FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS CONTINUATION OF MUR 2667, THE BEGINNING OF THIS MUR FILE CAN BE FOUND ON ROLL #371, STARTING AT FRAME #0003

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 11, 1994

Henry D. McMaster, Chairman
South Carolina Republican Party
720 Gracern Road
Suite 121, Stephenson Center
P.O. Box 21765
Columbia, SC 29221

RE: MUR 2667
South Carolina Republican Party and John Camp, as treasurer

Dear Mr. McMaster:

This is in response to your letter to Vice-Chairman McDonald, dated April 12, 1994. In your letter, you requested that the Commission's records in MUR 2667 be amended so as to remove your name as treasurer of the South Carolina Republican Party ("the Committee"). You further stated it was your "understanding" that your name had been included in this matter because you are currently serving as Chairman of the South Carolina Republican Party.

In fact, you were named as a respondent in this matter because you were reported as the treasurer of the South Carolina Republican Party at the time the Commission revoted its reason to believe findings on February 18, 1994. As you know, the Commission also determined at that time to take no further action against you and the Committee.

Based on a review of reports filed with the Commission, on June 14, 1993, the South Carolina Republican Party amended its Statement of Organization naming you as treasurer. The South Carolina Republican Party reported no change in treasurers until very recently, after the reason to believe findings in this matter. By letter dated April 8, 1994, the Commission was notified that John Camp has replaced you as treasurer.

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It is the policy of the Commission to name the current treasurer as a respondent in an ongoing enforcement matter. Specifically, the Commission has directed that a successor treasurer be named as a respondent in his official capacity in an enforcement matter alleging violations of the Act which occurred during the tenure of a prior treasurer. This determination was based upon, inter alia, Rule 25(d)(1) of the Federal Rules of Civil Procedure which states in part: "When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party." Fed. R. Civ. P. 25(d)(1). Accordingly, at the time of the Commission's revote, you were the current treasurer and therefore named as a respondent in this matter.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner (KRC)

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jan W. Baran, Esquire
Wiley, Rein & Fielding
1776 K. Street, N.W.
Washington, DC 20006

RE: MUR 2667
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Baran:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(b)(1)(A), 441a(f), 441b(a), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five

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days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer	)	MUR 2667
	)	
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint and supplement filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, ("Respondents" or "the Bush Committee"). Complainants allege, among other things, that the Bush Committee expended funds in excess of the expenditure limitation established by 2 U.S.C. § 441a(b)(1)(A) for publicly financed campaigns for nomination to the Office of President. Complainants further allege that 18 Republican state party committees[1] made expenditures in connection with then-Vice President Bush's travel during the summer of 1988, which resulted in prohibited in-kind contributions.[2] According to complainants, the Bush Committee

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1. Specifically, these included the Republican state party committees of California, Colorado, Florida, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas and Wisconsin.

2. The Commission voted to refer four matters arising from the audit of George Bush for President Committee, Inc. to this Office for enforcement purposes. These matters included the Bush Committee's receipt of excessive contributions from individuals and political committees; the allocation of

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was also required to report the receipt of these alleged in-kind contributions.

On February 6, 1990, the Commission determined that there was reason to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive Overall Expenditures

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no candidate or political committee shall knowingly make any expenditure in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f). Pursuant to 2 U.S.C. §§ 441a(b)(1)(A), no candidate for the Office of President of the United States who is eligible under 26 U.S.C. § 9033 to receive payments from the Secretary of the Treasury may make expenditures in excess of $10,000,000 in his or her campaign for nomination for election to such office. This amount is adjusted based upon increases in the Consumer Price Index. 2 U.S.C. § 441a(c). Further, 11 C.F.R. § 9035.1 states, in part, that no candidate or his or her authorized committee(s)

(Footnote 2 continued from previous page)
Committee expenditures to several states; the Committee's use of Air Force II for campaign travel; and the Committee's expenditures subject to the overall limitation. The issues relating to excessive contributions and excessive state expenditures were previously considered in MUR 3467 which is now closed. This matter addresses the remaining issues which relate to the Committee's use of Air Force II for campaign travel and the Committee's expenditures subject to the overall limitation.

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shall knowingly incur expenditures in connection with the candidate's campaign for nomination, which in the aggregate, exceed $10,000,000 (as adjusted under 2 U.S.C. § 441a(c)). Moreover, pursuant to 11 C.F.R. § 9033.2(b)(2), the candidate and the candidate's authorized committee shall certify that they have not incurred and will not incur expenditures in connection with the candidate's campaign for nomination that are in excess of the limitations set forth in 11 C.F.R. § 9035. Expenditures made for services solely to ensure compliance with the Act by candidates certified to receive Primary Matching funds under 11 C.F.R. § 9034 do not count against the candidate's expenditure limitations set out in 11 C.F.R. §§ 9035 and 110.8. 11 C.F.R. § 100.8(b)(15).

