FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 2063

Date Filmed 6/17/86 Camera No. --- 2

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FEDERAL ELECTION COMMISSION

~~Blue cards~~ Routing cards

Circulation Memo placing items on agenda
Conciliation agreement
Discussion of C.A.

12 day pre-brief + comment
12 day report + comments

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 [signature]

date June 3, 1986

FEC 5-21-77

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 24, 1986

Mr. Kirby Edmonds, acting treasurer
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Kirby Edmonds
as acting Treasurer

Dear Mr. Edmonds:

On March 19 1986, the Commission accepted the conciliation agreement signed by you in settlement of a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended.

Accordingly, the file has been closed in this matter and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

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GCC#9839

RECEIVED
OFFICE OF THE
GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

86 FEB 26 P5:01

In the Matter of	)	
	)	
The Citizens Party and Kirby Edmonds, as acting treasurer	)	MUR 2063
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Citizens Party and Judi Gerhardt, as treasurer, ("Respondents") violated 2 U.S.C. §§ 434(b)(2)(A) by failing to report a $15,000 contribution, 2 U.S.C. § 434(b)(3)(A) for failing to identify the contributor, and 2 U.S.C. § 434(b)(4)(A) for failing to report disbursements from the $15,000 ballot access fund.

NOW, THEREFORE, the Commission and Respondents, having duly entered into conciliation, pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, The Citizens Party, is a political committee not authorized by a candidate.

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2. Respondent, Kirby Edmonds, is the acting treasurer of the Citizens Party. Mr. Edmonds became acting treasurer on January 7, 1986.

3. A member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund."

4. The Executive Committee member opened an account and designated a Sonia Johnson campaign member to draw from the account.

5. The Executive Director of the Citizens Party was aware that the $15,000 ballot access account had been opened.

6. The $15,000 was a contribution to the Citizens Party.

7. The Citizens Party failed to report the contribution of $15,000, received by the Executive Committee member, in violation of 2 U.S.C. § 434(b)(2)(A).

8. The Citizens Party failed to identify the single donor, who contributed the $15,000, in violation of 2 U.S.C. § 434(b)(3)(A).

9. The Citizens Party made disbursements from the $15,000 ballot access fund and failed to report those disbursements in violation of 2 U.S.C § 434(b)(4)(A).

V. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of one thousand five hundred dollars ($1,500), pursuant to 2 U.S.C. § 437g(a)(4)(A). The civil penalty shall be paid in three (3) installments of five

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hundred dollars ($500). The first installment shall be due upon receipt of the executed conciliation agreement, the second installment shall be due sixty (60) days from the date the conciliation agreement is signed by the Associate General Counsel, and the third installment of the civil penalty shall be due one hundred twenty (120) days from the date the Associate General Counsel signs the conciliation agreement.

VI. Respondents shall amend their reports to disclose the $15,000 contribution, to identify the donor of the $15,000 contribution, and to report the disbursements from the $15,000 ballot access fund.

VII. Respondents agree not to undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date all parties hereto have executed the same and the Commission has approved the entire agreement.

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X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: _____ March 20, 1986
Kenneth A. Gross
Associate General Counsel
Date

FOR THE RESPONDENTS:

_____ February 26, 1986
Kirby Edmonds, Acting Treasurer
The Citizens Party
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Kirby Edmonds, acting treasurer
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Kirby Edmonds
as acting Treasurer

Dear Mr. Edmonds:

On 1986, the Commission accepted the conciliation agreement signed by you in settlement of a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended.

Accordingly, the file has been closed in this matter and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

SB 3/20/86

86040593187

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2063
The Citizens Party and	)	
Kirby Edmonds as	)	
acting treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 19, 1986, the Commission decided by a vote of 5-0 to take the following actions in MUR 2063:

1. Accept the proposed conciliation agreement with the Citizens Party and Kirby Edmonds as acting treasurer, as recommended in the General Counsel's Report signed March 13, 1986.

2. Close the file.

3. Approve the letter attached to the General Counsel's Report signed March 13, 1986.

Commissioners Aikens, Elliott, Josefiak, McDonald and McGarry voted affirmatively for this decision; Commissioner Harris did not cast a vote.

Attest:

3-19-86
Date

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

Received in Office of Commission Secretary:	Mon.,	3-17-86,	10:13
Circulated on 48 hour tally basis:	Mon.,	3-17-86,	4:00
Deadline for vote:	Wed.,	3-19-86,	4:00

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FEDERAL ELECTION COMMISSION

In the Matter of)
)
The Citizens Party and)
Kirby Edmonds as)
acting treasurer)

MUR 2063

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On July 17, 1985, the Commission notified the Citizens Party (the "Committee") and Judi Gerhardt, as treasurer, 1/ that there was reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4). On February 4, 1986, the Commission found probable cause to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4). Post-probable cause to believe conciliation was entered into pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

1/ Judi Gerhardt was the treasurer of record when the Commission determined that there was reason to believe a violation had occurred and she was also the treasurer of record when the Commission found probable cause to believe a violation had occurred. On January 7, 1986, Kirby Edmonds became acting treasurer for the Citizens Party. Therefore, Mr. Edmonds has been substituted for Ms. Gerhardt as a respondent in this matter.

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III. RECOMMENDATIONS

1. Accept the proposed conciliation agreement with the Citizens Party and Kirby Edmonds as acting treasurer.

2. Close the file.

3. Approve the attached letter.

Charles N. Steele
General Counsel

March 13, 1986
Date

BY: Kenneth A. Gross
Associate General Counsel

Attachments
1. Proposed conciliation agreement with the Citizens Party and Kirby Edmonds as acting treasurer
2. Letter to Mr. Kirby Edmonds

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	96 FEB 26 P5:01
	)	
The Citizens Party and Kirby Edmonds, as acting treasurer	)	MUR 2063
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission (hereinafter "the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Citizens Party and Judi Gerhardt, as treasurer, ("Respondents") violated 2 U.S.C. §§ 434(b)(2)(A) by failing to report a $15,000 contribution, 2 U.S.C. § 434(b)(3)(A) for failing to identify the contributor, and 2 U.S.C. § 434(b)(4)(A) for failing to report disbursements from the $15,000 ballot access fund.

NOW, THEREFORE, the Commission and Respondents, having duly entered into conciliation, pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents, and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, The Citizens Party, is a political committee not authorized by a candidate.

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2. Respondent, Kirby Edmonds, is the acting treasurer of the Citizens Party. Mr. Edmonds became acting treasurer on January 7, 1986.

3. A member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund."

4. The Executive Committee member opened an account and designated a Sonia Johnson campaign member to draw from the account.

5. The Executive Director of the Citizens Party was aware that the $15,000 ballot access account had been opened.

6. The $15,000 was a contribution to the Citizens Party.

7. The Citizens Party failed to report the contribution of $15,000, received by the Executive Committee member, in violation of 2 U.S.C. § 434(b)(2)(A).

8. The Citizens Party failed to identify the single donor, who contributed the $15,000, in violation of 2 U.S.C. § 434(b)(3)(A).

9. The Citizens Party made disbursements from the $15,000 ballot access fund and failed to report those disbursements in violation of 2 U.S.C § 434(b)(4)(A).

V. Respondents will pay a civil penalty to the Treasurer of the United States in the amount of one thousand five hundred dollars ($1,500), pursuant to 2 U.S.C. § 437g(a)(4)(A). The civil penalty shall be paid in three (3) installments of five

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hundred dollars ($500). The first installment shall be due upon receipt of the executed conciliation agreement, the second installment shall be due sixty (60) days from the date the conciliation agreement is signed by the Associate General Counsel, and the third installment of the civil penalty shall be due one hundred twenty (120) days from the date the Associate General Counsel signs the conciliation agreement.

VI. Respondents shall amend their reports to disclose the $15,000 contribution, to identify the donor of the $15,000 contribution, and to report the disbursements from the $15,000 ballot access fund.

VII. Respondents agree not to undertake any activity which is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date all parties hereto have executed the same and the Commission has approved the entire agreement.

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X. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be valid.

FOR THE COMMISSION:

Charles N. Steele
General Counsel

BY: _____ _____
Kenneth A. Gross Date
Associate General Counsel

FOR THE RESPONDENTS:

_____ February 26, 1986
Kirby Edmonds, Acting Treasurer Date
The Citizens Party

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. Kirby Edmonds, acting treasurer
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Kirby Edmonds
as acting Treasurer

Dear Mr. Edmonds:

On 1986, the Commission accepted the conciliation agreement signed by you in settlement of a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended.

Accordingly, the file has been closed in this matter and it will become a part of the public record within thirty days. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1986

Ms. Judi Gerhardt, Treasurer
c/o Mr. Kirby Edmonds
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

On February 4, 1986, the Commission determined that there is probable cause to believe the Citizens Party and you, as treasurer, committed a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with above-reference MUR.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion. If we are unable to reach an agreement during this period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Chris Petersen, the attorney assigned to this matter, at (202)376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

8604059317

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Judi Gerhardt, Treasurer
c/o Mr. Kirby Edmonds
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

On February 4, 1986, the Commission determined that there is probable cause to believe the Citizens Party and you, as treasurer, committed a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with above-reference MUR.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion. If we are unable to reach an agreement during this period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Chris Petersen, the attorney assigned to this matter, at (202)376-8200.

Sincerely,

Charles N. Steele
General Counsel

Ch 4/6/86
MB 4/6/86

Enclosure
Conciliation Agreement

8604059318

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and	)	MUR 2063
Judi Gerhardt, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 4, 1986, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2063:

1. Find probable cause to believe the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

2. Approve the conciliation agreement and letter attached to the General Counsel's report dated January 24, 1986.

Commissioners Aikens, Elliott, Josefiak, McDonald, and McGarry voted affirmatively for the decision; Commissioner Harris was not present.

Attest:

2/4/86
Date

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

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

EXECUTIVE SESSION

In the Matter of	)	
	)	
The Citizens Party and Judi Gerhardt, as treasurer	)	MUR 2063
	)	

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FEB 04 1986

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 24, 1985, the Office of General Counsel notified the Citizens Party ("Committee") and Judi Gerhardt, as treasurer, that it was prepared to recommend that the Commission find probable cause to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4). The Committee has not responded to the General Counsel's brief. Further, the Committee was notified on July 17, 1985, of the Commission's reason to believe finding and failed to respond.

II. LEGAL ANALYSIS

The Citizens Party and Judi Gerhardt, as treasurer have not responded to the General Counsel's brief; therefore, this Office is now prepared to recommend that the Commission find probable cause to believe that the respondents violated the Act. See General Counsel's Brief for MUR 2063, dated December 24, 1985.

III. RECOMMENDATION

1. Find probable cause to believe the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

2. Approve the attached conciliation agreement and letter.

24 January 1986
Date

Charles N. Steele
General Counsel

Attachments
1. Proposed Conciliation Agreement
2. Letter to Respondent

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 S. Esty Street
Ithaca, NY 14850

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

On , 1986, the Commission determined that there is probable cause to believe the Citizens Party and you, as treasurer, committed a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with above-reference MUR.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion. If we are unable to reach an agreement during this period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Chris Petersen, the attorney assigned to this matter, at (202)376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

Attachment 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1986

Ms. Judi Gerhardt, Treasurer
c/o Mr. Kirby Edmonds
National Citizens Party Office
P.O. Box 6883
Ithaca, NY 14851

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

On February 4, 1986, the Commission determined that there is probable cause to believe the Citizens Party and you, as treasurer, committed a violation of 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with above-reference MUR.

The Commission has a duty to attempt to correct such violations for a period of thirty to ninety days by informal methods of conference, conciliation and persuasion. If we are unable to reach an agreement during this period, the Commission may institute civil suit in United States District Court and seek payment of a civil penalty.

We enclose a conciliation agreement that this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact Chris Petersen, the attorney assigned to this matter, at (202)376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

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RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
SENSITIVE
90 JAN 8 P12: 32

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and	)	MUR 2063
Judi Gerhardt, as treasurer	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On July 17, 1985, the Commission notified the Citizens Party ("Committee") and Judi Gerhardt, as treasurer, that there is reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4). The Committee has not responded to the Commission's reason to believe finding.

II. LEGAL ANALYSIS

Mr. Frank M. Dunbaugh, an attorney representing the Citizens Party, and Mr. Charles L. Bowman, a National Committee member of the party, have informed the Commission in separate letters of various facts concerning a $15,000 check to a ballot access fund. Mr. Dunbaugh stated that on or around May 4, 1984 a member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member received the check, opened the account and designated a Sonia Johnson campaign member to draw from the account.

Mr. Bowman has informed the Commission that one of the individuals designated to draw from the $15,000 fund was a member of the Citizens Party and a Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot

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access account had been opened.

The Citizens Party must act through individuals. It would appear that the Executive Committee member acted as an agent of the Citizens Party when the Committee member accepted the check made payable to the "Citizens Party, Ballot Access Fund." Further, a member of the Citizens Party was designated to draw from the account and apparently the Executive Director of the Citizens Party had knowledge of the account. Given the extensive involvement of Citizens Party officials, it would appear that the $15,000 was a contribution to the Citizens Party. See 2 U.S.C. § 431(8)(A)(i).

The Citizens Party failed to report the contribution of $15,000 received by the Executive Committee member on or around May 4, 1984. Section 434(b)(2)(A), Title 2, United States Code, states that treasurers of political committees shall file reports which shall disclose for the reporting period and calendar year, the total amount of all receipts including contributions from persons other than political committees. Section 434(b)(3)(A), Title 2, United States Code, states that each report shall identify persons whose contributions are in excess of $200 within the calendar year. The Citizens Party failed to identify the single donor who contributed $15,000 on or around May 4, 1984. The Citizens Party also made disbursements that were not disclosed in apparent violation of 2 U.S.C. § 434(b)(4), which requires disclosure of disbursements made by political committees. Therefore, the Office of General Counsel recommends that the Commission find probable cause to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

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III. RECOMMENDATION

1. Find probable cause to believe the Citizeens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. SS 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4).

12/24/85
Date

/S/
Charles N. Steele
General Counsel

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OGC Docket

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and Judi Gerhardt, as treasurer	)	MUR 2063
	)	

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GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On July 17, 1985, the Commission notified the Citizens Party ("Committee") and Judi Gerhardt, as treasurer, that there is reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4). The Committee has not responded to the Commission's reason to believe finding.

II. LEGAL ANALYSIS

Mr. Frank M. Dunbaugh, an attorney representing the Citizens Party, and Mr. Charles L. Bowman, a National Committee member of the party, have informed the Commission in separate letters of various facts concerning a $15,000 check to a ballot access fund. Mr. Dunbaugh stated that on or around May 4, 1984 a member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member received the check, opened the account and designated a Sonia Johnson campaign member to draw from the account.

Mr. Bowman has informed the Commission that one of the individuals designated to draw from the $15,000 fund was a member of the Citizens Party and a Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot

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III. RECOMMENDATION

1. Find probable cause to believe the Citizeens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4).

12/24/85
Date

/S/
Charles N. Steele
General Counsel

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OGC Docket

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and Judi Gerhardt, as treasurer	)	MUR 2063
	)	
	)	

'90 JAN 8 P12:32

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On July 17, 1985, the Commission notified the Citizens Party ("Committee") and Judi Gerhardt, as treasurer, that there is reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4). The Committee has not responded to the Commission's reason to believe finding.

II. LEGAL ANALYSIS

Mr. Frank M. Dunbaugh, an attorney representing the Citizens Party, and Mr. Charles L. Bowman, a National Committee member of the party, have informed the Commission in separate letters of various facts concerning a $15,000 check to a ballot access fund. Mr. Dunbaugh stated that on or around May 4, 1984 a member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member received the check, opened the account and designated a Sonia Johnson campaign member to draw from the account.

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12/24/85
Date

/S/
Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1985

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, NY 14850

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities the Federal Election Commission, on July 17, 1985, found reason to believe that The Citizens Party and you, as treasurer, had violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Chris Petersen, the attorney assigned to handle this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8604059321

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and	)	MUR 2063
Judi Gerhardt, as treasurer	)	
	)	

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I. STATEMENT OF THE CASE

On July 17, 1985, the Commission notified the Citizens Party ("Committee") and Judi Gerhardt, as treasurer, that there is reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A) and 434(b)(4). The Committee has not responded to the Commission's reason to believe finding.

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Mr. Frank M. Dunbaugh, an attorney representing the Citizens Party, and Mr. Charles L. Bowman, a National Committee member of the party, have informed the Commission in separate letters of various facts concerning a $15,000 check to a ballot access fund. Mr. Dunbaugh stated that on or around May 4, 1984 a member of the Executive Committee of the Citizens Party received a $15,000 check from a single donor payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member received the check, opened the account and designated a Sonia Johnson campaign member to draw from the account.

Mr. Bowman has informed the Commission that one of the individuals designated to draw from the $15,000 fund was a member of the Citizens Party and a Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot

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access account had been opened.

The Citizens Party must act through individuals. It would appear that the Executive Committee member acted as an agent of the Citizens Party when the Committee member accepted the check made payable to the "Citizens Party, Ballot Access Fund." Further, a member of the Citizens Party was designated to draw from the account and apparently the Executive Director of the Citizens Party had knowledge of the account. Given the extensive involvement of Citizens Party officials, it would appear that the $15,000 was a contribution to the Citizens Party. See 2 U.S.C. § 431(8)(A)(i).

The Citizens Party failed to report the contribution of $15,000 received by the Executive Committee member on or around May 4, 1984. Section 434(b)(2)(A), Title 2, United States Code, states that treasurers of political committees shall file reports which shall disclose for the reporting period and calendar year, the total amount of all receipts including contributions from persons other than political committees. Section 434(b)(3)(A), Title 2, United States Code, states that each report shall identify persons whose contributions are in excess of $200 within the calendar year. The Citizens Party failed to identify the single donor who contributed $15,000 on or around May 4, 1984. The Citizens Party also made disbursements that were not disclosed in apparent violation of 2 U.S.C. § 434(b)(4), which requires disclosure of disbursements made by political committees. Therefore, the Office of General Counsel recommends that the Commission find probable cause to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

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12/24/85
Date

/S/
Charles N. Steele
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
The Citizens Party and	)	MUR 2063
Judi Gerhardt, as treasurer	)	
	)	

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12/24/85
Date

/S/
Charles N. Steele
General Counsel

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of	)	
	)	
The Citizens Party and	)	MUR 2063
Judi Gerhardt, as treasurer	)	

GENERAL COUNSEL'S REPORT

The Office of General Counsel is prepared to close the investigation in this matter as to the Citizens Party and Judi Gerhardt, as treasurer, based on the assessment of the information presently available.

4 December 1985
Date

Charles N. Steele
General Counsel

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OGC Docket

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

85 DEC 5 P12:20

In the Matter of	)	
	)	
The Citizens Party and Judi Gerhardt, as treasurer	)	MUR 2063
	)	

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4 December 1985
Date

Charles N. Steele
General Counsel

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RECEIVED
OFFICE OF THE SEC.
COMMISSION SECRETARY
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 2, 1986

MEMORANDUM

TO : The Commission

FROM : Charles N. Steele
General Counsel

SUBJECT: MUR 2063

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on December 24, 1985. Following receipt of the respondents' reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letter

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1985

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, NY 14850

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities the Federal Election Commission, on July 17, 1985, found reason to believe that The Citizens Party and you, as treasurer, had violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety, days to settle this matter through a conciliation agreement.

