagan's presidential aspirations were reviewed extensively in the course of recent litigation in the United States Court of Appeals for the Third Circuit, in Democratic Party of the United States, et. al. v. National Conservative Political Action Committee, et. al. (Civil Action No. 83-2329). A "Joint Stipulation Of Fact", signed by all parties, including NCPAC, thoroughly reviews

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these activities and is attached hereto as Exhibit A. In fact, this Joint Stipulation reveals that NCPAC's association with Ronald Reagan has not been one-sided: Ronald Reagan has returned NCPAC's financial favors, beginning with active fundraising efforts on behalf of NCPAC shortly after that committee came into existence in 1975. See Exhibit A, ¶¶40-41. As this Complaint will show, continuing reciprocal support and intimate contact between NCPAC and Ronald Reagan has characterized their relationship from 1975, when NCPAC was first organized, until the present day.

As set forth below, the DCCC asserts that the expenditures made by NCPAC to date to support Ronald Reagan's re-election in 1984 have not been independent. Moreover, because these expenditures have not been independent, NCPAC is precluded from making any independent expenditures on behalf of Ronald Reagan in the future.

III. THE RELATIONSHIP OF NCPAC, RONALD REAGAN AND REAGAN/BUSH '84

A. The Law

Under the FECA, an independent expenditure must be made "without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate." 2 U.S.C. §431(17). The Federal Election Commission ("FEC") in its regulations, defines "[m]ade with the cooperation or with the prior consent of ..." as, among other things:

> (i) Any arrangement, coordination or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication.

11 CFR §109.1(b)(4)(i).

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In Advisory Opinion 1979-80, requested by NCPAC, the FEC found that cooperation may be found where an independent expenditure committee uses an agent (e.g., a consulting firm or advertising firm) which is also engaged by a candidate on whose behalf the committee is making independent expenditures. If cooperation sufficient to bar a claim to independence can be found in this indirect, third-party context, it is clear that direct contacts with the candidate or the candidate's committee would also violate true "independence".

NCPAC may not take comfort from, or base any legitimate defense on, any claim that its contacts with Mr. Reagan and his political agents have occurred to date only before the candidacy declared yesterday. NCPAC has attempted to travel this road before, and the FEC has blocked the way. In this situation, the Commission has declared,

> activities of NCPAC on its own or in conjunction with the individual [before candidacy] could trigger candidate status... and even impact on NCPAC's ability to make independent expenditures ...

Advisory Opinion 1979-80.

Indeed, in Matter Under Review ("MUR") 1231, the General Counsel concluded upon a review of the law that even pre-primary, pre-candidacy support by NCPAC for an individual considering a race for Federal office can constitute a bar to subsequent support for that candidate through independent expenditure activity. First General Counsel's Report, MUR 1231.

NCPAC itself requested an Advisory Opinion that is directly on point here, and demonstrates that illegal pre-primary, pre-candicacy coordination bars subsequent "independent" spending. In Advisory Opinion Request 1983-12, NCPAC requested

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FEC approval to run "congratulatory messages" on behalf of incumbent United States Senators both during and before election years. In a clear echo of a technique used on behalf of Ronald Reagan only last year, and discussed below, NCPAC admitted that certain of the officeholders "congratulated" would provide film footage for the ad to NCPAC or would cooperate in the shooting of the film.

In its opinion, the Commission found that the film ads clearly had a purpose of influencing Federal elections and were fully subject to statutory requirements, including contribution limitations. Moreover, spending for these films constituted contributions in-kind, not independent expenditures. The FEC relied on such factors as:

- the incumbent Senators' terms would expire soon after the ads were run and they were seeking, or expected to seek, re-election;

- NCPAC's status as a registered political committee;

- The content of the messages, which, while not advocating the election of any of the incumbents, mentioned their names numerous times, complimented their activities, and referred to their electorate and past elections specifically;

- The timing of the broadcasts.

As will be seen below, a NCPAC film, prepared in 1983 to promote Ronald Reagan's re-election in 1984, "Ronald Reagan's America," falls squarely within the purview of this ruling.

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The law is clear. Sustained contact by a political committee with an individual before candidacy, to encourage and promote such candidacy, is antithetical to true legal independence. As Complainant will show, NCPAC has admitted to sustained contact with Ronald Reagan and his political agents throughout the last ten years with a view toward securing and promoting his presidential candidacy--including his candicacy for re-election in 1984 announced yesterday. These contacts were, moreover, accompanied by significant spending, both to solicit contributions to support Mr. Reagan through independent expenditures and to mount public appeals for his 1984 re-election in both media and direct mail appeals.

B. THE FACTS

1. General Contacts between NCPAC, Reagan and Reagan/Bush '84.

Contacts between NCPAC and Reagan/Bush '84 have been frequent and open. In DNC v. NCPAC, supra, challenging NCPAC's right to make independent expenditures in the presidential elections, NCPAC has admitted regular, frequent, and open contact with the Reagan Administration and its political representatives, including current officials of Ronald Reagan's re-election campaign organization. The range of these contacts, and their relationship to NCPAC's program of "independent" support for the President, is nothing short of brazen. The Commission should note specifically:

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- NCPAC has admitted that its contributors have received "off-the-record" and confidential policy briefings from key members of the Reagan cabinet, including the Secretary of Agriculture (John Block), the (former) Secretary of Health and Human Services (Richard Schweiker), the (former) Secretary of Transportation (Drew Lewis), the (former) Secretary of the Interior (James Watt), and the (former) Secretary of Energy (James Edwards). Exhibit A, ¶50.

- NCPAC has admitted that Secretary Block met with major NCPAC contributors in his office on July 22, 1982, at the Department of Agriculture. Exhibit A, ¶51.

- NCPAC has admitted that former Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. Exhibit A, ¶52.

- NCPAC has admitted that major contributors to NCPAC were briefed by Secretary Lewis in his office at the Department of Transportation on September 14, 1982. Exhibit A, ¶53.

- The Reagan Administration provided these policy briefings and intimate interviews with major contributors as a political favor to, and reward for, NCPAC as one of the President's key political supporters. NCPAC's Chairman, Mr. John T. Dolan, has described these briefings as "one of the ways we [NCPAC] raise high-dollar money". Exhibit A, ¶54.

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- NCPAC has admitted, that the Republican National Committee has maintained continued close relations with NCPAC, including a widely reported "peace mission" to ensure continued support from NCPAC and other "New Right" groups for the President. Indeed one such reported meeting specifically addressed the role that "independent" spending would play in the re-election of Ronald Reagan. The same press reports have stated, and NCPAC has admitted, that the meeting was arranged by Lyn Nofziger, an advisor to President Reagan, and formerly his Assistant to the President for Political Affairs. Exhibit A, ¶¶56-59.

- NCPAC has admitted that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides as requested by John T. Dolan, Chairman of NCPAC. Exhibit A, ¶¶61-61.

- NCPAC has admitted that President Reagan has followed, and communicated with NCPAC about, NCPAC's current program of independent expenditures in support of his own re-election. Specifically, NCPAC has admitted the truth of press reports on October 3, 1983, that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program "Ronald Reagan's America". Exhibit A, ¶65.

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- President Reagan's principal advisors have specifically communicated to NCPAC on other campaigns, not involving the President, which presage similar close cooperation in support of the President's own re-election campaign. Edward Rollins, formerly in the White House Office of Political Affairs and now a member of the President's re-election committee, stated specifically that he would work closely with NCPAC in the 1982 Congressional campaigns. Exhibit A, ¶72.

2. <u>A Case in Point: "Ronald Reagan's America" - Cooperation and Consultation on Production of the Film</u>.

In 1983, NCPAC produced a film, extolling the virtues of Ronald Reagan's presidency and appealing for his re-election. In the film, the President appears in numerous news clips. In addition, however, at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film.

The film generally reviews Ronald Reagan's activities as President, and lauds his achievements. Further, the film attacks Democratic Party opposition to Mr. Reagan and his policies. This attack includes, by photographic reference, Democratic candidates who are currently seeking the nomination of the Democratic Party for the Presidency--potential opponents of Ronald Reagan. As mentioned earlier, Ronald Reagan was so favorably impressed by this film that he called to congratulate NCPAC. Exhibit A, ¶65.

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3. NCPAC's General Disregard for Federal Election Laws

These continuous contacts between NCPAC, the Reagan Administration, Reagan/Bush '84 and Ronald Reagan are evidence of widespread and ongoing cooperation to promote the presidential candidacy of Ronald Reagan. NCPAC no doubt is proceeding with minimal concern about the legality of its actions. It is well known for its flaunting of the independent expenditure laws and for its continuous efforts to avoid the independent expenditure rules and regulations. See generally, Exhibit B.**

IV. CONCLUSION

The DCCC has offered evidence above of possible violations of the FECA. This evidence justifies, at the least, a "reason to believe" finding and a full investigation by the FEC. The FEC's Office of General Counsel has maintained that reason to believe findings rest on a de minimus showing, sufficient to justify the amplication of the FEC's full investigatory powers. The evidence above shows that NCPAC, Reagan/Bush '84 and Ronald Reagan have violated the FECA in the following manner:

1. Violation of §441a. The DCCC has shown that NCPAC, Reagan/Bush '84 and Ronald Reagan have had continuous and ongoing contacts with one other. Further, there is direct evidence that Ronald Reagan directly cooperated with NCPAC in

---

** A fresh and graphic example of NCPAC's indifference to the law may be found in the recently discloed enforcement action by the FEC to remedy NCPAC's illegal "independent" spending on behalf of Mr. Bruce Caputo, Senator Moynihan's early opponent for re-election in 1982. The record of that case shows intimate contact between Mr. Caputo's campaign and agents of NCPAC, including participation by NCPAC's New York Chairman in staff meetings of the Caputo Committee. See Exhibit B ("Election Law Violations Admitted in '82 Race", The Washington Post, January 28, 1984. at A4.)

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producing the film "Ronald Reagan's America". By acquiesing in the making of the film, Ronald Reagan tainted any efforts of NCPAC to make independent expenditures on his behalf in the future. Nonetheless, NCPAC is currently soliciting contributions and is proposing to make voluminous independent expenditures on President Reagan's behalf.

Under the FECA, FEC regulations and FEC rulings, NCPAC cannot claim independence here. There can be no "independence" when the committee coordinates its activities with the campaign of the candidate who will benefit from the "independent" expenditures or with candidate himself. Furthermore, contacts with an individual or his agents, prior to becoming a candidate but with the express purpose of encouraging and promoting his candidacy, fatally taint any claims of true independence in the future.

For these reasons, NCPAC's current and planned expenditures on behalf of Ronald Reagan are serious violations of the law. These expenditures are not independent, but instead are contributions subject to the limitations established in §441a of the FECA.

2. Violation of §434. As contributions in-kind, NCPAC must report its expenditures on behalf of Ronald Reagan as contributions. As such, they must also be disclosed by Reagan/Bush '84. These committees have failed to report any contributions.

On the basis of the foregoing, the DCCC requests that the FEC:

1. Conduct a prompt and immediate investigation of the facts and legal conclusions stated in this complaint;

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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

DEMOCRATIC PARTY OF THE UNITED STATES, et al., Plaintiffs, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants, and FEDERAL ELECTION COMMISSION, Intervenor.	Civil Action No. 83-2329
FEDERAL ELECTION COMMISSION, Plaintiff, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants.	Civil Action No. 83-2823 Consolidated Three-Judge Court

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JOINT STIPULATION OF FACT

A. The Internal Structure of the National Conservative Political Action Committee

1. The National Conservative Political Action Committee (NCPAC) is a nonprofit, nonmembership corporation formed under the District of Columbia Nonprofit Corporation Act on August 12, 1975. [Exhibit 1, Stipulated Findings from Mott v. FEC, pp. 9-13].

2. Enter into a prompt conciliation with NCPAC and Reagan/Bush '84 to remedy the violations alleged in this complaint, and most importantly, to ensure that no further violations occur; and

3. Impose any and all civil penalties appropriate to the violations alleged in this Complaint.

Respectfully submitted,

Tony Coelho

Tony Coelho
Chairman
Democratic Congressional
Campaign Committee
400 North Capitol St., N.W., Suite 31[illegible]
Washington, D.C. 20001 (202) 224-244[illegible]

Subscribed and sworn to me on this [illegible] day of January, 1984.

Notary Public

My Commission Expires January 1, 1987

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2. NCPAC is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office. [Exhibit 1].

3. NCPAC attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures*/ in support of and against candidates for public office. [Exhibit 1].

4. NCPAC registered with the FEC as a political committee on or about March 27, 1975. [Exhibit 1].

5. In order to carry out its activities, NCPAC solicits and receives contributions from the public. [Exhibit 1].

6. NCPAC conducts general solicitations for contributions to NCPAC, not related to any specific candidate, for the purpose of receiving funds to carry out its activities. [Exhibit 2, p. 12, ¶51].

7. NCPAC also conducts solicitations for the specific purpose of raising funds to spend on NCPAC's independent expenditure programs aimed at electing or defeating specific candidates. [Exhibit 2, p. 12, ¶53].

8. NCPAC does not maintain and is not required by law to maintain separate accounts for the receipts from its general solicitations and specific solicitations. [Exhibit 1, Mott v. FEC].

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*/ The term "independent expenditure" is used throughout this stipulation for the convenience of the parties and court. By so using this term, the plaintiffs do not take a position as to whether any specific expenditure was or is independent within the meaning of the law.

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9. Listed on reports filed with the FEC as original (March 27, 1975) Treasurer and Custodian of NCPAC's records was Roger J. Stone, Jr. Other officers listed were Charles R. Black, Chairman; John Carbaugh, Vice Chairman; Frank J. Donatelli, Director-at-Large; and J. David Nickles, Secretary. NCPAC amended its registration with the FEC on October 10, 1975, naming Black as Chairman, Nickles as Secretary, and Stone as Treasurer and Custodian of Records. In an amendment dated March 8, 1978, John T. Dolan is listed as Chairman; J. Curtis Herge as Secretary; Becki A. Cecil [Burlingame] as Treasurer; with Stone and Donatelli having resigned. Effective April 8, 1980, Susan S. Hannegan became Treasurer of the Committee, replacing Becki Cecil Burlingame. Effective February 13, 1981, Susan Hannegan resigned as Treasurer, and Lisa Stoltenberg became Treasurer. Effective on or about July 27, 1981, Lisa Stoltenberg resigned as Treasurer, and was replaced by Candace Taw. Effective on or about February 10, 1982, Candace Taw resigned as Treasurer, and was replaced by Leif Noren, who also assumed duties as Custodian of Records on August 4, 1983. [Exhibits 2, (pp. 10-11, ¶49), 3, 4 and 5].

10. NCPAC is incorporated in the District of Columbia and qualified to do business in the State of Virginia. The current principal officers of NCPAC are: John T. Dolan, Chairman; Leif Noren, Treasurer; J. Curtis Herge, Secretary; Eleanor Hannegan, Asst. Treasurer; and Cheryl Bendis, Asst. Treasurer. [Exhibit 6, NCPAC's 1982 Annual Corporate Report].

11. NCPAC's current Board of Directors consists of: John T. Dolan, Rhonda K. Stahlman and Robert L. Shortley. [Id.].

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12. NCPAC is governed by a three member Board of Directors which is elected annually by the then current members of the board. [Exhibit 1, p. 11, #48].

13. The decision as to which candidates to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition are decided by NCPAC's Chairman and its Board of Directors. [Id.].

14. NCPAC's and FCM's direct mail fundraising solicitations typically include discussions of issues which are the subject of popular debate at the time that the solicitations are made. NCPAC's and FCM's direct mail fundraising solicitations have in the past solicited funds to assist in the independent expenditure efforts of those groups on behalf of Mr. Reagan in 1980, and have solicited funds to be expended by those groups in support of or in opposition to various legislative proposals, social and national defense issues, and to support or oppose the candidacies of various individuals for public office.

15. NCPAC's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights or participation in the conduct of NCPAC affairs. [Exhibit 8, NCPAC's Articles of Incorporation].

16. Individual contributors to NCPAC do not determine which candidates NCPAC supports or opposes with their contributions. [Id.].

17. For the 1980 presidential election, the Board of Directors of NCPAC did not make decisions concerning campaign strategy or day-to-day expenditures of NCPAC. [Exhibit 10, Dolan depo., p. 12].

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18. The press has reported that John T. Dolan has stated that the Board of Directors of NCPAC only does whatever is necessary to keep the organization legal by fulfilling certain nominal responsibilites set out in NCPAC's by-laws, such as holding an annual meeting. [Exhibit 11, p. 45, Statement of John T. Dolan, The Sun, 7/13/82; and Exhibit 10, Dolan depo., p. 12].

19. John T. Dolan is on the Board of Directors of NCPAC. [Exhibit 11, The Sun, 7/13/82].

20. The press has reported that NCPAC is dominated by its Chairman, John T. Dolan. [Exhibit 12, The Wall Street Journal, 5/29/81, Hunt article].

21. For the 1980 presidential election, John T. Dolan had primary authority to make expenditures on behalf of NCPAC. [Exhibit 13, Dolan depo., p. 11].

22. Subject to the director of the Board of Directors, there are no other restrictions on the amount or nature of expenditures that John T. Dolan is authorized to make on behalf of NCPAC. [Exhibit 10, Dolan depo., p. 12].

B. The Internal Structure of the Fund For A Conservative Majority

23. The Fund For A Conservative Majority (FCM) is a multi-candidate political committee registered with the Commission. [Exhibit 2].

24. FCM originally registered in 1972 with the General Accounting Office as "Young America's Campaign Committee" (YACC). On October 13, 1976, in reports filed with the Commission, YACC changed its name to the "Fund for a Conservative Majority". [Exhibit 2, p.3, #11; Exhibit 15, FEC Committee Index; Exhibit 16, FEC Committee Index].

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25. FCM is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office.

26. FCM attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures in support of and against candidates for public office.

27. In order to carry out its activities, FCM solicits and receives contributions from the general public.

28. FCM conducts general solicitations for contributions to FCM, not related to any specific candidate, for the purpose of receiving funds to carry out its activities.

29. FCM conducts solicitations for the specific purpose of raising funds to spend on FCM's independent expenditure programs.

30. FCM does not maintain and is not required to maintain separate accounts for the receipts from its general solicitations and specific solicitations.

31. Original FCM officers were Ronald Robinson, Chairman, and John S. Buckley, Secretary and Treasurer. On or about March 15, 1979, in reports filed with the Commission, FCM changed its officers to Robert C. Heckman, Chairman and Kenneth F. Boehm, Treasurer. Effective October 24, 1981, Kenneth Boehm resigned, and was replaced by Robert C. Heckman, who also assumed duties as Custodian of Records on January 6, 1982. [Exhibit 2, p. 3, #11; Exhibit 82, Amended Statement of Organization, 10/24/81; Exhibit 87, Amended Statement of Organization, 1/6/82].

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32. FCM is incorporated in the State of Virginia. The current principal officers of the Fund For A Conservative Majority are: Robert C. Heckman, who is both Chairman and Treasurer, and Suzanne Scholte, Secretary. [Exhibit 17, FCM's Annual Corporate Reports].

33. The current Board of Directors of FCM consists of Robert C. Heckman, Jeffrey D. Kane, Kenneth Grasso and Kenneth F. Boehm. [Id.].

34. Paul Dietrich was Executive Director of FCM from January, 1981, until August 3, 1983.

35. The decision as to which candidates or issues to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition is decided by FCM's Board of Directors.

36. Robert C. Heckman has authority to oversee all facets of the operation of FCM, on a day-to-day basis, including FCM's expenditures. [Exhibit 88, Heckman depo., p. 10].

37. FCM's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights of participation in the conduct of FCM's affairs. [Exhibit 18, FCM's Articles of Incorporation].

38. Individual contributors to FCM do not determine which candidates FCM supports or opposes with their contributions. [Id.].

39. For the 1980 presidential election, the Board of Directors was responsible for deciding which candidate FCM would support

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and for deciding the amount of support candidates received from FCM.

C. NCPAC and FCM's Associations with Ronald Reagan, 1980 Presidential Campaign, and the Reagan Administration

40. Soon after NCPAC came into existence in 1975, Ronald Reagan wrote a personal letter to his supporters soliciting financial support for NCPAC. The press has reported that John T. Dolan has credited Reagan with helping to establish NCPAC, saying "He [Reagan] is one of the main reasons NCPAC is here today." [Exhibit 20, Washington Post; 8/10/80, MacPherson article].

41. After he lost the Republican nomination for president in 1976, Ronald Reagan helped raise money by signing fundraising letters and attending a fundraising event in Washington, D.C., for NCPAC. One such solicitation letter was signed by Ronald Reagan, dated Sept. 29, 1976, and was mailed to 187,422 potential contributors to NCPAC. [Exhibit 21, p. 9 Dolan's Depo.; Exhibit 22, p. 2 Dolan's letter dated 1/28/77 from MUR 322].

42. According to John T. Dolan, Ronald Reagan was probably responsible for raising $1 million on behalf of NCPAC in 1976. [Exhibit 21, Dolan depo., p. 9].

43. The press has reported that John T. Dolan said that NCPAC's independent expenditures for commercials for the 1980 presidential race would depend on the Reagan campaign stategy. [Exhibit 20, Washington Post, 8/10/80, MacPherson Article].

44. John T. Dolan claimed that NCPAC's sole source of information about what the Reagan campaign was doing was through the media. [Exhibit 23, Dolan depo., p. 64].

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45. The press has reported that Lyn Nofziger, former Assistant to the President for Political Affairs, and a Reagan campaign official in 1980, in describing how the head of an independent committee in 1980 could have found out how to aid the Reagan campaign in 1980, stated that "I wouldn't have to talk to Bill Casey [Reagan's 1980 campaign director]. I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem getting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick Wirthlin's [a Reagan pollster] data or talk to the chairman of the Republican National Committee, or whatever." [Exhibit 24, The New Yorker, 12/13/82, pp. 91-92].

46. The Ronald Reagan Victory Fund was described by NCPAC as a "project" of NCPAC for the 1979-80 presidential campaign. The purpose of the Ronald Reagan Victory Fund was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures. [Exhibit 2; Exhibit 26, Dolan depo. p. 41; Exhibit 27].

47. Prior to May 15, 1980, John T. Dolan, Chairman of NCPAC sent an "Urgentgram" to NCPAC supporters which indicated that "Governor Reagan's campaign is desperately short of funds going into crucial May-June primaries." This solicitation letter further indicated that NCPAC "has and will run 'independent' pro-Reagan advertisements and stated that Reagan will lose valuable momentum if he cannot maintain his campaign advertising program in high gear in the May-June primaries." [Exhibit 28, NCPAC solicitation letter].

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48. In that "Urgentgram" fundraising letter, NCPAC promised to expose President Carter's weaknesses as well as promote candidate Reagan. "These advertisements will be produced by top notch professionals.... We will run these advertisements in major cities and places where many voters will be making up their minds between Carter and Reagan in the next two months." [Id.].

49. That letter also solicited funds on behalf of NCPAC's pro-Reagan independent expenditure effort. The letter requested that if the recipient could send a contribution to NCPAC, NCPAC would also ask that recipients send to Governor Reagan an enclosed postcard telling him of their support. The letter closes with the statement "Whatever you can send I know Governor Reagan would deeply appreciate it." [Id.].

50. The press has reported that John Block, Secretary of Agriculture, Richard Schweiker, (former) Secretary of Health and Human Services, Drew Lewis, (former) Secretary of Transportation, James Watt, Secretary of the Interior, and James Edwards, (former) Secretary of Energy, personally provided major contributors to NCPAC with "off the record" and confidential policy briefings. [Exhibit 29, The Sun, 9/5/82].

51. The press has reported that John T. Dolan stated that Secretary Block met with major contributors to NCPAC in his office on July 22, 1982, at the Department of Agriculture. [Id.].

52. The press has reported that John T. Dolan stated that Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. [Id.].

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53. The press has reported that John T. Dolan stated that Secretary Lewis briefed major contributors to NCPAC in his office at the Department of Transportation on September 14, 1982. [Id.].

54. The press has reported that John T. Dolan described the "off the record" and confidential policy briefings with Reagan Administration Cabinet Secretaries and White House Personnel as "one of the ways we [NCPAC] raise high dollar money." [Id.].

55. According to published reports, Lyn Nofziger, now working as a political consultant, will act as an outside link between Ronald Reagan's re-election campaign and conservatives, should President Reagan seek a second term. [Exhibit 30, U.S. News & World Report, August 29, 1983, p. 19].

56. In a Washington Post article entitled "GOP 'Peace Mission' Becomes Stormy," it was reported that a meeting was called to smooth relations between RNC Chairman Richard Richards and conservatives John T. Dolan, Chairman of NCPAC, Richard Viguerie, President of the Viguerie Company, Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress, Howard Phillips, Chairman of the Conservative Caucus, Thomas F. Ellis, Chairman of the Congressional Club, Phyllis Schlafly of Eagle Forum, Ronald Godwin of Moral Majority, Robert Richardson of Gun Owners of America, and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. [Exhibit 31, Washington Post, 5/20/81, Peterson article].

57. According to that article, the purpose of their meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. [Id.].

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58. According to that article, the May 19, 1981, meeting was arranged by Lyn Nofziger, a former advisor to President Reagan who held the position of Assistant to the President for Political Affairs. [Id.].

59. In that article it was reported that Richard Richards, Chairman of the Republican National Committee, stated that "We [the independent political groups and the Republican National Committee] will attempt to formulate an agreement as to our respective positions, including how we will disagree, if at all, in the future." [Id.].

60. In that article it was reported that the meeting was acrimonious and that, according to one participant, although there may have been some fiery words, nobody swung a punch. Mr. Richards is reported to have said, "My quarrel is that independent expenditure groups butt in on the strategy of the campaign. The problem is they stay too long, they say the wrong things and ultimately they may be counterproductive." [Id.].

61. It has been publicly reported in an article in The Sun entitled "Unlikely Allies: White House Staff Chief and New Right Leader," that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides. [Exhibit 32, The Sun, 5/19/83, p. A16, Barnes article].

62. In that article it was reported that the briefing session for major NCPAC contributors, which was held in February, 1983, was requested by John T. Dolan, Chairman of NCPAC, prior to President Reagan's inauguration. [Id.].

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63. The press has reported that NCPAC has established a $5 million project which will exclusively support the reelection effort of Ronald Reagan in 1984. [Exhibit 33, The Sun, 2/24/83, Barnes article; Exhibit 32, The Sun, 2/24/83, p. 9A].

64. This $5 million NCPAC project is called, "American Heros for Reagan." All money received by NCPAC for this project is deposited into NCPAC's general political account. [Exhibit 32].

65. The press has reported on October 3, 1983, that President Ronald Reagan liked NCPAC's television program "Ronald Reagan's America" so much that he telephoned NCPAC's Chairman, John T. Dolan, to congratulate him. Dolan thanked Reagan, then informed the President that White House lawyers didn't want them discussing what NCPAC was doing. [Exhibit 112, Washington Post, 10/3/83, p. A3].

66. NCPAC has distributed a letter to conservative supporters which appears on stationery bearing the letterhead of the "Re-elect Reagan Campaign Committee." [Exhibit 33, The Sun, 5/19/83, p. A16, Barnes article].

67. The press has reported that John T. Dolan, Chairman of NCPAC, has publicly warned President Reagan that he had better heed the "massive conservative mandate" or "pay a political price." [Exhibit 34, L.A. Times, 11/6/80, Shaw article].

68. The press has reported that John T. Dolan said that, "groups like ours [NCPAC and other political committees making independent expenditures] are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in

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politics." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

69. According to newspaper accounts of statements made by John T. Dolan, the rise of independent political committees such as NCPAC is "potentially very damaging to the political system." [Exhibit 35, Washington Post, 6/27/81, p. A4, Walsh article].

70. In the same article, it was reported that the Chairman of the Republican National Committee had asked independent political action committees to stay out of campaigns when they are asked to do so by Republican candidates or State Republican Chairmen. It was also reported that John T. Dolan said that lawyers for NCPAC and for the Republican National Committee had concluded that such an agreement to abide by the wishes of Republican officials would violate federal election laws. [Id.].

71. The press has reported that John T. Dolan has publicly stated that NCPAC successfully manipulated 70% of the elections which it had targeted in 1982. In the same article Dolan claimed that David Broder said NCPAC's win record was one in seventeen. [Exhibit 36, Washington Post, 11/7/82, Dolan article].

72. Edward Rollins, a political advisor to President Reagan with the title of Assistant to the President for Political Affairs, has stated that he expects to work closely with NCPAC in the 1982 Congressional campaigns. [Exhibit 37, Washington Post, 12/31/81, Emory article].

73. The press has reported that Edward Rollins will become the political director of President Reagan's reelection campaign should Reagan choose to seek reelection. [Exhibit 30, U.S. News & World Report, August 29, 1983].

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74. The press has reported that NCPAC and the Fund for a Conservative Majority (FCM) have publicly announced that they intend to spend at least $10 million to help re-elect President Reagan in 1984. [Exhibit 38, Washington Post, 5/13/83].

75. Frank Donatelli was a founder and former Director-at-Large of NCPAC (1975-79). [Exhibit 2].

76. Frank Donatelli was a member of the Board of Directors of FCM (1978-79). [Exhibit 6].

77. Frank Donatelli was the Midwest coordinator for the Reagan for President Committee in 1980. [Exhibit 87].

78. Robert Shortley, John T. Dolan's brother-in-law, has been a member of NCPAC's Board of Directors. [Exhibit 11, The Sun, 7/13/82; Exhibit 6, NCPAC Annual Corporate Report].