For the 1988 presidential primary election, the overall expenditure limitation for candidates eligible for matching payments was $23,050,000. Based on a review by the Audit Division, the Bush Committee made expenditures in the amount of $23,264,219.62, thereby exceeding the overall spending limitation by $214,219.62. The bases for this amount in excess are completely set forth in the Final Audit Report, which was not contested by the Bush Committee.

Based on the foregoing, this Office recommends that the Commission find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2).

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B. Excessive Contributions

1. Law

The Act provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). Candidates and political committees are prohibited from knowingly accepting any contribution in violation of the provisions of Section 441a. 2 U.S.C. § 441a(f). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Special expenditure limitations apply to national party committees regarding presidential general election campaigns, but no such special expenditure limitations apply to primary campaigns. 2 U.S.C. § 441a(d). Consequently, a national party committee, such as the Republican National Committee (the "RNC"), is subject to the $5,000 contribution limit of 2 U.S.C. § 441a(a)(2)(A) for primary elections. Whereas for the 1988 general election campaign, the RNC's coordinated party expenditure limit was $8,300,000.

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Pursuant to 2 U.S.C. § 434(b)(2) and (3), political committees are required to report the total amounts of all contributions received and to itemize all contributions in excess of $200. Pursuant to 2 U.S.C. § 434(b)(4) and (5), political committees must report the total amounts of all disbursements and itemize all expenditures in excess of $200. 11 C.F.R. § 104.13 requires that in-kind contributions be reported as both contributions and expenditures. The Act also imposes reporting obligations regarding the making of coordinated party expenditures. See 2 U.S.C. §§ 434(b)(6)(B)(iv) and 434(b)(4)(H)(iv).

In addition, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

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Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

2. Issue

The complaint and supplement in this matter allege that various Republican state party committees and the Republican National Committee made expenditures in connection with then-Vice

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President Bush's travel during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee. The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is sufficient for a finding of probable cause to believe the Bush Committee violated 2 U.S.C. § 441a(f) by accepting contributions from the Republican state party committees and the RNC in excess of their 2 U.S.C. § 441a(a)(2)(A) limit for the primary election. The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).[3]

3. The Republican State Party Committees and the Republican National Committee

The travel at issue in this MUR involves Mr. Bush's campaign-related appearances in Colorado, Ohio, Georgia, Michigan, New Jersey and Pennsylvania during the summer of 1988. This report addresses each of Mr. Bush's appearances separately by state. Included in this travel were Mr. Bush's appearances at three Victory Through Unity in '88 Conferences ("Unity '88

3. The Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by the RNC and the committees for ground, Air Force II and White House Communications costs in connection with Mr. Bush's travel during the summer of 1988. Based upon this analysis, the Audit Division determined the amounts of the excessive in-kind contributions made by the RNC and the state party committees. Based upon the Audit Division's review, this matter focuses on those respondents that were most significantly involved in the events at issue, specifically, the RNC and the Republican state party committees of Ohio, Georgia, Michigan, New Jersey and Pennsylvania.

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Conferences"), which were held in Denver, Colorado; Cincinnati, Ohio; and Atlanta, Georgia. Because of the overlapping evidence concerning the Unity '88 Conferences, for discussion purposes, Mr. Bush's appearances at these conferences are grouped together.[4]

a. **Victory Through Unity in '88 Conferences and Connected Events**

On June 10, June 24, and July 8, 1988, Mr. Bush traveled to Denver, Colorado; Cincinnati, Ohio; and Atlanta, Georgia. Each trip included, among other things, Mr. Bush's appearance at a Unity '88 Conference. Mr. Bush attended and spoke at all three conferences. (Bush Committee Responses dated September 23, 1988 and June 8, 1990.)

Unity '88 was a part of the Republican Party's Victory Through Unity in '88 program, also known as Victory '88.[5] According to Mary Matalin,[6] Unity '88 Conferences were held in order to "energize the troops" before going into the general election. (Matalin Deposition at 21.) Similarly,

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4. In addition to appearing at the Unity '88 Conferences in Ohio and Georgia, Mr. Bush made other campaign-related appearances in those states which are also discussed.

5. According to the evidence, Unity '88 was part of the Republican Party's Victory '88 program. However, it appears that the Bush Committee, the RNC and the state party committees used various, interchangeable terms to describe the Unity '88 Conferences, i.e., Victory '88, Unity '88 or Victory Through Unity in '88. For example, the Bush Committee entitled Mr. Bush's speech given at the Unity '88 Conference in Denver, "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday June 10, 1988."