Should you have any questions, please contact Chris Petersen, the attorney assigned to handle this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

8604059322

OGC Docket

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

86 JAN 2 A11:47

January 2, 1986

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TO : The Commission

FROM : Charles N. Steele
General Counsel

SUBJECT: MUR 2063

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Attachments
1. Brief
2. Letter

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 24, 1985

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, NY 14850

RE: MUR 2063
The Citizens Party and
Judi Gerhardt, as treasurer

Dear Ms. Gerhardt:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities the Federal Election Commission, on July 17, 1985, found reason to believe that The Citizens Party and you, as treasurer, had violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4) and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. Three copies of such brief should also be forwarded to the Office of General Counsel, if possible. The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

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Should you have any questions, please contact Chris Petersen, the attorney assigned to handle this matter, at (202) 376-8200.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 29 1985

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, New York 14850

RE: MUR 2063

Dear Ms. Gerhardt:

On July 17, 1985, the Federal Election Commission determined that there is reason to believe that the Citizens Party and you, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the Citizens Party. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against the Citizens Party and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on

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probable cause have been mailed to the respondent will not be entertained.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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.

The investigation now being conducted will be 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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Chris Petersen, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

John Warren McGarry

John Warren McGarry
Chairman

Enclosures
General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 2063
STAFF MEMBER & TEL. NO.
Timothy Conan
523-4000

RESPONDENT The Citizens Party
Judi Gerhardt, as treasurer

SUMMARY OF ALLEGATIONS

An Executive Committee member of the Citizens Party received a $15,000 check from a single donor on or around May 4, 1984. However, Mr. Dunbaugh maintains that the Executive Committee member was not authorized to receive the check. An issue, therefore, is raised as to whether the $15,000 should be considered a contribution to the Citizens Party. 2 U.S.C. § 431(8)(A)(i). The Citizens Party failed to report the receipt of the $15,000, in apparent violation of 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A). Further, there is an issue as to whether the Citizens Party National Committee's $15,000 ballot access expenditures constituted coordinated expenditures on behalf of the Sonia Johnson--Citizen for President Committee. See 2 U.S.C. § 441a(d).

FACTUAL AND LEGAL ANALYSIS

A. Facts

Mr. Dunbaugh requested an advisory opinion and was informed that since the matter concerned past activity, it was not appropriate for an advisory opinion. However, the Office of General Counsel notified Mr. Dunbaugh that the matter was going to be handled under the Commission's enforcement procedures.

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Mr. Dunbaugh maintains that an Executive Committee member of the Citizens Party received a $15,000 check, payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member opened an account with the check and then designated another Citizen's Party member as the only person authorized to draw from the account. Mr. Dunbaugh states that aside from the Executive Committee member who opened the account, no other member of the Executive Committee was aware of the $15,000 fund. Mr. Dunbaugh's letter also suggests that the $15,000 should not be viewed as a contribution to the Citizens Party.

However, Mr. Charles L. Bowman, a National Committee member, has written the Commission, stating that both the Executive Director of the party and a national office employee were aware that the account had been opened. The account was open from May 4, 1984 to August 15, 1984. Mr. Dunbaugh maintains that the Executive Committee, who by its own Constitution must approve all national expenditures, did not learn of the existence of the account until January, 1985. Dunbaugh states that the $15,000 fund was used to pay individuals who, apparently, had performed services in qualifying the Johnson/Walton slate. The $15,000 fund was expended by August 15, 1984.

B. Legal Analysis

As to the issue of the Citizens Party accepting the $15,000 contribution, Mr. Dunbaugh relates that an Executive Committee member received the check, opened the account, and designated a Sonia Johnson campaign member to draw from the account.

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Mr. Bowman has informed the Commission that the individual designated to draw from the $15,000 fund was a member of the Citizens Party and the Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot access account had been opened. It is the position of the Office of General Counsel that the involvement of an Executive Committee member, the Executive Director and two other members of the Citizens Party is so extensive as to indicate Citizens Party control. As a result, the $15,000 should be construed as a contribution to the Citizens Party under 2 U.S.C.§ 431(8)(A)(i).

The Citizens Party failed to report the contribution of $15,000 received by the Executive Committee member on or around May 4, 1984. Section 434(b)(2)(A), Title 2, United States Code, states that treasurers of political committees shall file reports which shall disclose for the reporting period and calendar year, the total amount of all receipts including contributions from persons other than political committees. Section 434(b)(3)(A), Title 2, United States Code, states that each report shall identify persons whose contributions are in excess of $200 within the calendar year. The Citizens Party failed to identify the single donor who contributed $15,000 on or around May 4, 1984. The Citizens Party also made disbursements from the $15,000 fund and failed to report those disbursements in apparent violation of 2 U.S.C. § 434(b)(4). Therefore, the Office of General Counsel

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recommends that the Commission find reason to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, New York 14850

RE: MUR 2063

Dear Ms. Gerhardt:

On July 17, 1985, the Federal Election Commission determined that there is reason to believe that the Citizens Party and you, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the Citizens Party. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against the Citizens Party and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on

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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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For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Chris Petersen, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

John Warren McGarry
Chairman

Enclosures
General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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411 Sesty Street
Ithaca, New York 14850

RE: MUR 2063

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John Warren McGarry
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Pre-MUR 144
Citizens Party and its	)	
treasurer, Judi Gerhardt	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 17, 1985, the Commission decided by a vote of 5-0 to take the following actions in Pre-MUR 144:

1. Open a MUR.
2. Find reason to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).
3. Approve the letter and factual and legal analysis attached to the First General Counsel's Report signed July 12, 1985.

Commissioners Aikens, Elliott, Harris, McDonald and Reiche voted affirmatively in this matter; Commissioner McGarry did not cast a vote.

Attest:

7-18-85
Date

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

Received in Office of Commission Secretary: 7-15-85, 12:00
Circulated on 48 hour tally basis: 7-15-85, 4:00

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SENSITIVE

RECEIVED
OFFICE OF THE FEC
COMMISSION SECRETARY
85 JUL 15 P12:00

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION _____

Pre-MUR NO. 144
STAFF MEMBER
Timothy Conan

SOURCE OF PRE-MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS' NAMES: Citizens Party and its treasurer, Judi Gerhardt

RELEVANT STATUTES: 2 U.S.C. § 437f(a)(1)
§ 437g(a)(2)
§ 434(b)(2)(A)
§ 434(b)(3)(A)
§ 434(b)(4)
§ 431(8)(A)(i)
§ 441a(e)
§ 441a(a)(1)(B)
§ 441a(d)
§ 441a(d)(2)

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: N/A

GENERATION OF MATTER

On April 22, 1985, Frank M. Dunbaugh, attorney for the Citizens Party, requested an advisory opinion pursuant to 2 U.S.C. § 437f(a)(1) regarding the Citizens Party's reporting obligation for a $15,000 ballot access fund check. The Office of General Counsel noted that the matter concerned past activity and therefore was not appropriate for an advisory opinion. This Office also informed Mr. Dunbaugh that the matter was going to be handled under the Commission's enforcement procedures. (See Attachments 1 and 2).

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This matter contains information which the Commission has ascertained in the normal course of carrying out its supervisory responsibilities; thus, the Commission has the authority to initiate compliance proceedings. 2 U.S.C. § 437g(a)(2).

SUMMARY OF ALLEGATIONS

An Executive Committee member of the Citizens Party received a $15,000 check from a single individual on or around May 4, 1984. However, Mr. Dunbaugh maintains that the Executive Committee member was not authorized to receive the check. An issue, therefore, is raised as to whether the $15,000 should be considered a contribution to the Citizens Party. 2 U.S.C. § 431(8)(A)(i). The Citizens Party failed to report the receipt of the $15,000, in apparent violation of 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A). Further, there is an issue as to whether the Citizens Party National Committee's $15,000 ballot access expenditures constituted coordinated expenditures on behalf of the Sonia Johnson--Citizen for President Committee. See 2 U.S.C. § 441a(d).

FACTUAL AND LEGAL ANALYSIS

A. Facts

Mr. Dunbaugh requested an advisory opinion and was informed that since the matter concerned past activity, it was not appropriate for an advisory opinion. Further, the Office of General Counsel notified Mr. Dunbaugh that the matter was going to be handled under the Commission's enforcement procedures.

Mr. Dunbaugh maintains that an Executive Committee member of the Citizens Party received a $15,000 check, payable to "Citizens

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Party, Special Ballot Access Fund." The Executive Committee member opened an account with the check and then designated another Citizen's Party member as the only person authorized to draw from the account. Mr. Dunbaugh states that aside from the Executive Committee member who opened the account, no other member of the Executive Committee was aware of the $15,000 fund. Mr. Dunbaugh's letter also suggests that the $15,000 should not be viewed as a contribution to the Citizens Party.

However, Mr. Charles L. Bowman, a National Committee member, has written the Commission, stating that both the Executive Director of the party and a national office employee were aware that the account had been opened. (Attachment 3) The account was open from May 4, 1984 to August 15, 1984. Mr. Dunbaugh maintains that the Executive Committee, who by its own Constitution must approve all national expenditures, did not learn of the existence of the account until January, 1985. Mr. Dunbaugh states that the $15,000 fund was used to pay individuals who, apparently, had performed services in qualifying the Johnson/Walton slate. The $15,000 fund was expended by August 15, 1984.

B. Legal Analysis

As to the issue of the Citizens Party accepting the $15,000 contribution, Mr. Dunbaugh relates that an Executive Committee member received the check, opened the account, and designated a Sonia Johnson campaign member to draw from the account. Mr. Bowman has informed the Commission that the individual

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designated to draw from the $15,000 fund was a member of the Citizens Party and the Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot access account had been opened. It is the position of the Office of General Counsel that the involvement of an Executive Committee member, the Executive Director and two other members of the Citizens Party is so extensive as to indicate Citizens Party control. As a result, the $15,000 should be construed as a contribution to the Citizens Party under 2 U.S.C.§ 431(8)(A)(i).

The Citizens Party failed to report the contribution of $15,000 received by the Executive Committee member on or around May 4, 1984. Section 434(b)(2)(A), Title 2, United States Code, states that treasurers of political committees shall file reports which shall disclose for the reporting period and calendar year, the total amount of all receipts including contributions from persons other than political committees. Section 434(b)(3)(A), Title 2, United States Code, states that each report shall identify persons whose contributions are in excess of $200 within the calendar year. The Citizens Party failed to identify the single donor who contributed $15,000 on or around May 4, 1984. The Citizens Party also made disbursements from the $15,000 fund and failed to report those disbursements in apparent violation of 2 U.S.C. § 434(b)(4). Therefore, the Office of General Counsel recommends that the Commission find reason to believe that the

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Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

Mr. Dunbaugh informed the Commission that the $15,000 fund was used to pay individuals who had performed services in connection with qualifying the Johnson/Walton slate in different states. As such, the Citizens Party made expenditures from the $15,000 fund for the benefit of the Sonia Johnson campaign.

Section 441a(d)(2), Title 2, United States Code, states that a national committee of a political party may make expenditures in connection with a general election campaign, provided that such expenditures do not exceed an amount equal to 2 cents multiplied by the voting age population of the United States as certified. A national party committee's spending limit for the 1984 presidential general election was $6,924,802.40.*/ According to the reports filed with the Commission, the Citizens Party's total disbursements for the period covering January 1, 1984-June 30, 1984, were $124,356.00. Therefore, including the unreported $15,000 ballot access expenditures, the Citizens Party's expenditures are within the limitations set forth in 2 U.S.C. § 441a(d)(2).

If the Commission determines it necessary for the Citizens Party to amend its reports to include the name of the $15,000 donor, a review could thereafter be made to determine if that

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*/ See 2 U.S.C. § 441a(e); see also Vol. 10, Number 3 F.E.C. Rec. 1 (March 1984).

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individual exceeded the limitations set forth in 2 U.S.C. § 441a(a)(1)(B).

RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. Open a MUR.

2. Find reason to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

3. Approve the attached letter and factual and legal analysis.

Charles N. Steele
General Counsel

July 12, 1995
Date

BY: Kenneth A. Gross
Associate General Counsel

Attachment
Mr. Dunbaugh's request for an advisory opinion
Letter responding to Mr. Dunbaugh's request
Mr. Bowman's letter
Letter
General Counsel's Factual and Legal Analysis

8 6 0 4 0 7 9 3 2 4 2

Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

85 APR 25 P12:08

April 22, 1985

FEC

85 APR 25 A8:47

Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, DC 20463

Dear General Counsel:

Pursuant to 11 CFR 112.1(a), I am requesting an advisory opinion on behalf of the Executive Committee of the Citizens Party, which is responsible for the day-to-day operation of the Citizens Party at the national level. In January of this year, the Executive Committee learned for the first time of the existence of a bank account in the name of the "Citizens Party Special Ballot Access Fund" which was opened and closed during 1984. The Committee requests to be advised whether the Citizens Party, which has been reporting to the FEC since 1980, has any obligation to report the contributions to and expenditures from this account.

Sometime prior to May 4, 1984, a single donor contributed $15,000.00 in the form of a check which we believe was payable to the "Citizens Party, Special Ballot Access Fund". This check was received by a person who, at the time, was a member of the Executive Committee of the Citizens Party and also a consultant for the "Sonia Johnson - Citizen for President" Campaign. On May 4, 1984, he opened a bank account in the name of the "Citizens Party, Special Ballot Access Fund," using his home address. The bank was provided with the tax ID number of the Citizens Party.

In opening the account, the member of the Executive Committee advised the bank that he had received authority to open the account from the Executive Committee. He also designated as the only person authorized to draw from the account, an individu who worked for the Sonia Johnson Campaign and had no connection with the Citizens Party.

The account remained open until August 15, 1984, by which time all of the funds had been expended. A total of 25 checks and wire transfers were used to pay various individuals who apparently had performed services in connection with qualifying the Johnson/Walton slate to appear on the ballot in a number of different states. We have no reason to believe that any of the funds in this account were used for any other purpose. Other than the Executive Committee member who opened the account, no one else who was an official or an employee of the national party took any part in the disbursement of funds from the account.

Att #1 1 of 2

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

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The Citizens Party's two national party office employees were aware that the Executive Committee member was opening this account. However, neither of these staff members nor the Executive Committee member who opened the account advised any other member of the Executive Committee of the existence of the account. During the time the account was open, no other member of the Executive Committee nor its various sub-committees (including its ballot access and finance committees) knew anything about this account.

In fact, the Executive Committee first learned of the $15,000.00 contribution at it's January 1985 meeting, at which time it instructed the Co-Chairs of the Party to seek legal advice. Subsequently, I was retained to conduct an investigation and to research the relevant legal questions.

At its next meeting, in March 1985, the Executive Committee reviewed the facts, including the party structure, staff functions, past practices, the records of various meetings, other records and the recollections of persons who were members of the Executive Committee at the time. Based on all of this information, the current Executive Committee has concluded that the former member who opened the account did not have any authority, expressed or implied, to open a bank account on the Citizens Party's behalf or to expend any funds on behalf of the Party. Even though the money from this account appears to have been used for a function that the Party was willing to perform, the person who received the contribution and the persons who used the funds were never authorized by the Citizens Party to perform this function nor to expend any party funds.

Given these facts, the FEC still might conclude that there was sufficient party involvement to create an obligation for the Citizens Party to report the contribution and the expenditures. Accordingly, the Executive Committee of the Citizens Party repectfully requests that the FEC provide it with an advisory opinion as to its obligations.

Please let me know if the Commission desires any further information from the Executive Committee.

Respectfully submitted,

Frank M. Dunbaugh

Frank M. Dunbaugh

Att #1 2 of 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Frank M. Dunbaugh, Esquire
744 North Holly Drive
Annapolis, Maryland 21401

Dear Mr. Dunbaugh:

This refers to your letter dated April 22, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("Act") to transactions involving a bank account in the name of the "Citizens Party Special Ballot Access Fund." Specifically, you request an opinion as to whether the Citizens Party's involvement with that fund was sufficient to raise a reporting obligation with regard to the Citizens Party.

The Act authorizes the Commission to issue advisory opinions concerning application of the Act or Commission regulations to a specific activity or transaction proposed by the requesting person. 2 U.S.C. § 437f. Commission regulations explain that the factual situation presented in a request must relate to the activity that the requesting person "plans to undertake or is presently undertaking and intends to undertake in the future." 11 C.F.R. § 112.1(b). The facts you relate appear to concern only past activity. Accordingly, your inquiry is not appropriate for issuance of an advisory opinion.

In that this matter relates to past activities and may involve possible violations of law, this matter is being handled under our enforcement procedures. If you have any questions, please call Kenneth A. Gross at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

AH# 2 1 of 1

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GCC #145

Federal Election Commission
Office of the General Counsel
1325 K St. NW
Washington, D.C. 20463

April 29, 1985

re: Citizens' Party Filing Requirements

Dear Sir/Madam,

I am writing to you to present other facts related to the information you received from Frank M. Dunbaugh, in a letter dated April 22, 1985.

Mr. Dunbaugh presented the information as if he were a disinterested party. In fact, Mr. Dunbaugh is now and has been a member of the Citizens' Party since 1979, is Chair of the Maryland Citizens' Party, Chair of the National Political Committee, a member of the legal committee (both of these committeess were set up by the Executive Committee), and attends most meetings of the Executive Committee and the Mid-Atlantic National Committee.

Mr. Dunbaugh's letter contains several misstatements:

1) The individual designated to draw from the Citizens' Party Special Ballot Access Account was, and is now, a member of the Citizens' Party and a delegate representing Virginia at the National convention. She is now a member of the National Committee from Virginia (which is the policy-making body of the party, please refer to the enclosed constitution.)

2) After the Executive Committee member who opened the account left the ballot access job he was replaced by a peron who was and is an alternate to the Executive COmmittee.

3) One of the national office "employees" referred to in Mr. Dunbaugh's letter was the Executive Director of the party.

? 4) The present Executive Committee does not meet gender guidelines which are mandated by the constitution.

5) The vote of the Executive Committee authorizing Mr. Dunbaugh to seek the advice of the Federal Election Commission in the manner in which he did was 5 to 4 and there are questions as to the legality of the Western Regional Representatives election (if there was one) to the Executive Committee. He cast the deciding vote authorizing Mr. Dunbaugh to send the letter.

Mr. Dunbaugh, and others, supported candidates other than Sonia Johnson.

As you can see, this appears to be more of an internal political struggle (enclosed are several documents to illustrate this) than a question of who must file a report. The party's major delay has stemmed from the fact that a former member of the Executive Committee, who was also Chair of the Finance Committee refuses to relinquish financial records which are in his possession.

As a member of the National Committee I am asking that you consider the additional facts as I have presented them and assist the party as much as possible to comply with your regulations.

Respectfully,

Charles L. Bowman

Charles L. Bowman

AH #3 1 of 1

85040593245

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Ms. Judi Gerhardt, Treasurer
The Citizens Party
411 Sesty Street
Ithaca, New York 14850

RE: MUR

Dear Ms. Gerhardt:

On , 1985, the Federal Election Commission determined that there is reason to believe that the Citizens Party and you, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the Citizens Party. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within fifteen days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against the Citizens Party and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, requests for pre-probable cause conciliation after briefs on

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Att #4 1 of 2

probable cause have been mailed to the respondent will not be entertained.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of General Counsel is not authorized to give extensions beyond 20 days.