79. John T. Dolan's brother, Anthony Dolan, was a staff member for the Reagan campaign, and currently works for the Reagan Administration. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 39, personnel list (campaign); and Exhibit 40, Dolan's depo., p. 49].

80. In 1980, John T. Dolan was a business partner in a joint venture with Lyn Nofziger, Paul Russo, David Keene, and Roger Stone. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 41, Dolan's depo., p. 22].

81. Lyn Nofziger was an official on Ronald Reagan's presidential campaign and held the title of Assistant to the President for Political Affairs at the beginning of President Reagan's administration.

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82. David Keene worked for Ronald Reagan in 1976 and was a staff member on the Bush campaign in 1980. [Exhibit 20].

83. Roger Stone, one of the founders and the original treasurer of NCPAC, was the Northeast coordinator for the Reagan campaign in 1980. [Exhibit 20].

84. The press has reported that a company owned by Richard Viguerie was a tenant in the Dolan, Nofziger, Russo, Keene and Stone partnership's Alexandria office building in 1980. [Id.].

85. The press has reported that NCPAC has already spent approximately $2 million on behalf of Ronald Reagan for president in 1984 and projects to spend at least $5 million. [Exhibit 132, Washington Post, 10/6/83].

86. Arthur J. Finkelstein and Associates has performed polling services for FCM. [Exhibit 42, Heckman's depo., p. 48].

87. Arthur J. Finkelstein has conducting polls for the Reagan for President Committee, NCPAC, and FCM. [Exhibits 39, 20, 36 and 43].

88. According to Robert Heckman, Chairman of FCM, "simply from reading the newspapers and magazines and so forth, the general analysis seemed to be that the Texas primary would be critical for Reagan." Heckman allegedly used the same authorities to also target Pennsylvania, Iowa, New Hampshire, South Carolina and Florida as important states to support the Reagan candidacy. [Exhibits 43, 90, 91, 92, 93 and 94].

89. The press has reported that Paul Dietrich, former Executive Director of FCM, who worked for the Reagan campaign in 1980, and who also headed the Republican National Committee's State Fund

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Operation in Missouri in 1980, has publicly stated that, "there is no way to enforce independence as long as there is a press corps giving us (FCM) information and as long as one group puts out information and gets it to others." [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

90. The press has reported that Paul Dietrich stated that, "If I really want a poll from the Republican National Committee or a campaign, I can get it. They'll leak it to me." [Id.].

91. The press has reported that Paul Dietrich stated that, "All the independent PAC's... have a little dance [where] we dance around the law in a way that never breaks the letter but breaks the spirit of the law -- but we don't agree with the law anyway." [Id., p. 101].

92. FCM spent approximately $60,000 on behalf of Ronald Reagan in New Hampshire. FCM also bussed 40-50 students from New York and other locations to hand out literature in New Hampshire on behalf of Ronald Reagan. [Exhibits 116, 117].

93. According to FEC reports, Ronald Reagan exhausted nearly all of the $294,400 he was limited to by the federal election laws in connection with the New Hampshire primary. [Id.].

94. FCM made approximately $60,000 in expenditures on behalf of the candidacy of Ronald Reagan in New Hampshire after the Reagan campaign reached its spending limit. [Id.].

95. FCM sponsored activities on behalf of Mr. Reagan in connection with the New Hampshire primary also included voter mailings, newspaper advertising, and radio spots. FCM produced

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radio advertisements attacking Mr. Reagan's opponent George Bush. [Id.; Exhibit 45, letter from William Loeb].

96. The press has reported that FCM publicly took credit for Ronald Reagan's victory in New Hampshire. [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

97. Prior to the May 6, 1980, primary in Texas, Ronald Reagan had utilized most of the $14.7 million limit under the Primary Matching Account Act. FCM then expended approximately $80,000 on behalf of Ronald Reagan in connection with the Texas primary. With this $80,000 FCM bought radio advertisements and financed a 250,000 piece mailing campaign. [Exhibits 24, 89].

98. FCM set aside $100,000 for use in support of Ronald Reagan for the California primary, but decided to save that amount for use on behalf of Mr. Reagan in the general election, as reports and communications in the press indicated that the Reagan campaign did not require assistance in that state. [Exhibit 24].

99. FCM also budgeted for expenditures in connection with the Reagan 1980 candidacy in primaries held in Florida, Illinois, Connecticut, Pennsylvania, Ohio and New Jersey and in state conventions in Virginia and Missouri. These budgeted expenditures included radio and newspaper advertising, voter mailings, polling and literature distribution. [Exhibits 24, 46, 91, and 94].

100. FCM sent other solicitation letters in connection with its "Citizens for Reagan in '80" project in envelopes which read, "Dateline: Republican Convention, Detroit 11:30 p.m. Weds. July 16, 1980" which solicited funds for "national advertising

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on television and radio, full page advertisements in newspapers, election mailings pin-pointed to selected voters... which will be carefully and professionally used to help elect Ronald Reagan president." [Exhibit 2, p. 5, #21; Exhibit 47].

101. This solicitation letter indicated FCM believed it needed to raise at least $3,476,000 on behalf of Ronald Reagan for the general election and expressed its immediate need to raise $755,000 over the following three weeks to reserve advertising space and television and radio time for the fall. [Exhibits 24, 47].

102. FCM's direct mail campaigns are in whole or in part computerized. The employees, consultants and agents of FCM include professional speechwriters, public relations and advertising specialists, media experts and firms which maintain and rent professionally compiled mailing lists. [Exhibit 2, p. 5, #24; Exhibit 48].

103. FCM had posters bearing the name of its project, "Citizens for Reagan in '80" at the Republican National Convention for use in connection with floor demonstrations and rallies during the convention. [Exhibit 2, p. 5, #23].

D. <u>Other Independent Expenditure Campaigns for Reagan for President</u>

104. The National Congressional Club (NCC), formerly known as North Carolina Congressional Club (NCCC), a political committee registered with the FEC, undertook activities on behalf of the nomination and election of Ronald Reagan, in the 1980 election

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cycle which were similar in nature to those undertaken by NCPAC and FCM. [Exhibits 50, 116, 118].

105. NCC is a political committee that originally registered with the Clerk of the U.S. House of Representatives on October 29, 1974. [Exhibit 50].

106. NCC has as its Honorary Chairman, Senator Jesse Helms. NCC had a "project" entitled "Americans for Reagan" which was organized for the purpose of raising and expending money on behalf of the candidacy of Ronald Reagan for president in 1980. Jesse Helms is also the Honorary Chairman of "Americans for Reagan." [Id., p. 9, #43; Exhibit 49, NCC solicitation, p. 2].

107. The purpose of Americans for Reagan was to help elect Ronald Reagan president. This was accomplished through independent expenditures. [Exhibit 49].

108. During the last week of May, 1980, "Americans for Reagan" sent out its initial mailing of 250,000 letters soliciting funds to purchase television time on behalf of the Reagan candidacy for the nomination as the Republican Party candidate for president. The letter solicited funds to "Americans for Reagan" in order to amass $26,800 in the following 30 days for the purchase of air time for television advertisements, was written by Jesse Helms and sent on Senator Helms' personal stationery. The letter stated "Americans for Reagan"'s first goal as being to purchase over $500,000 of television time for the fall on behalf of Ronald Reagan's campaign for the general election. Checks were to be made payable to "Americans for Reagan." [Exhibit 2, p. 9, #44; Exhibit 49, pp. 1-2].

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109. Another solicitation letter on behalf of NCC's project "Americans for Reagan," dated July 14, 1980, was written by Senator Helms from the Republican National Convention. This letter solicited funds for the purchase of television spots, newspaper advertisements, and radio commercials which were already prepared for "Americans for Reagan." The letter further indicated that "Americans for Reagan" would also be ordering brochures and other campaign materials. The solicitation letter asked recipients to "Remember, Ronald Reagan and our nation need your financial help." [Exhibit 2, p. 10, #45; Exhibit 51, pp. 1-3]:

110. "Americans for Reagan" was specifically organized to solicit funds from the general public on behalf of the candidacy of Ronald Reagan "because the Reagan campaign cannot accept your contribution." [Exhibit 2, p. 10, #46; Exhibit 51].

111. The press has reported that Arthur J. Finkelstein and Associates performed polling services for NCC during the 1980 presidential election. [Exhibit 24, The New Yorker, December 13, 1982, p. 92].

112. The press has reported that Senators Jesse Helms and Harrison Schmitt, Chairman for Americans for Change (AFC) (another registered political committee similar in nature to NCPAC, FCM and NCC), were delegates who supported Ronald Reagan at the July, 1980, Republican National Convention. [Exhibit 20, Washington Post, August 10, 1980, MacPherson article].

113. Americans For Change (AFC) is an unincorporated association which registered with the Federal Election Commission as a multi-candidate political committee by filing a Statement of

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Organization on May 23, 1980. Its officers were listed as Harrison H. Schmitt, Chairman; Carl T. Curtis, Treasurer; and Stan Huckaby, Assistant Treasurer, who is also the custodian of the committee's records. AFC did not file with the Commission as an "authorized committee" of Ronald Reagan or George Bush or any other presidential or vice presidential candidates for the 1980 election. Nor has it filed with the Commission as an "authorized committee" of Ronald Reagan, or for any other presidential or vice presidential candidates for the 1984 election. [Exhibit 128].

114. AFC held a press conference at the Republican National Convention as was listed on the official Calendar of Events for the 1980 Republican National Convention. Appearing on behalf of AFC at that press conference were Senator Harrison Schmitt, Chairman of AFC, John Harmer, former Lt. Governor of California and co-chairman of AFC, appointed by Mr. Reagan in 1974, and Howard Ruff. [Exhibit 129].

115. On July 18, 1980, Americans for Change, as advertised by letter from AFC Chairman, Senator Harrison Schmitt, held the first fundraiser on behalf of Ronald Reagan subsequent to the Republican National Convention. Tickets to the fundraiser held in Houston, Texas, cost $1,000 per couple and were payable to "Reagan for President in '80". [Exhibit 2, p. 3, #10].

116. Harrison Schmitt, the Chairman of AFC, was, at the same time, a member of the Republican National Committee Advisory Council on Economic Affairs and a Reagan delegate to the 1980 Republican National Convention. [Exhibit 135].

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117. John Harmer, the Co-Chairman of AFC, was Ronald Reagan's former Lieutenant Governor. [Exhibits 117, 122, 129].

118. Stan Huckaby, the Assistant Treasurer and Custodian of Records of AFC, was, at the same time, the Treasurer of the 1980 Republican Presidential Unity Committee, an authorized committee of Ronald Reagan, and has served as a paid consultant to the Republican National Committee. [Exhibits 128 and 138].

119. He maintained his office at the Republican National Committee headquarters. [Id.].

120. James Edwards, former Governor of South Carolina and a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Council and a Reagan delegate to the 1980 Republican National Convention. [Exhibits 120, 121, 135 and 137].

121. Anna Chennault, a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Committee on Fiscal Affairs, and an ex-officio member of the Republican National Committee Executive Committee. [Exhibits 120, 121, 135].

122. After the 1980 election, AFC invited contributors and their families to attend various events sponsored by AFC in conjunction with the Inauguration of President-elect Reagan. The invitation was signed by then-Senator Harrison Schmitt and stated that the purpose of these events was to provide AFC supporters "an opportunity to meet the Republican men and women who will play an

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important part in shaping the destiny of our country." The invitation also stated:

> We intend to hold attendance at each of our functions to a limited number of guests to allow everyone ample opportunity to visit with Senators or Cabinet officials who may be in attendance.

[Exhibit 119].

123. James Edwards, a member of the steering committee of AFC, was appointed Secretary of Energy by President Reagan. [Exhibits 135, 137].

124. Senator Jesse Helms (R, N.C.), Honorary Chairman of the National Congressional Club, has stated that "I've had to... talk indirectly with [Senator] Paul Laxalt (R. Nev.) [President Reagan's national campaign chairman]" to avoid a direct consultation with then-candidate Reagan. [Exhibit 24, The New Yorker, December 13, 1982, pp. 90-91; Exhibit 20, p. 28].

125. Senator Helms has also stated that "I hope that the Senator [Laxalt] would pass along [the messages], and I think the messages have gotten through all right." [Exhibit 20, p. 28].

126. Independent expenditures by PACs, individuals and other groups exceeded $16 million for the 1979-80 election cycle. A total of $13.7 million was spent to influence the presidential race. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980; Exhibit 115].

127. Americans For An Effective Presidency (AEP) is an unincorporated association which registered with the Commission as a multi-candidate committee by filing a Statement of

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Organization. AEP was formed for the express purpose of electing Ronald Reagan president. The only officer lised on its statement was its Treasurer, Robert H. Masson. Serving as AEP's Chairman is Peter Flanigan and as Chairman of the Expenditures Committee, Thomas Reed. [Exhibits 130, 131].

128. It has been reported in the press that Peter Flanigan, the Chairman of AEP, was, at the same time, a member of the Policy Board of the Republican National Committee Advisory Council on Economic Affairs. [Exhibits 133 and 135].

129. Stuart Spencer, who was involved in the organization of AEP and who was to run its operation, subsequently worked for the official Reagan campaign. He ran Mr. Reagan's campaigns for Governor of California in 1966 and 1970 and was the national political director for the official 1976 general election campaign for the Republican Party candidate. [Exhibits 123, 124, 125 and 126].

130. William Clements, who was involved in the organization of AEP, served as the Chairman of the official Reagan campaign in Texas and is a member of the Republican National Committee Advisory Council on National Security and International Affairs. [Exhibits 19, 135, 136].

131. Bailey, Deardourff & Associates, the Media Directors of AEP, served as the advertising agency for the official 1976 general election campaign for the Republican Party candidate. [Exhibit 131].

132. Douglas L. Bailey, a prominent media consultant and a Media Director for AEP during the 1980 Presidential campaign, has

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expressly acknowledged the power and influence wielded by large private fundraisers.

> The people who wield the authority coming out of private fundraising are not the people who give the money so much as the people who raise the money, and that has not significantly changed. If anything, it may have been accelerated [by the $1,000 limit on contributions] because the guy who can raise $51,000 in contributions is the guy who is incredibly important to that campaign and therefore has a significant amount of power.

[Exhibit 131 and Deposition of Douglas L. Bailey, p. 28, in RNC v. FEC, 487 F. Supp. 280 (S.D.N.Y.), aff'd. mem, 445 U.S. 955 (1980)].

133. AEP had a stated objective in 1980, which was to raise and expend funds to defeat the re-election of Jimmy Carter, to elect Ronald Reagan president, and to further Governor Reagan's prospects for victory should the presidential election have to be decided in the U.S. House of Representatives. [Exhibit 131].

134. AEP considered every contributor to be a member of that organization. [Id.].

135. An Expenditures Committee determined which expenditures were to be made by AEP, it hired all staff, provided legal counsel, supervised all recordkeeping, authorized all fundraising and represented the organization to the media and public. [Id.].

136. Professional staff was retained by AEP to implement all aspects of AEP's programs. [Id.].

137. AEP hired as staff director, Don Pierce, the 1976 regional political director for former President Ford who has also managed numerous Congressional campaigns. [Id.].

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138. AEP devoted at least 75% of all its funds to telephone, radio, and newspaper advertising to defeat Jimmy Carter and elect Ronald Reagan. The timing and location of such advertising was determined by the Expenditure Committee after having received input from "Participating Members" of AEP and AEP's professional staff. [Id.].

139. AEP ran a complete press office that sought free radio and television time and newspaper space by making prominent Republicans available for interviews as part of its strategy for achieving the election of Mr. Reagan and Mr. Bush in 1980. [Id.].

E. Independent Expenditures and Other Political Activity

140. The press has reported that, to counter NCPAC's efforts in support of and in opposition to certain candidates, at least five new political action committees were created. Those committees, the press has reported, were not formally connected with the Democratic Party, but like the National Committee for an Effective Congress, which spent more than $1,420,000 in 1979-80, the committees ranged from general to exclusive support of Democratic candidates. [Exhibit 14].

141. During 1975-76, NCPAC's reports filed with the FEC indicate receipts of $3,006,292.09 and disbursements of $2,954,147.83. Of this latter amount NPCAC reported spending:

a. $2,123,588.20 for operating expenses.*/

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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b. $88,537.08 for independent expenditures.

c. $400,189.16 for direct/in-kind contributions to federal candidates.

[Exhibit 53, 1975 year end amendment; Exhibit 54, 1976 year end amendment].

142. During 1979-80, NCPAC's reports filed with the FEC indicate receipts of $7,648,551.34 and disbursements of $7,530,378.09. Of this latter amount NCPAC reported spending:

a. $3,813,929.29 for operating expenses.*/

b. $3,402,616.81 for independent expenditures.

c. $253,326.99 for direct/in-kind contributions to federal candidates.

[Exhibit 55, 1979 year end amendment; Exhibit 56, 1980 year end amendment, Exhibit 83, FEC 1979-80 D Index].

143. During the 1979-80 presidential race, NCPAC spent $1,859,168 as independent expenditures advocating the election of Ronald Reagan for president. NCPAC spent an additional $108,077 against Jimmy Carter for president. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980, p. 31].

144. During 1983 (7/83), NCPAC reported to the FEC, receipts of $3,015,930.44 and disbursements of $2,998,504.54. Of this latter amount, NCPAC reported spending:

a. $2,711,558.52 for operating expenses.*/

b. $83,575.84 for independent expenditures.

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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c. $6,646.43 for direct/in-kind contributions to federal candidates.

[Exhibit 58, 1983 August Monthly Report].

145. The press has reported that John T. Dolan stated that independent expenditures made by political committees, including NCPAC, made the difference in Louisiana and Mississippi during the 1980 presidential election. [Exhibit 59, Miami Herald, 3/29/81].

146. According to FEC Records, NCPAC had received $8,772,146 in contributions and made $9,003,776 in expenditures by October 13, 1982. [Exhibits 113, 114, NCPAC 1981 Year End and 1982 Pre-General Reports].

147. Of the $9,003,776 in expenditures which NCPAC made for the 1981-82 election by October 13, 1982, $5,760,320, went to fundraising, salary, travel and administrative costs. [Id.].

148. In 1978, NCPAC received 122 contributions between $500 and $1,000, 5 contributions between $1,001 and $2,500, and 5 contributions between $2,501 and $5,000. [FEC Data Base].

149. In 1980, NCPAC received 763 contributions between $500 and $1,000, 93 contributions between $1,001 and $2,500, and 54 contributions between $2,501 and $5,000. [Id.].

150. In 1982, NCPAC received 908 contributions between $500 and $1,000, 178 contributions between $1,001 and $2,500, and 114 contributions between $2,501 and $5,000. [Id.].

151. In 1983, NCPAC has received 264 contributions between $500 and $1,000, 48 contributions between $1,001 and $2,500, and 85 between $2,501 and $5,000. [Id.].

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152. From 1978 to the present, NCPAC has received 2,057 contributions between $500 and $1,000, 324 contributions between $1,001 and $2,500, and 258 contributions between $2,501 and $5,000. [Id.].

153. During 1975-76, FCM's reports filed with the FEC, indicate receipts of $474,642.09 and disbursements of $484,344.70. Of this latter amount, FCM reported spending:

a. $391,095.60 for operating expenses.*/

b. $39,655.26 for independent expenditures.

c. $50,943.84 for direct/in-kind contributions to federal candidates.

[Exhibit 61, 1975 year end amendment; Exhibit 62, 1976 comprehensive amendment; and Exhibit 63, conciliation agreement, MUR 503].

154. During 1979-80, FCM's reports filed with the FEC indicate receipts of $3,163,537.68 and disbursements of $3,150,292.79. Of this latter amount, FCM reported spending:

a. $937,192.93 for operating expenses.*/

b. $2,062,908.29 for independent expenditures.

c. $143,082.00 for direct/in-kind contributions to federal candidates.

[Exhibit 64, 1979 year end amendment; Exhibit 65, 1980 year end amendment; Exhibit 84, FEC 1979-80 D Index].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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155. During 1979-80, 100% of FCM's independent expenditures were made to aid Ronald Reagan in his race for president [Exhibit 66, FEC Index of Independent Expenditures, 1979-80, p. 168].

156. FCM spent more than $500,000 during the 1980 primaries in connection with its "project" entitled "Citizens for Reagan in '80". [Exhibit 2, p. 3, #13].

157. The purpose of Citizens for Reagan in '80 was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures.

158. Many of FCM's expenditures on behalf of Ronald Reagan for the 1980 primaries were made to purchase advertisements which attacked Ronald Reagan's chief rival, George Bush. [Exhibit 2, p. 3, #13].

159. From January through June of 1980, FCM reported making expenditures on behalf of Ronald Reagan totalling $656,467.26. Included in this amount, FCM reported spending: $465,727.22 on written communications; $29,200.80 on radio ads; $27,054.69 on newspaper ads; $61,080.39 on the rental of mailing lists; $3,163.75 on computer services; $3,143.87 on bumper stickers; $4,405.00 on consulting services, $7,822.86 on television ads; $2,172.00 for buttons; $21,675.00 for surveys; $9,991.92 on promotional paraphernalia; $1,475.00 on video. [Exhibit 2, p. 6, #25; Exhibit 67; Exhibit 48].

160. During 1983 (6/83), FCM reported to the FEC, receipts of $822,229.23 and disbursements of $818,968.69. Of this latter amount, FCM reported spending:

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a. $725,824.12 for operating expenses.*/

b. $55,448.37 for independent expenditures.

c. $18,355.31 for direct/in-kind contributions to federal candidates.

[Exhibit 85, FCM's July Monthly Report].

161. The 1980 presidential general election campaigns of Ronald Reagan and Jimmy Carter were publicly financed. The Reagan and Carter Committees received $29.4 million from the United States Treasury. [26 U.S. § 9001, et. seq.].

162. Over $13.7 million was spent as independent expenditures to influence the 1980 presidential race by political committees, individuals, and other groups. [Exhibits 57 and 115].

163. Over $12.2 million was spent as independent expenditures by political committees, individuals, and other groups, on behalf of Ronald Reagan for president during the 1980 election cycle. [Id.].

164. In addition to the $12.2 million spent on behalf of Ronald Reagan, an additional $747,000 was spent against Reagan's 1980 presidential opponents. [Id.].

165. As of July 1, 1983, there were 3,461 political committees eligible to make independent expenditures for the 1984 presidential election. [FEC Data Base].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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166. For the 1979-80 election cycle the following political committees reported spending the most money on independent expenditures:

1.	Congressional Club	$ 4,601,069
2.	NCPAC	3,307,962
3.	Fund for a Conservative Majority	2,062,456
4.	Americans for an Effective Presidency	1,270,208
5.	Americans for Change	711,856
6.	NRA Political Victory Fund	441,891
7.	Christian Voice Moral Government Fund	406,199
8.	1980 Republican Presidential Campaign Committee	314,740
9.	American Medical Political Action Committee	172,397
10.	Gun Owners of America Campaign Committee	119,891

[Exhibits 57 and 115].

167. For the 1979-80 election cycle the following individuals reported spending the most money on independent expenditures:

1.	Cecil R. Haden	$ 599,333
2.	Stewart Rawlings Mott	110,179
3.	Norman Lear	108,301
4.	Richard M. Devos	70,575
5.	Fay Van Andel	68,433
6.	Theo N. Law	66,230
7.	David B. Melville	35,159
8.	Henry C. Grover	29,076

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9.	Michael Rosen	25,940
10.	Dwight G. Vedder	20,000

[Exhibits 57 and 115].

168. In 1978, FCM received 22 contributions between $500 and $1,000, 2 contributions between $1,001 and $2,500, and 1 contribution between $2,501 and $5,000. [FEC Records].

169. In 1980, FCM received 265 contributions between $500 and $1,000, 15 contributions between $1,001 and $2,500, and 9 contributions between $2,501 and $5,000. [Id.].

170. In 1982, FCM received 157 contributions between $500 and $1,000, 13 contributions between $1,001 and $2,500, and 7 contributions between $2,501 and $5,000. [Id.].

171. In 1983, FCM has received 27 contributions between $500 and $1,000, and 61 contributions between $1,001 and $2,500. [Id.].

172. From 1978 to the present, FCM has received 471 contributions between $500 and $1,000, 91 contributions between $1,001 and $2,500, and 17 contributions between $2,501 and $5,000. [Id.].

173. Independent expenditures by PACs, individuals and other groups exceeded $2 million for the 1975-76 election cycle (figures are approximated and unverified). A total of $1.6 million was spent to influence the presidential race. [Exhibit 68, FEC Press Release, 10/9/80].

174. For the 1979-1980 election cycle, 51 individuals spent over $1,000 to influence the 1980 presidential election. [Exhibit 134, Affidavit].

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175. These 51 individuals spent over $1.7 million to influence the 1980 presidential election. [Exhibit 134, Affidavit].

F. Common Vendors

176. The Reagan for President Committee and the Reagan/Bush Committee as well as NCPAC and FCM employed many of the same vendors. The Reagan for President Committee employed these vendors to assist in the 1980 presidential campaign while NCPAC and FCM used many of the same vendors while making independent expenditures on behalf of Ronald Reagan for president during the 1980 election.

177. Ed Nichols Associates, a direct mail firm, was performing services as early as August, 1979, through July, 1980, for the Reagan for President Committee, in September, 1980, for the Reagan/Bush Committee, and as early as November, 1980, for NCPAC. [Exhibits 73, 101 and 102].

178. Arthur J. Finkelstein was on the Board of Directors of NCPAC in 1979. [Exhibit 6, NCPAC's Annual Report].

179. Arthur J. Finkelstein was the chief political pollster for NCPAC during the presidential election of 1980 and continued in that capacity through 1981. [Exhibit 37, Washington Post, 12/31/81, Emory article; Exhibit 78, Dolan's depo. p. 94].

180. Arthur J. Finkelstein and Associates, a political consulting firm owned by Arthur J. Finkelstein, performed services for the Reagan for President Committee as early as September, 1979, through February, 1980. This firm first provided political services to NCPAC as early as April, 1976. [Exhibits 78, 79 and 111].

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181. Arthur J. Finkelstein and Associates conducted political polls for NCPAC, FCM, and the Reagan for President Committee and the Reagan/Bush Committee during 1979-80. [Exhibits 52, 110 and 111].

182. The press has reported that Arthur J. Finkelstein and his firm, Arthur J. Finkelstein and Associates, received payments from NCPAC of $261,533 between 1975 and January, 1982. [Exhibit 11, The Sun, 7/13/83].

183. DELETED.

184. The press has reported that Richard Geske is a direct mail specialist. [Exhibit 11, The Sun, 7/1/82, p.45].

185. The press has reported that Richard Geske and the National Conservative Political Action Committee - State Election Fund, a NCPAC affiliate, were joint owners of Mediamerica, Inc. during the period of 1978-79. [Id.].

186. The press has reported that Richard Geske bought NCPAC State Election Fund's share in Mediamerica, Inc., during 1979. [Id.].

187. Richard Geske's firm Mediamerica, Inc., received payments from NCPAC totalling $1.3 million between 1975 and January, 1982. This figure represents approximately 12% of NCPAC's total operating funds for these years. [Exhibit 11, Sun, 7/13/82; Exhibit 80, Dolan's depo., p. 88].

188. Mediamerica, Inc., a media production and advertising firm, provided services to the Reagan for President Committee as early as January, 1980 through October, 1980, and for NCPAC as early as April, 1980 through November, 1980. [Exhibits 80, 108 and 110].

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189. The press has reported that Rhonda Stahlman was director of NCPAC's lobbying arm, Conservatives Against Liberal Legislation (CALL). She held this position from 1978 to 1982. [Exhibit 11, The Sun, 7/13/82, p. 45].

190. Rhonda Stahlman was a member of Mediamerica's Board of Directors from 1979 through 1982. [Id.].

191. Rhonda Stahlman was a member of both NCPAC's Board of Directors and Executive Committee from 1979 to 1983. [Exhibit 7, NCPAC's Annual Reports; Exhibit 10, Dolan depo., p. 13].

192. John T. Dolan, Rhonda Stahlman, and Dolan's sister, Maiselle Shortley, all acted as unpaid members of Mediamerica's Board of Directors. [Exhibit 11, The Sun, 7/13/82].

193. John T. Dolan was a member of the Mediamerica's Board of Directors from 1978-79. [Id.].

194. Maiselle Shortley, John T. Dolan's sister, was Vice President and a member of the Board of Directors of Mediamerica, Inc., from the company's inception in 1978 through 1982. [Exhibit 81, Mediamerica's Annual Report].

G. Additional Facts

195. According to FCM, the Committee received the following contributions during the following years:

Year	Number of Contributions	Total Dollar Amount
1983 (to date)	38,549	$1,057,176.00
1982	82,107	1,707,347.00
1981	49,060	949,705.00
1980	100,353	2,526,824.00
1979	8,619	168,493.00
1978	14,862	208,058.00

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196. Exhibit 139 sets forth the costs of placing ads in various forms of media. The information contained in this exhibit is incorporated herein by reference.

197. Exhibit 140 is a videotape of a commerical entitled "Ronald Reagan's America" which was produced and financed by NCPAC and which has been and will be used during the 1984 presidential cycle.

198. On July 24, 1979, then-candidate Ronald Reagan sent to FCM a mailgram requesting that FCM immediately stop its independent effort. [Exhibit 141].

199. Twenty-five labor unions and five incorporated membership organizations reported spending a total of $2.2 million on partisan communications directed to their members during the 1981-82 election cycle. [Exhibit 142, FEC newsletter, Vol. 9, #10, October 1983].