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.

The investigation now being conducted will be 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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Timothy Conan, the staff member, or Chris Petersen, the attorney assigned to this matter, at (202) 523-4000.

Sincerely,

Enclosures
General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

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Att # 4, 2 of 2

FEDERAL ELECTION COMMISSION

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____
STAFF MEMBER & TEL. NO.
Timothy Conan
523-4000

RESPONDENT The Citizens Party
Judi Gerhardt, as treasurer

SUMMARY OF ALLEGATIONS

An Executive Committee member of the Citizens Party received a $15,000 check from a single donor on or around May 4, 1984. However, Mr. Dunbaugh maintains that the Executive Committee member was not authorized to receive the check. An issue, therefore, is raised as to whether the $15,000 should be considered a contribution to the Citizens Party. 2 U.S.C. § 431(8)(A)(i). The Citizens Party failed to report the receipt of the $15,000, in apparent violation of 2 U.S.C. §§ 434(b)(2)(A) and 434(b)(3)(A). Further, there is an issue as to whether the Citizens Party National Committee's $15,000 ballot access expenditures constituted coordinated expenditures on behalf of the Sonia Johnson--Citizen for President Committee. See 2 U.S.C. § 441a(d).

FACTUAL AND LEGAL ANALYSIS

A. Facts

Mr. Dunbaugh requested an advisory opinion and was informed that since the matter concerned past activity, it was not appropriate for an advisory opinion. However, the Office of General Counsel notified Mr. Dunbaugh that the matter was going to be handled under the Commission's enforcement procedures.

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Att #5 1 of 4

Mr. Dunbaugh maintains that an Executive Committee member of the Citizens Party received a $15,000 check, payable to "Citizens Party, Special Ballot Access Fund." The Executive Committee member opened an account with the check and then designated another Citizen's Party member as the only person authorized to draw from the account. Mr. Dunbaugh states that aside from the Executive Committee member who opened the account, no other member of the Executive Committee was aware of the $15,000 fund. Mr. Dunbaugh's letter also suggests that the $15,000 should not be viewed as a contribution to the Citizens Party.

However, Mr. Charles L. Bowman, a National Committee member, has written the Commission, stating that both the Executive Director of the party and a national office employee were aware that the account had been opened. The account was open from May 4, 1984 to August 15, 1984. Mr. Dunbaugh maintains that the Executive Committee, who by its own Constitution must approve all national expenditures, did not learn of the existence of the account until January, 1985. Dunbaugh states that the $15,000 fund was used to pay individuals who, apparently, had performed services in qualifying the Johnson/Walton slate. The $15,000 fund was expended by August 15, 1984.

B. <u>Legal Analysis</u>

As to the issue of the Citizens Party accepting the $15,000 contribution, Mr. Dunbaugh relates that an Executive Committee member received the check, opened the account, and designated a Sonia Johnson campaign member to draw from the account.

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Att #5 2 of 4

Mr. Bowman has informed the Commission that the individual designated to draw from the $15,000 fund was a member of the Citizens Party and the Virginia delegate at the National Convention. Further, Mr. Bowman states that the Executive Director of the Citizens Party was aware that the $15,000 ballot access account had been opened. It is the position of the Office of General Counsel that the involvement of an Executive Committee member, the Executive Director and two other members of the Citizens Party is so extensive as to indicate Citizens Party control. As a result, the $15,000 should be construed as a contribution to the Citizens Party under 2 U.S.C.§ 431(8)(A)(i).

The Citizens Party failed to report the contribution of $15,000 received by the Executive Committee member on or around May 4, 1984. Section 434(b)(2)(A), Title 2, United States Code, states that treasurers of political committees shall file reports which shall disclose for the reporting period and calendar year, the total amount of all receipts including contributions from persons other than political committees. Section 434(b)(3)(A), Title 2, United States Code, states that each report shall identify persons whose contributions are in excess of $200 within the calendar year. The Citizens Party failed to identify the single donor who contributed $15,000 on or around May 4, 1984. The Citizens Party also made disbursements from the $15,000 fund and failed to report those disbursements in apparent violation of 2 U.S.C. § 434(b)(4). Therefore, the Office of General Counsel

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Att # 5 3 of 4

recommends that the Commission find reason to believe that the Citizens Party and Judi Gerhardt, as treasurer, violated 2 U.S.C. §§ 434(b)(2)(A), 434(b)(3)(A), and 434(b)(4).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM TO: THE COMMISSION

FROM: MARJORIE W. EMMONS/CHERYL A. FLEMING

DATE: May 20, 1985

SUBJECT: PM 144 - Referral from Citizen's Party

The attached has been circulated for your information.

Attachment

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SENSITIVE

GCC #7454

PM 144

Federal Election Commission
Office of the General Counsel
1325 K St. NW
Washington, D.C. 20463

April 29, 1985

re: Citizens' Party Filing Requirements

Dear Sir/Madam,

I am writing to you to present other facts related to the information you received from Frank M. Dunbaugh, in a letter dated April 22, 1985.

Mr. Dunbaugh presented the information as if he were a disinterested party. In fact, Mr. Dunbaugh is now and has been a member of the Citizens' Party since 1979, is Chair of the Maryland Citizens' Party, Chair of the National Political Committee, a member of the legal committee (both of these committeess were set up by the Executive Committee), and attends most meetings of the Executive Committee and the Mid-Atlantic National Committee.

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2) After the Executive Committee member who opened the account left the ballot access job he was replaced by a peron who was and is an alternate to the Executive COmmittee.

3) One of the national office "employees" referred to in Mr. Dunbaugh's letter was the Executive Director of the party.

4) The present Executive Committee does not meet gender guidelines which are mandated by the constitution.

5) The vote of the Executive Committee authorizing Mr. Dunbaugh to seek the advice of the Federal Election Commission in the manner in which he did was 5 to 4 and there are questions as to the legality of the Western Regional Representatives election (if there was one) to the Executive Committee. He cast the deciding vote authorizing Mr. Dunbaugh to send the letter.

Mr. Dunbaugh, and others, supported candidates other than Sonia Johnson.

As you can see, this appears to be more of an internal political struggle (enclosed are several documents to illustrate this) than a question of who must file a report. The party's major delay has stemmed from the fact that a former member of the Executive Committee, who was also Chair of the Finance Committee refuses to relinquish financial records which are in his possession.

As a member of the National Committee I am asking that you consider the additional facts as I have presented them and assist the party as much as possible to comply with your regulations.

Respectfully,

Charles L. Bowman

Charles L. Bowman

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THE
CITIZENS PARTY
CONSTITUTION

Adopted, May 30, 1982
At the National Convention

ARTICLE I - MEMBERSHIP

1. The Citizens Party exists to give expression to the common political goals of its members.

2. Membership in the Party is open to all residents of the United States, its territories and possessions and to all United States citizens living abroad, who share a belief in the basic premises of the Party and who enroll as members with a State Chapter or with the National Office, or register as members under the laws of their respective states.

ARTICLE II - NATIONAL CONVENTION

1. The Citizens Party will convene a national convention at least biennially.

2. The Convention will adopt a party platform and/or a Statement of Purpose. The draft platform will include minority positions which are supported by more than one-third (1/3) of the Convention delegates.

3. The Convention shall have the authority to nominate the Party's presidential and vice presidential candidates.

4. A method for apportioning convention delegates will be determined by the National Committee at least two months before the National Convention.

5. The business of the Convention should be to consider and approve a political report dealing with: the state of the nation (including the main political tendencies); the state of the Party, and the main tasks of the Party in the current period. The draft political report should be prepared by the Executive Committee and submitted to the regions 60 days in advance of the convention so that meaningful pre-convention meetings and discussion can take place.

ARTICLE III - NATIONAL COMMITTEE AND REGIONAL CONFERENCES

1. A National Committee composed of the two Executive Committee chairpersons and representatives of each of the states will be responsible for direction of the Citizens Party between Conventions.

2. States will be allotted a National Committee delegation equal in number to one-half (½) of their convention delegate size.

3. Each state delegation will determine the manner of election, removal and replacement of its National Committee representatives. However, the membership of the Party in a state may, by majority vote, recall and replace a representative from its state at any time.

ARTICLE III (Cont'd)

Should a constituted region fail to meet its minimal regional criteria, the Executive Committee shall try for a period of six (6) months to resuscitate it. If that fails, the Executive Committee, by a two-thirds (2/3) vote, shall disband it and assign its states to other regions, in consultation with those other regions.

7. The powers of the National Committee shall be exercised in any of the following fashions:

a. a full assembly of the National Committee may be called by the Executive Committee, the National Committee, or a majority of the Regional Conferences meeting within a thirty-day period;

b. concurrent sessions of the Regional Conferences may be called by the Executive Committee, the National Committee, or any two Regional Conferences. Concurrent sessions would act as the full National Committee and meet within a thirty day period. The Executive Committee, any Regional Conference, or the Steering Committee of any Regional Conference may submit items to the Regional Conferences through the national office for action. A majority of the National Committee is necessary for action on such items unless otherwise provided for in the Constitution. Should the National Committee be unable to reach agreement, the Executive Committee may offer suggestions to reconcile the differences by mail ballot.

c. The National Committee may be polled by mail on the initiative of the Executive Committee, the National Convention, or any two Regional Conferences meeting within a thirty day period; the balloting by mail will be coordinated through the national office.

8. Each state will select a sufficient number of alternate representatives to the National Committee to provide for the state's continuing adequate representation.

9. The National Committee will faithfully oversee the implementation of decisions by the membership and the convention.

10. The National Committee may establish any subcommittees it deems necessary.

11. The National Committee may take whatever actions it deems necessary and proper to carry out the mandates of this Constitution.

ARTICLE IV - EXECUTIVE COMMITTEE

1. A. The Executive Committee will be composed of:

a. Two Co-Chairs (at least one woman), elected at-large by the National Convention, whose function will be to operate as working chairs of the Committee;

b. Three at-large members elected at the National Convention, to include at least one woman and one minority;

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ARTICLE IV (Cont'd)

or resolution to the Executive Committee, it must be placed on the agenda for discussion at their next meeting. Positions taken by the Executive Committee or Executive Committee members on current events of public policy proposals must be communicated to National Committee members within two weeks of the time the positions are publicly taken.

8. Members of the Executive Committee will be ex-officio, non-voting members of the full assembly of the National Committee.

9. The Executive Committee shall meet no less than one (1) time every other month and as many times as deemed necessary. Emergency meetings may be called once one-third (1/3) of the Executive Committee members submit such a request to the Executive Committee chairpersons or by request of two regional conferences. These requests may be made by phone, but should be followed by a written request.

10. A quorum of the Executive Committee will consist of a majority of the committee including one co-chair. Decisions of the Executive Committee require the affirmative vote of the majority of those present and voting except that no motion may pass without the support of at least four (4) members.

11. The Executive Committee may form any subcommittee deemed necessary. When 100 members (by petition) or three (3) states (by decision of the state chapters) call for the establishment of a subcommittee, the Executive Committee will form such a committee.

12. The Executive Committee shall approve all national expenditures and shall be responsible for allocating funds. National staff shall prepare budgets and shall submit them to the Executive Committee for approval.

13. When necessary, the travel and housing costs of at-large Executive Committee members for the purposes of Executive Committee meetings shall be paid for with National Party funds.

14. At each meeting, one Executive Committee member shall be made responsible for recording and writing the minutes. The minutes shall be distributed to the National Committee by mail or by some other means within one month of the meeting.

ARTICLE V - EXECUTIVE COMMITTEE CHAIRPERSONS

1. The two (2) chairpersons, or Party members designated by them, will preside at all Executive Committee meetings and full assemblies of the National Committee and at the Party's National Conventions.

2. The Chairpersons, or Party members designated by them, will propose agenda for Executive Committee meetings, subject to amendment by the full Executive Committee.

3. The Chairpersons shall appoint a Party Treasurer and Party Legal Counsel with the approval of the Executive Committee. The Treasurer and Legal Counsel may be removed by a two-thirds (2/3) vote of the Executive Committee.

4. The Chairpersons will perform such other duties as may be delegated to them by the Party Convention, the National Committee or the Executive Committee.

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June 6th, 1984
From: Willa and Ion
Topic for debate: What must we do now?

Relevant documents

1. 9 point statement for S.J. Campaign agreement: drawn up by Judi for june 2nd meeting
2. Proposal for Funding - given out by campaign at June 2nd meeting enclosed
3. Recap of present situation: Willa - June 5th - sent to chapter mailing list
4, The draft statement of Conditions and Requirements - 1st draft - proposed enclosed
5. 1st draft - proposed cover letter to accompany statement of Conditions enclosed

INTRO:

These materials are being circulated informally among those E.C. members who are not paid staff or consultants of any campaign for this Party's presidential nomination. This will ensure there are no inherent albeit invisible conflicts of interest among those of us now deliberating quietly on our present state of affairs. Our chief counsel and chief fund-raiser are also receiving copies of these materials.

I The Problem - Simply Stated:

#1. This E.C. has worked in good faith to help implement the 1983 Convention decision to run a Presidential Campaign in 1984 that will benefit the Party at all levels.

#2. For 10 months since that decision was made, this E.C. has borne the brunt of unreasonable demands, unwarrented hostility, public attacks without warning, misstatements of fact in Campaign Update materials, and misinterpretations of our intentions, deliberate or undeliberated as the case may be. None of our requests for remedy have been met at this time.

#3. The Campaign has been extremely costly to the national Party in terms of funds diverted, time, energy and personal expense of committee members, and national office staff time, to a degree unprecedented since the end of the 1980 Presidential campaign. Indeed the best metaphor for our experience to date with " the idea of this campaign " may well be Dorothy and Toto caught up in a Kansas tornado.

#4. On the other hand there has been no input of funds from this campaign to the national party operations or the grassroots nor any expressed interest or desire to do so on terms acceptable to our self-respect. almost $150,000 has been raised by this campaign, much of it with the help of our Party contacts. Most of itwill be matched. Despite repeated requests for information on sums raised thru use of our mail lists as per agreement, none has been forthcoming. It is now five months since their first mailing to our lists went out. Total receipts to this campaign since the October announcement exceed $89,000 as of April 30th, 1984, according to F.E.C. records we secured Mon. June 5th.

#5. At the June 2nd meeting it was clear to all of us attending, from the statements made, and the proposals made, (see item #2 - documents) this campaign will remain under the exclusive control of 4 paid employees and the Presidential candidate. Complete financial control will also remain in this group's hands. No significant financial support of national office projects such as our Ballot Access Program for Party and Candidate, national Citizens Voice, nor even reimbursement for our legitimate costs and expenses is contemplated. We may, to be sure, stand in line with our local and state chapters, our begging bowl in hand, for grants for projects whose total value will range from $6000 to $17,500 at most. A realistic estimate of $300,000 revenue to this campaign by June 30th,1984 ($150,000 raised, $150,000 matched) comes out to a possible disbursement in the range of 2% - 6% for national operation undertakings. The campaign has, of course, been fully briefed on our current financial difficuties in national operations.

II. The Present Situation

What is the situation we, as an E.C.,find ourselves in at this moment?

#1. We face a financial crunch with a need to increase revenues for national operations ASAP. We only have a severely depleted Direct-Mail contributors base to sustain us. The campaign intends to be of no help. We have only ourselves to depend on.

#2 There is absolutely no influence, much less control, by this Party at any level over this campaign, and there appears to be no prospect of securing same.

#3 There remains, after 10 months of sporadic contact but steady association with this candidate and her staff a profound ambivalence and distrust of the campaign staff and candidate on this E.C.

#4 There is no felt confidence this campaign will serve the purpose of buildung our Party. There is, on the contrary, considerable suspicion it intends to subvert this Party by taking advantage of its currently weakened state, destroy its existing governance process, structure, leadership and fabric of human relationships.

#5 There is certainly no confidence this E.C. as the duly constitued and elected leadership at the national level is in any position toguarantee this campaign and its candidate will serve the purposes of our Party at any level. Indeed any such claim would be frivolous and irresponsible. By all appearances this is an Independent's campaign run completely by outsiders for their own narrow purposes.

#6 When representatives of the local chapters voted to support a Presidential Campaign in 1984 they said they wanted a campaign to build local chapters, obtain ballot status for the Party in as many states as possible, increase recognition of the Party, and qualify for primary matching funds to help put the Party on a firmer financial basis.

#7 The Sonia Johnson campaign has brought one new organizing committee in Madison, Wisconsin. The campaign is working and proposes to spend a large portion of its funds to put Sonia Johnson, not the Citizens Party, on the ballot through an outside consulting firm. Media coverage of the campaign has been perfunctory, and F.E.C. matching funds, if acquired, will not contribute at all to the financial strength of of the Citizens Party, either locally or nationally.

III The Questions - For Us!

#1. Under these circumstances what is the best course of action for us to take so as to protect the Party's interests?

#2. What must we do to support its goal of Party control over Presidential campaigns conducted under our name, and to prevent any role reversal whatsoever?

#3. Will we share our doubts and convictions with our colleagues who elected us, who serve as N.C.s, and state/local chapter members?

#4. Will we make it clear we cannot possibly fulfill their expectations if the current situation continues to be tolerated and ignored?

#5. Will we quickly reach a concensus among ourselves as to what must be done, and why, and how?

#6. What is the role of trust in political action? What conduct reflects ethical concern, sensitivity to others and a decent respect for the opinions, beliefs and reasonable needs of others with whom we claim to be in association with for common ends?

#7. In relation to this campaign can we confidently say we feel well served, well treated, and optimistic about our Party's future?

#8. What is the purpose of having a convention to nominate such a candidate as this?

#9 Who, in the grassroots, at local,state, or national level in this Party can

confidently say they have h[illegible] an overall rewarding experienc[illegible] with this campaign?

#10. Do we wish to passively hand over control of our Party to those whom we believe, based on our own negative experience, serve its interests so poorly?

#11. Will we demonstrate the collective courage to make the necessary recommendations to our Party colleagues, and the will to enforce them regardless of the external opposition - provided we have the backing of a majority of our N.C?

#12. Are we prepared to devote the necessary energy and time to do what must be done?

#13. Will we lead?

IV Conclusion

We forward this set of 14 points setting forth the indispensable minimum conditions necessary to correct the damage done by this campaign to the Party to date and to ensure future control by Party over present and future Presidential campaign efforts. We believe the 14 points and covering letter must be sent to the candidates, Johnson and Walton only. Their consent must be obtained in writing. Will they accept? It is most unlikely! But we will have a documented record of our efforts toachieve our Party goals and to protect its integrity. Is this list complete to your satisfaction?

Because rejection of any and all of these points is almost certain, we must even now address these questions. A statement of where we stand and why needs to be formulated and sent out to our N.C.s and local/state chapter membership. Do we want to send out a short general statement signed by us all, but accompanied by personal statements by individual E.C. members and our cover letter to the candidates and the 14 points.

Once the Party is informed of our views, will we be prepared to make recommendations? If so, what will they be? When will they go out?

And what is the concensus we are prepared to abide by? An N.C, vote in conformance with current legitimate governance structure and process of national party operations? Do we require more? Why? And how fast can such consultation be carried out?

This set of materials is being sent out by two very concerned members of the E.C. to their colleagues as a starting point for discussion among ourselves. We ask that they not be duplicated or distributed until general agreement is reached between us as to the proper form and content of any communication we wish to make to our members and/or the Presidential and Vice-Presidential candidates. With respect to that campaign, with the exception of Dick Walton whose devotion to this Party and its ideals is no doubt beyond question, is it wise for us to proceed assuming good faith andfair play on their part? If not , there is a need for caution every step of the way. Read what you wish of these contents to others - and let us move quickly and effectively to lead out of our current political quandry. After all, time is running out. Is it not?

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Party wavers on fielding 1984 slate

By Paul Rauber

SAN FRANCISCO

IT'S NOT EVERY DAY A POLITICAL party is handed a historical opportunity on a platter. "History never asks you twice," feminist leader and Mormon heretic Sonia Johnson told the Citizens Party (CiP) national convention meeting here.

Yet during the September 2-5 meeting the party was offered not one but two chances to jump on the history train. Although it was not a nominating convention, presidential politics dominated the discussion. The strategy adopted in the end left as much space as possible for shifts in power politics in the coming months.

Johnson made a strong pitch for the CiP to move beyond its traditional ecology and disarmament base to pursue the feminist vote, offering herself as the party's presidential candidate. Such a candidacy, she claimed, would exploit the gender gap, rally progressive forces and excite the media bored by Reagan's Democratic opposition. "People who think like you are the tools of history," Johnson told the 175 delegates. "I don't see how you can justify not running a woman."

Commoner sees Jackson's bid as a chance for a major left thrust.

Although it has organizations in 30 states and considers itself the largest political party of the non-Marxist left in the U.S., the CiP has so far not been able to move beyond its admittedly narrow base of white leftists. Johnson offered one strategy for doing so; CiP founder Barry Commoner proposed a second.

Commoner described to the delegates an unprecedented social movement in the country, sparked by hatred of Reagan and distrust of the Democrats and led by Operation PUSH director Jesse Jackson. The CiP, Commoner argued, should take a place in Jackson's "Rainbow Coalition" and join in the task of signing up millions of disenfranchised voters. The CiP's 1980 presidential candidate sees the Jackson candidacy as providing the first chance in American history for "a major left thrust" in a presidential campaign. The implication was clear that if the CiP did not participate in the coalition, it would be left in the dust of history.

"My hypothesis," Commoner told *In These Times*, "is that there is a pent-up call for the kind of campaign Jackson wants to run, that he wants it to be based on a broad coalition. If it happens, any progressive group that doesn't participate in it will be irrelevant."

In 1980, the CiP got Commoner on the ballot in 30 states, garnering nearly a quarter of a million votes. This was disappointingly short of "the magic 5 percent" that would have gained the party the matching federal campaign funds John Anderson now enjoys. Since the election, party members have ceaselessly debated the wisdom of a small party with limited resources running a largely symbolic presidential campaign.

A majority of the respondents to a June membership poll favored a strategy besides another nationwide presidential campaign. Yet presidential fever burns hot ameng the party's most active sector and its leadership. The convention overwhelmingly voted to pursue a presidential campaign strategy, despite some opposition from the party's western region. Part of that opposition is a result of extremely restrictive ballot-access laws in California, but there is also strong sentiment in the West for working with Jackson.

Anxious to preserve its autonomy as a third party, there is substantial opposition within the CiP to supporting Democratic candidates. Former U.S. Attorney

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Former U.S. Attoney General Ramsey Clark

General Ramsey Clark, himself a possible CiP presidential nominee, argues that the party should urge Jackson to run but still field its own candidates. "You don't abandon what you stand for just because you'd be left in the dust," he told *In These Times*.

But a strong pitch for Jackson came from the Democratic Socialists of America's (DSA) Manning Marable, who advocates an "inside/outside" strategy for working within the Democratic Party. Marable urged critical support for Jackson on the principle that anything that throws the Democratic primary process into chaos will benefit the left by opening up a greater political space. Marable received a standing ovation, and for a while it looked like the convention might approve a pro-Jackson resolution after all.

But it all fell apart Monday. Sonia Johnson unexpectedly withdrew her candidacy, having come to the conclusion that the CiP was not ready for a feminist candidate. The resolutions in support of Jackson never made the floor, and the convention instead adopted a Texas proposal giving each state substantial autonomy in its presidential strategy. Those who want to support Jackson may. If by the CiP's early spring nominating convention the Jackson campaign has gathered the momentum Commoner and Marable predict, the CiP may find itself hard pressed to field its own slate of candidates. □

Paul Rauber writers regularly for the San Francisco Bay Guardian.

MEMORANDUM

November 29, 1984

To: Executive Committee Members
Citizens Party

From: Frank Dunbaugh, Chair
National Political Committee

Subject: Organization of the National Political Committee

Thank you for the confidence you expressed by appointing me to Chair the National Political Committee. I regard the work of this committee to be critical to the future of the Citizens Party. How our Party is perceived by the public is dependent upon our having and executing an active political program. The perceptions of the public will directly affect our capacity to raise money to continue the organizing efforts of the Party.

Since the October meeting of the EC, I have given some thought to how the NPC should proceed to get organized and to start developing political programs. As you know, I am strongly committed to the principle that the Citizens Party always needs to function with broad based support from its members. That is why it is essential that this committee have active representation from the Regional Conferences of the National Committee.

So far as I am aware, only the Mid Atlantic Region has designated a representative to serve on the National Political Committee. Until the other Regional Conferences can meet and designate their representatives, I would be more comfortable if the EC Representatives from the other regions would appoint someone to act in that capacity on an interim basis. This would ensure that every local chapter will have access to the NPC and will be kept informed of its plans and activities.

Enclosed are copies of a memorandum from me to the members of the National Political Committee and a proposed agenda for our first meeting. The EC members who are regional representatives are requested to pass these along to the persons they designate to represent their region as NPC members and alternates. If we are to be able respond to events early in 1985, such as the inaugural and the State of the Union Address, it is essential that you act immediately to recruit members for this committee.

Thank you for your help.

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MEMORANDUM

TO: Judi Gerhardt and Willa Kenoyer, Co-Chairs, Citizens' Party.

FROM: Frank M. Dunbaugh, Legal Counsel

DATE: October 10, 1983

RE: Program and Budget to Attain Ballot Access for the Citizens' Party's 1984 Presidential Slate.

I. INTRODUCTION

In 1980, the Citizens' Party's presidential ticket of Barry Commoner and LaDonna Harris was on the ballot in 29 states and the District of Columbia. This ticket appeared with the Citizens' Party label in some states and as an independent slate in other states.

The purpose of this memorandum is to outline for you how the Citizens' Party plans to get its 1984 presidential ticket on the ballot in every state, if possible. Jim Ccenan (Georgia) who is coordinating our ballot access drive has reviewed this memorandum and is in general concurrence with the approach outlined here.

II. GOALS

The decision of the 1983 National Convention to adopt a presidential strategy, in effect, set a goal that the Party is to use the 1984 presidential campaign as a vehicle for building the Party at all levels. The best articulation of this goal that I have heard so far is what Ramsey Clark told Ion Laskaris and me the other day. He said that our purpose should be to achieve: (1) a higher level of unity within the third party movement, (2) a broader base of public support for the movement and for the Citizens' Party, and (3) a greater capacity for the Citizens' Party to raise funds.

I would add to this that we must continue to place a high priority on process, so that the Citizens' Party can do business in a caring and democratic way and so that the people responsible for the national party and for the national campaigns can demonstrate concern and respect for the needs and objectives of the state and local party organizations and their candidates. Finally, I believe that we must all view the 1984 Presidential Election as an experience from which party activists should expect to learn about the electoral process and to develop techniques for conducting future campaigns.

The need for such learning was driven home to me in May 1966 when the Civil Rights organizations turned their attention to the Alabama Democratic Party Primary with hopes of taking advantage of the huge increases in black registration which had occurred under the Voting Rights Act of 1965. They learned that organizing the voters was not enough. Their lack of familiarity with the detailed mechanisms of conducting elections coupled with the fact that all authority to run the elections was in the hands of their opponents gave their opponents an edge that could not be overcome, even with the support of a majority of the electorate. The Citizens' Party is in a similar position, except we do not even have the voter support. It is important that we learn to use the system before we are embarrassed by losing an election that we could have won.

In terms of our ballot access effort, the specific goals under which we are planning to operate are:

1. Get the Citizens' Party's presidential slate on the ballot everywhere possible.

2. Try to get on as a party slate, if possible, rather than as an independent slate.

3. Use the ballot access process to help local organizing, especially achieving ballot access for local, state and congressional candidates.

4. Litigate where necessary to achieve ballot status.

5. Litigate to achieve high impact reform of the electoral system, but not if it seriously jeopardizes ballot status for 1984.

III. PROGRAM

The program for achieving ballot status has several components. By and large, our candidates for President and Vice President will get on the various state ballots by petitioning in nearly every state. In a few places, we may be required to go to court to overcome inequitable and unfair barriers. These activities must be coordinated, not only with one another, but also with the ballot access activities of Citizens' Party candidates in local, state and congressional races and with the activities, especially litigation, of other political parties, such as the Libertarians.

A. Petitioning

A preliminary review of the current requirements shows that there are 24 states (including D.C.) where petitions of less than 5,000 signatures (or a fee in lieu of signatures) will give our presidential electors a place on the ballot. Nine states require at least 5,000 and less than 10,000 signatures. These include Montana (9,974 signatures) and Wyoming (7,964 signatures) in which it would be quite difficult to meet the requirements. The remaining 18 states require 10,000 signatures or more. These states include California where we have already decided to have our candidates seek the nomination of the Peace and Freedom Party, as the route to the general election ballot.

We are now in the process of analyzing the statutes of each state in order to: (1) construct a schedule of petition deadlines, (2) develop a specific plan for each

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state, and (3) identify all special problems which may need early and careful attention, particularly matters which might require court intervention. Jim Coonan is coordinating this analysis.

The plans for complying with the ballot access requirements of each state will be worked out with state party officials in those states where we are organized and each plan will be reduced to writing. At least in the 27 states where 5,000 or more signatures are required, local counsel will be found, if possible, to review the plan. Each chapter will be asked to designate a local volunteer attorney. If they cannot find one, I will try to do so with help from Ramsey.

To the extent possible, the state party will be encouraged to find volunteers to do the petitioning. While it is recognized that this is not very efficient and may result in a few crises calling for intervention with paid petitioners, the hope is that petitioning is a form of involvement that will stick with the volunteer petitioners after the election and thus will strengthen the Party's base of support. By providing stipends to cover the volunteers' out-of-pocket costs and by training petitioner-supervisors, we may be able to reduce the problem to a minimum. Perhaps state party support might be generated by a policy that all cash donations collected by the petitioners will go to the state organization. Strong Congressional candidates would aid in recruiting volunteers and would provide direction for their energies after the ballot access drive is over. In addition, we may wish to ask the presidential candidates to help recruit volunteers.

In states where we are not organized and in states that need special efforts, we should be prepared to send in paid organizers to recruit, train and supervise volunteers and to petition. The budget estimates are based on paying such organizers $100.00 per week plus travel costs (usually by automobile) and room and board (usually donated). A good team of six petitioners working a busy urban area should be able to collect about 5,000 signatures in a week.

B. Litigation

It is virtually impossible to anticipate what litigation will arise. All previous efforts to challenge the number of signatures called for by state law have failed on the basis that it is proper for a state to restrict ballot access to those candidates and parties which can demonstrate that they have a "modicum of community support." Perhaps a new challenge would be useful in the context of a presidential race, where a state's interest is less and where it can be shown that the party has substantial public support in other states. While such a case could make ballot access easier in future presidential elections, its impact is less likely to carry over to state elections which are the usual measure of support required for party status.

One possible strategy that might involve litigation would be to petition for presidential electors, rather than for presidential candidates or to petition for a candidate who has not yet been nominated with the intention of changing candidates later if someone else gets the nomination. These strategies would permit us to start petitioning early and would give us more time to meet the requirements, allowing us to schedule our

resource commitments. These strategies would also generate lawsuits to eliminate the starting deadlines imposed by some states and to permit switching our party's petitions to our party's candidates, a practice that is generally not allowed. The problem with this strategy is that it is more difficult to petition for electors or for an unnominated candidate than for a definite candidate of national stature. It is also difficult to build up much enthusiasm a year before the election.

An alternative approach may be to hold our convention late and to seek to reduce the requirements in proportion to the time left. This would work well in states where there is a starting deadline, such as Georgia and New York.

Richard Winger of the Libertarian Party has provided us with a list of areas where litigation to reform the ballot access laws may be useful. It should help to guide our thinking. In my judgment, though, the thrust of our litigation effort should be to establish and expand the right of citizens, acting together as a small, low budget, political party, to offer an alternative slate of candidates to the voters of this country.

Should it become necessary to initiate a suit on behalf of the national Citizens' Party, a memorandum setting out the facts, the law and the policy considerations will be prepared and submitted for your review. Of course, candidates and local party organizations are free to sue in their own names to protect their own interests. I will keep you apprised of these situations. We may also be asked to provide assistance with such suits or to intervene in suits brought by other parties or their candidates. Each such request will have to be evaluated in light of our goals and our resources.

The budget estimates are based on our using local counsel who will donate legal services, but will pass on most of the expenses of the litigation. Expenses, such as long distance telephone charges, filing fees, deposition transcripts, exhibit preparation and reproduction of briefs, have been estimated at $2,500.00 per case. Some travel money has been included in case we want to bring in a local counsel to confer in Washington or to pay the travel of an expert witness.

C. Coordination

A major component of our overall effort is to coordinate the Citizens' Party's activities from state to state with respect to presidential ballot access, within each state as between presidential and other candidate ballot access activities and with the litigation strategies of other alternative parties. We are fortunate that Jim Coonan has volunteered to coordinate the presidential ballot access effort. This will free me up to focus on our litigation strategy, to recruit volunteer lawyers and to provide them with assistance in fact gathering and legal research. In addition, I would like to begin developing litigation to attack discrimination against non-major parties in areas other than ballot access, such as nonpartisan appointments.

The largest item in this part of the budget is for my retainer of $1,000 per month. The expenses generally will be long distance telephone charges, typing and

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photocopying. Some travel is also likely to be involved, especially if I should have to handle any of the litigation.

IV. PROBLEMS

There are four general problem areas. First, the ballot access laws are a hodge podge. Every jurisdiction has different requirements and different deadlines which are sometimes inconsistent with one another. Second, as already noted, the petition requirements of several states are extremely burdensome in terms of the number of signatures required. Six states require getting signatures from over 2% of all the people in the state who are eligible to sign. Not including California, eight states require getting more than 30,000 signatures. In all, we may have to gather 600,000 signatures. Third, the laws of a number of states make it especially difficult to meet the petition requirements. For example, the petitions may have to be circulated in each county or congressional district. The petitions may require that the signers change party affiliation. The petition gathering may be limited to certain time periods. Separate petitions may be required for each candidate on a slate. Fourth, ballot status and party status are not synonymous and such status is easily lost. Most states' laws provide that status can only be retained by having certain candidates poll a certain percentage of the vote, usually in one or more statewide races. Failure to meet this standard means that the party must hurdle the petitioning barrier again to participate in the next election. Third party efforts are worn down by dissipating their resources in the struggle for ballot access.

As we progress with more in-depth analysis of the state laws, you will be provided with more specific memoranda concerning many of these problems.

V. CONCLUSION

To facilitate discussions and to inform interested parties, I have circulated this memorandum to members of the Executive Committee and to Ramsey Clark, Sonia Johnson and John Lewis. I suggest that you check with these people and with state party leaders to ensure that everyone has common expectations. Ion plans to use this memorandum as an aid to fundraising, so if we change our approach, we should do so very soon.

* * * * * * * * *

BALLOT ACCESS BUDGET
(Oct. 1983 - Sept. 1984)

Petitioning Costs		
Petition organizers	$25,000	
Stipends for volunteers	10,000	
Expenses	5,000	
Travel	10,000	
		$50,000
Litigation Costs		
Legal fees	Donated	
Expenses	$25,000	
Travel	5,000	
		30,000
Coordination Costs		
Legal fees	$12,000	
Expenses	3,000	
Travel	5,000	
		20,000
		$100,000

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Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL
85 MAY 17 A9:39

May 15, 1985

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, DC 20463

Dear Mr. Steele:

Thank you for your letter dated May 10, 1985, responding to my request for an advisory opinion on behalf of the Citizens Party.

You declined to issue an advisory opinion because, under 11 CFR Sec. 112.1(b), advisory opinions must relate to an activity which the requesting party "plans to undertake or is presently undertaking and intends to undertake in the future" and it was your opinion that the circumstances set forth in my letter "appear to concern only past activity."

The activity which is the subject of my request is the act of reporting to the FEC, an act which has not yet occurred. The Executive Committee has asked me to advise them whether, under the circumstances described in my April 22 letter to you, the Citizens Party is required by federal law to report the contribution and expenditures in question. I would advise them according to your opinion of the matter.

Would this matter be ripe for an advisory opinion only if the Executive Committee first decided either to report or not report and then submitted its request?

Please reconsider your conclusion that an advisory opinion is not appropriate in this case. My clients are unable at this point to determine what action they should take.

Since I will be out of the country for the next two months, please direct your response to Alan J. Lander, Esquire, 764 Match Point Drive, Arnold, MD 21012. His telephone number is (301) 544-2243.

Sincerely,

Frank M. Dunbaugh

Frank M. Dunbaugh

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

Charles N. Steele, Esq.
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington DC 20463

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MAY 17 A 8:47

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

Frank M. Dunbaugh, Esquire
744 North Holly Drive
Annapolis, Maryland 21401

Dear Mr. Dunbaugh:

This refers to your letter dated April 22, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("Act") to transactions involving a bank account in the name of the "Citizens Party Special Ballot Access Fund." Specifically, you request an opinion as to whether the Citizens Party's involvement with that fund was sufficient to raise a reporting obligation with regard to the Citizens Party.

The Act authorizes the Commission to issue advisory opinions concerning application of the Act or Commission regulations to a specific activity or transaction proposed by the requesting person. 2 U.S.C. § 437f. Commission regulations explain that the factual situation presented in a request must relate to the activity that the requesting person "plans to undertake or is presently undertaking and intends to undertake in the future." 11 C.F.R. § 112.1(b). The facts you relate appear to concern only past activity. Accordingly, your inquiry is not appropriate for issuance of an advisory opinion.

In that this matter relates to past activities and may involve possible violations of law, this matter is being handled under our enforcement procedures. If you have any questions, please call Kenneth A. Gross at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

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Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

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April 22, 1985

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Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, DC 20463

Dear General Counsel:

Pursuant to 11 CFR 112.1(a), I am requesting an advisory opinion on behalf of the Executive Committee of the Citizens Party, which is responsible for the day-to-day operation of the Citizens Party at the national level. In January of this year, the Executive Committee learned for the first time of the existence of a bank account in the name of the "Citizens Party Special Ballot Access Fund" which was opened and closed during 1984. The Committee requests to be advised whether the Citizens Party, which has been reporting to the FEC since 1980, has any obligation to report the contributions to and expenditures from this account.