200. The Internal Revenue Service has reported that in 1977, only 29% of those taxpayers who filed income tax returns chose to have $1.00 of their taxes earmarked for the Presidential Election Campaign Fund Act. In 1981, the last year for which figures are available, 48.2% of returns were marked "no" and 26.1% were marked "yes" to the questions whether $1.00 of a taxpaper's tax liability should go to the Fund. [Exhibit 143, "Campaign Practices Reports," Congressional Quarterly, Vol. 10, #7, 4/11/83].

201. Although only a minority of taxpayers check the "yes" presidential campaign box, the election fund is in no financial difficulty. The presidential fund had a total of $153.4 million at the end of 1982. [Id.].

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202. During the 1979 election cycle, NCPAC received contributions from approximately 101,000 contributors. During the 1981-82 election cycle, NCPAC received contributions from approximately 143,000 contributors. [Review of NCPAC's contributor data base].

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THE WASHINGTON POST -
August 10, 1980

(Front page of Style Section in Sunday paper)

The New Right Brigade

John Terry Dolan's NCPAC Targets Liberals And the Federal Election Commission

By Myra MacPherson

"GROUPS LIKE ours are potentially very dangerous to the political process. We could be a million, you. Ten independent expenditure groups, for example, could amass the great amount of money and defeat the point of accountability in politics. We could say whatever we want about an opponent of a Senator Smith and the senator wouldn't have to say anything. A group like ours could lie through its teeth and the candidate it helps stays clean."

So speaks John Terry Dolan, 29, one of the foremost leaders of the New Right. A collection of far right groups, they have become a phenomenon in this election year. They are the "independent expenditure" brigade. They have been denounced by liberals and some mainstream conservatives alike. Dolan is chairman of the National Conservative Political Action Committee (NCPAC). It is, according to preliminary Federal Election Commission reports from January 1979 until this June, the leader of all PACs in gross receipts—over $4 million. "We're bugging the hell out of them," says Dolan, with a self-satisfied grin.

A short, slim, mischievous young man, Dolan proudly shows off his suite of offices in Arlington, where he creates his "attack" ads, brochures and fund-raising pleas, collecting and spending thousands a month. NCPAC is active on two fronts. (1) Targeting six liberal Democratic senators— Frank Church, George McGovern, Alan Cranston, John Culver, Birch Bayh and Thomas Eagleton—spending almost $700,000 on predominately negative advertising. (2) It is one of five committees dedicated to raising millions in support of Reagan's candidacy.

Dolan goes after his opponents with the ferocity of an enraged terrier; senators hit by his ads bowl that they are spurious, distorting, often inaccurate, and that there is at very least a tacit acceptance of Dolan's function by some of their opponents. Let them howl, says Dolan. For Dolan is not only finding loopholes in the Federal Election Reform law, he is taunting the FEC, the lawmakers and everyone else. "It's a stupid law. They're gonna take me kicking and screaming to jail before I stop my activities. Look," says Dolan, punching out his sentences in fast bursts, revealing his true intensity in a repeated battle cry, "we're saying 'come and get us.' That law should go."

Dolan's theories often have an interesting simplicity to them. Take government management, for instance. He scathingly says Reagan does not go far enough with proposed budget and tax cuts. The federal budget, under Dolan, would be doled out this way: "99 percent for Defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

Critics of the New Right decry what they perceive as a no-compromise, no-accommodation stance. Liberal George McGovern calls them members of the new right, "angry and intolerant, equally incapable of believing that they can be mistaken or that those with whom they disagree might have honorable intentions. They call themselves 'conservative' but their zealotry, self-

righteousness and [illegible] toward those with whom they disagree [illegible] something radically different from authentic conservatism."

And some Republican officials have characterized NCPAC as a "[illegible] on the deck." William [illegible], national chairman of the Republican Party, commented, "I'm not [illegible] party around those [illegible] groups. The New Right groups [illegible] new election in Congress [illegible] the broad issues of the individual, [illegible] prayer, health care, [illegible] American Dream [illegible]," says Dolan. "Brock [illegible] been fired left, right." Dolan [illegible] The Republican Party is a great [illegible] social club where the rich people go to [illegible] their homes [illegible]

[illegible] are NCPAC and other [illegible] groups, [illegible] to do, and why is everyone so angry? And why have [illegible] charges and counter-charges been flying with all the regularity of campaign promises? A brief [illegible]

• The Federal Elections Commission, American style, revealed that in 1972 a mere 153 individuals contributed $20 million to President Nixon's campaign. Reacting to Watergate and such contributed practices, Congress passed the 1974 Election Reform Act. Individuals can contribute only $1,000 per election to a candidate for federal office, including president. And groups like NCPAC are allowed to contribute $10,000 directly to a Congressional and presidential candidate, $5,000 primary and $5,000 general. Once a Democratic or Republican presidential nominee accepts federal funds, private contributions are prohibited. But now, in 1980, various "independent" groups—including NCPAC—are directly spending millions to defeat senatorial candidates and additional millions on Ronald Reagan's campaign. How so?

• In 1976 a collection of odd couples in politics—from Jesse Helms to Richard James Buckley, from the ACLU to Human Events, the conservative weekly—challenged the election reform law on the ground that it violated their first amendment rights. The Supreme Court ruled in basically upholding the act that independent groups cannot be prohibited from spending any money in support of or in opposition to a candidate so long as there is no collaboration or cooperation between the campaign and the people making their independent expenditures.

• Now enter the "independents"—who have seized upon this loophole to spend their millions. These PACs differ from corporate and labor union PACs. Independents can, as one FEC official said, "solicit the world," reaching out to the public while corporate and labor union PACs can only go to a targeted group for their money—the corporation to its stockholders, executives and administrative personnel; the union to its membership. In addition to its activity in senatorial races, NCPAC is one of five committees aiming to raise from $25 to $35 million to support Reagan's candidacy. Reagan has already picked up his $29.4 million check from the U.S. Treasury. The Reform law said that was all he was supposed to get. But NCPAC and other groups which include among them longtime Reagan supporters Senators Jesse Helms and Harrison Schmitt, who were Reagan delegates at last month's convention) say they are independent enough to raise the megabucks on Reagan's behalf. Dolan's "Ronald Reagan Victory Fund" plans to spend $4 million (they spent almost $100,000 last month alone) and Dolan proudly claims, "We're the first of the indepen-

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"A [illegible] of [illegible] in 1976 Jimmy Carter said, 'Why Not the Best?' That's what he said. Now look what he gave us. Andy Young, the man who called Ayatollah Khomeini a saint, forced to resign after lying to the president; Bert Lance, forced to resign for questionable banking practices; Peter Bourne, forced to resign for supplying drugs to a White House staffer."

A definition of "independent" is a [illegible] thing. Terry Dolan has more than a passing awareness of Ronald Reagan. NCPAC filed with the FEC in 1975 and a few months later a personal letter from Reagan asked his legion of supporters all over the country to support the Virginia-based outfit. "He is," claims Dolan, "one of the main reasons NCPAC is here today." Terry Dolan's brother works for the Reagan campaign. Dolan's chief [illegible] [illegible] [illegible] [illegible] works for Reagan. Dolan is coowner of an Arlington office building along with longtime Reagan aide Lyn Nofziger; Paul Russo, a 1980 Reagan campaign staffer; and Roger Stone, Reagan's northeast coordinator in the primaries and now a consultant to Reagan and former NCPAC treasurer. A tenant is Richard Viguerie—NCPAC's virtual creator and right-wing fund-raising czar for Reagan as well as many of the independent expenditure groups. A network of friendship and contacts began when most were Yaffers (members of Young Americans for Freedom). "There is no crime in being friends," argues Dolan.

The Democratic National Committee charges in its complaint to the FEC that all this coziness of New Right leadership forms a "seamless web" and that they are "probably incapable of acting truly independently of each other." Common Cause is suing one of the committees, Americans for Change. (Arguments will be heard this week.) "There is collusion in this," charges DNC Chairman John White. "It's the same old heavy-handed misuse of the political system." Archibald Cox, chairman of Common Cause, claims such independent groups "threaten a return to the old Watergate [illegible] and influence of money in politics."

Dolan says he makes few moves without checking it out first with his lawyers. "We got an advisory opinion from the FEC which says the use of [illegible] [illegible] [illegible] an 'independent expenditure' [illegible] [illegible] [illegible] expense. So whether [illegible] [illegible] [illegible] [illegible] and Reagan is beside the point. I [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] independent and [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. The lawyers check over our ads for libel. So if Andy Young wants to sue, sue."

So the challenge goes on as to whether these groups of friends are independent (they claim they do not consult with Reagan or his staff). Fred Wertheimer of Common Cause contends, "If they figure out a way not to make direct contact, their actual philosophy is one of coordination and it is quantitatively different from a truly independent guy out in Des Moines taking out a full-page ad because he likes the candidate."

In a display of candor, Jesse Helms—the Patron Saint of NCPAC—allowed as how at the Republican convention it's been an "awkward situation" since the federal election law "forbids me to consult with him [Reagan]. I've had to sort of talk indirectly with [Sen.] Paul Laxalt [Reagan's national campaign chairman]," Helms drawled. "I hope that he would pass along, eh, and I think the messages have gotten through all right." Dolan says his commercials will "depend on the Reagan campaign [illegible]." And how is he [illegible] [illegible] [illegible] [illegible] [illegible] the

The chuckles in NCPAC [illegible] are long and loud. But for those who see a troublesome subversion of the intent of the law, it is no laughing matter. Says Wertheimer, "NCPAC and Dolan and these other groups are out to destroy campaign financing laws. They want to eliminate the parts that have been effective. Today you don't see huge sums from single contributors looking for favors. These groups want to unravel the whole process and get back as quickly as they can to the big spender days when 153 individuals contributed $20 million to Nixon."

As for the FEC, its action forms a long line; the agency seems to have all the clout of a moth hitting a summer screen. One FEC official admitted that the battle could drag on indefinitely, that the FEC, with its makeup of three Democrats and three Republicans, is leery of "interjecting itself. Either way it acts it's going to be perceived as political." With a sigh, he delivered a true bureaucrat's lament: "This is a very strange place. We've achieved the distinction of being disliked by everybody—those who think we can do something and those who think we can't."

Dolan sits in his office in front of pictures of some of the senators he's targeted this year. The hair is close clipped, the mustache trim. From time to time, Dolan opens his bottom drawer, gets out a roll of toilet paper, rips off a few pieces, blows his nose and puts the roll back.

Some of Dolan's views sound like slogans of raw anger. "The biggest threat to America—it isn't the commies, it isn't the oil companies. The biggest problem is the United States government. The U.S. government has done more to destroy the American spirit." "There's nothing unjustified in ridding the world of Fidel Castro. He's the same as Idi Amin. The only difference is one has a beard," and then the smile, "and one has darker skin." He admires William Buckley because he can "knock anybody down in two seconds." He admires "the strength of a Patton or a MacArthur." Carter is "our weakest president ever." It is easy to get around the FEC because "they're a bunch of mindless bureaucrats who know less about the first amendment than they do politics."

Dolan says "Liberals never bother to find out if conservatives are right. Take a voucher system for education—if you paid for private education, you'd get tax breaks." How would that help families with children in public schools? "Who said it would?" Well, what if you can't afford private schools? "Well, that's who public school is for," he says, indifferently.

Dolan is also for getting the government out of nearly everything that doesn't please him. Federal social programs should be done away. "Say next year we cut all food stamps. It would take moral courage, if that's what it takes, to, if you were a local politician, decide your state was going to give out food stamps. Gov. Carey, say, is going to have to have the courage to give out the food stamps, not the federal government. Of course, I don't think people should starve in America. But our system discourages responsibility."

A special scorn is reserved for the liberal targets of his negative advertising—Senators Church, McGovern, Bayh, Cranston, Eagleton, Culver. "I like to see 'em squirm. They deserve it." Dolan proudly points to his polls that show Church and McGovern behind, and thinks there is a good chance "at least two, possibly four, can be defeated. It's just possible that the conservatives could take control of the Senate."

Dolan has been called everything [illegible] [illegible] [illegible] irresponsible to sleazy by those he targets. A few years ago his heavily negative approach would have been considered on the fringe. RNC Chairman Brock has denounced the independent approach as detrimental to the RNC mainstream fund-raising. Dolan sneers, "Every chance he's got Brock tries to screw Reagan. He's frustrated by jealousy. We're raising the funds. We're on the cutting edge of politics."

Lest one confuse Dolan with mainstream Republicanism, Dolan is happy to thumb his nose at both parties. "The only difference between Republicans and Democrats on a presidential level is the Democrats tell you they're going to screw you and the Republicans tell you they're not going to screw you and do it anyhow."

He likes to appear impervious to the charges leveled at him. "I'm not after respectability. That doesn't bother me. The only thing I care about is if we're effective. I'm absolutely convinced our negatives on Carter will stick. We've got a couple more 'attack' spots planned." One will include Billy Carter. Ethnics and southern accents will be prominent as Dolan develops plans for his rural markets, but there will be no blacks. "Let Brock spend the RNC's money to try to get that vote," he said.

Some Reagan aides murmur that Reagan privately wonders if Dolan and others like him will create a backlash with their negative adver[illegible] [illegible] Reagan so far has done not[illegible] [illegible] likely disavow them.

Dolan's ads are more [illegible] "against" a candidate, [illegible] [illegible] "for" someone. Alan Cra[illegible] book "Thunder on the Right[illegible] New Right [illegible] politics [illegible] [illegible] [illegible] [illegible]

Dolan retorts, "I know I'm screwed up, but at least I admit it. That's more than I can say for the author of that silly book." [illegible]

Dolan seldom loses his cool but one subject that causes a bit of nervous fumbling is something his opponents discovered last week. NCPAC had not reported a single itemized contribution since October 1979—despite over $2 million in receipts. Dolan admits the omission. "I just found that out. We're going to take immediate action. Of course we're going to amend the reports," he says quickly. "It was just a comedy of errors," he contends. "We had, ah, a new bookkeeper and she [illegible] discontinued itemizing them." (According to federal [illegible], any contribution over $200 has to be itemized; failure to do so could be ruled a serious violation of disclosure laws.) "I just don't know what happened. We're not trying to hide anybody. We don't have any H.L. Hunts. I wish we did. Joe Coors has contributed, but not this year."

One irony is that the very law he lambastes created the Dolans and Vigueries. The direct mail mills (Viguerie has a reported 5 million names) sprang up when small donors became vital to campaigns after large individual contributions were ruled out.

Opponents accuse Dolan of bending and distorting the facts. Dolan himself seems to indeed have a cavalier attitude toward some of the details in his advertising.

• In a spoof of the Dating Game, Dolan put together a minute radio spot called The Rating Game. It was used against Cranston, Bayh, McGovern, Church and Culver. In each ad there is a "Mrs. Verna Smith"—from Sacramento in one, Indianapolis in another, and so on. "Oh yeah, that name appeared in all the ads. It's a phony name, but I don't think anyone listening to the ad would take it seriously."

"The federal budget, under Lyndon Johnson, nine percent for Defense—keep America strong—and one percent on delivering the mail. That's it. Leave us alone."

• Dolan also plans a half-hour film using Ronald Reagan. That's drive the FEC crazy. It's a part of his presidential speech. I think we are violating the regulation—it says you cannot rebroadcast something of the qualifying—but as far as I'm concerned, the regulation is unconstitutional," says Dolan.

• An exasperated Frank Church accused Dolan of "scummy tactics" and was successful in getting NCPAC to withdraw an ad that erroneously accused him of voting to increase his Senate pay. Another ad—which stayed on—showed an empty missile silo and stated that because they were empty, "they won't be of much help in defense of your family or mine. You see, Senator Church has almost always opposed a strong national defense . . ." The obvious implication was that Church's votes had emptied out that silo— even though it had been made obsolete by a more advanced weapons system. "Innuendo? Sure," says Dolan. "But I have absolutely no ethical qualms about that. It's symbolic of his record."

• Ads against George McGovern charge that he is a "baby killer" (he is pro-choice) and one has him in the crosshairs as a 1980 target. "That's not our stuff, even though he is a baby killer. We wouldn't use such rhetoric. McGovern in the crosshairs? I don't see anything wrong with that. It was not intended to mean you ought to shoot McGovern." Who did these ads? A man named Dave Bell. "Well, Bell used to be an employee of ours—but not in this campaign." Some NCPAC ads attack McGovern as favoring "a gas tax that could reach 50 cents a gallon . . . and voting "against energy tax incentives." McGovern staffers protest "that's dead wrong. He has never proposed such a tax measure in the Senate." To that Dolan says, "Well, he supported Anderson's plan." Back to the McGovern staff: "He never did. And McGovern has cosponsored measures and voted for energy tax credits for individuals and companies installing energy conservation devices." Dolan says "They're lying."

• Dolan uses The American Farm Bureau Federation, a right wing, anti-union group, to base his rating on farm votes. Senators he attacks howl that this distorts the vote and that Dolan should use the National Farmers Union rating. Dolan says, "That's just a pro-union, anti-business organization."

• When Dolan kicked off his Get Eagleton campaign, the senator's staff fired off a letter to Dolan: "Your 'analysis' of the Eagleton record which you distributed yesterday fully lives up to your earned reputation for inaccuracy, distortion and untruths." NCPAC castigated Eagleton for "giving $75 million of taxpayers' money in aid to revolutionary government in Nicaragua." Eagleton voted against aid to Nicaragua, his staff pointed out. NCPAC said Eagleton voted against the Hatfield amendment which would cut off funds for the neutron bomb. Eagleton, in fact, supported only one restriction on the neutron bomb. Shrugs Dolan, "We had corrections passed out at that time. We sent letters to radios and newspapers and said we did make a couple of mistakes in the analysis of the record—but that just proves he doesn't vote all bad all the time. They're just trying to discredit us. Want to make out we're schoolboys."

• In a last whilst fund-raising letter to "stop Kennedy," Dolan charged that Kennedy "has legally spend as much of his own money (on his own campaign) as he wants—and he's got millions." When asked about it, Dolan seemed vague about the details, even though he signed the letter. This is, of course, inaccurate, as Kennedy had applied for matching funds and is therefore limited to spending $200,000 of his own money. "Oh, our statement was as accurate statement of the law—we didn't mention matching funds. It's all so incredibly irrelevant."

Dolan's father was manager of the Sears Roebuck store where he was growing up in Fairfield, Conn. Irish Catholic—except for "one quarter Swiss"—Dolan learned about politics early. His mother ran for local office when he was young. At first the Dolans were Democrats but switched to the GOP. "They often voted for Jack Kennedy because he was Irish," Dolan recalls. Dolan attended private high school in Connecticut and then Georgetown University. "I managed to survive four years of their (Georgetown's) socialist doctrine," he says witheringly (1968 to 1972). Dolan was in school during the Vietnam War although he "firmly believed it was a moral duty, trying to resist communist aggression." Dolan was heavy in the Yaffer movement and in such counter-protests as Honor America Day.

He majored in government and German.

His brother, Anthony, went on to become a Pulitzer Prize-winning journalist and Dolan drifted more to the right in his interests. "I used to be a Republican. I used to be a political hack, but then in 1972 it was like a sexual awakening. I couldn't understand these strange urgings to do conservative things. On the ballot I saw John Schmitz [the American Party presidential candidate who once quipped that he had "gone pretty far in life for a Catholic Birther with a mustache"] and I had this urge to pull the lever."

Dolan worked for right wing causes and then got in on the ground floor when NCPAC was formed in 1975—along with Charles Black, a former Helms aide who worked for Reagan until he was fired along with campaign chairman John Sears this spring. Dolan describes NCPAC as a "central bureau" to help conservatives—both Democrats and Republican. Helms was "the prime mover. He gave us credibility." A huge stockpile of lists and names in Viguerie's and Helms' possession were fed into the NCPAC operation. "Helms just went to his magic computer," says Dolan. The appeals are often on emotional social issues. "Oh, no question," says Dolan. "It is a perfect list for anti-abortion, anti-ERA, anti-gun control and pro-Human Events [magazine]."

Dolan acknowledges that NCPAC was a creation of Dick Viguerie. "In 1978 about 80% of our money was Viguerie-raised. Now he does about 20% —probably a little over $2 million by the end of the year." At one time he was heavier in debt to Viguerie but now says NCPAC owes "only about $50,000."

There seems to be no getting around Dolan's luck with the FEC—the group he constantly belittles. The South Dakota Democratic party filed a suit challenging Dolan's independent status, charging that he openly encouraged Jim Abdnor to run against McGovern. "I knew we did," says Dolan with a chuckle. "We admit it. We admit it. We just led him up to the nomination. We got an advisory from the FEC that we could do it." The FEC had reportedly decided to rule off to dismiss the suit.

Dolan rents a vacant USDA [illegible] empire—a whole floor of an Arlington office building. Next to his office is National Conservative Research Education Foundation and next to that is Conservatives Against Liberal Legislation (CALL). Dolan is on the board of directors. Rhonda Stahlman, who runs CALL, a lobbying outfit, can be bumped on Dolan's telephone. A handful of volunteers are working away on machines; there are "Nuke Kay" signs around.

"There is a commonality of board of directors but we keep the finances separate. We used to do correlation analysis—but why should NCPAC do it when a tax deducting agency [the research outfit] can do it? It's totally legitimate. Sure we use the information in upcoming elections but there is nothing wrong with that."

There is, in fact, a real sense of expansiveness as Dolan brags, "Nothing that NCPAC does is illegal. If we went out of business tomorrow I could pocket everything. Of course, I wouldn't—but I could. Why? Because the law makes no sense. They ought to scrap it." The smile is there to the last. "You can do what you want with PACs."

"It is easy to get around the FEC because 'they're a bunch of mindless bureaucrats who know less about the First Amendment than they do about politics.' "

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Election Law Violations Admitted in '82 Race

By Thomas B. Edsall
Washington Post Staff Writer

Officials of the 1982 Senate campaign of Bruce F. Caputo in New York have admitted to the Federal Election Commission that they violated federal election law by working in coordination with the National Conservative Political Action Committee (NCPAC).

The admission, in a consent agreement with the FEC, could prove damaging to NCPAC, which specializes in controversial "independent" campaigns against liberal candidates and in support of conservative ones.

The consent agreement declares that the "independence" of a NCPAC campaign against Sen. Daniel Patrick Moynihan (D-N.Y.) was "compromised" by illegal ties to the Caputo camp.

However, NCPAC officials reject any suggestion of illegal activity, and intend to fight the case through FEC proceedings and in court, if necessary, according to Craig Shirley, a spokesman for the group.

Shirley, who confirmed the FEC agreement, said the Caputo campaign was forced by lack of funds to give up fighting the case.

In the agreement, the Caputo campaign agreed to pay a $3,000 fine. Attempts to reach officials of the campaign were unsuccessful.

By law, organizations such as NCPAC may spend unlimited sums for or against federal candidates as long as the expenditures are made without consultation with the campaign that benefits from them. The FEC consent agreement raises questions about NCPAC's claims that it has run independent campaigns.

In 1982, Caputo, a former Republican House member, entered the GOP senatorial primary with the intention of challenging Moynihan, the Democratic incumbent, in the general election. At the same time, NCPAC conducted an independent campaign against Moynihan budgeted at $750,000, although only $73,775 was spent.

In the consent agreement, which has not been made public, Caputo campaign officials acknowledged that Robin R. Martin, the chairman of NCPAC's anti-Moynihan campaign, attended "some of the staff meetings of the Caputo for Senate Committee."

In addition, Caputo and NCPAC hired the same pollster, Arthur Finkelstein & Associates, to conduct surveys and provide advice. The New York Democratic Committee, which originated the FEC complaint against NCPAC and the Caputo campaign, charged that the similar rhetoric of the two campaigns suggested illegal collusion.

Both campaigns came to an abrupt halt in March, 1982, when it was disclosed that Caputo had exaggerated claims concerning his military service and academic training. The disclosures forced Caputo to drop out of the race for the GOP nomination.

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STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Sedam & Heege
Attn: J. Curtis Heege

ADDRESS: 8300 Greensboro Dr
Suite 1100
McLean, VA 22102

TELEPHONE: (703) 821-1000

RE: MUR 1624

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

2/3/84
Date

BY: Leif E. Noren
Signature

NAME: Leif E. Noren
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

ADDRESS: 1001 Prince St.
Alexandria, VA 22314

HOME PHONE: (703) 671-6430

BUSINESS PHONE: (703) 684-1800

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REAGAN-BUSH '84

The President's Authorized Campaign Committee

STATEMENT OF DESIGNATION OF COUNSEL

TO: Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

NAME OF COUNSEL: Ronald E. Robertson

ADDRESS: Reagan-Bush '84
440 First Street N.W.
Suite 600
Washington,D.C. 20001

TELEPHONE: (202) 383-1979

The above named individual is hereby designated as counsel for Reagan-Bush '84 and is authorized to receive any notifications and other communications from the Commission and to act on behalf of Reagan-Bush '84 before the Commission.

Date: February 3, 1984

REAGAN-BUSH '84

BY: Angela Buchanan Jackson
Angela Buchanan Jackson
Treasurer

440 First Street, N.W.
Washington, D.C. 20001

(202) 383-1970

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MUR 1624
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THE WHITE HOUSE

WASHINGTON

February 15, 1984

RE: MUR 1624

Dear Mr. Gross:

This is to confirm our understanding with respect to the representation of the President in MUR 1624.

As we have discussed, Ronald E. Robertson, Esquire, is the Chief Counsel for Reagan-Bush '84, the President's authorized campaign committee. Accordingly, his responses to the allegations contained in MUR 1624 will be on behalf of the President and his authorized campaign committee. Based on your communications with Mr. Robertson, it is our understanding that the filing deadline for those responses is February 27, 1984.

If you have any questions regarding this matter, please do not hesitate to call me at 456-7803, or Mr. Robertson, at 383-1979. Thank you for your attention to this matter.

Sincerely,

Sherrie M. Cooksey

Sherrie M. Cooksey
Associate Counsel to the President

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

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THE WHITE HOUSE
WASHINGTON

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commisison
1325 K Street, N.W.
Washington, D.C. 20463

To be hand delivered

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SEDAM, HERGE & REED
SUITE 1000
1500 16TH STREET, N.W.
WASHINGTON, D.C. 20036
(202) 328-6200
RESIDENT PARTNER: CHARLES D. REED

February 16, 1984

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Mr. Gary Johansen

Re: MUR 1624

Dear Mr. Gross:

This letter is written on behalf of our client, National Conservative Political Action Committee (hereinafter "NCPAC"), in substantive response to the complaint filed with the Federal Election Commission on January 30, 1984 by the Democratic Congressional Campaign Committee (hereinafter "DCCC"). You forwarded a copy of that complaint to NCPAC by letter dated February 1, 1984, it having been received by NCPAC on February 3, 1984. This matter has been numbered MUR 1624.

Enclosed, for your records, is a Statement of Designation of Counsel, signed by the Treasurer of NCPAC, which designates this firm as its counsel in connection with this matter.

This letter is submitted in accordance with the provisions of 2 U.S.C. 437g(a)(1) and 11 CFR 111.6(a), which afford a respondent an opportunity to demonstrate that no action should be taken on the basis of the complaint. NCPAC welcomes having this opportunity, because it confidently believes that it can demonstrate that this complaint should be summarily dismissed.

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The regulations promulgated by the Federal Election Commission provide that a complaint should contain "a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 CFR 111.4(b)(3). In addition, the regulations provide that a complaint should be accompanied by documentation "supporting the facts alleged" if such documentation is known or available to the complainant. 11 CFR 111.4(b)(4). The DCCC failed dismally in its effort to meet these fundamental threshold requirements.

The complaint of the DCCC contains a number of flamboyant, specious, yet spurious, charges. "Contacts between NCPAC and Reagan/Bush '84 have been frequent and open," the DCCC charges on page 7 of its complaint. "(T)here is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film, 'Ronald Reagan's America'," the DCCC blasts on pages 11 and 12 of its complaint. These allegations are little more than political rhetoric, perhaps suitable for direct-mail copy, but entirely inappropriate in the context of an administrative proceeding that demands supporting facts. An analysis of the complaint can lead to only one conclusion: there is not a single shred of evidence advanced by the DCCC in support of its charges.

In an effort to camouflage its inability to proffer facts in support of its allegation that there have been frequent and open "contacts" between NCPAC and Reagan/Bush '84, the DCCC attached to its complaint a copy of a "Joint Stipulation of Facts," which was submitted to the United States Court of Appeals for the Third Circuit by the parties in Democratic Party of the United States, et al. v. National Conservative Political Action Committee, et al. (Civil Action No. 83-2329). The DCCC claims, citing various provisions of the "Joint Stipulation of Facts," that NCPAC has "admitted" this and NCPAC has "admitted" that. In fact, NCPAC has not admitted any of the alleged activities. An analysis of the cited paragraphs in the "Joint Stipulation of Facts," reveals that NCPAC only "admitted" that "the press has reported," or that "according to published reports," or that "in a Washington Post article...it was reported," etc. These were admissions only that certain stories exist in print, not admissions of the truth or accuracy of those stories. Thus, even as the Court of Appeals found in its unanimous decision, these press accounts are inadmissible and they do not support the alleged "facts" as required by 11 CFR 111.4(b)(4).

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Not only does it misread, misquote and miscite the provisions of the "Joint Stipulation of Facts," the DCCC misuses them to create additional allegations. One such hyperbole and non sequitur appears on page 10 of the complaint. There the DCCC attempts to fabricate a charge that reported contacts between NCPAC and White House officials about 1982 Congressional campaigns "presage similar close cooperation in support of the President's own re-election campaign." It does no such thing. NCPAC and Reagan/Bush '84 are very well aware that the Federal Election Campaign Act prohibits such contacts and, as a result, none have taken or will take place. If the DCCC thinks otherwise, let it advance specific facts for consideration.