Sometime prior to May 4, 1984, a single donor contributed $15,000.00 in the form of a check which we believe was payable to the "Citizens Party, Special Ballot Access Fund". This check was received by a person who, at the time, was a member of the Executive Committee of the Citizens Party and also a consultant for the "Sonia Johnson - Citizen for President" Campaign. On May 4, 1984, he opened a bank account in the name of the "Citizens Party, Special Ballot Access Fund," using his home address. The bank was provided with the tax ID number of the Citizens Party.

In opening the account, the member of the Executive Committee advised the bank that he had received authority to open the account from the Executive Committee. He also designated as the only person authorized to draw from the account, an individual who worked for the Sonia Johnson Campaign and had no connection with the Citizens Party.

The account remained open until August 15, 1984, by which time all of the funds had been expended. A total of 25 checks and wire transfers were used to pay various individuals who apparently had performed services in connection with qualifying the Johnson/Walton slate to appear on the ballot in a number of different states. We have no reason to believe that any of the funds in this account were used for any other purpose. Other than the Executive Committee member who opened the account, no one else who was an official or an employee of the national party took any part in the disbursement of funds from the account.

The Citizens Party's two national party office employees were aware that the Executive Committee member was opening this account. However, neither of these staff members nor the Executive Committee member who opened the account advised any other member of the Executive Committee of the existence of the account. During the time the account was open, no other member of the Executive Committee nor its various sub-committees (including its ballot access and finance committees) knew anything about this account.

In fact, the Executive Committee first learned of the $15,000.00 contribution at it's January 1985 meeting, at which time it instructed the Co-Chairs of the Party to seek legal advice. Subsequently, I was retained to conduct an investigation and to research the relevant legal questions.

At its next meeting, in March 1985, the Executive Committee reviewed the facts, including the party structure, staff functions, past practices, the records of various meetings, other records and the recollections of persons who were members of the Executive Committee at the time. Based on all of this information, the current Executive Committee has concluded that the former member who opened the account did not have any authority, expressed or implied, to open a bank account on the Citizens Party's behalf or to expend any funds on behalf of the Party. Even though the money from this account appears to have been used for a function that the Party was willing to perform, the person who received the contribution and the persons who used the funds were never authorized by the Citizens Party to perform this function nor to expend any party funds.

Given these facts, the FEC still might conclude that there was sufficient party involvement to create an obligation for the Citizens Party to report the contribution and the expenditures. Accordingly, the Executive Committee of the Citizens Party repectfully requests that the FEC provide it with an advisory opinion as to its obligations.

Please let me know if the Commission desires any further information from the Executive Committee.

Respectfully submitted,

Frank M. Dunbaugh

Frank M. Dunbaugh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

Frank M. Dunbaugh, Esquire
744 North Holly Drive
Annapolis, Maryland 21401

Dear Mr. Dunbaugh:

This refers to your letter dated April 22, 1985, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("Act") to transactions involving a bank account in the name of the "Citizens Party Special Ballot Access Fund." Specifically, you request an opinion as to whether the Citizens Party's involvement with that fund was sufficient to raise a reporting obligation with regard to the Citizens Party.

The Act authorizes the Commission to issue advisory opinions concerning application of the Act or Commission regulations to a specific activity or transaction proposed by the requesting person. 2 U.S.C. § 437f. Commission regulations explain that the factual situation presented in a request must relate to the activity that the requesting person "plans to undertake or is presently undertaking and intends to undertake in the future." 11 C.F.R. § 112.1(b). The facts you relate appear to concern only past activity. Accordingly, your inquiry is not appropriate for issuance of an advisory opinion.

In that this matter relates to past activities and may involve possible violations of law, this matter is being handled under our enforcement procedures. If you have any questions, please call Kenneth A. Gross at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel

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Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

GCC #7486

85 MAY 17 A8:48

RECEIVED GENERAL COUNSEL 85 MAY 17 A9:39

May 15, 1985

Charles N. Steele, Esquire
General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, DC 20463

Dear Mr. Steele:

Thank you for your letter dated May 10, 1985, responding to my request for an advisory opinion on behalf of the Citizens Party.

You declined to issue an advisory opinion because, under 11 CFR Sec. 112.1(b), advisory opinions must relate to an activity which the requesting party "plans to undertake or is presently undertaking and intends to undertake in the future" and it was your opinion that the circumstances set forth in my letter "appear to concern only past activity."

The activity which is the subject of my request is the act of reporting to the FEC, an act which has not yet occurred. The Executive Committee has asked me to advise them whether, under the circumstances described in my April 22 letter to you, the Citizens Party is required by federal law to report the contribution and expenditures in question. I would advise them according to your opinion of the matter.

Would this matter be ripe for an advisory opinion only if the Executive Committee first decided either to report or not report and then submitted its request?

Please reconsider your conclusion that an advisory opinion is not appropriate in this case. My clients are unable at this point to determine what action they should take.

Since I will be out of the country for the next two months, please direct your response to Alan J. Lander, Esquire, 764 Match Point Drive, Arnold, MD 21012. His telephone number is (301) 544-2243.

Sincerely,

Frank M. Dunbaugh

Frank M. Dunbaugh

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

OGC Docket #1

GCC #7486

85 MAY 17 A8:48

RECEIVED GENERAL COUNSEL 85 MAY 17 A9:39

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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744 North Holly Drive
Annapolis, Maryland 21401

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General Counsel

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Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

85 APR 25 P12:08

April 22, 1985

FEC
85 APR 25 A8:47

Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, DC 20463

Dear General Counsel:

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Respectfully submitted,

Frank M. Dunbaugh

Frank M. Dunbaugh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 10, 1985

Frank M. Dunbaugh, Esquire
744 North Holly Drive
Annapolis, Maryland 21401

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Charles N. Steele
General Counsel

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WASHINGTON, D.C. 20463

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Annapolis, Maryland 21401

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Sincerely,

Charles N. Steele
General Counsel

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GCC #7454

Federal Election Commission
Office of the General Counsel
1325 K St. NW
Washington, D.C. 20463

April 29, 1985

re: Citizens' Party Filing Requirements

Dear Sir/Madam,

I am writing to you to present other facts related to the information you received from Frank M. Dunbaugh, in a letter dated April 22, 1985.

Mr. Dunbaugh presented the information as if he were a disinterested party. In fact, Mr. Dunbaugh is now and has been a member of the Citizens' Party since 1979, is Chair of the Maryland Citizens' Party, Chair of the National Political Committee, a member of the legal committee (both of these committeess were set up by the Executive Committee), and attends most meetings of the Executive Committee and the Mid-Atlantic National Committee.

Mr. Dunbaugh's letter contains several misstatements:

1) The individual designated to draw from the Citizens' Party Special Ballot Access Account was, and is now, a member of the Citizens' Party and a delegate representing Virginia at the National convention. She is now a member of the National Committee from Virginia (which is the policy-making body of the party, please refer to the enclosed constitution.)

2) After the Executive Committee member who opened the account left the ballot access job he was replaced by a peron who was and is an alternate to the Executive COmmittee.

3) One of the national office "employees" referred to in Mr. Dunbaugh's letter was the Executive Director of the party.

4) The present Executive Committee does not meet gender guidelines which are mandated by the constitution.

5) The vote of the Executive Committee authorizing Mr. Dunbaugh to seek the advice of the Federal Election Commission in the manner in which he did was 5 to 4 and there are questions as to the legality of the Western Regional Representatives election (if there was one) to the Executive Committee. He cast the deciding vote authorizing Mr. Dunbaugh to send the letter.

Mr. Dunbaugh, and others, supported candidates other than Sonia Johnson.

As you can see, this appears to be more of an internal political struggle (enclosed are several documents to illustrate this) than a question of who must file a report. The party's major delay has stemmed from the fact that a former member of the Executive Committee, who was also Chair of the Finance Committee refuses to relinquish financial records which are in his possession.

As a member of the National Committee I am asking that you consider the additional facts as I have presented them and assist the party as much as possible to comply with your regulations.

Respectfully,

Charles L. Bowman

Charles L. Bowman

THE
CITIZENS PARTY
CONSTITUTION

Adopted, May 30, 1982
At the National Convention

ARTICLE I - MEMBERSHIP

1. The Citizens Party exists to give expression to the common political goals of its members.

2. Membership in the Party is open to all residents of the United States, its territories and possessions and to all United States citizens living abroad, who share a belief in the basic premises of the Party and who enroll as members with a State Chapter or with the National Office, or register as members under the laws of their respective states.

ARTICLE II - NATIONAL CONVENTION

1. The Citizens Party will convene a national convention at least biennially.

2. The Convention will adopt a party platform and/or a Statement of Purpose. The draft platform will include minority positions which are supported by more than one-third (1/3) of the Convention delegates.

3. The Convention shall have the authority to nominate the Party's presidential and vice presidential candidates.

4. A method for apportioning convention delegates will be determined by the National Committee at least two months before the National Convention.

5. The business of the Convention should be to consider and approve a political report dealing with: the state of the nation (including the main political tendencies); the state of the Party, and the main tasks of the Party in the current period. The draft political report should be prepared by the Executive Committee and submitted to the regions 60 days in advance of the convention so that meaningful pre-convention meetings and discussion can take place.

ARTICLE III - NATIONAL COMMITTEE AND REGIONAL CONFERENCES

1. A National Committee composed of the two Executive Committee chairpersons and representatives of each of the states will be responsible for direction of the Citizens Party between Conventions.

2. States will be allotted a National Committee delegation equal in number to one-half (½) of their convention delegate size.

3. Each state delegation will determine the manner of election, removal and replacement of its National Committee representatives. However, the membership of the Party in a state may, by majority vote, recall and replace a representative from its state at any time.

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ARTICLE III (Cont'd)

4. State committees may, in writing, empower delegates attending the full assembly of the National Committee to cast proxy votes.

5. Any state with more than one representative to the National Committee shall conform to the following affirmative action guidelines: for each state with more than one representative, the number of women plus one shall equal a majority of the National Committee delegation. If a state has more than three (3) representatives and less than 20% minorities in their state, its delegation shall reflect that proportion of the state. If they have more than 20% in the state, they must have 20% in their delegation. This is to be enforced by removing the number of white delegates who should be minority.

6. The National Committee shall be divided into regional conferences, each of which will meet in its respective region. Minimal criteria for a duly-constituted region are:

a. the states must be contiguous and composed of at least one functioning state chapter and three organizing committees;

b. the region must send a representative to the Executive Committee meetings on a regular basis;

c. the regional conferences must be accessible to and maintain communications with all chapters and organizing committees in its area, on the basis of general democratic principles;

d. the conferences must meet as a region at least twice a year;

e. subsequent to approval of this constitution, regions must hold elections of their regional representatives to the Executive Committee at least once prior to each national convention.

The specific structure of a given region is to be determined by that region itself, provided it maintains general democratic principles. If a region cannot agree on an internal structure, the matter will be resolved by the Executive Committee.

Boundaries of regions can be changed through mutual consent among: states wishing to move to another region, the region being moved from, and the region being moved to, provided minimal regional criteria are met. Disputes over regional boundaries are to be settled by the Executive Committee.

There will be a maximum of seven (7) regions.

New regions arising where the Citizens Party is currently weak will be certified by the Executive Committee, provided they meet minimal regional criteria. All organizing committees and/or states where no Citizens Party organization currently exists will be assigned to a region by the Executive Committee.

The boundaries of a given region may not be changed more than once during twelve (12) calendar months.

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ARTICLE III (Cont'd)

Should a constituted region fail to meet its minimal regional criteria, the Executive Committee shall try for a period of six (6) months to resuscitate it. If that fails, the Executive Committee, by a two-thirds (2/3) vote, shall disband it and assign its states to other regions, in consultation with those other regions.

7. The powers of the National Committee shall be exercised in any of the following fashions:

a. a full assembly of the National Committee may be called by the Executive Committee, the National Committee, or a majority of the Regional Conferences meeting within a thirty-day period;

b. concurrent sessions of the Regional Conferences may be called by the Executive Committee, the National Committee, or any two Regional Conferences. Concurrent sessions would act as the full National Committee and meet within a thirty day period. The Executive Committee, any Regional Conference, or the Steering Committee of any Regional Conference may submit items to the Regional Conferences through the national office for action. A majority of the National Committee is necessary for action on such items unless otherwise provided for in the Constitution. Should the National Committee be unable to reach agreement, the Executive Committee may offer suggestions to reconcile the differences by mail ballot.

c. The National Committee may be polled by mail on the initiative of the Executive Committee, the National Convention, or any two Regional Conferences meeting within a thirty day period; the balloting by mail will be coordinated through the national office.

8. Each state will select a sufficient number of alternate representatives to the National Committee to provide for the state's continuing adequate representation.

9. The National Committee will faithfully oversee the implementation of decisions by the membership and the convention.

10. The National Committee may establish any subcommittees it deems necessary.

11. The National Committee may take whatever actions it deems necessary and proper to carry out the mandates of this Constitution.

ARTICLE IV - EXECUTIVE COMMITTEE

1. A. The Executive Committee will be composed of:

a. Two Co-Chairs (at least one woman), elected at-large by the National Convention, whose function will be to operate as working chairs of the Committee;

b. Three at-large members elected at the National Convention, to include at least one woman and one minority;

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ARTICLE IV (Cont'd)

1. A. c. One representative and one alternate (1 female, 1 male), selected by each duly-constituted region and serving at the pleasure of the respective regions and subject to recall and replacement by those regions, to be selected by caucus of the delegates of their respective regions at the 1982 National Convention, and by the Regional Conferences subsequently.

B. At-large Executive Committee members will be elected by the National Convention.

C. Regional Executive Committee members will be elected by caucus of the delegates of the respective regions at the 1982 National Convention, and by the Regional Conferences subsequently.

D. At the Convention, the regional representatives shall be chosen prior to the at-large elections, and the Co-Chairs elected prior to the election of the at-large representatives. Alternates for the at-large seats will be the male and female who receive the highest number of votes among the nominees who are not elected to the Executive Committee.

E. The number of women plus one on the Executive Committee must equal a majority.

2. The Executive Committee will act to ensure the implementation of National Committee and National Convention decisions. It will also recommend courses of action to the National Committee and perform such other duties as the National Committee may assign it. The Executive Committee will propose agenda for full assemblies of the National Committee.

3. The Executive Committee shall be accountable to the National Committee. The National Committee shall have the authority to remove any at-large Executive Committee member for just cause by a two-thirds (2/3) vote of the members of the National Committee after adequate notice is given to the parties concerned. At-large replacements to the Executive Committee may be any member of the Party elected by a majority of the National Committee after adequate notice is given.

4. The Executive Committee will be responsible for the efficient operation and conduct of the National Office of the Party. It shall be empowered to select the Executive Director and such other staff as deemed necessary. Strict affirmative action guidelines must be followed when hiring staff.

5. The Executive Committee shall institute procedures through which Party membership is made aware of available staff positions.

6. The Executive Committee must form a personnel committee which will make recommendations to the full committee about necessary staff positions and job descriptions.

7. Between meetings of the National Committee, the Executive Committee may take positions on current events or on public policy proposals consistent with the Party Platform. When 50 members (by petition) or one state (by decision of the state committee) forwards a program proposal

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ARTICLE IV (Cont'd)

or resolution to the Executive Committee, it must be placed on the agenda for discussion at their next meeting. Positions taken by the Executive Committee or Executive Committee members on current events of public policy proposals must be communicated to National Committee members within two weeks of the time the positions are publicly taken.

8. Members of the Executive Committee will be ex-officio, non-voting members of the full assembly of the National Committee.

9. The Executive Committee shall meet no less than one (1) time every other month and as many times as deemed necessary. Emergency meetings may be called once one-third (1/3) of the Executive Committee members submit such a request to the Executive Committee chairpersons or by request of two regional conferences. These requests may be made by phone, but should be followed by a written request.

10. A quorum of the Executive Committee will consist of a majority of the committee including one co-chair. Decisions of the Executive Committee require the affirmative vote of the majority of those present and voting except that no motion may pass without the support of at least four (4) members.

11. The Executive Committee may form any subcommittee deemed necessary. When 100 members (by petition) or three (3) states (by decision of the state chapters) call for the establishment of a subcommittee, the Executive Committee will form such a committee.

12. The Executive Committee shall approve all national expenditures and shall be responsible for allocating funds. National staff shall prepare budgets and shall submit them to the Executive Committee for approval.

13. When necessary, the travel and housing costs of at-large Executive Committee members for the purposes of Executive Committee meetings shall be paid for with National Party funds.

14. At each meeting, one Executive Committee member shall be made responsible for recording and writing the minutes. The minutes shall be distributed to the National Committee by mail or by some other means within one month of the meeting.

ARTICLE V - EXECUTIVE COMMITTEE CHAIRPERSONS

1. The two (2) chairpersons, or Party members designated by them, will preside at all Executive Committee meetings and full assemblies of the National Committee and at the Party's National Conventions.

2. The Chairpersons, or Party members designated by them, will propose agenda for Executive Committee meetings, subject to amendment by the full Executive Committee.

3. The Chairpersons shall appoint a Party Treasurer and Party Legal Counsel with the approval of the Executive Committee. The Treasurer and Legal Gounsel may be removed by a two-thirds (2/3) vote of the Executive Committee.

4. The Chairpersons will perform such other duties as may be delegated to them by the Party Convention, the National Committee or the Executive Committee.

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ARTICLE V (Cont'd)

5. Should a vacancy occur in the office of an Executive Committee Co-Chair, the National Committee will elect a new Chairperson by a majority vote after adequate notice of the vacancy has been given.

ARTICLE VI - CAMPAIGNS AND CANDIDATES*

1. Regarding the nomination of presidential candidates, the convention delegates shall select a presidential nominee by a majority of those voting. The vice presidential nominee shall be selected in the same manner.

ARTICLE VII - AMENDMENT AND RATIFICATION

1. This Constitution may be amended either by a majority of delegates at the national convention or two-thirds (2/3) of the National Committee, with advance notice in writing .

2. This Constitution becomes effective upon ratification by a majority of the National Convention delegates.

(The Constitution was adopted by a vote of 185 to 37)

* Sections 2 through 6 of Article VI were tabled until the next convention (1983) when more appropriate and when there is more time to discuss them. The sections had to do with formation and direction of a campaign committee, candidate accountability to the platform, policy statements during the campaign and the development of a Shadow Cabinet.

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June 6th, 1984
From: Willa and Ion
Topic for debate: What must we do now?

Relevant documents

1. 9 point statement for S.J. Campaign agreement: drawn up by Judi for june 2nd meeting
2. Proposal for Funding - given out by campaign at June 2nd meeting enclosed
3. Recap of present situation: Willa - June 5th - sent to chapter mailing list
4, The draft statement of Conditions and Requirements - 1st draft - proposed enclosed
5. 1st draft - proposed cover letter to accompany statement of Conditions enclosed

INTRO:

These materials are being circulated informally among those E.C. members who are not paid staff or consultants of any campaign for this Party's presidential nomination. This will ensure there are no inherent albeit invisible conflicts of interest among those of us now deliberating quietly on our present state of affairs. Our chief counsel and chief fund-raiser are also receiving copies of these materials.

I The Problem - Simply Stated:

#1. This E.C. has worked in good faith to help implement the 1983 Convention decision to run a Presidential Campaign in 1984 that will benefit the Party at all levels.

#2. For 10 months since that decision was made, this E.C. has borne the brunt of unreasonable demands, unwarrented hostility, public attacks without warning, misstatements of fact in Campaign Update materials, and misinterpretations of our intentions, deliberate or undeliberated as the case may be. None of our requests for remedy have been met at this time.

#3. The Campaign has been extremely costly to the national Party in terms of funds diverted, time, energy and personal expense of committee members, and national office staff time, to a degree unprecedented since the end of the 1980 Presidential campaign. Indeed the best metaphor for our experience to date with " the idea of this campaign " may well be Dorothy and Toto caught up in a Kansas tornado.

#4. On the other hand there has been no input of funds from this campaign to the national party operations or the grassroots nor any expressed interest or desire to do so on terms acceptable to our self-respect. almost $150,000 has been raised by this campaign, much of it with the help of our Party contacts. Most of itwill be matched. Despite repeated requests for information on sums raised thru use of our mail lists as per agreement, none has been forthcoming. It is now five months since their first mailing to our lists went out. Total receipts to this campaign since the October announcement exceed $89,000 as of April 30th, 1984, according to F.E.C. records we secured Mon. June 5th.

#5. At the June 2nd meeting it was clear to all of us attending, from the statements made, and the proposals made, (see item #2 - documents) this campaign will remain under the exclusive control of 4 paid employees and the Presidential candidate. Complete financial control will also remain in this group's hands. No significant financial support of national office projects such as our Ballot Access Program for Party and Candidate, national Citizens Voice, nor even reimbursement for our legitimate costs and expenses is contemplated. We may, to be sure, stand in line with our local and state chapters, our begging bowl in hand, for grants for projects whose total value will range from $6000 to $17,500 at most. A realistic estimate of $300,000 revenue to this campaign by June 30th,1984 ($150,000 raised, $150,000 matched) comes out to a possible disbursement in the range of 2% - 6% for national operation undertakings. The campaign has, of course, been fully briefed on our current financial difficuties in national operations.

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II The Present Situation

What is the situation we, as an E.C.,find ourselves in at this moment?

#1. We face a financial crunch with a need to increase revenues for national operations ASAP. We only have a severely depleted Direct-Mail contributors base to sustain us. The campaign intends to be of no help. We have only ourselves to depend on.

#2 There is absolutely no influence, much less control, by this Party at any level over this campaign, and there appears to be no prospect of securing same.

#3 There remains, after 10 months of sporadic contact but steady association with this candidate and her staff a profound ambivalence and distrust of the campaign staff and candidate on this E.C.

#4 There is no felt confidence this campaign will serve the purpose of buildung our Party. There is, on the contrary, considerable suspicion it intends to subvert this Party by taking advantage of its currently weakened state, destroy its existing governance process, structure, leadership and fabric of human relationships.

#5 There is certainly no confidence this E.C. as the duly constitued and elected leadership at the national level is in any position toguarantee this campaign and its candidate will serve the purposes of our Party at any level. Indeed any such claim would be frivolous and irresponsible. By all appearances this is an Independent's campaign run completely by outsiders for their own narrow purposes.

#6 When representatives of the local chapters voted to support a Presidential Campaign in 1984 they said they wanted a campaign to build local chapters, obtain ballot status for the Party in as many states as possible, increase recognition of the Party, and qualify for primary matching funds to help put the Party on a firmer financial basis.

#7 The Sonia Johnson campaign has brought one new organizing committee in Madison, Wisconsin. The campaign is working and proposes to spend a large portion of its funds to put Sonia Johnson, not the Citizens Party, on the ballot through an outside consulting firm. Media coverage of the campaign has been perfunctory, and F.E.C. matching funds, if acquired, will not contribute at all to the financial strength of of the Citizens Party, either locally or nationally.

III The Questions - For Us!

#1. Under these circumstances what is the best course of action for us to take so as to protect the Party's interests?

#2. What must we do to support its goal of Party control over Presidential campaigns conducted under our name, and to prevent any role reversal whatsoever?

#3. Will we share our doubts and convictions with our colleagues who elected us, who serve as N.C.s, and state/local chapter members?

#4. Will we make it clear we cannot possibly fulfill their expectations if the current situation continues to be tolerated and ignored?

#5. Will we quickly reach a concensus among ourselves as to what must be done, and why, and how?

#6. What is the role of trust in political action? What conduct reflects ethical concern, sensitivity to others and a decent respect for the opinions, beliefs and reasonable needs of others with whom we claim to be in association with for common ends?

#7. In relation to this campaign can we confidently say we feel well served, well treated, and optimistic about our Party's future?

#8. What is the purpose of having a convention to nominate such a candidate as this?

#9 Who, in the grassroots, at local,state, or national level in this Party can

confidently say they have had an overall rewarding experience with this campaign?

#10. Do we wish to passively hand over control of our Party to those whom we believe, based on our own negative experience, serve its interests so poorly?

#11. Will we demonstrate the collective courage to make the necessary recommendations to our Party colleagues, and the will to enforce them regardless of the external opposition - provided we have the backing of a majority of our N.C?

#12. Are we prepared to devote the necessary energy and time to do what must be done?

#13. Will we lead?

IV Conclusion

We forward this set of 14 points setting forth the indispensable minimum conditions necessary to correct the damage done by this campaign to the Party to date and to ensure future control by Party over present and future Presidential campaign efforts. We believe the 14 points and covering letter must be sent to the candidates, Johnson and Walton only. Their consent must be obtained in writing. Will they accept? It is most unlikely! But we will have a documented record of our efforts toachieve our Party goals and to protect its integrity. Is this list complete to your satisfaction?

Because rejection of any and all of these points is almost certain, we must even now address these questions. A statement of where we stand and why needs to be formulated and sent out to our N.C.s and local/state chapter membership. Do we want to send out a short general statement signed by us all, but accompanied by personal statements by individual E.C. members and our cover letter to the candidates and the 14 points.

Once the Party is informed of our views, will we be prepared to make recommendations? If so, what will they be? When will they go out?

And what is the concensus we are prepared to abide by? An N.C, vote in conformance with current legitimate governance structure and process of national party operations? Do we require more? Why? And how fast can such consultation be carried out?

This set of materials is being sent out by two very concerned members of the E.C. to their colleagues as a starting point for discussion among ourselves. We ask that they not be duplicated or distributed until general agreement is reached between us as to the proper form and content of any communication we wish to make to our members and/or the Presidential and Vice-Presidential candidates. With respect to that campaign, with the exception of Dick Walton whose devotion to this Party and its ideals is no doubt beyond question, is it wise for us to proceed assuming good faith andfair play on their part? If not , there is a need for caution every step of the way. Read what you wish of these contents to others - and let us move quickly and effectively to lead out of our current political quandry. After all, time is running out. Is it not?

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Party wavers on fielding 1984 slate

By Paul Rauber

SAN FRANCISCO

IT'S NOT EVERY DAY A POLITICAL party is handed a historical opportunity on a platter. "History never asks you twice," feminist leader and Mormon heretic Sonia Johnson told the Citizens Party (CiP) national convention meeting here.

Yet during the September 2-5 meeting the party was offered not one but two chances to jump on the history train. Although it was not a nominating convention, presidential politics dominated the discussion. The strategy adopted in the end left as much space as possible for shifts in power politics in the coming months.

Johnson made a strong pitch for the CiP to move beyond its traditional ecology and disarmament base to pursue the feminist vote, offering herself as the party's presidential candidate. Such a candidacy, she claimed, would exploit the gender gap, rally progressive forces and excite the media bored by Reagan's Democratic opposition. "People who think like you are the tools of history," Johnson told the 175 delegates. "I don't see how you can justify not running a woman."

Commoner sees Jackson's bid as a chance for a major left thrust.

Although it has organizations in 30 states and considers itself the largest political party of the non-Marxist left in the U.S., the CiP has so far not been able to move beyond its admittedly narrow base of white leftists. Johnson offered one strategy for doing so; CiP founder Barry Commoner proposed a second.

Commoner described to the delegates an unprecedented social movement in the country, sparked by hatred of Reagan and distrust of the Democrats and led by Operation PUSH director Jesse Jackson. The CiP, Commoner argued, should take a place in Jackson's "Rainbow Coalition" and join in the task of signing up millions of disenfranchised voters. The CiP's 1980 presidential candidate sees the Jackson candidacy as providing the first chance in American history for "a major left thrust" in a presidential campaign. The implication was clear that if the CiP did not participate in the coalition, it would be left in the dust of history.

"My hypothesis," Commoner told *In These Times*, "is that there is a pent-up call for the kind of campaign Jackson wants to run, that he wants it to be based on a broad coalition. If it happens, any progressive group that doesn't participate in it will be irrelevant."

In 1980, the CiP got Commoner on the ballot in 30 states, garnering nearly a quarter of a million votes. This was disappointingly short of "the magic 5 percent" that would have gained the party the matching federal campaign funds John Anderson now enjoys. Since the election, party members have ceaselessly debated the wisdom of a small party with limited resources running a largely symbolic presidential campaign.

A majority of the respondents to a June membership poll favored a strategy besides another nationwide presidential campaign. Yet presidential fever burns hot among the party's most active sector and its leadership. The convention overwhelmingly voted to pursue a presidential campaign strategy, despite some opposition from the party's western region. Part of that opposition is a result of extremely restrictive ballot-access laws in California, but there is also strong sentiment in the West for working with Jackson.

Anxious to preserve its autonomy as a third party, there is substantial opposition within the CiP to supporting Democratic candidates. Former U.S. Attorney

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Former U.S. Attoney General Ramsey Clark

General Ramsey Clark, himself a possible CiP presidential nominee, argues that the party should urge Jackson to run but still field its own candidates. "You don't abandon what you stand for just because you'd be left in the dust," he told *In These Times.*

But a strong pitch for Jackson came from the Democratic Socialists of America's (DSA) Manning Marable, who advocates an "inside/outside" strategy for working within the Democratic Party. Marable urged critical support for Jackson on the principle that anything that throws the Democratic primary process into chaos will benefit the left by opening up a greater political space. Marable received a standing ovation, and for a while it looked like the convention might approve a pro-Jackson resolution after all.

But it all fell apart Monday. Sonia Johnson unexpectedly withdrew her candidacy, having come to the conclusion that the CiP was not ready for a feminist candidate. The resolutions in support of Jackson never made the floor, and the convention instead adopted a Texas proposal giving each state substantial autonomy in its presidential strategy. Those who want to support Jackson may. If by the CiP's early spring nominating convention the Jackson campaign has gathered the momentum Commoner and Marable predict, the CiP may find itself hard pressed to field its own slate of candidates. ■

Paul Rauber writers regularly for the San Francisco Bay Guardian.

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MEMORANDUM

November 29, 1984

To: Executive Committee Members
Citizens Party

From: Frank Dunbaugh, Chair
National Political Committee

Subject: Organization of the National Political Committee

Thank you for the confidence you expressed by appointing me to Chair the National Political Committee. I regard the work of this committee to be critical to the future of the Citizens Party. How our Party is perceived by the public is dependent upon our having and executing an active political program. The perceptions of the public will directly affect our capacity to raise money to continue the organizing efforts of the Party.

Since the October meeting of the EC, I have given some thought to how the NPC should proceed to get organized and to start developing political programs. As you know, I am strongly committed to the principle that the Citizens Party always needs to function with broad based support from its members. That is why it is essential that this committee have active representation from the Regional Conferences of the National Committee.

So far as I am aware, only the Mid Atlantic Region has designated a representative to serve on the National Political Committee. Until the other Regional Conferences can meet and designate their representatives, I would be more comfortable if the EC Representatives from the other regions would appoint someone to act in that capacity on an interim basis. This would ensure that every local chapter will have access to the NPC and will be kept informed of its plans and activities.

Enclosed are copies of a memorandum from me to the members of the National Political Committee and a proposed agenda for our first meeting. The EC members who are regional representatives are requested to pass these along to the persons they designate to represent their region as NPC members and alternates. If we are to be able respond to events early in 1985, such as the inaugural and the State of the Union Address, it is essential that you act immediately to recruit members for this committee.

Thank you for your help.

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MEMORANDUM

TO: Judi Gerhardt and Willa Kenoyer,
Co-Chairs, Citizens' Party.

FROM: Frank M. Dunbaugh, Legal Counsel

DATE: October 10, 1983

RE: Program and Budget to Attain Ballot Access for the Citizens' Party's 1984 Presidential Slate.

I. INTRODUCTION

In 1980, the Citizens' Party's presidential ticket of Barry Commoner and LaDonna Harris was on the ballot in 29 states and the District of Columbia. This ticket appeared with the Citizens' Party label in some states and as an independent slate in other states.

The purpose of this memorandum is to outline for you how the Citizens' Party plans to get its 1984 presidential ticket on the ballot in every state, if possible. Jim Ccenan (Georgia) who is coordinating our ballot access drive has reviewed this memorandum and is in general concurrence with the approach outlined here.

II. GOALS

The decision of the 1983 National Convention to adopt a presidential strategy, in effect, set a goal that the Party is to use the 1984 presidential campaign as a vehicle for building the Party at all levels. The best articulation of this goal that I have heard so far is what Ramsey Clark told Ion Laskaris and me the other day. He said that our purpose should be to achieve: (1) a higher level of unity within the third party movement, (2) a broader base of public support for the movement and for the Citizens' Party, and (3) a greater capacity for the Citizens' Party to raise funds.

I would add to this that we must continue to place a high priority on process, so that the Citizens' Party can do business in a caring and democratic way and so that the people responsible for the national party and for the national campaigns can demonstrate concern and respect for the needs and objectives of the state and local party organizations and their candidates. Finally, I believe that we must all view the 1984 Presidential Election as an experience from which party activists should expect to learn about the electoral process and to develop techniques for conducting future campaigns.

The need for such learning was driven home to me in May 1966 when the Civil Rights organizations turned their attention to the Alabama Democratic Party Primary with hopes of taking advantage of the huge increases in black registration which had occurred under the Voting Rights Act of 1965. They learned that organizing the voters was not enough. Their lack of familiarity with the detailed mechanisms of conducting elections coupled with the fact that all authority to run the elections was in the hands of their opponents gave their opponents an edge that could not be overcome, even with the support of a majority of the electorate. The Citizens' Party is in a similar position, except we do not even have the voter support. It is important that we learn to use the system before we are embarrassed by losing an election that we could have won.

In terms of our ballot access effort, the specific goals under which we are planning to operate are:

1. Get the Citizens' Party's presidential slate on the ballot everywhere possible.

2. Try to get on as a party slate, if possible, rather than as an independent slate.

3. Use the ballot access process to help local organizing, especially achieving ballot access for local, state and congressional candidates.

4. Litigate where necessary to achieve ballot status.

5. Litigate to achieve high impact reform of the electoral system, but not if it seriously jeopardizes ballot status for 1984.

III. PROGRAM

The program for achieving ballot status has several components. By and large, our candidates for President and Vice President will get on the various state ballots by petitioning in nearly every state. In a few places, we may be required to go to court to overcome inequitable and unfair barriers. These activities must be coordinated, not only with one another, but also with the ballot access activities of Citizens' Party candidates in local, state and congressional races and with the activities, especially litigation, of other political parties, such as the Libertarians.

A. Petitioning

A preliminary review of the current requirements shows that there are 24 states (including D.C.) where petitions of less than 5,000 signatures (or a fee in lieu of signatures) will give our presidential electors a place on the ballot. Nine states require at least 5,000 and less than 10,000 signatures. These include Montana (9,979 signatures) and Wyoming (7,964 signatures) in which it would be quite difficult to meet the requirements. The remaining 18 states require 10,000 signatures or more. These states include California where we have already decided to have our candidates seek the nomination of the Peace and Freedom Party, as the route to the general election ballot.

We are now in the process of analyzing the statutes of each state in order to: (1) construct a schedule of petition deadlines, (2) develop a specific plan for each

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state, and (3) identify all special problems which may need early and careful attention, particularly matters which might require court intervention. Jim Coonan is coordinating this analysis.

The plans for complying with the ballot access requirements of each state will be worked out with state party officials in those states where we are organized and each plan will be reduced to writing. At least in the 27 states where 5,000 or more signatures are required, local counsel will be found, if possible, to review the plan. Each chapter will be asked to designate a local volunteer attorney. If they cannot find one, I will try to do so with help from Ramsey.

To the extent possible, the state party will be encouraged to find volunteers to do the petitioning. While it is recognized that this is not very efficient and may result in a few crises calling for intervention with paid petitioners, the hope is that petitioning is a form of involvement that will stick with the volunteer petitioners after the election and thus will strengthen the Party's base of support. By providing stipends to cover the volunteers' out-of-pocket costs and by training petitioner-supervisors, we may be able to reduce the problem to a minimum. Perhaps state party support might be generated by a policy that all cash donations collected by the petitioners will go to the state organization. Strong Congressional candidates would aid in recruiting volunteers and would provide direction for their energies after the ballot access drive is over. In addition, we may wish to ask the presidential candidates to help recruit volunteers.

In states where we are not organized and in states that need special efforts, we should be prepared to send in paid organizers to recruit, train and supervise volunteers and to petition. The budget estimates are based on paying such organizers $100.00 per week plus travel costs (usually by automobile) and room and board (usually donated). A good team of six petitioners working a busy urban area should be able to collect about 5,000 signatures in a week.

B. Litigation

It is virtually impossible to anticipate what litigation will arise. All previous efforts to challenge the number of signatures called for by state law have failed on the basis that it is proper for a state to restrict ballot access to those candidates and parties which can demonstrate that they have a "modicum of community support." Perhaps a new challenge would be useful in the context of a presidential race, where a state's interest is less and where it can be shown that the party has substantial public support in other states. While such a case could make ballot access easier in future presidential elections, its impact is less likely to carry over to state elections which are the usual measure of support required for party status.

One possible strategy that might involve litigation would be to petition for presidential electors, rather than for presidential candidates or to petition for a candidate who has not yet been nominated with the intention of changing candidates later if someone else gets the nomination. These strategies would permit us to start petitioning early and would give us more time to meet the requirements, allowing us to schedule our

resource commitments. These strategies would also generate lawsuits to eliminate the starting deadlines imposed by some states and to permit switching our party's petitions to our party's candidates, a practice that is generally not allowed. The problem with this strategy is that it is more difficult to petition for electors or for an unnominated candidate than for a definite candidate of national stature. It is also difficult to build up much enthusiasm a year before the election.

An alternative approach may be to hold our convention late and to seek to reduce the requirements in proportion to the time left. This would work well in states where there is a starting deadline, such as Georgia and New York.

Richard Winger of the Libertarian Party has provided us with a list of areas where litigation to reform the ballot access laws may be useful. It should help to guide our thinking. In my judgment, though, the thrust of our litigation effort should be to establish and expand the right of citizens, acting together as a small, low budget, political party, to offer an alternative slate of candidates to the voters of this country.

Should it become necessary to initiate a suit on behalf of the national Citizens' Party, a memorandum setting out the facts, the law and the policy considerations will be prepared and submitted for your review. Of course, candidates and local party organizations are free to sue in their own names to protect their own interests. I will keep you apprised of these situations. We may also be asked to provide assistance with such suits or to intervene in suits brought by other parties or their candidates. Each such request will have to be evaluated in light of our goals and our resources.