Another example of a specious, but spurious, allegation is the statement on page 9 of the complaint that "NCPAC has admitted the truth of press reports...that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program, 'Ronald Reagan's America'." First, the paragraph of the "Joint Stipulation of Facts" cited in support of that allegation states only that the press carried such a story, not that NCPAC "admitted" the truth or accuracy of the story. But then the DCCC compounds its error by failing to point out in its complaint that that same newspaper story reported that Mr. Dolan advised the President that, because of the law governing independent expenditures, they could not discuss the film or NCPAC's plans.

Notwithstanding the foregoing, the bulk of the "charges," made by the DCCC relate to activities previously investigated and dismissed by the Commission. (See, MUR 1252 (1299). The balance of the charges are of similar ilk. None suggests "frequent and open" contacts between NCPAC and Reagan/Bush '84 or that the expenditures made by NCPAC were made at the request or suggestion of the candidate or his agents. The DCCC can find no comfort in the First General Counsel's Report in MUR 1231, the recommendation contained therein having been rejected by the Commission because the complaint failed to allege actionable facts.

With respect to the allegations by the DCCC that the film, "Ronald Reagan's America," is "a case in point," proving "cooperation and consultation," the DCCC's "evidence" is less than ephemeral. It is non-existent. The DCCC wants the Federal

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Election Commission to find reason to believe that the respondents have violated the law solely on the strength of the following statement:

> "...at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film." (Complaint, page 10.)

Ignorance of the source of the footage does not translate into knowledge that the clips were created specifically for the purpose of NCPAC's film. Further, the DCCC cannot bootstrap its allegation by citing Advisory Opinion 1983-12 and stating that "'Ronald Reagan's America' falls squarely within the purview of this ruling." (Complaint, pages 5 and 6.)

The facts are that the footage of the President at the beginning and end of the film, "Ronald Reagan's America," were excerpted from a video recording of a televised address. The video recording is in the library of the firm that produced the film for NCPAC, Political Advertising and Consulting, Inc., of Los Angeles, California. Enclosed is a copy of a letter from the film's producer, which confirms the source of the footage in question.

In conclusion, it has been amply demonstrated that the complaint of the DCCC fails abysmally. It provides no foundation in fact for a finding of reason to believe that the respondents have violated the law which regulates independent expenditures. It is a sine qua non that, to be actionable, a complaint must allege a suspected violation of law based upon a specific set of facts. Emotional distress over the activities of another, or a rehash of old newspaper clippings, does not make a complaint actionable. There is little doubt that the complaint of the DCCC is only the first of many that will register little more then

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general aggravation with independent expenditures. To treat this complaint as actionable, will result in an intolerable abuse of the regulatory functions of the Commission. For the foregoing reasons, the complaint of the DCCC must be dismissed.

Respectfully submitted,

J. Curtis Herge
Counsel to National
Conservative Political Action
Committee

Enclosure

8404045395

PAC Political Advertising & Consulting Inc.

February 14, 1984

Mr. J. Curtis Herge
Sedam & Herge
8300 Greensboro Drive, Suite 1100
McLean, Virginia 22102

Dear Mr. Herge:

It has come to our attention that it has been alleged that certain film clips of Ronald Reagan in "Ronald Reagan's America" were filmed separately and exclusively for inclusion in that film. As the producers for the National Conservative Political Action Committee's film "Ronald Reagan's America", we can assure you that the footage in question was in fact not filmed for the film but was excerpted by us from a video recording of a Reagan televised address.

That video recording is currently in our library and I would be happy to send it to you upon request.

I trust this clears up any questions on the film clips used in production.

Sincerely,

MARK BARNES
President

MB:mh

8404045896

8820 S. Sepulveda Blvd., Suite 212 / Los Angeles, California 90045
Telephone 213 / 649-5916

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 14, 1984

Ronald E. Robertson
Chief Counsel
Reagan-Bush '84
440 First Street, N.W.
Washington, D.C. 20001

Re: MUR 1624

Dear Mr. Robertson:

This is in reference to your letter dated February 3, 1984, requesting an extension until February 27, 1984, to respond to the complaint in MUR 1624 filed against Reagan-Bush '84.

Your request for an extension is granted. Your response to the complaint is due on February 27, 1984.

If you have any questions, please contact Gary Johansen at 202-523-4143.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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REAGAN-BUSH '84

The President's Authorized Campaign Committee

February 3, 1984

84 FEB 8 P1:58
OFFICE OF GENERAL COUNSEL

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Pursuant to your letter with enclosures dated January 31, 1984, to Angela Buchanan Jackson, Treasurer of Reagan-Bush '84, enclosed please find Statement of Designation of Counsel of Reagan-Bush '84.

Request is hereby made on behalf of Reagan-Bush '84 for a ten (10) day extention of time beyond the fifteen (15) day deadline for filing the response of Reagan-Bush '84 in the above-captioned matter. Based on my calculations, assuming this extension request is granted, the deadline for filing the Reagan-Bush '84 response would be February 27, 1984.

Thank you for your attention to this matter.

Sincerely,

Ronald E. Robertson

Ronald E. Robertson
Chief Counsel

8404045398

440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

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REAGAN-BUSH '84

The President's Authorized Campaign Committee

STATEMENT OF DESIGNATION OF COUNSEL

TO: Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

NAME OF COUNSEL: Ronald E. Robertson

ADDRESS: Reagan-Bush '84
440 First Street N.W.
Suite 600
Washington,D.C. 20001

TELEPHONE: (202) 383-1979

The above named individual is hereby designated as counsel for Reagan-Bush '84 and is authorized to receive any notifications and other communications from the Commission and to act on behalf of Reagan-Bush '84 before the Commission.

Date: February 3, 1984

REAGAN-BUSH '84

BY: Angela Buchanan Jackson
Angela Buchanan Jackson
Treasurer

440 First Street, N.W.
Washington, D.C. 20001

(202) 383-1970

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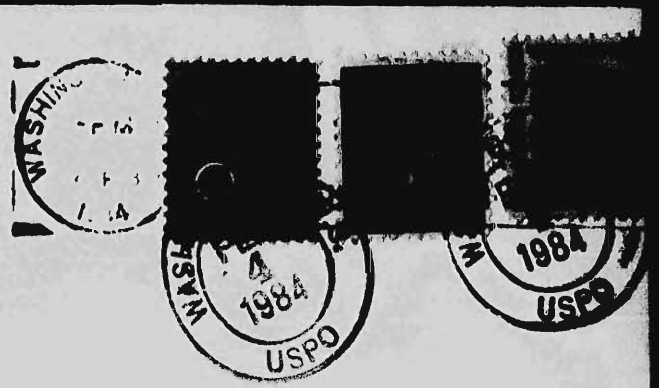
REAGAN-BUSH '84

The President's Authorized Campaign Committee

nald E. Robertson



CERTIFIED

P 575 530 109

MAIL

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Atten: Kenneth A. Gross, Esq.
Associate General Counsel

440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Sedam & Hedge
Attn: J. Curtis Hedge

ADDRESS: 8300 Greensboro Dr
Suite 1100
McLean, VA 22102

TELEPHONE: (703) 821-1000

RE: MUR 1624

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

2/3/84
Date

BY: Leif E. Noren
Signature

NAME: Leif E. Noren
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

ADDRESS: 1001 Prince St.
Alexandria, VA 22314

HOME PHONE: (703) 671-6430

BUSINESS PHONE: (703) 684-1800

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SEDAM & HERGE
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
McLEAN, VIRGINIA 22102

To
Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463
Attention: Mr. Gary Johansen

FIRST CLASS MAIL

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THOMAS J. FADOUL, JR.

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SEDAM, HERGE & REED
SUITE 1000
1350 5TH STREET, N.W.
WASHINGTON, D.C. 20005
(202) 833-3350
RESIDENT PARTNER: CHARLES D. REED

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

February 16, 1984

MUR 1624

Honorable Lee Ann Elliott
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Madam Chairman:

Enclosed, for your information, is a copy of the reply of National Conservative Political Action Committee to a complaint filed with the Federal Election Commission by the Democratic Congressional Campaign Committee on January 30, 1984.

Sincerely yours,

J. Curtis Herge

J. Curtis Herge
Counsel to National
Conservative Political
Action Committee

enclosures

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RESIDENT PARTNER: CHARLES D. REED

February 16, 1984

Kenneth A. Gross, Esquire
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Mr. Gary Johansen

Re: MUR 1624

Dear Mr. Gross:

This letter is written on behalf of our client, National Conservative Political Action Committee (hereinafter "NCPAC"), in substantive response to the complaint filed with the Federal Election Commission on January 30, 1984 by the Democratic Congressional Campaign Committee (hereinafter "DCCC"). You forwarded a copy of that complaint to NCPAC by letter dated February 1, 1984, it having been received by NCPAC on February 3, 1984. This matter has been numbered MUR 1624.

Enclosed, for your records, is a Statement of Designation of Counsel, signed by the Treasurer of NCPAC, which designates this firm as its counsel in connection with this matter.

This letter is submitted in accordance with the provisions of 2 U.S.C. 437g(a)(1) and 11 CFR 111.6(a), which afford a respondent an opportunity to demonstrate that no action should be taken on the basis of the complaint. NCPAC welcomes having this opportunity, because it confidently believes that it can demonstrate that this complaint should be summarily dismissed.

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The regulations promulgated by the Federal Election Commission provide that a complaint should contain "a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction." 11 CFR 111.4(b)(3). In addition, the regulations provide that a complaint should be accompanied by documentation "supporting the facts alleged" if such documentation is known or available to the complainant. 11 CFR 111.4(b)(4). The DCCC failed dismally in its effort to meet these fundamental threshold requirements.

The complaint of the DCCC contains a number of flamboyant, specious, yet spurious, charges. "Contacts between NCPAC and Reagan/Bush '84 have been frequent and open," the DCCC charges on page 7 of its complaint. "(T)here is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film, 'Ronald Reagan's America'," the DCCC blasts on pages 11 and 12 of its complaint. These allegations are little more than political rhetoric, perhaps suitable for direct-mail copy, but entirely inappropriate in the context of an administrative proceeding that demands supporting facts. An analysis of the complaint can lead to only one conclusion: there is not a single shred of evidence advanced by the DCCC in support of its charges.

In an effort to camouflage its inability to proffer facts in support of its allegation that there have been frequent and open "contacts" between NCPAC and Reagan/Bush '84, the DCCC attached to its complaint a copy of a "Joint Stipulation of Facts," which was submitted to the United States Court of Appeals for the Third Circuit by the parties in Democratic Party of the United States, et al. v. National Conservative Political Action Committee, et al. (Civil Action No. 83-2329). The DCCC claims, citing various provisions of the "Joint Stipulation of Facts," that NCPAC has "admitted" this and NCPAC has "admitted" that. In fact, NCPAC has not admitted any of the alleged activities. An analysis of the cited paragraphs in the "Joint Stipulation of Facts," reveals that NCPAC only "admitted" that "the press has reported," or that "according to published reports," or that "in a Washington Post article...it was reported," etc. These were admissions only that certain stories exist in print, not admissions of the truth or accuracy of those stories. Thus, even as the Court of Appeals found in its unanimous decision, these press accounts are inadmissible and they do not support the alleged "facts" as required by 11 CFR 111.4(b)(4).

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Not only does it misread, misquote and miscite the provisions of the "Joint Stipulation of Facts," the DCCC misuses them to create additional allegations. One such hyperbole and non sequitur appears on page 10 of the complaint. There the DCCC attempts to fabricate a charge that reported contacts between NCPAC and White House officials about 1982 Congressional campaigns "presage similar close cooperation in support of the President's own re-election campaign." It does no such thing. NCPAC and Reagan/Bush '84 are very well aware that the Federal Election Campaign Act prohibits such contacts and, as a result, none have taken or will take place. If the DCCC thinks otherwise, let it advance specific facts for consideration.

Another example of a specious, but spurious, allegation is the statement on page 9 of the complaint that "NCPAC has admitted the truth of press reports...that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program, 'Ronald Reagan's America'." First, the paragraph of the "Joint Stipulation of Facts" cited in support of that allegation states only that the press carried such a story, not that NCPAC "admitted" the truth or accuracy of the story. But then the DCCC compounds its error by failing to point out in its complaint that that same newspaper story reported that Mr. Dolan advised the President that, because of the law governing independent expenditures, they could not discuss the film or NCPAC's plans.

Notwithstanding the foregoing, the bulk of the "charges," made by the DCCC relate to activities previously investigated and dismissed by the Commission. (See, MUR 1252 (1299). The balance of the charges are of similar ilk. None suggests "frequent and open" contacts between NCPAC and Reagan/Bush '84 or that the expenditures made by NCPAC were made at the request or suggestion of the candidate or his agents. The DCCC can find no comfort in the First General Counsel's Report in MUR 1231, the recommendation contained therein having been rejected by the Commission because the complaint failed to allege actionable facts.

With respect to the allegations by the DCCC that the film, "Ronald Reagan's America," is "a case in point," proving "cooperation and consultation," the DCCC's "evidence" is less than ephemeral. It is non-existent. The DCCC wants the Federal

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Election Commission to find reason to believe that the respondents have violated the law solely on the strength of the following statement:

> "...at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film." (Complaint, page 10.)

Ignorance of the source of the footage does not translate into knowledge that the clips were created specifically for the purpose of NCPAC's film. Further, the DCCC cannot bootstrap its allegation by citing Advisory Opinion 1983-12 and stating that "'Ronald Reagan's America' falls squarely within the purview of this ruling." (Complaint, pages 5 and 6.)

The facts are that the footage of the President at the beginning and end of the film, "Ronald Reagan's America," were excerpted from a video recording of a televised address. The video recording is in the library of the firm that produced the film for NCPAC, Political Advertising and Consulting, Inc., of Los Angeles, California. Enclosed is a copy of a letter from the film's producer, which confirms the source of the footage in question.

In conclusion, it has been amply demonstrated that the complaint of the DCCC fails abysmally. It provides no foundation in fact for a finding of reason to believe that the respondents have violated the law which regulates independent expenditures. It is a sine qua non that, to be actionable, a complaint must allege a suspected violation of law based upon a specific set of facts. Emotional distress over the activities of another, or a rehash of old newspaper clippings, does not make a complaint actionable. There is little doubt that the complaint of the DCCC is only the first of many that will register little more then

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general aggravation with independent expenditures. To treat this complaint as actionable, will result in an intolerable abuse of the regulatory functions of the Commission. For the foregoing reasons, the complaint of the DCCC must be dismissed.

Respectfully submitted,

J. Curtis Herge
Counsel to National
Conservative Political Action
Committee

Enclosure

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PAC Political Advertising & Consulting Inc.

February 14, 1984

Mr. J. Curtis Herge
Sedam & Herge
8300 Greensboro Drive, Suite 1100
McLean, Virginia 22102

Dear Mr. Herge:

It has come to our attention that it has been alleged that certain film clips of Ronald Reagan in "Ronald Reagan's America" were filmed separately and exclusively for inclusion in that film. As the producers for the National Conservative Political Action Committee's film "Ronald Reagan's America", we can assure you that the footage in question was in fact not filmed for the film but was excerpted by us from a video recording of a Reagan televised address.

That video recording is currently in our library and I would be happy to send it to you upon request.

I trust this clears up any questions on the film clips used in production.

Sincerely,

MARK BARNES
President

MB:mh

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8820 S. Sepulveda Blvd., Suite 212 / Los Angeles, California 90045
Telephone 213 / 649-5916

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Sedam & Hedge
Attn: J. Curtis Hedge

ADDRESS: 8300 Greensboro Dr
Suite 1100
McLean, VA 22102

TELEPHONE: (703) 821-1000

RE: MUR 1624

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

2/3/84
Date

BY: Leif E. Noren
Signature

NAME: Leif E. Noren
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

ADDRESS: 1001 Prince St.
Alexandria, VA 22314

HOME PHONE: (703) 671-6430

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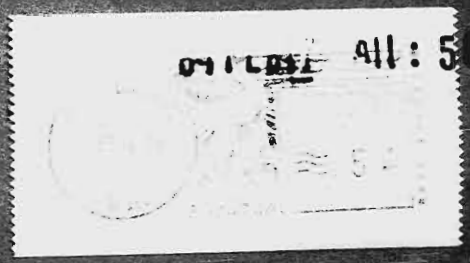

SEDAM & HERGE
ATTORNEYS AT LAW
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McLEAN, VIRGINIA 22102

To
Honorable Lee Ann Elliott
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

FIRST CLASS MAIL

Gcoh 1764

REAGAN-BUSH '84

The President's Authorized Campaign Committee

84 FEB 27 P4:33

February 27, 1984

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that "NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

---

without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shetron

Notary Public

EXHIBIT A

PAMELA W. SHETRON
A Notary Public District of Columbia
My Commission Expires February 29, 1988

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Federal Election Commission
1325 K Street NW
Washington, D.C. 20463

Attn. Kenneth A. Gross, Esq.
Associate General Counsel

REAGAN-BUSH '84
The President's Authorized Campaign Committee

February 27, 1984

RECEIVED
FEC
GENERAL COUNSEL
'84 FEB27 P4:38

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	)	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

EXHIBIT A

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Gary Johansen, Esq.

REAGAN-BUSH '84
The President's Authorized Campaign Committee

February 27, 1984

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that "NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shetron

Notary Public

EXHIBIT A

PAMELA W. SHETRON
A Notary Public in the District of Columbia
My Commission Expires February 28, 1988

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

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b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

EXHIBIT B

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Charles N. Steele, Esq.
General Counsel

REAGAN-BUSH '84
The President's Authorized Campaign Committee

February 27, 1984

RECEIVED
GENERAL COUNSEL
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Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

EXHIBIT A

PAMELA W. SHELTON
A Notary Public in the District of Columbia
My Commission Expires February 10, 1989

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner Danny L. McDonald

REAGAN-BUSH '84

The President's Authorized Campaign Committee

February 27, 1984

RECEIVED
OFFICE OF
GENERAL COUNSEL
1984 FEB 27 P4:36

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	)	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

PAMELA W. SHELTON
A Notary Public in the District of Columbia
My Commission Expires February 28, 1989

EXHIBIT A

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

EXHIBIT B

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner Joan D. Aikens

REAGAN-BUSH '84
The President's Authorized Campaign Committee

February 27, 1984

84 FEB 27 P4:36
GENERAL COUNSEL

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that "NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above,the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

PAMELA W. SHELTON
A Notary Public in the District of Columbia
My Commission Expires February 28, 1988

EXHIBIT A

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner Thomas A. Harris
Vice-Chairman

REAGAN-BUSH '84

The President's Authorized Campaign Committee

February 27, 1984

84 FEB 27 P4:35
GENERAL COUNSEL

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

EXHIBIT A

PAMELA W. SHELTON
A Notary Public in the District of Columbia
My Commission Expires February 28, 1988

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

EXHIBIT B

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner Lee Ann Elliot
Chairman

REAGAN-BUSH '84

The President's Authorized Campaign Committee

February 27, 1984

RECEIVED
FEDERAL ELECTION
GENERAL COUNSEL
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Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that "NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

PAMELA W. SHELTON
A Notary Public in the District of Columbia
My Commission Expires February 28, 1988

EXHIBIT A

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner John Warren McGarry

REAGAN-BUSH '84

The President's Authorized Campaign Committee

February 27, 1984

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RECEIVED
GENERAL COUNSEL

Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Kenneth A. Gross, Esq.
Associate General Counsel

Re: MUR 1624

Dear Mr. Gross:

Enclosed please find the Response of President Ronald Reagan and Reagan-Bush '84 ("Respondents") to the Complaint filed on January 30, 1984, by the Democratic Congressional Campaign Committee ("Petitioner"). As the attached Response readily demonstrates, the Complaint contains serious and substantial misstatements of law and fact and is totally without merit.

Following is a brief summary of the Complaint and the Response. The gravamen of the Complaint is difficult to ascertain because it is based on illconceived legal theories at best, and instead of setting out the "facts" of the case, the Complaint -- written in a style more reminiscent of a press release than a legal document -- is a potpourri of speculation culled from news items and the gossip columns of daily newspapers.

The Complaint makes reference to the film "Ronald Reagan's America" and boldly asserts that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film . . ." This simply is not the case. As the facts set forth in the Response clearly indicate, neither President Reagan nor any of his agents cooperated with, assisted or counseled NCPAC in either the production or the distribution of this film. Indeed, the "unknown" film clips on which Petitioner bases its conclusions were part of a nationally televised address by Ronald Reagan to the American people on November 3, 1980. Moreover, at the time the NCPAC film was produced and aired President Reagan clearly was not a candidate for re-election within the meaning of the Federal election laws.

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440 First Street N.W., Washington, D.C. 20001 (202) 383-1984
Paid for by Reagan-Bush '84: Paul Laxalt, Chairman; Angela M. Buchanan Jackson, Treasurer

Additionally, as this Response will demonstrate, Petitioner's other allegations were either specifically considered and dismissed by this Commission under MURs 1252/1299, or were carefully examined by a Federal court and similarly found to be without merit. Specifically, the court characterized the meetings between contributors to independent expenditure committees and Administration officials as "grip and grin" sessions and concluded that the "evidence of confidential briefings fails to arouse our sense of suspicion."

In conclusion, Respondents view the Complaint filed herein as so totally devoid of merit that its purpose could be only one of harassment. Unfortunately, this Complaint is symptomatic of a burgeoning and untoward practice that threatens the integrity of the electoral process. This Commission and its remedial procedures were created to safeguard Federal elections; however, in recent years certain groups have attempted to pervert the goals of this Commission for political reasons. Based upon the Response attached hereto, the Respondents request that this Commission immediately dismiss this Complaint so as to avoid, at least in this case, any continuation of this objectionable practice.

Sincerely,

Ronald E. Robertson
Counsel for Respondents
President Ronald Reagan and
Reagan-Bush '84

cc: Commissioner Lee Ann Elliot, Chairman
Commissioner Thomas E. Harris, Vice-Chairman
Commissioner Joan D. Aikens
Commissioner Danny L. McDonald
Commissioner John Warren McGarry
Commissioner Frank P. Reiche
Charles N. Steele, Esq., General Counsel
Gary Johansen, Esq.

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BEFORE THE

FEDERAL ELECTION COMMISSION

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE Petitioner, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	MUR 1624 RESPONSE OF REAGAN-BUSH '84 and RONALD REAGAN

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I. INTRODUCTION

On January 30, 1984, the Democratic Congressional Campaign Committee (hereinafter referred to as "Petitioner") filed a Complaint with the Federal Election Commission (hereinafter referred to as the "Commission") which alleged certain violations of the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "FECA") on the part of the National Conservative Political Action Committee (hereinafter referred to as "NCPAC"), "in its continuing efforts to promote the re-election of Ronald Reagan." This Complaint alleges that NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan have violated, and will continue to violate, the FECA by accepting these excessive contributions. 2 U.S.C. § 441a." According to this Complaint, these alleged violations "result from ostensibly independent expenditures which, in reality, have

and will continue to be coordinated with, and made in cooperation and consultation with, Reagan-Bush '84 and Ronald Reagan." This Complaint further alleges that, "all committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. § 434."

Reagan-Bush '84, the principal campaign committee of President Reagan, filed its Statement of Organization with the Commission on October 17, 1983. On that date, Ronald Reagan, the President of the United States, became a "candidate" under the FECA. On January 29, 1984, President Reagan announced that he would seek re-election as President of the United States, and that he was a Republican candidate for re-nomination for election to that office.

Reagan-Bush '84 and Ronald Reagan (hereinafter collectively referred to as "Respondents") submit this Response pursuant to 2 U.S.C. § 437g(a)(1) and 11 CFR § 111.6(a).

Petitioner's allegations fall into two catagories: (1) those that relate to the film "Ronald Reagan's America;" and (2) allegations that have already been litigated in Federal court or reviewed by this Commission and found to be without merit. Respondents contend and will demonstrate herein that any disbursements which may have been made by NCPAC in connection with any activities referenced in Petitioner's Complaint were not coordinated with, nor made in cooperation or consultation with the Respondents. The Respondents will further demonstrate: (1) that the allegations of the Petitioner are without merit; (2) that there are no facts to investigate; (3) that Respondents have taken appropriate measures to prevent any communications with any independent expenditure committee including NCPAC, obviating the necessity for any remedial action; and (4) that there is no basis whatever for a "reason to believe" finding by the Commission against the Respondents, or either of them, in connection with this matter.

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II. FACTUAL AND LEGAL ANALYSIS

A. THE COSTS OF PRODUCTION AND DISTRIBUTION OF THE FILM "RONALD REAGAN'S AMERICA" WERE NOT CONTRIBUTIONS IN-KIND TO EITHER PRESIDENT REAGAN OR REAGAN-BUSH '84.

This Response will demonstrate that (1) the film in question was not made with the consent, cooperation, coordination, or assistance of President Reagan or any of his agents; (2) President Reagan was not a candidate for re-election at the time NCPAC expended funds for the production of this film; and, (3) this film does not "expressly advocate" the election or defeat of any candidate for Federal office as defined by the Supreme Court.

1. THE FILM IN QUESTION WAS NOT MADE WITH THE COOPERATION, CONSENT, OR IN CONSULTATION WITH NOR AT THE REQUEST OR SUGGESTION OF PRESIDENT REAGAN.

The Petitioner has alleged that "[i]n 1983, NCPAC produced a film, extolling the virtures of Ronald Reagan's presidency and appealing for his re-election." The Complaint further states that "there is direct evidence that Ronald Reagan directly cooperated with NCPAC in producing the film 'Ronald Reagan's America.'" Apparently the "direct evidence" that the Petitioner is referring to is based on the assertion that:

> . . .at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film. 1/

1/ The Petitioner is also apparently contending that a telephone call by President Reagan to John T. Dolan, the Chairman of NCPAC, congradulating Mr. Dolan on NCPAC's television program "Ronald Reagan's America" is evidence of coordination and cooperation between President Reagan and NCPAC. This assertion is totally

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The frivolousness of the Petitioner's Complaint is evident even after the most cursory viewing of the film. The source of footage at the very beginning of the film, came from the President's nationally televised 1982 State of the Union Message. Additional footage of Ronald Reagan near the beginning of the film to which the Petitioner may be referring, while again possibly a mystery to the Petitioner, is known to millions of Americans. This footage came from a speech entitled "A Vision for America" which was delivered by Ronald Reagan on national television on November 3, 1980. Similarly, the closing footage of President Reagan which the Petitioner was unable to identify came from this same speech. Indeed, all of the footage of President Reagan in this film came either from old film clips which are in the public domain or from footage of appearances which have been widely aired on national television. Moreover, as the Affidavit of Edward J. Rollins, which is attached hereto as Exhibit A, demonstrates, (1) neither President Reagan nor any of his agents assisted, counseled, cooperated or communicated with NCPAC in any way or manner whatever in the production or distribution of the film "Ronald Reagan's America"; (2) the footage of President Reagan contained in the film was not prepared by any person on the White House staff for use by NCPAC, and (3) neither President Reagan nor any of his agents transmitted or made available any film footage used in this film to NCPAC for any

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without merit. First, the telephone call in question clearly was not a substantive political communication. Second, Mr. Dolan, obviously aware that no such communication could occur, thanked President Reagan for his call and then correctly informed President Reagan that the White House lawyers did not want them discussing what NCPAC was doing. Third, at the time of this call President Reagan was not a candidate under the FECA. Fourth, this telephone call was made after, not "prior to the publication, distribution, display or broadcast of the communication." 11 CFR § 109.1(b)(4)(i).

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purpose whatever.

In the landmark case of Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court held that the First Amendment to the Constitution authorizes the Commission to regulate only those disbursements or donations that (1) are unambiguously related to the campaign of a particular Federal election. However, not all disbursements that are made for the purpose of influencing a Federal election are chargable to the particular candidate that may be benefited by the disbursements. Specifically, disbursements that are made by a person or group independent from the candidate are not chargeable to the candidate. Advisory Opinion 1978-49; 11 CFR § 109.1(c). In Buckley the Supreme Court struck down FECA § 608(e)(1) which limited independent expenditures. The Court stated that "these provisions place substantial and direct restrictions on the ability of candidates, citizens and associations to engage in protected political expression, restrictions that the First Amendment cannot tolerate." Buckley 424 U.S. at 58-59. In response to Buckley, Congress amended the FECA to conform to the limitations imposed by the First Amendment. Pub.L.No. 94-283, 90 Stat. 475 (1976).

The general rules governing independent expenditures can be summarized as follows: If an expenditure is not made with the cooperation or the prior consent of, or in consultation with or at the request or suggestion of a candidate, then it is an independent expenditure. See Federal Election Commission v. Central Long Island Tax Reform Immediately Committee, 616 F.2d 45 (2d Cir. 1980); Federal Election Commission v. American Federation of State, County and Municipal Employees, 471 F.Supp. 315 (D.D.C. 1979); Schwartz

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and Strauss, Federal Regulation of Campaign Finance and Political Activity (1982) p. 2-89; 11 CFR § 109.1(a).

Thus, the linchpin of "independence" is a lack of coordination. An expenditure is "independent" if there is no coordination, direction or other arrangement between the spending party and the candidate. Because of its constitutional basis, the independent status of an expenditure has been vigorously guarded by the courts and this Commission. For instance, in MUR 1238, this Commission held that expenditures made by a third party to produce and disseminate a photographic flyer of a candidate were independent expenditures. In that case the candidate's photograph had not been made with the candidate's cooperation and had not been provided to the third party by the candidate.

Moreover, this Commission has consistently held that evidence of coordination may be rebutted. Specifically, in MUR 1333 evidence was presented that a third party was authorized to raise funds on behalf of a candidate. Although such conduct raised a presumption that the expenditures were not independent, the presumption was rebutted where the Respondent introduced contradictory evidence that the third party was not authorized to raise the funds.

Based on the evidence and law set forth above, the Petitioner's reliance on the Commission's Advisory Opinion 1983-12 is quite misplaced. In that situation, the film footage in question was to have been directly supplied by a number of United States Senators who were actually candidates for re-election. Here, in sharp contrast, with respect to the matter in question the footage was not

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supplied to NCPAC by President Reagan or any agent on his behalf.

In summary, as a matter of law, the Complaint fails to present any allegations with respect to the production and distribution of the film that would support a "reason to believe" finding. First, the "mystery" footage of President Reagan relied on by the Petitioner to support its claims of coordination, came from President Reagan's 1982 State of the Union Message and a speech aired on national television in 1980. Petitioner's assertion that such footage was specifically created by President Reagan for inclusion in the 1983 NCPAC film is at best absurd. And second, as the attached Affidavit of Edward J. Rollins demonstrates, neither President Reagan nor his agents coordinated or in any way assisted in or otherwise instigated the production or distribution of this film. The evidence presented in Mr. Rollins' Affidavit is uncontroverted. Thus the Petitioner's "evidence" that there was "coordination" between President Reagan and NCPAC with respect to the production of this film is totally groundless.

2. PRESIDENT REAGAN WAS NOT A CANDIDATE FOR ELECTION WHEN THE FILM IN QUESTION WAS PRODUCED AND AIRED.

It is axiomatic that only disbursements that effect a clearly identified candidate for Federal office are subject to the provisions of the FECA. Since the President was not a candidate for re-election at the time the film was produced the provisions of the FECA were clearly inapplicable to him.

In Buckley, the Supreme Court found that the statutory scheme of the FECA infringed directly on the free speech values

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protected under the First Amendment. Nevertheless, the Court found that the government's interest in preventing corruption that might be occasioned by large donations to Federal candidates, was sufficiently compelling to justify some of the FECA's contribution limitations. In short, candidacy for Federal office was the narrow focal point for a departure from the otherwise broad protections afforded political speech under the First Amendment.

Under Buckley, as an individual becomes further removed from "candidacy," the government's interest in guarding against potential corruption becomes less likely to withstand constitutional scrutiny. The Court, therefore, insisted that there must be a clear connection between the regulated conduct and candidacy. As a result, the Court concluded that the terms "contributions" and "expenditures" were too vague to guarantee this clear nexus, and therefore, the Court construed

> "expenditure". . . to reach only funds used for communications that expressly advocate the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular Federal candidate. Buckley, 424 U.S. at 80.

Five years after the decision in Buckley, the Court forcefully reiterated its admonition, that only contributions to actual candidates may, under certain circumstances, be regulated by the government. Citizens Against Rent Control/Coalition for Fair Housing v. City of Berkeley, 454 U.S. 290 (1981). This case involved an attempt by the City of Berkeley, California, to limit by ordinance the amount that a private citizen could donate to

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a committee organized to influence the outcome of a referendum question. In striking down the contribution limitation as contrary to the First Amendment, the Court held that there was only "a single narrow exception to the rule that limits on political activity are contrary to the First Amendment. The exception relates to the perception of undue influence of large contributors to a candidate." Citizens Against Rent Control, 454 U.S. at 196-197 (emphasis in the original); Cf. First National Bank of Boston v. Bellotti, 435 U.S. 765 (1978) (holding unconstitutional a state law which prohibited corporate contributions with respect to a referendum).

Given its sound constitutional basis, the "candidacy requirement" has been strictly applied by Federal courts. For instance, in Federal Election Commission v. Machinists Non-Partisan Political League, 655 F.2d 380 (D.C. Cir.) cert. denied, 454 U.S. 897 (1981), the Court held that donations to "draft committees" did not qualify as "contributions" subject to the limitations of the FECA. Although the court questioned the constitutionality of the Commission's assertion that such donations did constitute contributions, the court ultimately rejected the Commission's position on statutory grounds. Specifically, the court noted: "[d]raft groups do have one thing in common . . . they aim to produce some day a candidate acceptable to them, but they have not yet succeeded. Therefore none are promoting a 'candidate' for office, as Congress uses that term in FECA." Machinists Non-Partisan Poltical League, 655 F.2d at 392. See also, Federal Election Commission v. Florida for Kennedy Committee, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9179 (11th Cir. August 2, 1982) (holding that the activities of a draft committee are outside the jurisdiction of the Commission). In

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short, a disbursement that is not connected to a candidate for Federal office is neither a contribution nor an expenditure.

In this case, the Petitioner has failed to present any evidence that President Reagan was a candidate at the time that the film was produced and distributed. Indeed, the uncontroverted evidence conclusively proves the contrary. Newspaper accounts indicate that this film was being aired as early as February, 1983, and according to the Petitioner's own allegations, the film in question was produced and aired prior to October 17, 1983, the date on which President Reagan became a candidate under the FECA.

The Petitioner, apparently cognizant of the fact that President Reagan was not a candidate at the time the disbursements were made by NCPAC in connection with this film, attempts to circumvent the statutory criteria and constitutional limitations, by arguing through innuendo that (1) President Reagan must have cooperated with NCPAC in producing the film, and (2) thus, the disbursements were not independently made by NCPAC, but rather were made with the consent and cooperation of President Reagan, and (3) therefore, the disbursements constitute "expenditures" -- chargeable to President Reagan -- which transformed President Reagan the non-candidate into President Reagan the candidate. The Petitioner's syllogism is factually, logically and legally flawed.

The Petitioner suggests that the actions of an unauthorized committee can magically transform an individual into a "candidate" for Federal office, notwithstanding the individual's true desires. This novel legal theory ignores the plain language of

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the FECA, the Commission's Regulations, decisions of the courts interpreting the FECA, and the facts of this case. Specifically, the Regulations provide that where "expenditures" are made by another, on behalf of an individual, the individual has thirty days after having received notification from the Commission to disavow the expenditures. 11 CFR § 100.3(a)(3). Assuming for the purposes of argument that NCPAC's expenses in producing the film constituted "expenditures" within the meaning of the FECA, the regulatory requirements for candidacy clearly were not met. In particular, the Commission and the Democratic Party of the United States were both aware of the film's existence in, at the very latest, September, 1983. Democratic Party of the United States v. NCPAC and the Federal Election Commission, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,629 (E.D. Pa. December 12, 1983) (three judge court), appeals docketed, Nos. 83-1032, 83-1122 (U.S. Sup.Ct. December 22, 1983, January 6, 1984). However, the Commission did not send President Reagan the required notification, and further, there is nothing to suggest that the Petitioner or the Democratic Party sought to have the Commission issue such a notification. Absent the notification required by the Regulations, the putative expenditures by NCPAC cannot transform a non-candidate into a candidate.

3. THE FILM DOES NOT EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CANDIDATE FOR FEDERAL ELECTION WITHIN THE MEANING OF "BUCKLEY."

Even if a third-party disbursement has the effect of benefiting a candidate for a Federal office, that disbursement rises to the level of an "expenditure" only if it was made with

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the purpose of influencing a Federal election. The Court in Buckley aptly noted that "independent expenditures" must be communicated through "express advocacy" of a candidate's election or defeat. The "express advocacy" requirement was designed to confine the application of the FECA to its intended political campaign related purpose. Buckley, 424 U.S. at 42. "Express advocacy" includes only unequivocal or unambiguous exhortations for the support of, or opposition to, a particular candidate. Examples supplied by the Commission's Regulations include such words of advocacy as "vote for," "elect," "for Congress" or "reject." 11 CFR § 109.1(b)(2).

As with the candidacy requirement, the courts have strictly applied the express advocacy requirement. For instance, in Central Long Island Tax Reform Immediately the court rejected the Commission's plea to penalize the plaintiff for having independently spent $250 in opposing an incumbent member of the House of Representatives. The plaintiff had distributed pamphlets which unfavorably rated the performance of the incumbent on tax issues. None of the pamphlets, however, contained any words of "express advocacy;" instead, they referred simply to the rating of the incumbent and suggested that if a citizen found the rating wanting, he or she should convey his or her concern to the officeholder. The court found that since the materials plainly omitted any words expressly advocating the particular member's election or defeat, no independent spending -- subject to statutory reporting requirements -- had occurred.

The express advocacy requirement has been applied with equal

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stringency even where the speaker is a registered and reporting political committee within the meaning of the FECA. Thus, in the Commission's Advisory Opinion 1980-9, a registered political committee distributed a letter highly critical of a senatorial candidate's position on a particular issue. Nonetheless, in the absence of express advocacy, the Commission refused to label the spending as an "independent expenditure." Moreover, the Commission found that since the letter had been financed without cooperation or consultation with any candidate, no contribution in-kind, subject to the statutory reporting requirements or limitations, had been made.

In short, both the courts and this Commission have expressly held that a disbursement is not an independent expenditure unless it expressly advocates the election or defeat of a clearly identified candidate. 11 CFR § 109.1(a). The Petitioner does not allege that the film contains the types of statements which this Commission and the courts have held to be sufficient to constitute "express advocacy." Instead, Petitioner merely asserts that "[t]he film generally reviews Ronald Reagan's activities as President and lauds his achievements." The Complaint also describes the film as one "extolling the virtues of Ronald Reagan s presidency and appealing for his re-election." However, nowhere in the Complaint does the Petitioner ever allege the use of those words of express advocacy specifically required by the

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Court in Buckley. In short, the film contains the type of discussion expressly protected by the First Amendment.

B. AS A MATTER OF LAW, THE NON-FILM RELATED ALLEGATIONS CONTAINED IN THE COMPLAINT FAIL TO STATE A BASIS FOR A REASON TO BELIEVE FINDING.

Petitioner's Complaint is a melange of vague allegations which, aside from the film discussed above, have only two things in common. First, the allegations are antiquated; many predate President Reagan's Inauguration and others predate the Carter Administration. Second, a three-judge Federal court has already determined that the allegations, taken either separately or en masse, do not constitute the type of conduct that the Government can constitutionally regulate. Specifically, in Democratic Party of the United States v. NCPAC the plaintiffs sought a declaration that 26 U.S.C. § 9012(f) was constitutional. Section 9012(f) makes it a crime for a "political committee" to expend more than $1,000 to further the election of nominated presidential and vice presidential candidates who are financing their campaigns with public funds. Based on Buckley and its progeny, the court in Democratic Party of the United States reasoned that the prevention of corruption and its appearance provide the only legitimate basis for regulating speech resulting from campaign finance. The plaintiffs, in an effort to demonstrate the corruptive influence of contributions made by political committees, introduced a wealth of evidence, including public opinion polls, three books of exhibits, and 201 stipulations. Those 201 stipulations

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are the same stipulations that the Petitioner in this case appended to its Complaint. After a thorough review of all that evidence the court in Democratic Party of the United States concluded that the type of conduct that plaintiffs had complained of, and which the Petitioner in this case now complains of, was insufficient to warrant Federal regulation. See also, Common Cause v. Schmitt, 512 F.Supp. 489 (D.D.C. 1980) (three judge court), aff'd by an equally divided Court, 455 U.S. 129 (1982) (holding 26 U.S.C. 9012(f) unconstitutional).

In addition many of the issues raised in the Petitioner's Complaint were the subject of Commission enforcement proceedings (MURs 1252/1299) which were concluded on May 24, 1983, when the Commission, acting upon the recommendation of its General Counsel, decided to take no further action with regard to the alleged violations by President Reagan and his authorized committee.

The conduct which the Petitioner blithely characterized in its Complaint as "antithetical to true legal independence" is not only constitutionally protected, but is also entirely proper under the FECA and the Commission's Regulations and Advisory Opinions. To facilitate discussion of the bedraggled shopping list of Petitioner's allegations, the analysis that follows will examine these allegations by categories.

The Petitioner begins its litany by recounting a series of issue briefing sessions allegedly given by Cabinet officers to "major contributors" to NCPAC. Nowhere in the Complaint is it even suggested that the Cabinet officers involved in these briefings engaged in any substantive political communications, or solicited campaign contributions or coordinated campaign activities

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of any sort with respect to the 1984 presidential election or any other election, since indeed no such activity occurred.

The Petitioner next refers to briefing sessions between NCPAC contributors and Administration or Republican Party officials which were arranged by various members of the Reagan Administration. Apparently the last such meeting occurred in February, 1983, approximately eight months before President Reagan became a candidate under the FECA. First it should be noted with respect to these meetings, as well as the cabinet briefing sessions referenced above, that many persons other than NCPAC contributors participated in these meetings. Second, no evidence has been presented, as indeed no such evidence exists, that there were any substantive political discussions at these meetings, that any campaign contributions were sought or that any campaign activities were coordinated or even discussed.

It is difficult to imagine conduct that is as unrelated to a Federal election as the conduct that the Petitioner has referenced in its Complaint. Obviously no authority whatever is cited to support the position that meetings between former contributors of a political committee and Administration officials relating to official Government matters is prohibited or restricted, as no such authority exists. Indeed, the court in Democratic Party of the United States, 2 Fed. Election Camp. Fin. Guide (CCH) ¶ 9200, at p. 51,651 after reviewing all of these allegations concluded that "[t]he evidence of confidential briefings fails to arouse our sense of suspicion."

Finally, the allegations with respect to Edward J. Rollins, a former Political Affairs Advisor at the White House, are

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inaccurate and totally irrelevant. However, even if Mr. Rollins had stated that he would work closely with NCPAC in connection with the 1982 Congressional elections, which he did not, these were 1982 Congressional elections, not the 1984 Presidential campaign.

IV. THERE IS NO BASIS FOR A "REASON TO BELIEVE" FINDING BY THE COMMISSION IN THIS MATTER.

Section 111.9(b) of the Commission's Regulations specifies that if the Commission finds no "reason to believe" that a violation has occurred, then the proceedings are terminated. "'Reason to believe' findings represent, in effect, a substantiated suspicion on the part of the agency that a violation may have occurred." (emphasis in original) Bauer & Kafka, United States Federal Election Law (1982), Chapter 13, p. 5. The Petitioner's allegations do not provide a basis for a "reason to believe" finding in this matter.

As demonstrated above, the Petitioner's allegations fall into two categories: (1) those that have already been litigated in Federal court and/or reviewed by this Commission and found to be without merit; and, (2) allegations relating to the film "Ronald Reagan's America."

With respect to the first category, ipso facto those allegations which have already been found by this Commission or by a Federal court to be without merit cannot form the basis for a "reason to believe" finding in this matter.

In addition, as a matter of law, the allegations relating to the film "Ronald Reagan's America" do not provide a basis for a "reason to believe" finding. First, President Reagan clearly was not a candidate at the time the film was produced or aired. Second, as has been demonstrated above, all

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of the film footage of President Reagan is in the public domain or was aired on national television. Third, neither President Reagan nor any of his agents coordinated, cooperated with or assisted NCPAC in producing or distributing this film.

In short, the Complaint filed in this matter is totally devoid of any allegations which would support a Commission finding that there is any "reason to believe" that a violation of the FECA or the Regulations has occurred, and there is no need whatever for a further factual investigation.

V. THERE IS NO REASON TO BELIEVE THAT A VIOLATION IS ABOUT TO OCCUR BECAUSE THE RESPONDENTS HAVE TAKEN APPROPRIATE MEASURES TO PREVENT ANY COMMUNICATIONS WITH NCPAC.

To illustrate the position of the Respondents with respect to strict compliance with the Federal election laws pertaining to independent expenditures, Respondents have heretofore taken the following action.

In anticipation of the possible eventual candidacy of President Reagan and of complaints such as the one filed in this matter, the White House in June, 1983, adopted a formal policy that prohibited any substantive political communications between any White House officials and any representatives of any political committees, such as NCPAC, that had announced an intention to make independent expenditures on behalf of the President if he were to become a candidate.

Similarly, the first memorandum from Reagan-Bush'84 to all of its staff and volunteers was issued by Chariman Paul Laxalt on November 1, 1983. This memorandum specifically prohibited any communications between any Reagan-Bush'84 staff member or volunteer and any political committees which make or might contemplate making independent expenditures on behalf of

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of President Reagan. A follow-up memorandum specifically addressing the subject of independent expenditures was sent to all Reagan-Bush'84 staff members and volunteers by Edward J. Rollins, the Campaign Director of Reagan-Bush'84 on February 8, 1984. A copy of this supplemental notice is attached hereto as Exhibit B.

Thus, both the White House and Reagan-Bush'84 have taken appropriate action to prevent any communication with any independent expenditure committee including NCPAC. In addition, both the White House and Reagan-Bush'84 fully intend to vigorously enforce their respective policies with respect of all independent expenditure committees.

VI. CONCLUSION

In summary, the Respondents contend that the Petitioner has offered no evidence whatever which would justify a "reason to believe" finding by the Commission; moreover the Respondents have demonstrated herein that there is no basis whatever for such a "reason to believe" finding. The Respondents, therefore, respectfully request that this Commission find no reason to believe that Respondents have violated any provision of the FECA or the Commission's Regulations and that this matter be dismissed without further proceedings.

Respectfully submitted,

Ronald E. Robertson

Ronald E. Robertson
Counsel for Respondents
REAGAN-BUSH '84 and
RONALD REAGAN

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AFFIDAVIT OF EDWARD J. ROLLINS

I, Edward J. Rollins, being first duly sworn hereby depose and say:

1. That during the period from January 20, 1982 to October 17, 1983, I served as the Assistant to the President for Political Affairs;

2. That during this period all requests submitted to President Reagan or any of his agents by any political committee or organization for any filming of President Reagan or for the use of any film footage of President Reagan would have been processed through my office;

3. That during this period neither I nor any of my subordinates received any requests from the National Convervative Political Action Committee ("NCPAC") or from any person acting on the behalf of NCPAC either to film the President or for the use of any existing film footage of the President;

4. That neither President Reagan, nor any of his agents, assisted, counseled, cooperated, or communicated with NCPAC in any way or manner whatever with respect to the production or distribution of the film entitled "Ronald Reagan's America;"

5. That neither President Reagan, nor any of his agents, suggested to NCPAC that any film concerning the President should be produced;

6. That neither President Reagan nor any of his agents transmitted or made available any film footage to NCPAC for any purpose whatever;

7. That none of the film footage of President Reagan contained in the film "Ronald Reagan's America" was prepared by any person on the White House staff for use by NCPAC.

Edward J. Rollins

EDWARD J. ROLLINS

Subscribed and sworn before me this 27th day of February, 1984.

Pamela W. Shelton

Notary Public

PAMELA W. SHELTON
A Notary Public in and for the District of Columbia
My Commission Expires February 28, 1988

EXHIBIT A

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REAGAN-BUSH '84

INTER-OFFICE MEMORANDUM

URGENT

TO: ALL STAFF AND VOLUNTEERS

FROM: ED ROLLINS
CAMPAIGN DIRECTOR

DATE: FEBRUARY 8, 1984

RE: INDEPENDENT EXPENDITURE COMMITTEES - SUPPLEMENTAL NOTICE TO INTER-OFFICE MEMORANDUM #1 ISSUED ON NOVEMBER 1, 1983

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On November 1, 1983, Chairman Paul Laxalt issued Reagan-Bush '84 Inter-Office Memorandum #1 which notified all personnel and volunteers of the policy of Reagan-Bush '84 with respect to independent expenditure committees. Under the Federal election laws the term "independent expenditure" means an "expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate." The November 1st Memorandum defined "independent expenditure committees" as "those political committees registered with the FEC which have indicated that they intend to make or contemplate making independent expenditures for the purpose of influencing the re-election of the President."

With specific reference to independent expenditure committees the November 1st Memorandum stated that:

a) No person shall simutaneously serve both Reagan-Bush '84 and any independent expenditure committee.

EXHIBIT B

b) No person who has been actively associated in any capacity with an independent expenditure committee since January 1, 1983, shall be permitted to serve Reagan-Bush '84 in any capacity.

c) All persons who join Reagan-Bush '84 in any official capacity will agree not to take a position with any independent expenditure committee until after the conclusion of the primary and general election campaigns.

d) There would be no participation by the President, as well as campaign and Administration officials in the activities of the independent expenditure committee during the campaign period.

e) Reagan-Bush '84 should not use the services of any vendor who also serves any independent expenditure committee if such vendor could in any way effect policy or serve as a conduit of information.

f) No information of any nature whatever will be communicated to any independent expenditure committee regarding the plans or strategies of Reagan-Bush '84 nor will Reagan-Bush '84 receive any information from any independent expenditure committee regarding their plans or strategies. This item is of critical importance and must be strictly adhered to by all persons connected in any way with Reagan-Bush '84.

On January 30, 1984, the Democratic Congressional Campaign Committee filed a complaint with the Federal Election Commission alleging violations of the Federal Election Campaign Act of 1971, as amended ("Act"), by the National Conservative Political Action Committee ("NCPAC"), an independent expenditure committee, Reagan-Bush '84 and Ronald Reagan in connection with

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NCPAC's continuing efforts to promote the re-election of President Reagan. This complaint specifically alleges that NCPAC has violated, and plans to continue violating, the Act by making contributions in excess of the limitations to Reagan-Bush '84 and Ronald Reagan, and that Reagan-Bush '84 and Ronald Reagan, have violated and will continue to violate, the Act by accepting these excessive contributions. According to this complaint, these violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, it is alleged, have been and will continue to be coordinated with, and made in cooperation and consultation with Reagan-Bush '84 and Ronald Reagan. This complaint also alleges that both NCPAC and Reagan-Bush '84 have violated the Act by failing to report the making or receiving of the excessive contributions in violation of the Act. Based on this complaint the Federal Election Commission has instituted compliance proceedings against both Reagan-Bush '84 and Ronald Reagan.

While Reagan-Bush '84 and President Reagan categorically deny these allegations and will vigorously defend their position that no such cooperation and consultation with NCPAC has occurred, I strongly re-emphasize that it is of critical importance that all persons in any way connected with Reagan-Bush '84 must strictly adhere to the policy of Reagan-Bush '84 with respect to independent expenditure committees as set forth above.

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EXHIBIT B

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REAGAN-BUSH '84
The President's Authorized Campaign Committee
440 First Street N.W., Washington, D.C. 20001 (202) 383-1984

Commissioner Frank P. Reiche

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Leif B. Noren, Treasurer
National Conservative Political
Action Committee
1001 Prince Street
Alexandria, Virginia 22314

Re: MUR 1624

Dear Mr. Noren:

This letter is to notify you that on January 30, 1984 the Federal Election Commission received a complaint which alleges that the National Conservative Political Action Committee and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1624. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against the committee and you, as treasurer, in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you and your committee intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Gary Johansen, the staff member assigned to this matter at (202) 523-4143. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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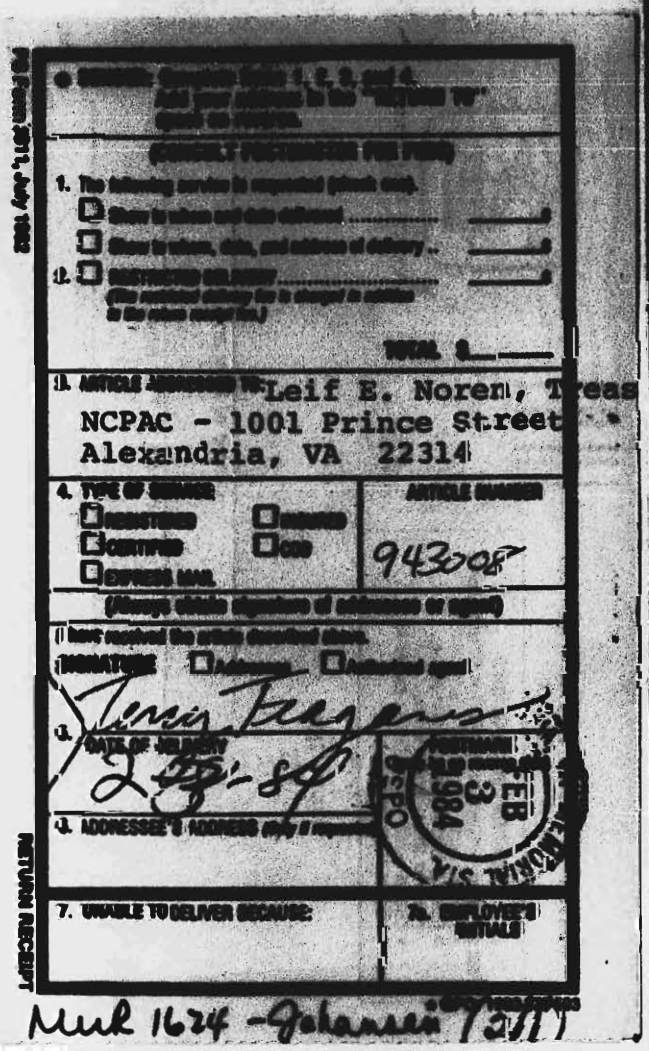
Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement



Mur 1624 - Johansen 7/2/84

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1984

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The President
The White House
Washington, D.C.

Re: MUR 1624

Dear Mr. President:

This letter is to notify you that on January 30, 1984 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1624. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against you in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you intend to be represented by counsel in this matter please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Gary Johansen, the staff member assigned to this matter at (202) 523-4143. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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

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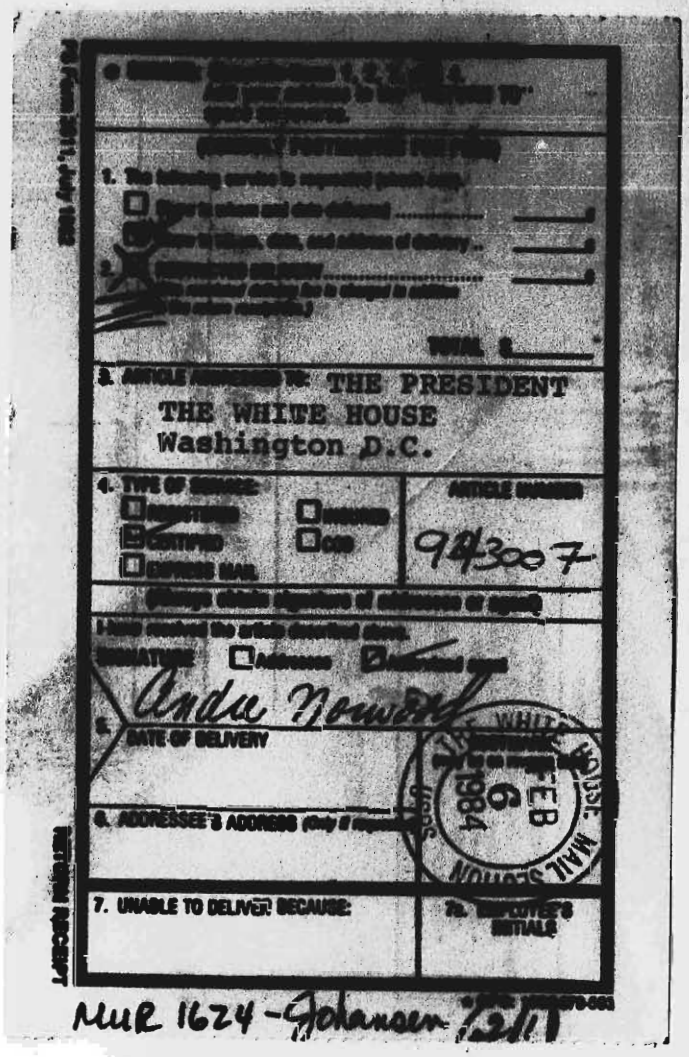
3. ARTICLE ADDRESSED TO: THE PRESIDENT
THE WHITE HOUSE
Washington D.C.
4. TYPE OF SERVICE: CERTIFIED
ARTICLE NUMBER 943007
DATE OF DELIVERY
6. ADDRESSEE'S ADDRESS
7. UNABLE TO DELIVER BECAUSE:
7a. DELIVERY'S INITIALS
WHITE HOUSE MAIL SECTION
FEB 6 1984
MUR 1624 - Johansen

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FEC
GENERAL COUNSEL
84 JAN 31 P4:09

ACKNOWLEDGMENT OF SERVICE

THIS IS TO ACKNOWLEDGE THAT I RECEIVED A COPY OF THE COMPLAINT CAPTIONED MUR 1624 ON JANAURY 31, 1984.

Richard Cleaver
SIGNATURE
For: Reagan-Bush '8

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 31, 1984

HAND DELIVERY

Angela M. Buchanan Jackson
Reagan-Bush '84
440 1st Street, N.W.
Washington, D.C. 20001

Re: MUR 1624

Dear Ms. Jackson:

This letter is to notify you that on January 30, 1984 the Federal Election Commission received a complaint which alleges that Reagan-Bush '84 and you, as treasurer, may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 1624. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against the committee and you, as treasurer, in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you and your committee intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and a statement authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Gary Johansen, the staff member assigned to this matter at (202) 523-4143. For your information, we have attached a brief description of the Commission's procedure for handling complaints.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 31, 1984

Tony Coelho, Chairman
Democratic Congressional
Campaign Committee
400 North Capitol Street, N.W.
Suite 319
Washington, D.C. 20001

Dear Mr. Coelho:

This letter is to acknowledge receipt of your complaint which we received on January 30, 1984 against the National Conservative Political Action Committee, Reagan-Bush '84 and Ronald Reagan which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. We suggest that this information be sworn to in the same manner as your original complaint. For your information, we have attached a brief description of the Commission's procedure for handling complaints. If you have any questions, please contact Cheryl Thomas at (202) 523-4073.