The budget estimates are based on our using local counsel who will donate legal services, but will pass on most of the expenses of the litigation. Expenses, such as long distance telephone charges, filing fees, deposition transcripts, exhibit preparation and reproduction of briefs, have been estimated at $2,500.00 per case. Some travel money has been included in case we want to bring in a local counsel to confer in Washington or to pay the travel of an expert witness.

C. Coordination

A major component of our overall effort is to coordinate the Citizens' Party's activities from state to state with respect to presidential ballot access, within each state as between presidential and other candidate ballot access activities and with the litigation strategies of other alternative parties. We are fortunate that Jim Coonan has volunteered to coordinate the presidential ballot access effort. This will free me up to focus on our litigation strategy, to recruit volunteer lawyers and to provide them with assistance in fact gathering and legal research. In addition, I would like to begin developing litigation to attack discrimination against non-major parties in areas other than ballot access, such as nonpartisan appointments.

The largest item in this part of the budget is for my retainer of $1,000 per month. The expenses generally will be long distance telephone charges, typing and

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photocopying. Some travel is also likely to be involved, especially if I should have to handle any of the litigation.

IV. PROBLEMS

There are four general problem areas. First, the ballot access laws are a hodge podge. Every jurisdiction has different requirements and different deadlines which are sometimes inconsistent with one another. Second, as already noted, the petition requirements of several states are extremely burdensome in terms of the number of signatures required. Six states require getting signatures from over 2% of all the people in the state who are eligible to sign. Not including California, eight states require getting more than 30,000 signatures. In all, we may have to gather 600,000 signatures. Third, the laws of a number of states make it especially difficult to meet the petition requirements. For example, the petitions may have to be circulated in each county or congressional district. The petitions may require that the signers change party affiliation. The petition gathering may be limited to certain time periods. Separate petitions may be required for each candidate on a slate. Fourth, ballot status and party status are not synonymous and such status is easily lost. Most states' laws provide that status can only be retained by having certain candidates poll a certain percentage of the vote, usually in one or more statewide races. Failure to meet this standard means that the party must hurdle the petitioning barrier again to participate in the next election. Third party efforts are worn down by dissipating their resources in the struggle for ballot access.

As we progress with more in-depth analysis of the state laws, you will be provided with more specific memoranda concerning many of these problems.

V. CONCLUSION

To facilitate discussions and to inform interested parties, I have circulated this memorandum to members of the Executive Committee and to Ramsey Clark, Sonia Johnson and John Lewis. I suggest that you check with these people and with state party leaders to ensure that everyone has common expectations. Ion plans to use this memorandum as an aid to fundraising, so if we change our approach, we should do so very soon.

* * * * * * * * *

BALLOT ACCESS BUDGET

(Oct. 1983 - Sept. 1984)

Petitioning Costs		
Petition organizers	$25,000	
Stipends for volunteers	10,000	
Expenses	5,000	
Travel	10,000	
		$50,000
Litigation Costs		
Legal fees	Donated	
Expenses	$25,000	
Travel	5,000	
		30,000
Coordination Costs		
Legal fees	$12,000	
Expenses	3,000	
Travel	5,000	
		20,000
		$100,000

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GCC #7454

Federal Election Commission
Office of the General Counsel
1325 K St. NW
Washington, D.C. 20463

April 29, 1985

re: Citizens' Party Filing Requirements

Dear Sir/Madam,

I am writing to you to present other facts related to the information you received from Frank M. Dunbaugh, in a letter dated April 22, 1985.

Mr. Dunbaugh presented the information as if he were a disinterested party. In fact, Mr. Dunbaugh is now and has been a member of the Citizens' Party since 1979, is Chair of the Maryland Citizens' Party, Chair of the National Political Committee, a member of the legal committee (both of these committeess were set up by the Executive Committee), and attends most meetings of the Executive Committee and the Mid-Atlantic National Committee.

Mr. Dunbaugh's letter contains several misstatements:

1) The individual designated to draw from the Citizens' Party Special Ballot Access Account was, and is now, a member of the Citizens' Party and a delegate representing Virginia at the National convention. She is now a member of the National Committee from Virginia (which is the policy-making body of the party, please refer to the enclosed constitution.)

2) After the Executive Committee member who opened the account left the ballot access job he was replaced by a peron who was and is an alternate to the Executive COmmittee.

3) One of the national office "employees" referred to in Mr. Dunbaugh's letter was the Executive Director of the party.

4) The present Executive Committee does not meet gender guidelines which are mandated by the constitution.

5) The vote of the Executive Committee authorizing Mr. Dunbaugh to seek the advice of the Federal Election Commission in the manner in which he did was 5 to 4 and there are questions as to the legality of the Western Regional Representatives election (if there was one) to the Executive Committee. He cast the deciding vote authorizing Mr. Dunbaugh to send the letter.

Mr. Dunbaugh, and others, supported candidates other than Sonia Johnson.

As you can see, this appears to be more of an internal political struggle (enclosed are several documents to illustrate this) than a question of who must file a report. The party's major delay has stemmed from the fact that a former member of the Executive Committee, who was also Chair of the Finance Committee refuses to relinquish financial records which are in his possession.

As a member of the National Committee I am asking that you consider the additional facts as I have presented them and assist the party as much as possible to comply with your regulations.

Respectfully,

Charles L. Bowman

Charles L. Bowman

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THE CITIZENS PARTY CONSTITUTION

Adopted, May 30, 1982
At the National Convention

ARTICLE I - MEMBERSHIP

1. The Citizens Party exists to give expression to the common political goals of its members.

2. Membership in the Party is open to all residents of the United States, its territories and possessions and to all United States citizens living abroad, who share a belief in the basic premises of the Party and who enroll as members with a State Chapter or with the National Office, or register as members under the laws of their respective states.

ARTICLE II - NATIONAL CONVENTION

1. The Citizens Party will convene a national convention at least biennially.

2. The Convention will adopt a party platform and/or a Statement of Purpose. The draft platform will include minority positions which are supported by more than one-third (1/3) of the Convention delegates.

3. The Convention shall have the authority to nominate the Party's presidential and vice presidential candidates.

4. A method for apportioning convention delegates will be determined by the National Committee at least two months before the National Convention.

5. The business of the Convention should be to consider and approve a political report dealing with: the state of the nation (including the main political tendencies); the state of the Party, and the main tasks of the Party in the current period. The draft political report should be prepared by the Executive Committee and submitted to the regions 60 days in advance of the convention so that meaningful pre-convention meetings and discussion can take place.

ARTICLE III - NATIONAL COMMITTEE AND REGIONAL CONFERENCES

1. A National Committee composed of the two Executive Committee chairpersons and representatives of each of the states will be responsible for direction of the Citizens Party between Conventions.

2. States will be allotted a National Committee delegation equal in number to one-half (½) of their convention delegate size.

3. Each state delegation will determine the manner of election, removal and replacement of its National Committee representatives. However, the membership of the Party in a state may, by majority vote, recall and replace a representative from its state at any time.

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ARTICLE III (Cont'd)

Should a constituted region fail to meet its minimal regional criteria, the Executive Committee shall try for a period of six (6) months to resuscitate it. If that fails, the Executive Committee, by a two-thirds (2/3) vote, shall disband it and assign its states to other regions, in consultation with those other regions.

7. The powers of the National Committee shall be exercised in any of the following fashions:

a. a full assembly of the National Committee may be called by the Executive Committee, the National Committee, or a majority of the Regional Conferences meeting within a thirty-day period;

b. concurrent sessions of the Regional Conferences may be called by the Executive Committee, the National Committee, or any two Regional Conferences. Concurrent sessions would act as the full National Committee and meet within a thirty day period. The Executive Committee, any Regional Conference, or the Steering Committee of any Regional Conference may submit items to the Regional Conferences through the national office for action. A majority of the National Committee is necessary for action on such items unless otherwise provided for in the Constitution. Should the National Committee be unable to reach agreement, the Executive Committee may offer suggestions to reconcile the differences by mail ballot.

c. The National Committee may be polled by mail on the initiative of the Executive Committee, the National Convention, or any two Regional Conferences meeting within a thirty day period; the balloting by mail will be coordinated through the national office.

8. Each state will select a sufficient number of alternate representatives to the National Committee to provide for the state's continuing adequate representation.

9. The National Committee will faithfully oversee the implementation of decisions by the membership and the convention.

10. The National Committee may establish any subcommittees it deems necessary.

11. The National Committee may take whatever actions it deems necessary and proper to carry out the mandates of this Constitution.

ARTICLE IV - EXECUTIVE COMMITTEE

1. A. The Executive Committee will be composed of:

a. Two Co-Chairs (at least one woman), elected at-large by the National Convention, whose function will be to operate as working chairs of the Committee;

b. Three at-large members elected at the National Convention, to include at least one woman and one minority;

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ARTICLE IV (Cont'd)

or resolution to the Executive Committee, it must be placed on the agenda for discussion at their next meeting. Positions taken by the Executive Committee or Executive Committee members on current events of public policy proposals must be communicated to National Committee members within two weeks of the time the positions are publicly taken.

8. Members of the Executive Committee will be ex-officio, non-voting members of the full assembly of the National Committee.

9. The Executive Committee shall meet no less than one (1) time every other month and as many times as deemed necessary. Emergency meetings may be called once one-third (1/3) of the Executive Committee members submit such a request to the Executive Committee chairpersons or by request of two regional conferences. These requests may be made by phone, but should be followed by a written request.

10. A quorum of the Executive Committee will consist of a majority of the committee including one co-chair. Decisions of the Executive Committee require the affirmative vote of the majority of those present and voting except that no motion may pass without the support of at least four (4) members.

11. The Executive Committee may form any subcommittee deemed necessary. When 100 members (by petition) or three (3) states (by decision of the state chapters) call for the establishment of a subcommittee, the Executive Committee will form such a committee.

12. The Executive Committee shall approve all national expenditures and shall be responsible for allocating funds. National staff shall prepare budgets and shall submit them to the Executive Committee for approval.

13. When necessary, the travel and housing costs of at-large Executive Committee members for the purposes of Executive Committee meetings shall be paid for with National Party funds.

14. At each meeting, one Executive Committee member shall be made responsible for recording and writing the minutes. The minutes shall be distributed to the National Committee by mail or by some other means within one month of the meeting.

ARTICLE V - EXECUTIVE COMMITTEE CHAIRPERSONS

1. The two (2) chairpersons, or Party members designated by them, will preside at all Executive Committee meetings and full assemblies of the National Committee and at the Party's National Conventions.

2. The Chairpersons, or Party members designated by them, will propose agenda for Executive Committee meetings, subject to amendment by the full Executive Committee.

3. The Chairpersons shall appoint a Party Treasurer and Party Legal Counsel with the approval of the Executive Committee. The Treasurer and Legal Counsel may be removed by a two-thirds (2/3) vote of the Executive Committee.

4. The Chairpersons will perform such other duties as may be delegated to them by the Party Convention, the National Committee or the Executive Committee.

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June 6th, 1984
From: Willa and Ion
Topic for debate: What must we do now?

Relevant documents

1. 9 point statement for S.J. Campaign agreement: drawn up by Judi for june 2nd meeting
2. Proposal for Funding - given out by campaign at June 2nd meeting enclosed
3. Recap of present situation: Willa - June 5th - sent to chapter mailing list
4, The draft statement of Conditions and Requirements - 1st draft - proposed enclosed
5. 1st draft - proposed cover letter to accompany statement of Conditions enclosed

INTRO:

These materials are being circulated informally among those E.C. members who are not paid staff or consultants of any campaign for this Party's presidential nomination. This will ensure there are no inherent albeit invisible conflicts of interest among those of us now deliberating quietly on our present state of affairs. Our chief counsel and chief fund-raiser are also receiving copies of these materials.

I The Problem - Simply Stated:

#1. This E.C. has worked in good faith to help implement the 1983 Convention decision to run a Presidential Campaign in 1984 that will benefit the Party at all levels.

#2. For 10 months since that decision was made, this E.C. has borne the brunt of unreasonable demands, unwarrented hostility, public attacks without warning, misstatements of fact in Campaign Update materials, and misinterpretations of our intentions, deliberate or undeliberated as the case may be. None of our requests for remedy have been met at this time.

#3. The Campaign has been extremely costly to the national Party in terms of funds diverted, time, energy and personal expense of committee members, and national office staff time, to a degree unprecedented since the end of the 1980 Presidential campaign. Indeed the best metaphor for our experience to date with " the idea of this campaign " may well be Dorothy and Toto caught up in a Kansas tornado.

#4. On the other hand there has been no input of funds from this campaign to the national party operations or the grassroots nor any expressed interest or desire to do so on terms acceptable to our self-respect. almost $150,000 has been raised by this campaign, much of it with the help of our Party contacts. Most of itwill be matched. Despite repeated requests for information on sums raised thru use of our mail lists as per agreement, none has been forthcoming. It is now five months since their first mailing to our lists went out. Total receipts to this campaign since the October announcement exceed $89,000 as of April 30th, 1984, according to F.E.C. records we secured Mon. June 5th.

#5. At the June 2nd meeting it was clear to all of us attending, from the statements made, and the proposals made, (see item #2 - documents) this campaign will remain under the exclusive control of 4 paid employees and the Presidential candidate. Complete financial control will also remain in this group's hands. No significant financial support of national office projects such as our Ballot Access Program for Party and Candidate, national Citizens Voice, nor even reimbursement for our legitimate costs and expenses is contemplated. We may, to be sure, stand in line with our local and state chapters, our begging bowl in hand, for grants for projects whose total value will range from $6000 to $17,500 at most. A realistic estimate of $300,000 revenue to this campaign by June 30th, 1984 ($150,000 raised, $150,000 matched) comes out to a possible disbursement in the range of 2% - 6% for national operation undertakings. The campaign has, of course, been fully briefed on our current financial difficuties in national operations.

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II The Present Situation

What is the situation we, as an E.C.,find ourselves in at this moment?

#1. We face a financial crunch with a need to increase revenues for national operations ASAP. We only have a severely depleted Direct-Mail contributors base to sustain us. The campaign intends to be of no help. We have only ourselves to depend on.

#2 There is absolutely no influence, much less control, by this Party at any level over this campaign, and there appears to be no prospect of securing same.

#3 There remains, after 10 months of sporadic contact but steady association with this candidate and her staff a profound ambivalence and distrust of the campaign staff and candidate on this E.C.

#4 There is no felt confidence this campaign will serve the purpose of buildung our Party. There is, on the contrary, considerable suspicion it intends to subvert this Party by taking advantage of its currently weakened state, destroy its existing governance process, structure, leadership and fabric of human relationships.

#5 There is certainly no confidence this E.C. as the duly constitued and elected leadership at the national level is in any position toguarantee this campaign and its candidate will serve the purposes of our Party at any level. Indeed any such claim would be frivolous and irresponsible. By all appearances this is an Independent's campaign run completely by outsiders for their own narrow purposes.

#6 When representatives of the local chapters voted to support a Presidential Campaign in 1984 they said they wanted a campaign to build local chapters, obtain ballot status for the Party in as many states as possible, increase recognition of the Party, and qualify for primary matching funds to help put the Party on a firmer financial basis.

#7 The Sonia Johnson campaign has brought one new organizing committee in Madison, Wisconsin. The campaign is working and proposes to spend a large portion of its funds to put Sonia Johnson, not the Citizens Party, on the ballot through an outside consulting firm. Media coverage of the campaign has been perfunctory, and F.E.C. matching funds, if acquired, will not contribute at all to the financial strength of of the Citizens Party, either locally or nationally.

III The Questions - For Us!

#1. Under these circumstances what is the best course of action for us to take so as to protect the Party's interests?

#2. What must we do to support its goal of Party control over Presidential campaigns conducted under our name, and to prevent any role reversal whatsoever?

#3. Will we share our doubts and convictions with our colleagues who elected us, who serve as N.C.s, and state/local chapter members?

#4. Will we make it clear we cannot possibly fulfill their expectations if the current situation continues to be tolerated and ignored?

#5. Will we quickly reach a concensus among ourselves as to what must be done, and why, and how?

#6. What is the role of trust in political action? What conduct reflects ethical concern, sensitivity to others and a decent respect for the opinions, beliefs and reasonable needs of others with whom we claim to be in association with for common ends?

#7. In relation to this campaign can we confidently say we feel well served, well treated, and optimistic about our Party's future?

#8. What is the purpose of having a convention to nominate such a candidate as this?

#9 Who, in the grassroots, at local,state, or national level in this Party can

confidently say they have had an overall rewarding experience with this campaign?

#10. Do we wish to passively hand over control of our Party to those whom we believe, based on our own negative experience, serve its interests so poorly?

#11. Will we demonstrate the collective courage to make the necessary recommendations to our Party colleagues, and the will to enforce them regardless of the external opposition - provided we have the backing of a majority of our N.C?

#12. Are we prepared to devote the necessary energy and time to do what must be done?

#13. Will we lead?

IV Conclusion

We forward this set of 14 points setting forth the indispensable minimum conditions necessary to correct the damage done by this campaign to the Party to date and to ensure future control by Party over present and future Presidential campaign efforts. We believe the 14 points and covering letter must be sent to the candidates, Johnson and Walton only. Their consent must be obtained in writing. Will they accept? It is most unlikely! But we will have a documented record of our efforts toachieve our Party goals and to protect its integrity. Is this list complete to your satisfaction?

Because rejection of any and all of these points is almost certain, we must even now address these questions. A statement of where we stand and why needs to be formulated and sent out to our N.C.s and local/state chapter membership. Do we want to send out a short general statement signed by us all, but accompanied by personal statements by individual E.C. members and our cover letter to the candidates and the 14 points.

Once the Party is informed of our views, will we be prepared to make recommendations? If so, what will they be? When will they go out?

And what is the concensus we are prepared to abide by? An N.C, vote in conformance with current legitimate governance structure and process of national party operations? Do we require more? Why? And how fast can such consultation be carried out?

This set of materials is being sent out by two very concerned members of the E.C. to their colleagues as a starting point for discussion among ourselves. We ask that they not be duplicated or distributed until general agreement is reached between us as to the proper form and content of any communication we wish to make to our members and/or the Presidential and Vice-Presidential candidates. With respect to that campaign, with the exception of Dick Walton whose devotion to this Party and its ideals is no doubt beyond question, is it wise for us to proceed assuming good faith andfair play on their part? If not , there is a need for caution every step of the way. Read what you wish of these contents to others - and let us move quickly and effectively to lead out of our current political quandry. After all, time is running out. Is it not?

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Party wavers on fielding 1984 slate

By Paul Rauber

SAN FRANCISCO

IT'S NOT EVERY DAY A POLITICAL party is handed a historical opportunity on a platter. "History never asks you twice," feminist leader and Mormon heretic Sonia Johnson told the Citizens Party (CiP) national convention meeting here.

Yet during the September 2-5 meeting the party was offered not one but two chances to jump on the history train. Although it was not a nominating convention, presidential politics dominated the discussion. The strategy adopted in the end left as much space as possible for shifts in power politics in the coming months.

Johnson made a strong pitch for the CiP to move beyond its traditional ecology and disarmament base to pursue the feminist vote, offering herself as the party's presidential candidate. Such a candidacy, she claimed, would exploit the gender gap, rally progressive forces and excite the media bored by Reagan's Democratic opposition. "People who think like you are the tools of history," Johnson told the 175 delegates. "I don't see how you can justify not running a woman."

Commoner sees Jackson's bid as a chance for a major left thrust.