Sincerely,

Charles N. Steele
General Counsel

By Kenneth A. Gross
Associate General Counsel

Enclosure

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Doc # 1528

BEFORE THE
FEDERAL ELECTION COMMISSION

COMPLAINT

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE, Petitioner,	
v.	MUR No. 1624
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, REAGAN-BUSH '84, and RONALD REAGAN, Respondents.	

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
84 JAN 30 P 4:38

I. INTRODUCTION

Yesterday, January 29, 1984, Ronald Reagan announced his candidacy for reelection for the Office of President. Today, the Democratic Congressional Campaign Committee ("DCCC") seeks immediate relief from illegal "independent" spending which has already been made on Mr. Reagan's behalf and which will continue to be made through November 1984, in the millions of dollars, unless this Commission acts.

This Complaint specifically alleges violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), by the National Conservative Political Action Committee ("NCPAC"), in its continuing efforts to promote the re-election of Ronald Reagan. NCPAC has violated, and plans to continue violating, the FECA by making contributions in excess of the limitations to Reagan/Bush '84 and Ronald Reagan, and Reagan/Bush '84 and Ronald Reagan have violated, and will continue to violate, the

FECA by accepting these excessive contributions.* 2 U.S.C. §441a. These violations result from ostensibly "independent" expenditures by NCPAC on behalf of Ronald Reagan - expenditures which, in reality, have been and will continue to be coordinated with, and made in cooperation and consultation with, Reagan/Bush '84 and Ronald Reagan.

Furthermore, all the committees have violated the FECA by failing to report the making or receiving of the excessive contributions in violation of 2 U.S.C. §434.

The Democratic Party's nominee in the 1984 Presidential election may or may not be victorious at the polls. The outcome, however, should not be tainted because one side plays by the rules, and the other--to gain an advantage of millions of dollars--refuses to do so. The Commission must act to rectify these violations, including expedited investigation into this complaint, prompt conciliation with the respondents, and the imposition of appropriate civil penalties.

II. NCPAC "INDEPENDENT" ACTIVITY ON BEHALF OF RONALD REAGAN AND HIS PRINCIPAL CAMPAIGN COMMITTEE

According to FEC records, NCPAC is a political committee which supports or opposes numerous candidates for Federal

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*The Democratic Congressional Campaign Committee is a registered national party multi-candidate committee. The National Conservative Political Action Committee is a registered multi-candidate committee organized to support or oppose candidates seeking nomination or election to Federal office. Reagan/Bush '84 is the principal campaign committee for the re-election campaign of President Ronald Reagan. Ronald Reagan is the President of the United States and a candidate for re-election to that office in 1984.

office through direct financial support and through "independent" expenditures. It is registered and reports as a political committee under the FECA.

NCPAC has a history of claiming to make "independent" expenditures in Federal elections, Advisory Opinion 1981-44, and it has specifically vowed to continue these independent expenditures during the 1984 election. Advisory Opinion 1983-10. Moreover, and most specifically, NCPAC has consistently solicited contributions for the specific purpose of making independent expenditures on behalf of Ronald Reagan's campaigns for the Presidency of the United States. And NCPAC has consistently made such "independent" expenditures--if "independent" in name only--to promote Mr. Reagan's presidential candidacy. As in the 1980 Presidential campaign of Ronald Reagan, when NCPAC sponsored a Ronald Reagan Victory Fund to support his candidacy through independent expenditures, Exhibit A, ¶¶46-49, a massive new independent expenditure program to support the President's 1984 re-election campaign has already been initiated by NCPAC. This new 1984 independent spending campaign on behalf of Ronald Reagan is expected to result in some $5,000,000 in independent expenditures in support of his candidacy (or in opposition to his opponent when nominated). Exhibit A, ¶¶63-64.

The traditionally extensive, ostensibly "independent" activities by NCPAC on behalf of Ronald Reagan's presidential aspirations were reviewed extensively in the course of recent litigation in the United States Court of Appeals for the Third Circuit, in Democratic Party of the United States, et. al. v. National Conservative Political Action Committee, et. al. (Civil Action No. 83-2329). A "Joint Stipulation Of Fact", signed by all parties, including NCPAC, thoroughly reviews

these activities and is attached hereto as Exhibit A. In fact, this Joint Stipulation reveals that NCPAC's association with Ronald Reagan has not been one-sided: Ronald Reagan has returned NCPAC's financial favors, beginning with active fundraising efforts on behalf of NCPAC shortly after that committee came into existence in 1975. See Exhibit A, ¶¶40-41. As this Complaint will show, continuing reciprocal support and intimate contact between NCPAC and Ronald Reagan has characterized their relationship from 1975, when NCPAC was first organized, until the present day.

As set forth below, the DCCC asserts that the expenditures made by NCPAC to date to support Ronald Reagan's re-election in 1984 have not been independent. Moreover, because these expenditures have not been independent, NCPAC is precluded from making any independent expenditures on behalf of Ronald Reagan in the future.

III. THE RELATIONSHIP OF NCPAC, RONALD REAGAN AND REAGAN/BUSH '84

A. The Law

Under the FECA, an independent expenditure must be made "without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate." 2 U.S.C. §431(17). The Federal Election Commission ("FEC") in its regulations, defines "[m]ade with the cooperation or with the prior consent of ..." as, among other things:

> (i) Any arrangement, coordination or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication.

11 CFR §109.1(b)(4)(i).

In Advisory Opinion 1979-80, requested by NCPAC, the FEC found that cooperation may be found where an independent expenditure committee uses an agent (e.g., a consulting firm or advertising firm) which is also engaged by a candidate on whose behalf the committee is making independent expenditures. If cooperation sufficient to bar a claim to independence can be found in this indirect, third-party context, it is clear that direct contacts with the candidate or the candidate's committee would also violate true "independence".

NCPAC may not take comfort from, or base any legitimate defense on, any claim that its contacts with Mr. Reagan and his political agents have occurred to date only before the candidacy declared yesterday. NCPAC has attempted to travel this road before, and the FEC has blocked the way. In this situation, the Commission has declared,

> activities of NCPAC on its own or in conjunction with the individual [before candidacy] could trigger candidate status... and even impact on NCPAC's ability to make independent expenditures ...

Advisory Opinion 1979-80.

Indeed, in Matter Under Review ("MUR") 1231, the General Counsel concluded upon a review of the law that even pre-primary, pre-candidacy support by NCPAC for an individual considering a race for Federal office can constitute a bar to subsequent support for that candidate through independent expenditure activity. First General Counsel's Report, MUR 1231.

NCPAC itself requested an Advisory Opinion that is directly on point here, and demonstrates that illegal pre-primary, pre-candicacy coordination bars subsequent "independent" spending. In Advisory Opinion Request 1983-12, NCPAC requested

FEC approval to run "congratulatory messages" on behalf of incumbent United States Senators both during and before election years. In a clear echo of a technique used on behalf of Ronald Reagan only last year, and discussed below, NCPAC admitted that certain of the officeholders "congratulated" would provide film footage for the ad to NCPAC or would cooperate in the shooting of the film.

In its opinion, the Commission found that the film ads clearly had a purpose of influencing Federal elections and were fully subject to statutory requirements, including contribution limitations. Moreover, spending for these films constituted contributions in-kind, not independent expenditures. The FEC relied on such factors as:

- the incumbent Senators' terms would expire soon after the ads were run and they were seeking, or expected to seek, re-election;

- NCPAC's status as a registered political committee;

- The content of the messages, which, while not advocating the election of any of the incumbents, mentioned their names numerous times, complimented their activities, and referred to their electorate and past elections specifically;

- The timing of the broadcasts.

As will be seen below, a NCPAC film, prepared in 1983 to promote Ronald Reagan's re-election in 1984, "Ronald Reagan's America," falls squarely within the purview of this ruling.

The law is clear. Sustained contact by a political committee with an individual before candidacy, to encourage and promote such candidacy, is antithetical to true legal independence. As Complainant will show, NCPAC has admitted to sustained contact with Ronald Reagan and his political agents throughout the last ten years with a view toward securing and promoting his presidential candidacy--including his candicacy for re-election in 1984 announced yesterday. These contacts were, moreover, accompanied by significant spending, both to solicit contributions to support Mr. Reagan through independent expenditures and to mount public appeals for his 1984 re-election in both media and direct mail appeals.

B. THE FACTS

1. General Contacts between NCPAC, Reagan and Reagan/Bush '84.

Contacts between NCPAC and Reagan/Bush '84 have been frequent and open. In DNC v. NCPAC, supra, challenging NCPAC's right to make independent expenditures in the presidential elections, NCPAC has admitted regular, frequent, and open contact with the Reagan Administration and its political representatives, including current officials of Ronald Reagan's re-election campaign organization. The range of these contacts, and their relationship to NCPAC's program of "independent" support for the President, is nothing short of brazen. The Commission should note specifically:

- NCPAC has admitted that its contributors have received "off-the-record" and confidential policy briefings from key members of the Reagan cabinet, including the Secretary of Agriculture (John Block), the (former) Secretary of Health and Human Services (Richard Schweiker), the (former) Secretary of Transportation (Drew Lewis), the (former) Secretary of the Interior (James Watt), and the (former) Secretary of Energy (James Edwards). Exhibit A, ¶50.

- NCPAC has admitted that Secretary Block met with major NCPAC contributors in his office on July 22, 1982, at the Department of Agriculture. Exhibit A, ¶51.

- NCPAC has admitted that former Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. Exhibit A, ¶52.

- NCPAC has admitted that major contributors to NCPAC were briefed by Secretary Lewis in his office at the Department of Transportation on September 14, 1982. Exhibit A, ¶53.

- The Reagan Administration provided these policy briefings and intimate interviews with major contributors as a political favor to, and reward for, NCPAC as one of the President's key political supporters. NCPAC's Chairman, Mr. John T. Dolan, has described these briefings as "one of the ways we [NCPAC] raise high-dollar money". Exhibit A, ¶54.

- NCPAC has admitted, that the Republican National Committee has maintained continued close relations with NCPAC, including a widely reported "peace mission" to ensure continued support from NCPAC and other "New Right" groups for the President. Indeed one such reported meeting specifically addressed the role that "independent" spending would play in the re-election of Ronald Reagan. The same press reports have stated, and NCPAC has admitted, that the meeting was arranged by Lyn Nofziger, an advisor to President Reagan, and formerly his Assistant to the President for Political Affairs. Exhibit A, ¶¶56-59.

- NCPAC has admitted that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides as requested by John T. Dolan, Chairman of NCPAC. Exhibit A, ¶¶61-61.

- NCPAC has admitted that President Reagan has followed, and communicated with NCPAC about, NCPAC's current program of independent expenditures in support of his own re-election. Specifically, NCPAC has admitted the truth of press reports on October 3, 1983, that President Reagan specifically called NCPAC's Chairman, John T. Dolan, to congratulate him on NCPAC's television program "Ronald Reagan's America". Exhibit A, ¶65.

- o President Reagan's principal advisors have specifically communicated to NCPAC on other campaigns, not involving the President, which presage similar close cooperation in support of the President's own re-election campaign. Edward Rollins, formerly in the White House Office of Political Affairs and now a member of the President's re-election committee, stated specifically that he would work closely with NCPAC in the 1982 Congressional campaigns. Exhibit A, ¶72.

2. <u>A Case in Point: "Ronald Reagan's America" - Cooperation and Consultation on Production of the Film</u>.

In 1983, NCPAC produced a film, extolling the virtues of Ronald Reagan's presidency and appealing for his re-election. In the film, the President appears in numerous news clips. In addition, however, at the beginning and end of the film, the President is shown in what is apparently footage filmed specifically for inclusion in the NCPAC film. These portions of the film are from no known news clips, and would appear to have been created specifically for the purpose of narrating NCPAC's film.

The film generally reviews Ronald Reagan's activities as President, and lauds his achievements. Further, the film attacks Democratic Party opposition to Mr. Reagan and his policies. This attack includes, by photographic reference, Democratic candidates who are currently seeking the nomination of the Democratic Party for the Presidency--potential opponents of Ronald Reagan. As mentioned earlier, Ronald Reagan was so favorably impressed by this film that he called to congratulate NCPAC. Exhibit A, ¶65.

3. NCPAC's General Disregard for Federal Election Laws

These continuous contacts between NCPAC, the Reagan Administration, Reagan/Bush '84 and Ronald Reagan are evidence of widespread and ongoing cooperation to promote the presidential candidacy of Ronald Reagan. NCPAC no doubt is proceeding with minimal concern about the legality of its actions. It is well known for its flaunting of the independent expenditure laws and for its continuous efforts to avoid the independent expenditure rules and regulations. See generally, Exhibit B.**

IV. CONCLUSION

The DCCC has offered evidence above of possible violations of the FECA. This evidence justifies, at the least, a "reason to believe" finding and a full investigation by the FEC. The FEC's Office of General Counsel has maintained that reason to believe findings rest on a de minimus showing, sufficient to justify the amplication of the FEC's full investigatory powers. The evidence above shows that NCPAC, Reagan/Bush '84 and Ronald Reagan have violated the FECA in the following manner:

1. Violation of §441a. The DCCC has shown that NCPAC, Reagan/Bush '84 and Ronald Reagan have had continuous and ongoing contacts with one other. Further, there is direct evidence that Ronald Reagan directly cooperated with NCPAC in

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** A fresh and graphic example of NCPAC's indifference to the law may be found in the recently discloed enforcement action by the FEC to remedy NCPAC's illegal "independent" spending on behalf of Mr. Bruce Caputo, Senator Moynihan's early opponent for re-election in 1982. The record of that case shows intimate contact between Mr. Caputo's campaign and agents of NCPAC, including participation by NCPAC's New York Chairman in staff meetings of the Caputo Committee. See Exhibit B ("Election Law Violations Admitted in '82 Race", The Washington Post, January 28, 1984. at A4.)

producing the film "Ronald Reagan's America". By acquiesing in the making of the film, Ronald Reagan tainted any efforts of NCPAC to make independent expenditures on his behalf in the future. Nonetheless, NCPAC is currently soliciting contributions and is proposing to make voluminous independent expenditures on President Reagan's behalf.

Under the FECA, FEC regulations and FEC rulings, NCPAC cannot claim independence here. There can be no "independence" when the committee coordinates its activities with the campaign of the candidate who will benefit from the "independent" expenditures or with candidate himself. Furthermore, contacts with an individual or his agents, prior to becoming a candidate but with the express purpose of encouraging and promoting his candidacy, fatally taint any claims of true independence in the future.

For these reasons, NCPAC's current and planned expenditures on behalf of Ronald Reagan are serious violations of the law. These expenditures are not independent, but instead are contributions subject to the limitations established in §441a of the FECA.

2. Violation of §434. As contributions in-kind, NCPAC must report its expenditures on behalf of Ronald Reagan as contributions. As such, they must also be disclosed by Reagan/Bush '84. These committees have failed to report any contributions.

On the basis of the foregoing, the DCCC requests that the FEC:

1. Conduct a prompt and immediate investigation of the facts and legal conclusions stated in this complaint;

2. Enter into a prompt conciliation with NCPAC and Reagan/Bush '84 to remedy the violations alleged in this complaint, and most importantly, to ensure that no further violations occur; and

3. Impose any and all civil penalties appropriate to the violations alleged in this Complaint.

Respectfully submitted,

Tony Coelho

Tony Coelho
Chairman
Democratic Congressional
Campaign Committee
400 North Capitol St., N.W., Suite 319
Washington, D.C. 20001 (202) 224-2447

Subscribed and sworn to me on this 30th day of January, 1984.

Notary Public

My Commission Expires January 1, 1987

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

DEMOCRATIC PARTY OF THE UNITED STATES, et al., Plaintiffs, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants, and FEDERAL ELECTION COMMISSION, Intervenor.	Civil Action No. 83-2329
FEDERAL ELECTION COMMISSION, Plaintiff, v. NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, et al., Defendants.	Civil Action No. 83-2823 Consolidated Three-Judge Court

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JOINT STIPULATION OF FACT

A. The Internal Structure of the National Conservative Political Action Committee

1. The National Conservative Political Action Committee (NCPAC) is a nonprofit, nonmembership corporation formed under the District of Columbia Nonprofit Corporation Act on August 12, 1975. [Exhibit 1, Stipulated Findings from Mott v. FEC, pp. 9-13].

2. NCPAC is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office. [Exhibit 1].

3. NCPAC attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures*/ in support of and against candidates for public office. [Exhibit 1].

4. NCPAC registered with the FEC as a political committee on or about March 27, 1975. [Exhibit 1].

5. In order to carry out its activities, NCPAC solicits and receives contributions from the public. [Exhibit 1].

6. NCPAC conducts general solicitations for contributions to NCPAC, not related to any specific candidate, for the purpose of receiving funds to carry out its activities. [Exhibit 2, p. 12, #51].

7. NCPAC also conducts solicitations for the specific purpose of raising funds to spend on NCPAC's independent expenditure programs aimed at electing or defeating specific candidates. [Exhibit 2, p. 12, #53].

8. NCPAC does not maintain and is not required by law to maintain separate accounts for the receipts from its general solicitations and specific solicitations. [Exhibit 1, Mott v. FEC].

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*/ The term "independent expenditure" is used throughout this stipulation for the convenience of the parties and court. By so using this term, the plaintiffs do not take a position as to whether any specific expenditure was or is independent within the meaning of the law.

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9. Listed on reports filed with the FEC as original (March 27, 1975) Treasurer and Custodian of NCPAC's records was Roger J. Stone, Jr. Other officers listed were Charles R. Black, Chairman; John Carbaugh, Vice Chairman; Frank J. Donatelli, Director-at-Large; and J. David Nickles, Secretary. NCPAC amended its registration with the FEC on October 10, 1975, naming Black as Chairman, Nickles as Secretary, and Stone as Treasurer and Custodian of Records. In an amendment dated March 8, 1978, John T. Dolan is listed as Chairman; J. Curtis Herge as Secretary; Becki A. Cecil [Burlingame] as Treasurer; with Stone and Donatelli having resigned. Effective April 8, 1980, Susan S. Hannegan became Treasurer of the Committee, replacing Becki Cecil Burlingame. Effective February 13, 1981, Susan Hannegan resigned as Treasurer, and Lisa Stoltenberg became Treasurer. Effective on or about July 27, 1981, Lisa Stoltenberg resigned as Treasurer, and was replaced by Candace Taw. Effective on or about February 10, 1982, Candace Taw resigned as Treasurer, and was replaced by Leif Noren, who also assumed duties as Custodian of Records on August 4, 1983. [Exhibits 2, (pp. 10-11, #49), 3, 4 and 5].

10. NCPAC is incorporated in the District of Columbia and qualified to do business in the State of Virginia. The current principal officers of NCPAC are: John T. Dolan, Chairman; Leif Noren, Treasurer; J. Curtis Herge, Secretary; Eleanor Hannegan, Asst. Treasurer; and Cheryl Bendis, Asst. Treasurer. [Exhibit 6, NCPAC's 1982 Annual Corporate Report].

11. NCPAC's current Board of Directors consists of: John T. Dolan, Rhonda K. Stahlman and Robert L. Shortley. [Id.].

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12. NCPAC is governed by a three member Board of Directors which is elected annually by the then current members of the board. [Exhibit 1, p. 11, #48].

13. The decision as to which candidates to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition are decided by NCPAC's Chairman and its Board of Directors. [Id.].

14. NCPAC's and FCM's direct mail fundraising solicitations typically include discussions of issues which are the subject of popular debate at the time that the solicitations are made. NCPAC's and FCM's direct mail fundraising solicitations have in the past solicited funds to assist in the independent expenditure efforts of those groups on behalf of Mr. Reagan in 1980, and have solicited funds to be expended by those groups in support of or in opposition to various legislative proposals, social and national defense issues, and to support or oppose the candidacies of various individuals for public office.

15. NCPAC's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights or participation in the conduct of NCPAC affairs. [Exhibit 8, NCPAC's Articles of Incorporation].

16. Individual contributors to NCPAC do not determine which candidates NCPAC supports or opposes with their contributions. [Id.].

17. For the 1980 presidential election, the Board of Directors of NCPAC did not make decisions concerning campaign strategy or day-to-day expenditures of NCPAC. [Exhibit 10, Dolan depo., p. 12].

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18. The press has reported that John T. Dolan has stated that the Board of Directors of NCPAC only does whatever is necessary to keep the organization legal by fulfilling certain nominal responsibilites set out in NCPAC's by-laws, such as holding an annual meeting. [Exhibit 11, p. 45, Statement of John T. Dolan, The Sun, 7/13/82; and Exhibit 10, Dolan depo., p. 12].

19. John T. Dolan is on the Board of Directors of NCPAC. [Exhibit 11, The Sun, 7/13/82].

20. The press has reported that NCPAC is dominated by its Chairman, John T. Dolan. [Exhibit 12, The Wall Street Journal, 5/29/81, Hunt article].

21. For the 1980 presidential election, John T. Dolan had primary authority to make expenditures on behalf of NCPAC. [Exhibit 13, Dolan depo., p. 11].

22. Subject to the director of the Board of Directors, there are no other restrictions on the amount or nature of expenditures that John T. Dolan is authorized to make on behalf of NCPAC. [Exhibit 10, Dolan depo., p. 12].

B. The Internal Structure of the Fund For A Conservative Majority

23. The Fund For A Conservative Majority (FCM) is a multi-candidate political committee registered with the Commission. [Exhibit 2].

24. FCM originally registered in 1972 with the General Accounting Office as "Young America's Campaign Committee" (YACC). On October 13, 1976, in reports filed with the Commission, YACC changed its name to the "Fund for a Conservative Majority". [Exhibit 2, p.3, #11; Exhibit 15, FEC Committee Index; Exhibit 16, FEC Committee Index].

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25. FCM is organized primarily for the purpose of directly or indirectly influencing or attempting to influence the election or defeat of candidates to federal, state, or local office.

26. FCM attempts to achieve its purpose by, among other things, making contributions to candidates for public office and by engaging in independent expenditures in support of and against candidates for public office.

27. In order to carry out its activities, FCM solicits and receives contributions from the general public.

28. FCM conducts general solicitations for contributions to FCM, not related to any specific candidate, for the purpose of receiving funds to carry out its activities.

29. FCM conducts solicitations for the specific purpose of raising funds to spend on FCM's independent expenditure programs.

30. FCM does not maintain and is not required to maintain separate accounts for the receipts from its general solicitations and specific solicitations.

31. Original FCM officers were Ronald Robinson, Chairman, and John S. Buckley, Secretary and Treasurer. On or about March 15, 1979, in reports filed with the Commission, FCM changed its officers to Robert C. Heckman, Chairman and Kenneth F. Boehm, Treasurer. Effective October 24, 1981, Kenneth Boehm resigned, and was replaced by Robert C. Heckman, who also assumed duties as Custodian of Records on January 6, 1982. [Exhibit 2, p. 3, #11; Exhibit 82, Amended Statement of Organization, 10/24/81; Exhibit 87, Amended Statement of Organization, 1/6/82].

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32. FCM is incorporated in the State of Virginia. The current principal officers of the Fund For A Conservative Majority are: Robert C. Heckman, who is both Chairman and Treasurer, and Suzanne Scholte, Secretary. [Exhibit 17, FCM's Annual Corporate Reports].

33. The current Board of Directors of FCM consists of Robert C. Heckman, Jeffrey D. Kane, Kenneth Grasso and Kenneth F. Boehm. [Id.].

34. Paul Dietrich was Executive Director of FCM from January, 1981, until August 3, 1983.

35. The decision as to which candidates or issues to support or oppose, the manner of that support or opposition and the amounts of money to be allocated for that support or opposition is decided by FCM's Board of Directors.

36. Robert C. Heckman has authority to oversee all facets of the operation of FCM, on a day-to-day basis, including FCM's expenditures. [Exhibit 88, Heckman depo., p. 10].

37. FCM's articles of incorporation and by-laws do not provide individual contributors with any voting rights or other rights of participation in the conduct of FCM's affairs. [Exhibit 18, FCM's Articles of Incorporation].

38. Individual contributors to FCM do not determine which candidates FCM supports or opposes with their contributions. [Id.].

39. For the 1980 presidential election, the Board of Directors was responsible for deciding which candidate FCM would support

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and for deciding the amount of support candidates received from FCM.

C. NCPAC and FCM's Associations with Ronald Reagan, 1980 Presidential Campaign, and the Reagan Administration

40. Soon after NCPAC came into existence in 1975, Ronald Reagan wrote a personal letter to his supporters soliciting financial support for NCPAC. The press has reported that John T. Dolan has credited Reagan with helping to establish NCPAC, saying "He [Reagan] is one of the main reasons NCPAC is here today." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

41. After he lost the Republican nomination for president in 1976, Ronald Reagan helped raise money by signing fundraising letters and attending a fundraising event in Washington, D.C., for NCPAC. One such solicitation letter was signed by Ronald Reagan, dated Sept. 29, 1976, and was mailed to 187,422 potential contributors to NCPAC. [Exhibit 21, p. 9 Dolan's Depo.; Exhibit 22, p. 2 Dolan's letter dated 1/28/77 from MUR 322].

42. According to John T. Dolan, Ronald Reagan was probably responsible for raising $1 million on behalf of NCPAC in 1976. [Exhibit 21, Dolan depo., p. 9].

43. The press has reported that John T. Dolan said that NCPAC's independent expenditures for commercials for the 1980 presidential race would depend on the Reagan campaign stategy. [Exhibit 20, Washington Post, 8/10/80, MacPherson Article].

44. John T. Dolan claimed that NCPAC's sole source of information about what the Reagan campaign was doing was through the media. [Exhibit 23, Dolan depo., p. 64].

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45. The press has reported that Lyn Nofziger, former Assistant to the President for Political Affairs, and a Reagan campaign official in 1980, in describing how the head of an independent committee in 1980 could have found out how to aid the Reagan campaign in 1980, stated that "I wouldn't have to talk to Bill Casey [Reagan's 1980 campaign director]. I'd have a friend of mine talk to Bill Casey. I wouldn't have any problem getting that done. There's no way in the world that if I'm running an independent campaign I'm not going to get the information I need, or Dick Wirthlin's [a Reagan pollster] data or talk to the chairman of the Republican National Committee, or whatever." [Exhibit 24, The New Yorker, 12/13/82, pp. 91-92].

46. The Ronald Reagan Victory Fund was described by NCPAC as a "project" of NCPAC for the 1979-80 presidential campaign. The purpose of the Ronald Reagan Victory Fund was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures. [Exhibit 2; Exhibit 26, Dolan depo. p. 41; Exhibit 27].

47. Prior to May 15, 1980, John T. Dolan, Chairman of NCPAC sent an "Urgentgram" to NCPAC supporters which indicated that "Governor Reagan's campaign is desperately short of funds going into crucial May-June primaries." This solicitation letter further indicated that NCPAC "has and will run 'independent' pro-Reagan advertisements and stated that Reagan will lose valuable momentum if he cannot maintain his campaign advertising program in high gear in the May-June primaries." [Exhibit 28, NCPAC solicitation letter].

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48. In that "Urgentgram" fundraising letter, NCPAC promised to expose President Carter's weaknesses as well as promote candidate Reagan. "These advertisements will be produced by top notch professionals.... We will run these advertisements in major cities and places where many voters will be making up their minds between Carter and Reagan in the next two months." [Id.].

49. That letter also solicited funds on behalf of NCPAC's pro-Reagan independent expenditure effort. The letter requested that if the recipient could send a contribution to NCPAC, NCPAC would also ask that recipients send to Governor Reagan an enclosed postcard telling him of their support. The letter closes with the statement "Whatever you can send I know Governor Reagan would deeply appreciate it." [Id.].

50. The press has reported that John Block, Secretary of Agriculture, Richard Schweiker, (former) Secretary of Health and Human Services, Drew Lewis, (former) Secretary of Transportation, James Watt, Secretary of the Interior, and James Edwards, (former) Secretary of Energy, personally provided major contributors to NCPAC with "off the record" and confidential policy briefings. [Exhibit 29, The Sun, 9/5/82].

51. The press has reported that John T. Dolan stated that Secretary Block met with major contributors to NCPAC in his office on July 22, 1982, at the Department of Agriculture. [Id.].

52. The press has reported that John T. Dolan stated that Secretary Schweiker briefed major contributors to NCPAC in his office at the Department of Health and Human Services on September 14, 1982. [Id.].

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53. The press has reported that John T. Dolan stated that Secretary Lewis briefed major contributors to NCPAC in his office at the Department of Transportation on September 14, 1982. [Id.].

54. The press has reported that John T. Dolan described the "off the record" and confidential policy briefings with Reagan Administration Cabinet Secretaries and White House Personnel as "one of the ways we [NCPAC] raise high dollar money." [Id.].

55. According to published reports, Lyn Nofziger, now working as a political consultant, will act as an outside link between Ronald Reagan's re-election campaign and conservatives, should President Reagan seek a second term. [Exhibit 30, U.S. News & World Report, August 29, 1983, p. 19].

56. In a Washington Post article entitled "GOP 'Peace Mission' Becomes Stormy," it was reported that a meeting was called to smooth relations between RNC Chairman Richard Richards and conservatives John T. Dolan, Chairman of NCPAC, Richard Viguerie, President of the Viguerie Company, Paul Weyrich, Chairman of the Committee for the Survival of a Free Congress, Howard Phillips, Chairman of the Conservative Caucus, Thomas F. Ellis, Chairman of the Congressional Club, Phyllis Schlafly of Eagle Forum, Ronald Godwin of Moral Majority, Robert Richardson of Gun Owners of America, and Robert C. Heckman, Chairman of the Fund for a Conservative Majority. [Exhibit 31, Washington Post, 5/20/81, Peterson article].