Although it has organizations in 30 states and considers itself the largest political party of the non-Marxist left in the U.S., the CiP has so far not been able to move beyond its admittedly narrow base of white leftists. Johnson offered one strategy for doing so; CiP founder Barry Commoner proposed a second.

Commoner described to the delegates an unprecedented social movement in the country, sparked by hatred of Reagan and distrust of the Democrats and led by Operation PUSH director Jesse Jackson. The CiP, Commoner argued, should take a place in Jackson's "Rainbow Coalition" and join in the task of signing up millions of disenfranchised voters. The CiP's 1980 presidential candidate sees the Jackson candidacy as providing the first chance in American history for "a major left thrust" in a presidential campaign. The implication was clear that if the CiP did not participate in the coalition, it would be left in the dust of history.

"My hypothesis," Commoner told *In These Times*, "is that there is a pent-up call for the kind of campaign Jackson wants to run, that he wants it to be based on a broad coalition. If it happens, any progressive group that doesn't participate in it will be irrelevant."

In 1980, the CiP got Commoner on the ballot in 30 states, garnering nearly a quarter of a million votes. This was disappointingly short of "the magic 5 percent" that would have gained the party the matching federal campaign funds John Anderson now enjoys. Since the election, party members have ceaselessly debated the wisdom of a small party with limited resources running a largely symbolic presidential campaign.

A majority of the respondents to a June membership poll favored a strategy besides another nationwide presidential campaign. Yet presidential fever burns hot ameng the party's most active sector and its leadership. The convention overwhelmingly voted to pursue a presidential campaign strategy, despite some opposition from the party's western region. Part of that opposition is a result of extremely restrictive ballot-access laws in California, but there is also strong sentiment in the West for working with Jackson.

Anxious to preserve its autonomy as a third party, there is substantial opposition within the CiP to supporting Democratic candidates. Former U.S. Attorney

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Former U.S. Attoney General Ramsey Clark

General Ramsey Clark, himself a possible CiP presidential nominee, argues that the party should urge Jackson to run but still field its own candidates. "You don't abandon what you stand for just because you'd be left in the dust," he told *In These Times.*

But a strong pitch for Jackson came from the Democratic Socialists of America's (DSA) Manning Marable, who advocates an "inside/outside" strategy for working within the Democratic Party. Marable urged critical support for Jackson on the principle that anything that throws the Democratic primary process into chaos will benefit the left by opening up a greater political space. Marable received a standing ovation, and for a while it looked like the convention might approve a pro-Jackson resolution after all.

But it all fell apart Monday. Sonia Johnson unexpectedly withdrew her candidacy, having come to the conclusion that the CiP was not ready for a feminist candidate. The resolutions in support of Jackson never made the floor, and the convention instead adopted a Texas proposal giving each state substantial autonomy in its presidential strategy. Those who want to support Jackson may. If by the CiP's early spring nominating convention the Jackson campaign has gathered the momentum Commoner and Marable predict, the CiP may find itself hard pressed to field its own slate of candidates. □

Paul Reuber writers regularly for the San Francisco Bay Guardian.

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MEMORANDUM

November 29, 1984

To: Executive Committee Members
Citizens Party

From: Frank Dunbaugh, Chair
National Political Committee

Subject: Organization of the National Political Committee

Thank you for the confidence you expressed by appointing me to Chair the National Political Committee. I regard the work of this committee to be critical to the future of the Citizens Party. How our Party is perceived by the public is dependent upon our having and executing an active political program. The perceptions of the public will directly affect our capacity to raise money to continue the organizing efforts of the Party.

Since the October meeting of the EC, I have given some thought to how the NPC should proceed to get organized and to start developing political programs. As you know, I am strongly committed to the principle that the Citizens Party always needs to function with broad based support from its members. That is why it is essential that this committee have active representation from the Regional Conferences of the National Committee.

So far as I am aware, only the Mid Atlantic Region has designated a representative to serve on the National Political Committee. Until the other Regional Conferences can meet and designate their representatives, I would be more comfortable if the EC Representatives from the other regions would appoint someone to act in that capacity on an interim basis. This would ensure that every local chapter will have access to the NPC and will be kept informed of its plans and activities.

Enclosed are copies of a memorandum from me to the members of the National Political Committee and a proposed agenda for our first meeting. The EC members who are regional representatives are requested to pass these along to the persons they designate to represent their region as NPC members and alternates. If we are to be able respond to events early in 1985, such as the inaugural and the State of the Union Address, it is essential that you act immediately to recruit members for this committee.

Thank you for your help.

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MEMORANDUM

TO: Judi Gerhardt and Willa Kenoyer, Co-Chairs, Citizens' Party.

FROM: Frank M. Dunbaugh, Legal Counsel

DATE: October 10, 1983

RE: Program and Budget to Attain Ballot Access for the Citizens' Party's 1984 Presidential Slate.

I. INTRODUCTION

In 1980, the Citizens' Party's presidential ticket of Barry Commoner and LaDonna Harris was on the ballot in 29 states and the District of Columbia. This ticket appeared with the Citizens' Party label in some states and as an independent slate in other states.

The purpose of this memorandum is to outline for you how the Citizens' Party plans to get its 1984 presidential ticket on the ballot in every state, if possible. Jim Coenan (Georgia) who is coordinating our ballot access drive has reviewed this memorandum and is in general concurrence with the approach outlined here.

II. GOALS

The decision of the 1983 National Convention to adopt a presidential strategy, in effect, set a goal that the Party is to use the 1984 presidential campaign as a vehicle for building the Party at all levels. The best articulation of this goal that I have heard so far is what Ramsey Clark told Ion Laskaris and me the other day. He said that our purpose should be to achieve: (1) a higher level of unity within the third party movement, (2) a broader base of public support for the movement and for the Citizens' Party, and (3) a greater capacity for the Citizens' Party to raise funds.

I would add to this that we must continue to place a high priority on process, so that the Citizens' Party can do business in a caring and democratic way and so that the people responsible for the national party and for the national campaigns can demonstrate concern and respect for the needs and objectives of the state and local party organizations and their candidates. Finally, I believe that we must all view the 1984 Presidential Election as an experience from which party activists should expect to learn about the electoral process and to develop techniques for conducting future campaigns.

The need for such learning was driven home to me in May 1966 when the Civil Rights organizations turned their attention to the Alabama Democratic Party Primary with hopes of taking advantage of the huge increases in black registration which had occurred under the Voting Rights Act of 1965. They learned that organizing the voters was not enough. Their lack of familiarity with the detailed mechanisms of conducting elections coupled with the fact that all authority to run the elections was in the hands of their opponents gave their opponents an edge that could not be overcome, even with the support of a majority of the electorate. The Citizens' Party is in a similar position, except we do not even have the voter support. It is important that we learn to use the system before we are embarrassed by losing an election that we could have won.

In terms of our ballot access effort, the specific goals under which we are planning to operate are:

1. Get the Citizens' Party's presidential slate on the ballot everywhere possible.
2. Try to get on as a party slate, if possible, rather than as an independent slate.
3. Use the ballot access process to help local organizing, especially achieving ballot access for local, state and congressional candidates.
4. Litigate where necessary to achieve ballot status.
5. Litigate to achieve high impact reform of the electoral system, but not if it seriously jeopardizes ballot status for 1984.

III. PROGRAM

The program for achieving ballot status has several components. By and large, our candidates for President and Vice President will get on the various state ballots by petitioning in nearly every state. In a few places, we may be required to go to court to overcome inequitable and unfair barriers. These activities must be coordinated, not only with one another, but also with the ballot access activities of Citizens' Party candidates in local, state and congressional races and with the activities, especially litigation, of other political parties, such as the Libertarians.

A. Petitioning

A preliminary review of the current requirements shows that there are 24 states (including D.C.) where petitions of less than 5,000 signatures (or a fee in lieu of signatures) will give our presidential electors a place on the ballot. Nine states require at least 5,000 and less than 10,000 signatures. These include Montana (9,971 signatures) and Wyoming (7,964 signatures) in which it would be quite difficult to meet the requirements. The remaining 18 states require 10,000 signatures or more. These states include California where we have already decided to have our candidates seek the nomination of the Peace and Freedom Party, as the route to the general election ballot.

We are now in the process of analyzing the statutes of each state in order to: (1) construct a schedule of petition deadlines, (2) develop a specific plan for each

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state, and (3) identify all special problems which may need early and careful attention, particularly matters which might require court intervention. Jim Coonan is coordinating this analysis.

The plans for complying with the ballot access requirements of each state will be worked out with state party officials in those states where we are organized and each plan will be reduced to writing. At least in the 27 states where 5,000 or more signatures are required, local counsel will be found, if possible, to review the plan. Each chapter will be asked to designate a local volunteer attorney. If they cannot find one, I will try to do so with help from Ramsey.

To the extent possible, the state party will be encouraged to find volunteers to do the petitioning. While it is recognized that this is not very efficient and may result in a few crises calling for intervention with paid petitioners, the hope is that petitioning is a form of involvement that will stick with the volunteer petitioners after the election and thus will strengthen the Party's base of support. By providing stipends to cover the volunteers' out-of-pocket costs and by training petitioner-supervisors, we may be able to reduce the problem to a minimum. Perhaps state party support might be generated by a policy that all cash donations collected by the petitioners will go to the state organization. Strong Congressional candidates would aid in recruiting volunteers and would provide direction for their energies after the ballot access drive is over. In addition, we may wish to ask the presidential candidates to help recruit volunteers.

In states where we are not organized and in states that need special efforts, we should be prepared to send in paid organizers to recruit, train and supervise volunteers and to petition. The budget estimates are based on paying such organizers $100.00 per week plus travel costs (usually by automobile) and room and board (usually donated). A good team of six petitioners working a busy urban area should be able to collect about 5,000 signatures in a week.

B. Litigation

It is virtually impossible to anticipate what litigation will arise. All previous efforts to challenge the number of signatures called for by state law have failed on the basis that it is proper for a state to restrict ballot access to those candidates and parties which can demonstrate that they have a "modicum of community support." Perhaps a new challenge would be useful in the context of a presidential race, where a state's interest is less and where it can be shown that the party has substantial public support in other states. While such a case could make ballot access easier in future presidential elections, its impact is less likely to carry over to state elections which are the usual measure of support required for party status.

One possible strategy that might involve litigation would be to petition for presidential electors, rather than for presidential candidates or to petition for a candidate who has not yet been nominated with the intention of changing candidates later if someone else gets the nomination. These strategies would permit us to start petitioning early and would give us more time to meet the requirements, allowing us to schedule our

resource commitments. These strategies would also generate lawsuits to eliminate the starting deadlines imposed by some states and to permit switching our party's petitions to our party's candidates, a practice that is generally not allowed. The problem with this strategy is that it is more difficult to petition for electors or for an unnominated candidate than for a definite candidate of national stature. It is also difficult to build up much enthusiasm a year before the election.

An alternative approach may be to hold our convention late and to seek to reduce the requirements in proportion to the time left. This would work well in states where there is a starting deadline, such as Georgia and New York.

Richard Winger of the Libertarian Party has provided us with a list of areas where litigation to reform the ballot access laws may be useful. It should help to guide our thinking. In my judgment, though, the thrust of our litigation effort should be to establish and expand the right of citizens, acting together as a small, low budget, political party, to offer an alternative slate of candidates to the voters of this country.

Should it become necessary to initiate a suit on behalf of the national Citizens' Party, a memorandum setting out the facts, the law and the policy considerations will be prepared and submitted for your review. Of course, candidates and local party organizations are free to sue in their own names to protect their own interests. I will keep you apprised of these situations. We may also be asked to provide assistance with such suits or to intervene in suits brought by other parties or their candidates. Each such request will have to be evaluated in light of our goals and our resources.

The budget estimates are based on our using local counsel who will donate legal services, but will pass on most of the expenses of the litigation. Expenses, such as long distance telephone charges, filing fees, deposition transcripts, exhibit preparation and reproduction of briefs, have been estimated at $2,500.00 per case. Some travel money has been included in case we want to bring in a local counsel to confer in Washington or to pay the travel of an expert witness.

C. Coordination

A major component of our overall effort is to coordinate the Citizens' Party's activities from state to state with respect to presidential ballot access, within each state as between presidential and other candidate ballot access activities and with the litigation strategies of other alternative parties. We are fortunate that Jim Coonan has volunteered to coordinate the presidential ballot access effort. This will free me up to focus on our litigation strategy, to recruit volunteer lawyers and to provide them with assistance in fact gathering and legal research. In addition, I would like to begin developing litigation to attack discrimination against non-major parties in areas other than ballot access, such as nonpartisan appointments.

The largest item in this part of the budget is for my retainer of $1,000 per month. The expenses generally will be long distance telephone charges, typing and

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photocopying. Some travel is also likely to be involved, especially if I should have to handle any of the litigation.

IV. PROBLEMS

There are four general problem areas. First, the ballot access laws are a hodge podge. Every jurisdiction has different requirements and different deadlines which are sometimes inconsistent with one another. Second, as already noted, the petition requirements of several states are extremely burdensome in terms of the number of signatures required. Six states require getting signatures from over 2% of all the people in the state who are eligible to sign. Not including California, eight states require getting more than 30,000 signatures. In all, we may have to gather 600,000 signatures. Third, the laws of a number of states make it especially difficult to meet the petition requirements. For example, the petitions may have to be circulated in each county or congressional district. The petitions may require that the signers change party affiliation. The petition gathering may be limited to certain time periods. Separate petitions may be required for each candidate on a slate. Fourth, ballot status and party status are not synonymous and such status is easily lost. Most states' laws provide that status can only be retained by having certain candidates poll a certain percentage of the vote, usually in one or more statewide races. Failure to meet this standard means that the party must hurdle the petitioning barrier again to participate in the next election. Third party efforts are worn down by dissipating their resources in the struggle for ballot access.

As we progress with more in-depth analysis of the state laws, you will be provided with more specific memoranda concerning many of these problems.

V. CONCLUSION

To facilitate discussions and to inform interested parties, I have circulated this memorandum to members of the Executive Committee and to Ramsey Clark, Sonia Johnson and John Lewis. I suggest that you check with these people and with state party leaders to ensure that everyone has common expectations. Ion plans to use this memorandum as an aid to fundraising, so if we change our approach, we should do so very soon.

* * * * * * * * *

BALLOT ACCESS BUDGET
(Oct. 1983 - Sept. 1984)

Petitioning Costs		
Petition organizers	$25,000	
Stipends for volunteers	10,000	
Expenses	5,000	
Travel	10,000	
		$50,000
Litigation Costs		
Legal fees	Donated	
Expenses	$25,000	
Travel	5,000	
		30,000
Coordination Costs		
Legal fees	$12,000	
Expenses	3,000	
Travel	5,000	
		20,000
		$100,000

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Frank M. Dunbaugh
Attorney
(301) 974-0555
744 North Holly Drive
Annapolis, Maryland 21401

Member of the Maryland, District of Columbia and U.S. Supreme Court Bars

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
85 APR 25 P12:08

April 22, 1985

THE FEC
85 APR 25 A8:47

Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, DC 20463

Dear General Counsel:

Pursuant to 11 CFR 112.1(a), I am requesting an advisory opinion on behalf of the Executive Committee of the Citizens Party, which is responsible for the day-to-day operation of the Citizens Party at the national level. In January of this year, the Executive Committee learned for the first time of the existence of a bank account in the name of the "Citizens Party Special Ballot Access Fund" which was opened and closed during 1984. The Committee requests to be advised whether the Citizens Party, which has been reporting to the FEC since 1980, has any obligation to report the contributions to and expenditures from this account.

Sometime prior to May 4, 1984, a single donor contributed $15,000.00 in the form of a check which we believe was payable to the "Citizens Party, Special Ballot Access Fund". This check was received by a person who, at the time, was a member of the Executive Committee of the Citizens Party and also a consultant for the "Sonia Johnson - Citizen for President" Campaign. On May 4, 1984, he opened a bank account in the name of the "Citizens Party, Special Ballot Access Fund," using his home address. The bank was provided with the tax ID number of the Citizens Party.

In opening the account, the member of the Executive Committee advised the bank that he had received authority to open the account from the Executive Committee. He also designated as the only person authorized to draw from the account, an individual who worked for the Sonia Johnson Campaign and had no connection with the Citizens Party.

The account remained open until August 15, 1984, by which time all of the funds had been expended. A total of 25 checks and wire transfers were used to pay various individuals who apparently had performed services in connection with qualifying the Johnson/Walton slate to appear on the ballot in a number of different states. We have no reason to believe that any of the funds in this account were used for any other purpose. Other than the Executive Committee member who opened the account, no one else who was an official or an employee of the national party took any part in the disbursement of funds from the account.

The Citizens Party's two national party office employees were aware that the Executive Committee member was opening this account. However, neither of these staff members nor the Executive Committee member who opened the account advised any other member of the Executive Committee of the existence of the account. During the time the account was open, no other member of the Executive Committee nor its various sub-committees (including its ballot access and finance committees) knew anything about this account.

In fact, the Executive Committee first learned of the $15,000.00 contribution at it's January 1985 meeting, at which time it instructed the Co-Chairs of the Party to seek legal advice. Subsequently, I was retained to conduct an investigation and to research the relevant legal questions.

At its next meeting, in March 1985, the Executive Committee reviewed the facts, including the party structure, staff functions, past practices, the records of various meetings, other records and the recollections of persons who were members of the Executive Committee at the time. Based on all of this information, the current Executive Committee has concluded that the former member who opened the account did not have any authority, expressed or implied, to open a bank account on the Citizens Party's behalf or to expend any funds on behalf of the Party. Even though the money from this account appears to have been used for a function that the Party was willing to perform, the person who received the contribution and the persons who used the funds were never authorized by the Citizens Party to perform this function nor to expend any party funds.

Given these facts, the FEC still might conclude that there was sufficient party involvement to create an obligation for the Citizens Party to report the contribution and the expenditures. Accordingly, the Executive Committee of the Citizens Party repectfully requests that the FEC provide it with an advisory opinion as to its obligations.

Please let me know if the Commission desires any further information from the Executive Committee.

Respectfully submitted,

Frank M. Dunbaugh

Frank M. Dunbaugh

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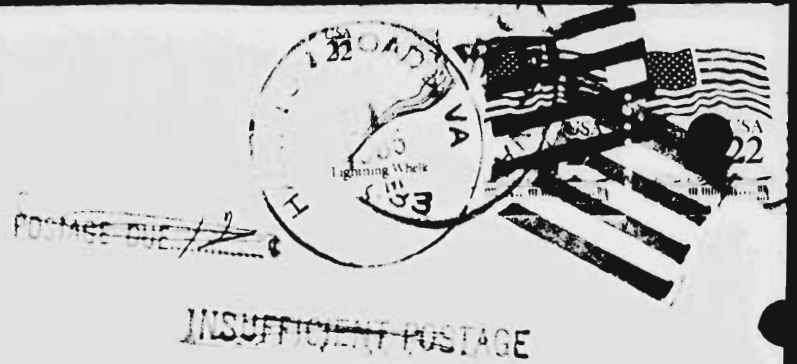
les L. Bowman
Morningside Court
inia Beach, VA 23462



Federal Election Commission
Office of the General Counsel
1325 K St.
Washington, D.C. 20463

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2063

Date Filmed 6/17/86 Camera No. --- 2

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