57. According to that article, the purpose of their meeting was to discuss the role of independent campaign expenditures and how such expenditures affect President Reagan. [Id.].

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58. According to that article, the May 19, 1981, meeting was arranged by Lyn Nofziger, a former advisor to President Reagan who held the position of Assistant to the President for Political Affairs. [Id.].

59. In that article it was reported that Richard Richards, Chairman of the Republican National Committee, stated that "We [the independent political groups and the Republican National Committee] will attempt to formulate an agreement as to our respective positions, including how we will disagree, if at all, in the future." [Id.].

60. In that article it was reported that the meeting was acrimonious and that, according to one participant, although there may have been some fiery words, nobody swung a punch. Mr. Richards is reported to have said, "My quarrel is that independent expenditure groups butt in on the strategy of the campaign. The problem is they stay too long, they say the wrong things and ultimately they may be counterproductive." [Id.].

61. It has been publicly reported in an article in The Sun entitled "Unlikely Allies: White House Staff Chief and New Right Leader," that James Baker, President Reagan's Chief of Staff, arranged in February, 1983, for major contributors to NCPAC to participate in a full day of briefings by President Reagan and his aides. [Exhibit 32, The Sun, 5/19/83, p. A16, Barnes article].

62. In that article it was reported that the briefing session for major NCPAC contributors, which was held in February, 1983, was requested by John T. Dolan, Chairman of NCPAC, prior to President Reagan's inauguration. [Id.].

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63. The press has reported that NCPAC has established a $5 million project which will exclusively support the reelection effort of Ronald Reagan in 1984. [Exhibit 33, The Sun, 2/24/83, Barnes article; Exhibit 32, The Sun, 2/24/83, p. 9A].

64. This $5 million NCPAC project is called, "American Heros for Reagan." All money received by NCPAC for this project is deposited into NCPAC's general political account. [Exhibit 32].

65. The press has reported on October 3, 1983, that President Ronald Reagan liked NCPAC's television program "Ronald Reagan's America" so much that he telephoned NCPAC's Chairman, John T. Dolan, to congratulate him. Dolan thanked Reagan, then informed the President that White House lawyers didn't want them discussing what NCPAC was doing. [Exhibit 112, Washington Post, 10/3/83, p. A3].

66. NCPAC has distributed a letter to conservative supporters which appears on stationery bearing the letterhead of the "Re-elect Reagan Campaign Committee." [Exhibit 33, The Sun, 5/19/83, p. A16, Barnes article].

67. The press has reported that John T. Dolan, Chairman of NCPAC, has publicly warned President Reagan that he had better heed the "massive conservative mandate" or "pay a political price." [Exhibit 34, L.A. Times, 11/6/80, Shaw article].

68. The press has reported that John T. Dolan said that, "groups like ours [NCPAC and other political committees making independent expenditures] are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in

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politics." [Exhibit 20, Washington Post, 8/10/80, MacPherson article].

69. According to newspaper accounts of statements made by John T. Dolan, the rise of independent political committees such as NCPAC is "potentially very damaging to the political system." [Exhibit 35, Washington Post, 6/27/81, p. A4, Walsh article].

70. In the same article, it was reported that the Chairman of the Republican National Committee had asked independent political action committees to stay out of campaigns when they are asked to do so by Republican candidates or State Republican Chairmen. It was also reported that John T. Dolan said that lawyers for NCPAC and for the Republican National Committee had concluded that such an agreement to abide by the wishes of Republican officials would violate federal election laws. [Id.].

71. The press has reported that John T. Dolan has publicly stated that NCPAC successfully manipulated 70% of the elections which it had targeted in 1982. In the same article Dolan claimed that David Broder said NCPAC's win record was one in seventeen. [Exhibit 36, Washington Post, 11/7/82, Dolan article].

72. Edward Rollins, a political advisor to President Reagan with the title of Assistant to the President for Political Affairs, has stated that he expects to work closely with NCPAC in the 1982 Congressional campaigns. [Exhibit 37, Washington Post, 12/31/81, Emory article].

73. The press has reported that Edward Rollins will become the political director of President Reagan's reelection campaign should Reagan choose to seek reelection. [Exhibit 30, U.S. News & World Report, August 29, 1983].

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74. The press has reported that NCPAC and the Fund for a Conservative Majority (FCM) have publicly announced that they intend to spend at least $10 million to help re-elect President Reagan in 1984. [Exhibit 38, Washington Post, 5/13/83].

75. Frank Donatelli was a founder and former Director-at-Large of NCPAC (1975-79). [Exhibit 2].

76. Frank Donatelli was a member of the Board of Directors of FCM (1978-79). [Exhibit 6].

77. Frank Donatelli was the Midwest coordinator for the Reagan for President Committee in 1980. [Exhibit 87].

78. Robert Shortley, John T. Dolan's brother-in-law, has been a member of NCPAC's Board of Directors. [Exhibit 11, The Sun, 7/13/82; Exhibit 6, NCPAC Annual Corporate Report].

79. John T. Dolan's brother, Anthony Dolan, was a staff member for the Reagan campaign, and currently works for the Reagan Administration. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 39, personnel list (campaign); and Exhibit 40, Dolan's depo., p. 49].

80. In 1980, John T. Dolan was a business partner in a joint venture with Lyn Nofziger, Paul Russo, David Keene, and Roger Stone. [Exhibit 20, Washington Post, 8/10/80, MacPherson article; Exhibit 41, Dolan's depo., p. 22].

81. Lyn Nofziger was an official on Ronald Reagan's presidential campaign and held the title of Assistant to the President for Political Affairs at the beginning of President Reagan's administration.

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82. David Keene worked for Ronald Reagan in 1976 and was a staff member on the Bush campaign in 1980. [Exhibit 20].

83. Roger Stone, one of the founders and the original treasurer of NCPAC, was the Northeast coordinator for the Reagan campaign in 1980. [Exhibit 20].

84. The press has reported that a company owned by Richard Viguerie was a tenant in the Dolan, Nofziger, Russo, Keene and Stone partnership's Alexandria office building in 1980. [Id.].

85. The press has reported that NCPAC has already spent approximately $2 million on behalf of Ronald Reagan for president in 1984 and projects to spend at least $5 million. [Exhibit 132, Washington Post, 10/6/83].

86. Arthur J. Finkelstein and Associates has performed polling services for FCM. [Exhibit 42, Heckman's depo., p. 48].

87. Arthur J. Finkelstein has conducting polls for the Reagan for President Committee, NCPAC, and FCM. [Exhibits 39, 20, 36 and 43].

88. According to Robert Heckman, Chairman of FCM, "simply from reading the newspapers and magazines and so forth, the general analysis seemed to be that the Texas primary would be critical for Reagan." Heckman allegedly used the same authorities to also target Pennsylvania, Iowa, New Hampshire, South Carolina and Florida as important states to support the Reagan candidacy. [Exhibits 43, 90, 91, 92, 93 and 94].

89. The press has reported that Paul Dietrich, former Executive Director of FCM, who worked for the Reagan campaign in 1980, and who also headed the Republican National Committee's State Fund

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Operation in Missouri in 1980, has publicly stated that, "there is no way to enforce independence as long as there is a press corps giving us (FCM) information and as long as one group puts out information and gets it to others." [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

90. The press has reported that Paul Dietrich stated that, "If I really want a poll from the Republican National Committee or a campaign, I can get it. They'll leak it to me." [Id.].

91. The press has reported that Paul Dietrich stated that, "All the independent PAC's... have a little dance [where] we dance around the law in a way that never breaks the letter but breaks the spirit of the law -- but we don't agree with the law anyway." [Id., p. 101].

92. FCM spent approximately $60,000 on behalf of Ronald Reagan in New Hampshire. FCM also bussed 40-50 students from New York and other locations to hand out literature in New Hampshire on behalf of Ronald Reagan. [Exhibits 116, 117].

93. According to FEC reports, Ronald Reagan exhausted nearly all of the $294,400 he was limited to by the federal election laws in connection with the New Hampshire primary. [Id.].

94. FCM made approximately $60,000 in expenditures on behalf of the candidacy of Ronald Reagan in New Hampshire after the Reagan campaign reached its spending limit. [Id.].

95. FCM sponsored activities on behalf of Mr. Reagan in connection with the New Hampshire primary also included voter mailings, newspaper advertising, and radio spots. FCM produced

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radio advertisements attacking Mr. Reagan's opponent George Bush. [Id.; Exhibit 45, letter from William Loeb].

96. The press has reported that FCM publicly took credit for Ronald Reagan's victory in New Hampshire. [Exhibit 24, The New Yorker, December 13, 1982, p. 91].

97. Prior to the May 6, 1980, primary in Texas, Ronald Reagan had utilized most of the $14.7 million limit under the Primary Matching Account Act. FCM then expended approximately $80,000 on behalf of Ronald Reagan in connection with the Texas primary. With this $80,000 FCM bought radio advertisements and financed a 250,000 piece mailing campaign. [Exhibits 24, 89].

98. FCM set aside $100,000 for use in support of Ronald Reagan for the California primary, but decided to save that amount for use on behalf of Mr. Reagan in the general election, as reports and communications in the press indicated that the Reagan campaign did not require assistance in that state. [Exhibit 24].

99. FCM also budgeted for expenditures in connection with the Reagan 1980 candidacy in primaries held in Florida, Illinois, Connecticut, Pennsylvania, Ohio and New Jersey and in state conventions in Virginia and Missouri. These budgeted expenditures included radio and newspaper advertising, voter mailings, polling and literature distribution. [Exhibits 24, 46, 91, and 94].

100. FCM sent other solicitation letters in connection with its "Citizens for Reagan in '80" project in envelopes which read, "Dateline: Republican Convention, Detroit 11:30 p.m. Weds. July 16, 1980" which solicited funds for "national advertising

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on television and radio, full page advertisements in newspapers, election mailings pin-pointed to selected voters... which will be carefully and professionally used to help elect Ronald Reagan president." [Exhibit 2, p. 5, #21; Exhibit 47].

101. This solicitation letter indicated FCM believed it needed to raise at least $3,476,000 on behalf of Ronald Reagan for the general election and expressed its immediate need to raise $755,000 over the following three weeks to reserve advertising space and television and radio time for the fall. [Exhibits 2, 47].

102. FCM's direct mail campaigns are in whole or in part computerized. The employees, consultants and agents of FCM include professional speechwriters, public relations and advertising specialists, media experts and firms which maintain and rent professionally compiled mailing lists. [Exhibit 2, p. 5, #24; Exhibit 48].

103. FCM had posters bearing the name of its project, "Citizens for Reagan in '80" at the Republican National Convention for use in connection with floor demonstrations and rallies during the convention. [Exhibit 2, p. 5, #23].

D. <u>Other Independent Expenditure Campaigns for Reagan for President</u>

104. The National Congressional Club (NCC), formerly known as North Carolina Congressional Club (NCCC), a political committee registered with the FEC, undertook activities on behalf of the nomination and election of Ronald Reagan, in the 1980 election

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cycle which were similar in nature to those undertaken by NCPAC and FCM. [Exhibits 50, 116, 118].

105. NCC is a political committee that originally registered with the Clerk of the U.S. House of Representatives on October 29, 1974. [Exhibit 50].

106. NCC has as its Honorary Chairman, Senator Jesse Helms. NCC had a "project" entitled "Americans for Reagan" which was organized for the purpose of raising and expending money on behalf of the candidacy of Ronald Reagan for president in 1980. Jesse Helms is also the Honorary Chairman of "Americans for Reagan." [Id., p. 9, #43; Exhibit 49, NCC solicitation, p. 2].

107. The purpose of Americans for Reagan was to help elect Ronald Reagan president. This was accomplished through independent expenditures. [Exhibit 49].

108. During the last week of May, 1980, "Americans for Reagan" sent out its initial mailing of 250,000 letters soliciting funds to purchase television time on behalf of the Reagan candidacy for the nomination as the Republican Party candidate for president. The letter solicited funds to "Americans for Reagan" in order to amass $26,800 in the following 30 days for the purchase of air time for television advertisements, was written by Jesse Helms and sent on Senator Helms' personal stationery. The letter stated "Americans for Reagan"'s first goal as being to purchase over $500,000 of television time for the fall on behalf of Ronald Reagan's campaign for the general election. Checks were to be made payable to "Americans for Reagan." [Exhibit 2, p. 9, #44; Exhibit 49, pp. 1-2].

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109. Another solicitation letter on behalf of NCC's project "Americans for Reagan," dated July 14, 1980, was written by Senator Helms from the Republican National Convention. This letter solicited funds for the purchase of television spots, newspaper advertisements, and radio commercials which were already prepared for "Americans for Reagan." The letter further indicated that "Americans for Reagan" would also be ordering brochures and other campaign materials. The solicitation letter asked recipients to "Remember, Ronald Reagan and our nation need your financial help." [Exhibit 2, p. 10, #45; Exhibit 51, pp. 1-3].

110. "Americans for Reagan" was specifically organized to solicit funds from the general public on behalf of the candidacy of Ronald Reagan "because the Reagan campaign cannot accept your contribution." [Exhibit 2, p. 10, #46; Exhibit 51].

111. The press has reported that Arthur J. Finkelstein and Associates performed polling services for NCC during the 1980 presidential election. [Exhibit 24, The New Yorker, December 13, 1982, p. 92].

112. The press has reported that Senators Jesse Helms and Harrison Schmitt, Chairman for Americans for Change (AFC) (another registered political committee similar in nature to NCPAC, FCM and NCC), were delegates who supported Ronald Reagan at the July, 1980, Republican National Convention. [Exhibit 20, Washington Post, August 10, 1980, MacPherson article].

113. Americans For Change (AFC) is an unincorporated association which registered with the Federal Election Commission as a multi-candidate political committee by filing a Statement of

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Organization on May 23, 1980. Its officers were listed as Harrison H. Schmitt, Chairman; Carl T. Curtis, Treasurer; and Stan Huckaby, Assistant Treasurer, who is also the custodian of the committee's records. AFC did not file with the Commission as an "authorized committee" of Ronald Reagan or George Bush or any other presidential or vice presidential candidates for the 1980 election. Nor has it filed with the Commission as an "authorized committee" of Ronald Reagan, or for any other presidential or vice presidential candidates for the 1984 election. [Exhibit 128].

114. AFC held a press conference at the Republican National Convention as was listed on the official Calendar of Events for the 1980 Republican National Convention. Appearing on behalf of AFC at that press conference were Senator Harrison Schmitt, Chairman of AFC, John Harmer, former Lt. Governor of California and co-chairman of AFC, appointed by Mr. Reagan in 1974, and Howard Ruff. [Exhibit 129].

115. On July 18, 1980, Americans for Change, as advertised by letter from AFC Chairman, Senator Harrison Schmitt, held the first fundraiser on behalf of Ronald Reagan subsequent to the Republican National Convention. Tickets to the fundraiser held in Houston, Texas, cost $1,000 per couple and were payable to "Reagan for President in '80". [Exhibit 2, p. 3, #10].

116. Harrison Schmitt, the Chairman of AFC, was, at the same time, a member of the Republican National Committee Advisory Council on Economic Affairs and a Reagan delegate to the 1980 Republican National Convention. [Exhibit 135].

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117. John Harmer, the Co-Chairman of AFC, was Ronald Reagan's former Lieutenant Governor. [Exhibits 117, 122, 129].

118. Stan Huckaby, the Assistant Treasurer and Custodian of Records of AFC, was, at the same time, the Treasurer of the 1980 Republican Presidential Unity Committee, an authorized committee of Ronald Reagan, and has served as a paid consultant to the Republican National Committee. [Exhibits 128 and 138].

119. He maintained his office at the Republican National Committee headquarters. [Id.].

120. James Edwards, former Governor of South Carolina and a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Council and a Reagan delegate to the 1980 Republican National Convention. [Exhibits 120, 121, 135 and 137].

121. Anna Chennault, a member of the AFC steering committee, was, at the same time, a member of the Republican National Committee Advisory Committee on Fiscal Affairs, and an ex-officio member of the Republican National Committee Executive Committee. [Exhibits 120, 121, 135].

122. After the 1980 election, AFC invited contributors and their families to attend various events sponsored by AFC in conjunction with the Inauguration of President-elect Reagan. The invitation was signed by then-Senator Harrison Schmitt and stated that the purpose of these events was to provide AFC supporters "an opportunity to meet the Republican men and women who will play an

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important part in shaping the destiny of our country." The invitation also stated:

> We intend to hold attendance at each of our functions to a limited number of guests to allow everyone ample opportunity to visit with Senators or Cabinet officials who may be in attendance.

[Exhibit 119].

123. James Edwards, a member of the steering committee of AFC, was appointed Secretary of Energy by President Reagan. [Exhibits 135, 137].

124. Senator Jesse Helms (R, N.C.), Honorary Chairman of the National Congressional Club, has stated that "I've had to... talk indirectly with [Senator] Paul Laxalt (R. Nev.) [President Reagan's national campaign chairman]" to avoid a direct consultation with then-candidate Reagan. [Exhibit 24, The New Yorker, December 13, 1982, pp. 90-91; Exhibit 20, p. 28].

125. Senator Helms has also stated that "I hope that the Senator [Laxalt] would pass along [the messages], and I think the messages have gotten through all right." [Exhibit 20, p. 28].

126. Independent expenditures by PACs, individuals and other groups exceeded $16 million for the 1979-80 election cycle. A total of $13.7 million was spent to influence the presidential race. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980; Exhibit 115].

127. Americans For An Effective Presidency (AEP) is an unincorporated association which registered with the Commission as a multi-candidate committee by filing a Statement of

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Organization. AEP was formed for the express purpose of electing Ronald Reagan president. The only officer lised on its statement was its Treasurer, Robert H. Masson. Serving as AEP's Chairman is Peter Flanigan and as Chairman of the Expenditures Committee, Thomas Reed. [Exhibits 130, 131].

128. It has been reported in the press that Peter Flanigan, the Chairman of AEP, was, at the same time, a member of the Policy Board of the Republican National Committee Advisory Council on Economic Affairs. [Exhibits 133 and 135].

129. Stuart Spencer, who was involved in the organization of AEP and who was to run its operation, subsequently worked for the official Reagan campaign. He ran Mr. Reagan's campaigns for Governor of California in 1966 and 1970 and was the national political director for the official 1976 general election campaign for the Republican Party candidate. [Exhibits 123, 124, 125 and 126].

130. William Clements, who was involved in the organization of AEP, served as the Chairman of the official Reagan campaign in Texas and is a member of the Republican National Committee Advisory Council on National Security and International Affairs. [Exhibits 19, 135, 136].

131. Bailey, Deardourff & Associates, the Media Directors of AEP, served as the advertising agency for the official 1976 general election campaign for the Republican Party candidate. [Exhibit 131].

132. Douglas L. Bailey, a prominent media consultant and a Media Director for AEP during the 1980 Presidential campaign, has

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expressly acknowledged the power and influence wielded by large private fundraisers.

> The people who wield the authority coming out of private fundraising are not the people who give the money so much as the people who raise the money, and that has not significantly changed. If anything, it may have been accelerated [by the $1,000 limit on contributions] because the guy who can raise $51,000 in contributions is the guy who is incredibly important to that campaign and therefore has a significant amount of power.

[Exhibit 131 and Deposition of Douglas L. Bailey, p. 28, in RNC v. FEC, 487 F. Supp. 280 (S.D.N.Y.), aff'd mem, 445 U.S. 955 (1980)].

133. AEP had a stated objective in 1980, which was to raise and expend funds to defeat the re-election of Jimmy Carter, to elect Ronald Reagan president, and to further Governor Reagan's prospects for victory should the presidential election have to be decided in the U.S. House of Representatives. [Exhibit 131].

134. AEP considered every contributor to be a member of that organization. [Id.].

135. An Expenditures Committee determined which expenditures were to be made by AEP, it hired all staff, provided legal counsel, supervised all recordkeeping, authorized all fundraising and represented the organization to the media and public. [Id.].

136. Professional staff was retained by AEP to implement all aspects of AEP's programs. [Id.].

137. AEP hired as staff director, Don Pierce, the 1976 regional political director for former President Ford who has also managed numerous Congressional campaigns. [Id.].

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138. AEP devoted at least 75% of all its funds to telephone, radio, and newspaper advertising to defeat Jimmy Carter and elect Ronald Reagan. The timing and location of such advertising was determined by the Expenditure Committee after having received input from "Participating Members" of AEP and AEP's professional staff. [Id.].

139. AEP ran a complete press office that sought free radio and television time and newspaper space by making prominent Republicans available for interviews as part of its strategy for achieving the election of Mr. Reagan and Mr. Bush in 1980. [Id.].

E. Independent Expenditures and Other Political Activity

140. The press has reported that, to counter NCPAC's efforts in support of and in opposition to certain candidates, at least five new political action committees were created. Those committees, the press has reported, were not formally connected with the Democratic Party, but like the National Committee for an Effective Congress, which spent more than $1,420,000 in 1979-80, the committees ranged from general to exclusive support of Democratic candidates. [Exhibit 14].

141. During 1975-76, NCPAC's reports filed with the FEC indicate receipts of $3,006,292.09 and disbursements of $2,954,147.83. Of this latter amount NPCAC reported spending:

a. $2,123,588.20 for operating expenses.*/

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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b. $88,537.08 for independent expenditures.

c. $400,189.16 for direct/in-kind contributions to federal candidates.

[Exhibit 53, 1975 year end amendment; Exhibit 54, 1976 year end amendment].

142. During 1979-80, NCPAC's reports filed with the FEC indicate receipts of $7,648,551.34 and disbursements of $7,530,378.09. Of this latter amount NCPAC reported spending:

a. $3,813,929.29 for operating expenses.*/

b. $3,402,616.81 for independent expenditures.

c. $253,326.99 for direct/in-kind contributions to federal candidates.

[Exhibit 55, 1979 year end amendment; Exhibit 56, 1980 year end amendment, Exhibit 83, FEC 1979-80 D Index].

143. During the 1979-80 presidential race, NCPAC spent $1,859,168 as independent expenditures advocating the election of Ronald Reagan for president. NCPAC spent an additional $108,077 against Jimmy Carter for president. [Exhibit 57, FEC Index of Independent Expenditures, 1979-1980, p. 31].

144. During 1983 (7/83), NCPAC reported to the FEC, receipts of $3,015,930.44 and disbursements of $2,998,504.54. Of this latter amount, NCPAC reported spending:

a. $2,711,558.52 for operating expenses.*/

b. $83,575.84 for independent expenditures.

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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c. $6,646.43 for direct/in-kind contributions to federal candidates.

[Exhibit 58, 1983 August Monthly Report].

145. The press has reported that John T. Dolan stated that independent expenditures made by political committees, including NCPAC, made the difference in Louisiana and Mississippi during the 1980 presidential election. [Exhibit 59, Miami Herald, 3/29/81].

146. According to FEC Records, NCPAC had received $8,772,146 in contributions and made $9,003,776 in expenditures by October 13, 1982. [Exhibits 113, 114, NCPAC 1981 Year End and 1982 Pre-General Reports].

147. Of the $9,003,776 in expenditures which NCPAC made for the 1981-82 election by October 13, 1982, $5,760,320, went to fundraising, salary, travel and administrative costs. [Id.].

148. In 1978, NCPAC received 122 contributions between $500 and $1,000, 5 contributions between $1,001 and $2,500, and 5 contributions between $2,501 and $5,000. [FEC Data Base].

149. In 1980, NCPAC received 763 contributions between $500 and $1,000, 93 contributions between $1,001 and $2,500, and 54 contributions between $2,501 and $5,000. [Id.].

150. In 1982, NCPAC received 908 contributions between $500 and $1,000, 178 contributions between $1,001 and $2,500, and 114 contributions between $2,501 and $5,000. [Id.].

151. In 1983, NCPAC has received 264 contributions between $500 and $1,000, 48 contributions between $1,001 and $2,500, and 85 between $2,501 and $5,000. [Id.].

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152. From 1978 to the present, NCPAC has received 2,057 contributions between $500 and $1,000, 324 contributions between $1,001 and $2,500, and 258 contributions between $2,501 and $5,000. [Id.].

153. During 1975-76, FCM's reports filed with the FEC, indicate receipts of $474,642.09 and disbursements of $484,344.70. Of this latter amount, FCM reported spending:

a. $391,095.60 for operating expenses.*/

b. $39,655.26 for independent expenditures.

c. $50,943.84 for direct/in-kind contributions to federal candidates.

[Exhibit 61, 1975 year end amendment; Exhibit 62, 1976 comprehensive amendment; and Exhibit 63, conciliation agreement, MUR 503].

154. During 1979-80, FCM's reports filed with the FEC indicate receipts of $3,163,537.68 and disbursements of $3,150,292.79. Of this latter amount, FCM reported spending:

a. $937,192.93 for operating expenses.*/

b. $2,062,908.29 for independent expenditures.

c. $143,082.00 for direct/in-kind contributions to federal candidates.

[Exhibit 64, 1979 year end amendment; Exhibit 65, 1980 year end amendment; Exhibit 84, FEC 1979-80 D Index].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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155. During 1979-80, 100% of FCM's independent expenditures were made to aid Ronald Reagan in his race for president [Exhibit 66, FEC Index of Independent Expenditures, 1979-80, p. 168].

156. FCM spent more than $500,000 during the 1980 primaries in connection with its "project" entitled "Citizens for Reagan in '80". [Exhibit 2, p. 3, #13].

157. The purpose of Citizens for Reagan in '80 was to elect Ronald Reagan president. This was accomplished primarily through independent expenditures.

158. Many of FCM's expenditures on behalf of Ronald Reagan for the 1980 primaries were made to purchase advertisements which attacked Ronald Reagan's chief rival, George Bush. [Exhibit 2, p. 3, #13].

159. From January through June of 1980, FCM reported making expenditures on behalf of Ronald Reagan totalling $656,467.26. Included in this amount, FCM reported spending: $465,727.22 on written communications; $29,200.80 on radio ads; $27,054.69 on newspaper ads; $61,080.39 on the rental of mailing lists; $3,163.75 on computer services; $3,143.87 on bumper stickers; $4,405.00 on consulting services, $7,822.86 on television ads; $2,172.00 for buttons; $21,675.00 for surveys; $9,991.92 on promotional paraphernalia; $1,475.00 on video. [Exhibit 2, p. 6, #25; Exhibit 67; Exhibit 48].

160. During 1983 (6/83), FCM reported to the FEC, receipts of $822,229.23 and disbursements of $818,968.69. Of this latter amount, FCM reported spending:

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a. $725,824.12 for operating expenses.*/

b. $55,448.37 for independent expenditures.

c. $18,355.31 for direct/in-kind contributions to federal candidates.

[Exhibit 85, FCM's July Monthly Report].

161. The 1980 presidential general election campaigns of Ronald Reagan and Jimmy Carter were publicly financed. The Reagan and Carter Committees received $29.4 million from the United States Treasury. [26 U.S. § 9001, et. seq.].

162. Over $13.7 million was spent as independent expenditures to influence the 1980 presidential race by political committees, individuals, and other groups. [Exhibits 57 and 115].

163. Over $12.2 million was spent as independent expenditures by political committees, individuals, and other groups, on behalf of Ronald Reagan for president during the 1980 election cycle. [Id.].

164. In addition to the $12.2 million spent on behalf of Ronald Reagan, an additional $747,000 was spent against Reagan's 1980 presidential opponents. [Id.].

165. As of July 1, 1983, there were 3,461 political committees eligible to make independent expenditures for the 1984 presidential election. [FEC Data Base].

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*/ Operating expenditures include, but are not limited to, salaries, fundraising, travel and administrative costs and other non-allocable costs.

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166. For the 1979-80 election cycle the following political committees reported spending the most money on independent expenditures:

1.	Congressional Club	$ 4,601,069
2.	NCPAC	3,307,962
3.	Fund for a Conservative Majority	2,062,456
4.	Americans for an Effective Presidency	1,270,208
5.	Americans for Change	711,856
6.	NRA Political Victory Fund	441,891
7.	Christian Voice Moral Government Fund	406,199
8.	1980 Republican Presidential Campaign Committee	314,740
9.	American Medical Political Action Committee	172,397
10.	Gun Owners of America Campaign Committee	119,891

[Exhibits 57 and 115].

167. For the 1979-80 election cycle the following individuals reported spending the most money on independent expenditures:

1.	Cecil R. Haden	$ 599,333
2.	Stewart Rawlings Mott	110,179
3.	Norman Lear	108,301
4.	Richard M. Devos	70,575
5.	Fay Van Andel	68,433
6.	Theo N. Law	66,230
7.	David B. Melville	35,159
8.	Henry C. Grover	29,076

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9.	Michael Rosen	25,940
10.	Dwight G. Vedder	20,000

[Exhibits 57 and 115].

168. In 1978, FCM received 22 contributions between $500 and $1,000, 2 contributions between $1,001 and $2,500, and 1 contribution between $2,501 and $5,000. [FEC Records].

169. In 1980, FCM received 265 contributions between $500 and $1,000, 15 contributions between $1,001 and $2,500, and 9 contributions between $2,501 and $5,000. [Id.].

170. In 1982, FCM received 157 contributions between $500 and $1,000, 13 contributions between $1,001 and $2,500, and 7 contributions between $2,501 and $5,000. [Id.].

171. In 1983, FCM has received 27 contributions between $500 and $1,000, and 61 contributions between $1,001 and $2,500. [Id.].

172. From 1978 to the present, FCM has received 471 contributions between $500 and $1,000, 91 contributions between $1,001 and $2,500, and 17 contributions between $2,501 and $5,000. [Id.].

173. Independent expenditures by PACs, individuals and other groups exceeded $2 million for the 1975-76 election cycle (figures are approximated and unverified). A total of $1.6 million was spent to influence the presidential race. [Exhibit 68, FEC Press Release, 10/9/80].

174. For the 1979-1980 election cycle, 51 individuals spent over $1,000 to influence the 1980 presidential election. [Exhibit 134, Affidavit].

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175. These 51 individuals spent over $1.7 million to influence the 1980 presidential election. [Exhibit 134, Affidavit].

F. Common Vendors

176. The Reagan for President Committee and the Reagan/Bush Committee as well as NCPAC and FCM employed many of the same vendors. The Reagan for President Committee employed these vendors to assist in the 1980 presidential campaign while NCPAC and FCM used many of the same vendors while making independent expenditures on behalf of Ronald Reagan for president during the 1980 election.

177. Ed Nichols Associates, a direct mail firm, was performing services as early as August, 1979, through July, 1980, for the Reagan for President Committee, in September, 1980, for the Reagan/Bush Committee, and as early as November, 1980, for NCPAC. [Exhibits 73, 101 and 102].

178. Arthur J. Finkelstein was on the Board of Directors of NCPAC in 1979. [Exhibit 6, NCPAC's Annual Report].

179. Arthur J. Finkelstein was the chief political pollster for NCPAC during the presidential election of 1980 and continued in that capacity through 1981. [Exhibit 37, Washington Post, 12/31/81, Emory article; Exhibit 78, Dolan's depo. p. 94].

180. Arthur J. Finkelstein and Associates, a political consulting firm owned by Arthur J. Finkelstein, performed services for the Reagan for President Committee as early as September, 1979, through February, 1980. This firm first provided political services to NCPAC as early as April, 1976. [Exhibits 78, 79 and 111].

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181. Arthur J. Finkelstein and Associates conducted political polls for NCPAC, FCM, and the Reagan for President Committee and the Reagan/Bush Committee during 1979-80. [Exhibits 52, 110 and 111].

182. The press has reported that Arthur J. Finkelstein and his firm, Arthur J. Finkelstein and Associates, received payments from NCPAC of $261,533 between 1975 and January, 1982. [Exhibit 11, The Sun, 7/13/83].

183. DELETED.

184. The press has reported that Richard Geske is a direct mail specialist. [Exhibit 11, The Sun, 7/1/82, p.45].

185. The press has reported that Richard Geske and the National Conservative Political Action Committee - State Election Fund, a NCPAC affiliate, were joint owners of Mediamerica, Inc. during the period of 1978-79. [Id.].

186. The press has reported that Richard Geske bought NCPAC State Election Fund's share in Mediamerica, Inc., during 1979. [Id.].

187. Richard Geske's firm Mediamerica, Inc., received payments from NCPAC totalling $1.3 million between 1975 and January, 1982. This figure represents approximately 12% of NCPAC's total operating funds for these years. [Exhibit 11, Sun, 7/13/82; Exhibit 80, Dolan's depo., p. 88].

188. Mediamerica, Inc., a media production and advertising firm, provided services to the Reagan for President Committee as early as January, 1980 through October, 1980, and for NCPAC as early as April, 1980 through November, 1980. [Exhibits 80, 108 and 110].

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189. The press has reported that Rhonda Stahlman was director of NCPAC's lobbying arm, Conservatives Against Liberal Legislation (CALL). She held this position from 1978 to 1982. [Exhibit 11, The Sun, 7/13/82, p. 45].

190. Rhonda Stahlman was a member of Mediamerica's Board of Directors from 1979 through 1982. [Id.].

191. Rhonda Stahlman was a member of both NCPAC's Board of Directors and Executive Committee from 1979 to 1983. [Exhibit 7, NCPAC's Annual Reports; Exhibit 10, Dolan depo., p. 13].

192. John T. Dolan, Rhonda Stahlman, and Dolan's sister, Maiselle Shortley, all acted as unpaid members of Mediamerica's Board of Directors. [Exhibit 11, The Sun, 7/13/82].

193. John T. Dolan was a member of the Mediamerica's Board of Directors from 1978-79. [Id.].

194. Maiselle Shortley, John T. Dolan's sister, was Vice President and a member of the Board of Directors of Mediamerica, Inc., from the company's inception in 1978 through 1982. [Exhibit 81, Mediamerica's Annual Report].

G. Additional Facts

195. According to FCM, the Committee received the following contributions during the following years:

Year	Number of Contributions	Total Dollar Amount
1983 (to date)	38,549	$1,057,176.00
1982	82,107	1,707,347.00
1981	49,060	949,705.00
1980	100,353	2,526,824.00
1979	8,619	168,493.00
1978	14,862	208,058.00

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196. Exhibit 139 sets forth the costs of placing ads in various forms of media. The information contained in this exhibit is incorporated herein by reference.

197. Exhibit 140 is a videotape of a commerical entitled "Ronald Reagan's America" which was produced and financed by NCPAC and which has been and will be used during the 1984 presidential cycle.

198. On July 24, 1979, then-candidate Ronald Reagan sent to FCM a mailgram requesting that FCM immediately stop its independent effort. [Exhibit 141].

199. Twenty-five labor unions and five incorporated membership organizations reported spending a total of $2.2 million on partisan communications directed to their members during the 1981-82 election cycle. [Exhibit 142, FEC newsletter, Vol. 9, #10, October 1983].

200. The Internal Revenue Service has reported that in 1977, only 29% of those taxpayers who filed income tax returns chose to have $1.00 of their taxes earmarked for the Presidential Election Campaign Fund Act. In 1981, the last year for which figures are available, 48.2% of returns were marked "no" and 26.1% were marked "yes" to the questions whether $1.00 of a taxpaper's tax liability should go to the Fund. [Exhibit 143, "Campaign Practices Reports," Congressional Quarterly, Vol. 10, #7, 4/11/83].

201. Although only a minority of taxpayers check the "yes" presidential campaign box, the election fund is in no financial difficulty. The presidential fund had a total of $153.4 million at the end of 1982. [Id.].

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202. During the 1979 election cycle, NCPAC received contributions from approximately 101,000 contributors. During the 1981-82 election cycle, NCPAC received contributions from approximately 143,000 contributors. [Review of NCPAC's contributor data base].

Respectfully submitted,

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THE WASHINGTON POST -
August 10, 1980

(front page of Style Section in Sunday paper)

The New Right Brigade

John Terry Dolan's NCPAC Targets Liberals And the Federal Election Commission

By Myra MacPherson

GROUPS LIKE ours are potentially very dangerous to the political process. We could be a menace, yes. Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in politics. We could say whatever we want about an opponent of a Senator Smith and the senator wouldn't have to say anything. A group like ours could lie through its teeth and the candidate it helps stays clean."

So speaks John Terry Dolan, 29, one of the foremost leaders of the New Right. A collection of far right groups, they have become a phenomenon in this election year. They are the "independent expenditures" brigade. They have been denounced by liberals and some mainstream conservatives alike. Dolan is chairman of the National Conservative Political Action Committee (NCPAC). It is, according to preliminary Federal Election Commission reports from January 1979 until this June, the leader of all PACs in gross receipts—over $4 million. "We're bugging the hell out of them," says Dolan, with a self-satisfied grin.

A short, slim, mustachioed young man, Dolan proudly shows off his suite of offices in Arlington, where he creates his "attack" ads, brochures and fund-raising pleas, collecting and spending thousands a month. NCPAC is active on two fronts. (1) Targeting six liberal Democratic senators— Frank Church, George McGovern, Alan Cranston, John Culver, Birch Bayh and Thomas Eagleton—spending almost $700,000 on predominately negative advertising. (2) It is one of five committees dedicated to raising millions in support of Reagan's candidacy.

Dolan goes after his opponents with the ferocity of an enraged terrier; senators hit by his ads howl that they are spurious, distorting, often inaccurate, and that there is at very least a tacit acceptance of Dolan's function by some of their opponents. Let them howl, says Dolan. For Dolan is not only finding loopholes in the Federal Election Reform law, he is taunting the FEC, the lawmakers and everyone else. "It's a stupid law. They're gonna take me kicking and screaming to jail before I stop my activities. Look," says Dolan, punching out his sentences in fast bursts, revealing his true intention in a repeated battle cry, "we're saying 'come and get us.' That law should go."

Dolan's theories often have an interesting simplicity to them. Take government management, for instance. He scathingly says Reagan does not go far enough with proposed budget and tax cuts. The federal budget, under Dolan, would be doled out this way: "99 percent for Defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

Critics of the New Right decry what they perceive as a no-compromise, no-accommodation stance. Liberal George McGovern calls them members of the new right, "angry and intolerant, equally incapable of believing that they can be mistaken or that those with whom they disagree might have honorable intentions. They call themselves 'conservative' but their zealotry, self-righteousness and vindictiveness toward those with whom they disagree connote something radically different from authentic conservatism."

And some Republican officials have characterized NCPAC as a "loose cannon on the deck." William Brock, national chairman of the Republican Party, commented, "You can't build a party around those emotional social issues. The New Right groups draw attention in Congress away from the broad issues of tax reduction, job creation, health care, housing—the American Dream issues."

Says Dolan: "Brock should have been fired long ago." Dolan once said, "The Republican Party is a fraud. It's a social club where the rich people go to pick their noses."

What are NCPAC and other similar groups managing to do, and why is everyone so angry? And why have lawsuits, charges and counterchargs been flung with all the regularity of campaign promises? A brief explanation:

● The staggering facts department of elections, American style, revealed that in 1972 a mere 153 individuals contributed $20 million to President Nixon's campaign. Reacting to Watergate and such contribution practices, Congress passed the 1974 Election Reform Act. Individuals can contribute only $1,000 per election to a candidate for federal office, including president. And groups like NCPAC are allowed to contribute $10,000 directly to a Congressional and presidential candidate ($5,000 primary and $5,000 general. Once a Democratic or Republican presidential nominee accepts federal funds, private contributions are prohibited. But now, in 1980, various "independent" groups—including NCPAC—are gleefully spending millions to defeat senatorial candidates and additional millions on Ronald Reagan's campaign. How so?

● In 1976 a collection of odd couples in politics—from leftist Eugene McCarthy to rightist James Buckley, from the ACLU to Human Events, the conservative weekly—challenged the election reform law on the ground that it violated their first amendment rights. The Supreme Court ruled in basically upholding the act that independent groups cannot be prohibited from spending any money in support of or in opposition to a candidate so long as there is no *collaboration or cooperation* between the campaign and the people making these independent expenditures.

● Now enter the "independents"—who have seized upon this loophole to spend their millions. These PAC's differ from corporate and labor union PAC's. Independents can, as one FEC official said, "solicit the world," reaching out to the public while corporate and labor union PACs can only go to a targeted group for their money—the corporation to its stockholders, executives and administrative personnel; the union to its membership. In addition to its activity in senatorial races, NCPAC is one of five committees aiming to raise from $35 to $55 million to support Reagan's candidacy. Reagan has already picked up his $29.4 million check from the U.S. Treasury. The Reform law said that was all he was supposed to get. But NCPAC and other groups (which include among them longtime Reagan supporters Senators Jesse Helms and Harrison Schmitt, who were Reagan delegates at last month's convention) say they are independent enough to raise the megabucks on Reagan's behalf. Dolan's "Ronald Reagan Victory Fund" plans to spend $4 million (they spent almost $100,000 last month alone) and Dolan proudly claims, "We're the first of the independen-

A sample of the size: "In 1976, Jimmy Carter said, 'Why Not the Best?' That's what he said. Now look what he gave us: Andy Young, the man who called Ayatollah Khomeini a saint, forced to resign after lying to the president; Bert Lance, forced to resign for questionable banking practices; Peter Bourne, forced to resign for supplying drugs to a White House staffer."

A definition of "independent" is a sometime thing. Terry Dolan has more than a passing awareness of Ronald Reagan. NCPAC filed with the FEC in 1975 and a few months later a personal letter from Reagan asked his legion of supporters all over the country to support the Virginia-based outfit. "He is," claims Dolan, "one of the main reasons NCPAC is here today." Terry Dolan's brother works for the Reagan campaign. Dolan's chief pollster, Art Finkelstein, does work for Reagan. Dolan is co-owner of an Alexandria office building along with longtime Reagan aide Lyn Nofziger; Paul Russo, a 1980 Reagan campaign staffer; and Roger Stone, Reagan's northeast coordinator in the primaries and now a consultant to Reagan and former NCPAC treasurer. A tenant is Richard Viguerie—NCPAC's virtual creator and right-wing fund-raising czar for Reagan as well as many of the independent expenditure groups. A network of friendship and contacts began when most were Yaffers (members of Young Americans for Freedom.) "There is no crime in being friends," argues Dolan.

The Democratic National Committee charges in its complaint to the FEC that all this coziness of New Right leadership forms a "seamless web" and that they are "probably incapable of acting truly independently of each other." Common Cause is suing one of the committees, Americans for Change. (Arguments will be heard this week.) "There is collusion in this," charges DNC Chairman John White. "It's the same old heavy-handed misuse of the political system." Archibald Cox, chairman of Common Cause, claims such independent groups "threaten a return to the old Watergate tactics and influence of money in politics."

Dolan says he makes few moves without checking it out first with his lawyers. "We got an advisory opinion from the FEC which says the use of polling data is not an 'independent expenditure' it's an 'operating expense.' So whether Finkelstein does stuff for us and Reagan is beside the point. I know it's a ridiculous ruling but the [illegible] is stupid. We asked them the nine [illegible]est questions we could think of [illegible] what constitutes 'independent' and they came up with nine of the stupidest answers. The lawyers check over our ads for libel. So if Andy Young wants to sue, sue."

So the challenge goes on as to whether these groups of friends are independent (they claim they do not consult with Reagan or his staff). Fred Wertheimer of Common Cause contends, "If they figure out a way not to make direct contact, their actual philosophy is one of coordination and it is quantitatively different from a truly independent guy out in Des Moines taking out a full-page ad because he likes the candidate."

In a display of candor, Jesse Helms—the Patron Saint of NCPAC—allowed as how at the Republican convention it's been an "awkward situation" since the federal election law "forbids me to consult with him [Reagan]. I've had to, sort of, talk indirectly with [Sen.] Paul Laxalt [Reagan's national campaign chairman]." Helms drawled, "I hope that he would pass along, uh, and I think the messages have gotten through all right." Dolan says his commercials will "depend on the Reagan campaign strategy." And how is he [illegible] the

The chuckles in NCPAC circles are long and loud. But for those who see a troublesome subversion of the intent of the law, it is no laughing matter. Says Wertheimer, "NCPAC and Dolan and these other groups are out to destroy campaign financing laws. They want to eliminate the parts that have been effective. Today you don't see huge sums from single contributors looking for favors. These groups want to unravel the whole process and get back as quickly as they can to the big spender days when 153 individuals contributed $20 million to Nixon."

As for the FEC, its critics form a long line; the agency seems to have all the clout of a moth hitting a summer screen. One FEC official admitted that the battle could drag on indefinitely, that the FEC, with its makeup of three Democrats and three Republicans, is leery of "interjecting itself. Either way it acts it's going to be perceived as political." With a sigh, he delivered a true bureaucrat's lament, "This is a very strange place. We've achieved this distinction of being disliked by everybody—those who think we can do something and those who think we can't."

Dolan sits in his office in front of pictures of some of the senators he's targeted this year. The hair is close clipped, the mustache trim. From time to time, Dolan opens his bottom drawer, gets out a roll of toilet paper, rips off a few pieces, blows his nose and puts the roll back.

Some of Dolan's views sound like slogans of raw anger. "The biggest threat to America—it isn't the commies, it isn't the oil companies. The biggest problem is the United States government. The U.S. government has done more to destroy the American spirit." "There's nothing unjustified in ridding the world of Fidel Castro. He's the same as Idi Amin. The only difference is one has a beard," and then the smile, "and one has darker skin." He admires William Buckley because he can "knock anybody down in two seconds." He admires "the strength of a Patton or a MacArthur." Carter is "our weakest president ever." It is easy to get around the FEC because "they're a bunch of mindless bureaucrats who know less about the first amendment than they do politics."

Dolan says "Liberals never bother to find out if conservatives are right. Take a voucher system for education—if you paid for private education, you'd get tax breaks." How would that help families with children in public schools? "Who said it would?" Well, what if you can't afford private schools? "Well, that's who public school is for," he says, indifferently.

Dolan is also for getting the government out of nearly everything that doesn't please him. Federal social programs should be done away. "Say next year we cut all food stamps. It would take moral courage, if that's what it takes, to, if you were a local politician, decide your *state* was going to give out food stamps. Gov. Carey, say, is going to have to have the courage to give out the food stamps, not the federal government. Of course, I don't think people should *starve* in America. But our system discourages *responsibility*."

A special scorn is reserved for the liberal targets of his negative advertising—Senators Church, McGovern, Bayh, Cranston, Eagleton, Culver. "I like to see 'em squirm. They deserve it." Dolan proudly points to his polls that show Church and McGovern behind, and thinks there is a good chance "at least two, possibly four, can be defeated. It's just possible that the conservatives could take control of the Senate."

Dolan has been called everything from irresponsible to sleazy by those he targets. A few years ago his heavily negative exposés would have been considered on the fringe. RNC Chairman Brock has denounced the independent approach as detrimental to the RNC mainstream fund-raising. Dolan means, "Every chance he's got Brock tries to screw Reagan. He's frustrated by jealousy. We're raising the funds. We're on the cutting edge of politics."

Lest one confuse Dolan with mainstream Republicanism, Dolan hastens to thumb his nose at both parties. "The only difference between Republicans and Democrats on a presidential level is the Democrats tell you they're going to screw you and the Republicans tell you they're not going to screw you—and do it anyhow."

He likes to appear impervious to the charges leveled at him. "I'm not after respectability. That doesn't bother me. The only thing I care about is if we're effective. I'm absolutely convinced our negatives on Carter will stick. We've got a couple more 'attack spots' planned." One will include Billy Carter. Ethnics and southern accents will be prominent as Dolan develops plans for his rural markets, but there will be no blacks. "Let Brock spend the RNC's money to try to get that vote," he said.

Some Reagan aides murmur that Reagan privately wonders if Dolan and others like him will create a backlash with their negative advert[illegible] but Reagan so far has done not[illegible] publicly disavow them.

Dolan's ads are more of [illegible] not "against" a candidate, [illegible] "for" someone. Alan Cra[illegible] book "Thunder on the Right[illegible] New Right the "politics of [illegible]ment."

Dolan retorts, "I know I'm screwed up, but at least I admit it. That's more than I can say for the author of that silly book."

Dolan seldom loses his cool but one subject that causes a bit of nervous fumbling is something his opponents discovered last week. NCPAC had not reported a single itemized contribution since October 1979—despite over $2 million in receipts. Dolan admits the omission. "I just found that out! We're going to take immediate action; of course we're going to amend the reports," he says quickly. "It was just a comedy of errors," he contends. "We had, ah, a new bookeeper and she just discontinued itemizing them." (According to federal statute, any contribution over $200 has to be itemized; failure to do so could be ruled a serious violation of disclosure laws.) "I just don't know what happened. We're not trying to hide anybody. We don't have any H.L. Hunts. I wish we did. Joe Coors has contributed but not this year."

One irony is that the very law he lambastes, created the Dolans and Viguerie. The direct mail mills (Viguerie has a reported 5 million names) sprang up when small doners became vital to campaigns after large individual contributions were ruled out.

Opponents accuse Dolan of bending and distorting the facts. Dolan himself seems to indeed have a cavalier attitude toward some of the details in his advertising.

• In a spoof of the Dating Game, Dolan put together a minute radio spot called The Rating Game. It was used against Cranston, Bayh, McGovern, Church and Culver. In each ad there is a "Mrs. Verna Smith"—from Sacramento in one, Indianapolis in another, and so on. "Oh yeah, that name appeared in all the ads. It's a phony name, but I don't think anyone listening to the ad would take it seriously."

cut off funds for the neutron bomb. Eagleton, in fact, supported only one restriction on the neutron bomb. Shrugs Dolan, "We had corrections passed out at that time. We sent letters to radios and newspapers and said we did make a couple of mistakes in the analysis of the record—but that just proves he doesn't vote all bad all the time. They're just trying to discredit us. Want to make out we're schnooks."

"It is easy to get around the FEC because 'they're a bunch of mindless bureaucrats who know less about the First Amendment than they do about politics.' "

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"The federal budget, under Dolan: 'Ninety-nine percent for Defense—keep America strong—and one percent on delivering the mail. That's it. Leave us alone.'"

• Dolan also plans a half-hour film using Ronald Reagan. That'll drive the FEC crazy. It's a part of his acceptance speech. I think we are violating the regulation—it says you cannot rebroadcast something of the candidate—but as far as I'm concerned, the regulation is unconstitutional," says Dolan.

• An exasperated Frank Church accused Dolan of "scummy tactics" and was successful in getting NCPAC to withdraw an ad that erroneously accused him of voting to increase his Senate pay. Another ad—which stayed on—showed an empty missile silo and stated that because they were empty "they won't be of much help in defense of your family or mine. You see, Senator Church has almost always opposed a strong national defense . . ." The obvious implication was that Church's votes had emptied out that silo— even though it had been made obsolete by a more advanced weapons system. "Innuendo? Sure," says Dolan. "But I have absolutely no ethical qualms about that. It's symbolic of his record."

• Ads against George McGovern charge that he is a "baby killer" (he is pro-choice) and one has him in the gunsights as a 1980 target. "That's not our stuff, even though he is a baby killer. We wouldn't use such rhetoric. McGovern in the gunsight, I don't see anything wrong with that. It was not intended to mean you ought to shoot McGovern." Who did those ads? A man named Dave Bell. "Well, Bell used to be an employe of ours—but not in this campaign." Some NCPAC ads attack McGovern as favoring "a gas tax that could reach 50 cents a gallon . . . and voting "against energy tax incentives." McGovern staffers protest "that's dead wrong. He has never proposed such a tax measure in the Senate." To that Dolan says, "Well, he supported Anderson's plan." Back to the McGovern staff: "He never did! And McGovern has cosponsored measures and voted for energy tax credits for individuals and companies installing energy conservation devices." Dolan says "They're lying."

• Dolan uses The American Farm Bureau Federation, a right wing, anti-union group, to base his rating on farm votes. Senators he attacks howl that this distorts the vote and that Dolan should use the National Farmers Union rating. Dolan says, "That's just a pro-union, anti-business organization."

• When Dolan kicked off his Get Eagleton campaign, the senator's staff fired off a letter to Dolan: "Your 'analysis' of the Eagleton record which you distributed yesterday fully lives up to your earned reputation for inaccuracy, distortion and untruths." NCPAC castigated Eagleton for "giving $75 million of taxpayers' money in aid to revolutnary government in Nicaragua." Eagleton voted against aid to Nicaragua, his staff pointed out. NCPAC said Eagleton voted against the Hatfield amendment which would cut off funds for the neutron bomb. Eagleton, in fact, supported only one restriction on the neutron bomb. Shrugs Dolan, "We had corrections passed out at that time. We sent letters to radios and newspapers and said we did make a couple of mistakes in the analysis of the record—but that just proves he doesn't vote all bad all the time. They're just trying to discredit us. Want to make out we're schnooks."

• In a last winter fund-raising letter to "stop Kennedy," Dolan charged that Kennedy "can legally spend as much of his own money [on his own campaign] as he wants—and he's got millions." When asked about it, Dolan seemed vague about the details, even though he signed the letter. This is, of course, inaccurate, as Kennedy had applied for matching funds and is therefore limited to spending $50,000 of his own money. "Oh, our statement was an accurate statement of the law—we didn't mention matching funds. It's all so incredibly irrelevant."

Dolan's father was manager of the Sears Roebuck store when he was growing up in Fairfield, Conn. Irish Catholic—except for "one quarter Swiss"—Dolan learned about politics early. His mother ran for local office when he was young. At first the Dolans were Democrats but switched to the GOP. "They even voted for Jack Kennedy because he was Irish," Dolan recalls. Dolan attended private high school in Connecticut and then Georgetown University. "I managed to survive four years of their (Georgetown's) socialist doctrine," he says witheringly (1968 to 1972). Dolan was in school during the Vietnam War although he "firmly believed it was a moral duty, trying to resist communist agression." Dolan was heavy in the Yaffer movement and in such counter-protests as Honor America Day.

He majored in government and German.

His brother, Anthony, went on to become a Pulitzer Prize-winning journalist and Dolan drifted more to the right in his interests. "I used to be a Republican. I used to be a political hack, but then in 1972, it was like a sexual awakening. I couldn't understand these strange urgings to do conservative things. On the ballot I saw John Schmitz [the American Party presidential candidate who once quipped that he had "gone pretty far in life for a Catholic Bircher with a mustache"] and I had this urge to pull the lever."

Dolan worked for right wing causes and then got in on the ground floor when NCPAC was formed in 1975—along with Charles Black, a former Helms aide who worked for Reagan until he was fired along with campaign chairman John Sears this spring. Dolan describes NCPAC as a "central bureau" to help conservatives—both Democrats and Republican. Helms was "the prime mover. He gave us credibility." A huge stockpile of lists and names in Viguerie's and Helms' possession were fed into the NCPAC operation. "Helms just went to his magic computer," says Dolan. The appeals are often on emotional social issues. "Oh, no question," says Dolan. "It is a perfect list for anti-abortion, anti-ERA, anti-gun control and pro-Human Events [magazine]."

Dolan acknowledges that NCPAC was a creation of Dick Viguerie. "In 1978 about 90% of our money was Viguerie-raised. Now he does about 50% —probably a little over $2 million by the end of the year." At one time he was heavier in debt to Viguerie but now says NCPAC owes "only about $50,000."

There seems to be no getting around Dolan's luck with the FEC—the group he constantly belittles. The South Dakota Democratic party filed a suit challenging Dolan's independent status, charging that he openly encouraged Jim Abdnor to run against McGovern. "I know we did," says Dolan with a chuckle. "We admit it. He admits it. We just led him up to the nomination. We got an advisory from the FEC that we could do it." The FEC has reportedly decided to rule 4-2 to dismiss the suit.

Dolan rents a villa around his empire—a whole floor of an Arlington office building. Next to his office is National Conservative Research and Education Foundation and next to that is Conservatives Against Liberal Legislation (CALL). Dolan is on the board of directors. Rhonda Stahlman, who runs CALL, a lobbying outfit, can be heard on Dolan's telephone. A handful of volunteers are working xerox machines; there are "Nuke Now" signs around.

"There is a commonality of board of directors but we keep the finances separate. We used to do post-election analysis—but why should NCPAC do it when a tax deduction agency [his research outfit] can do it? It's totally legitimate. Sure we use the information in upcoming elections but there is nothing wrong with that."

There is, in fact, a real sense of expansiveness as Dolan brags, "Nothing that NCPAC does is illegal. If we went out of business tomorrow I could pocket everything. Of course, I wouldn't—but I could. Why? Because the law makes no sense. They ought to scrap it." The smile is there to the last. "You can do what you want with PACs."

"It is easy to get around the FEC because 'they're a bunch of mindless bureaucrats who know less about the First Amendment than they do about politics.'"

Election Law Violations Admitted in '82 Race

By Thomas B. Edsall
Washington Post Staff Writer

Officials of the 1982 Senate campaign of Bruce F. Caputo in New York have admitted to the Federal Election Commission that they violated federal election law by working in coordination with the National Conservative Political Action Committee (NCPAC).

The admission, in a consent agreement with the FEC, could prove damaging to NCPAC, which specializes in controversial "independent" campaigns against liberal candidates and in support of conservative ones.

The consent agreement declares that the "independence" of a NCPAC campaign against Sen. Daniel Patrick Moynihan (D-N.Y.) was "compromised" by illegal ties to the Caputo camp.

However, NCPAC officials reject any suggestion of illegal activity, and intend to fight the case through FEC proceedings and in court, if necessary, according to Craig Shirley, a spokesman for the group.

Shirley, who confirmed the FEC agreement, said the Caputo campaign was forced by lack of funds to give up fighting the case.

In the agreement, the Caputo campaign agreed to pay a $3,000 fine. Attempts to reach officials of the campaign were unsuccessful.

By law, organizations such as NCPAC may spend unlimited sums for or against federal candidates as long as the expenditures are made without consultation with the campaign that benefits from them. The FEC consent agreement raises questions about NCPAC's claims that it has run independent campaigns.

In 1982, Caputo, a former Republican House member, entered the GOP senatorial primary with the intention of challenging Moynihan, the Democratic incumbent, in the general election. At the same time, NCPAC conducted an independent campaign against Moynihan budgeted at $750,000, although only $73,775 was spent.

In the consent agreement, which has not been made public, Caputo campaign officials acknowledged that Robin R. Martin, the chairman of NCPAC's anti-Moynihan campaign, attended "some of the staff meetings of the Caputo for Senate Committee."

In addition, Caputo and NCPAC hired the same pollster, Arthur Finkelstein & Associates, to conduct surveys and provide advice. The New York Democratic Committee, which originated the FEC complaint against NCPAC and the Caputo campaign, charged that the similar rhetoric of the two campaigns suggested illegal collusion.

Both campaigns came to an abrupt halt in March, 1982, when it was disclosed that Caputo had exaggerated claims concerning his military service and academic training. The disclosures forced Caputo to drop out of the race for the GOP nomination.

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