6. Ms. Matalin was the former Director of Victory '88 at the RNC.

Patricia Susan Giardina[7] testified that it was important for Mr. Bush to appear at Unity '88 Conferences to "rally the troops." (Giardina Deposition at 46.) Ms. Giardina defined "rally the troops" as a "means of bringing together the grassroots people" in order to "get them excited about the November election." Id. The conferences were attended by candidates (including presidential candidates), activists, and volunteers and consisted of rallies and lectures. In addition, it was usual RNC practice to set up press rooms at Unity '88 Conferences. (Matalin Affidavit at 5.) Based on several news articles, it appears that the purpose of these press rooms was to provide a platform for Mr. Bush to make comments regarding his candidacy and to answer questions.

In addition, the Unity '88 Conference Book ("the Book"), which was given to all conference attendees, refers extensively to the presidential campaign and the major party candidates. For example, one of the first pages in the Book contains a drawing of George Bush and his statement: "A presidency can shape an era - and it can change our lives. A successful presidency can give meaning to an age." Further, Section 2 of the Book is simply entitled "George Bush" and contains "Issue Statements by Vice President George Bush" and an article by Lee Atwater, Campaign Manager for the Bush campaign, entitled "The Best Candidate, the Best Message and the Best Campaign." There were also several campaign-related pamphlets included in a

7. Ms. Giardina was the former Regional Finance Director for the RNC.

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pocket of the Book. One pamphlet, "Facts About the Fiction, The National Democrats: A 1988 Political Research Fact Book," contains several charges against Michael Dukakis. These include allegations of "the Dukakis Threat" and "the Biggest Spending Governor in America."[8]

In addition to the foregoing, this Office obtained during its investigation further, specific evidence relating to each Unity '88 Conference.

i. Cincinnati and Columbus, Ohio

The two responses submitted by the Bush Committee contain inconsistent information concerning the events in Ohio. In its initial response, the Bush Committee asserts that it was to be billed for all costs associated with Mr. Bush's participation in the campaign-related events held in Cincinnati, including the Unity '88 Conference. (Bush Committee Response dated September 23, 1988.) The Bush Committee further asserts that the costs associated with the Victory '88 functions held in Cincinnati were to be paid for by the RNC. (Id.) As to Mr. Bush's travel to Columbus, the Bush Committee simply states that it paid all costs associated with this trip. (Id.)

Contrary to its first response, the Bush Committee in its second response asserts that the Unity '88 Conference in

8. Although Mary Matalin and Patricia Susan Giardina questioned whether certain portions of the Book had actually been included for distribution to the conference attendees, (Giardina Deposition at 53 and Matalin Deposition at 45-49), the RNC included the pamphlets and all pages of the Book in response to the Commission's Subpoena and Order requesting documents relevant to the travel at issue in this matter.

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Cincinnati was actually a Victory '88 event and, therefore, it was not sponsored by the Bush Committee. (Bush Committee Response dated June 8, 1990.) The Bush Committee also states that the Victory '88 events in Cincinnati were sponsored not only by the RNC, but the Ohio state party committee as well. (Id.) Also in its second response, the Bush Committee initially lists Mr. Bush's Columbus trip as one paid for entirely by the Bush Committee, which is consistent with the Committee's first response. (Id.) However, elsewhere in the second response, the Bush Committee states that the Victory '88 function held in Columbus -- which was the only event held in Columbus -- was a fundraiser for the state party committee and the RNC, not the Bush Committee. (Id.) Aside from being inconsistent, the Bush Committee's assertions fail to overcome the presumption that all of these events were campaign-related. Therefore, any expenditures made by the RNC or the state party committee of Ohio in connection with these campaign-related events resulted in in-kind contributions to the Bush Committee. The events are discussed, in turn, below.

This Office obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Republican Unity Dinner, Cincinnati, Ohio, Friday, June 24, 1988." These remarks were also for the purpose of advocating Mr. Bush's election to the Office of the President. Mr. Bush began his remarks by stating:

> We are united today because we know that the choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but

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> between two fundamental values and principles - between two fundamentally opposed views of what America is and what it should be.

Throughout his speech, Mr. Bush refe... to Governor Dukakis and the presidential campaign. Mr. Bush remarked that lower taxes and growth would be the hallmark of his candidacy and accused Governor Dukakis of raising taxes and helping Massachusetts earn the label "Taxachusetts." Mr. Bush promised that he would not raise taxes and would limit government spending. In addition, Mr. Bush explained that, as President, he would support SDI and nuclear deterrence. He also contrasted his foreign policy to Governor Dukakis' support for a nuclear freeze. Further, Mr. Bush described his crime policy, drug policy, and his support for the death penalty. Mr. Bush also advocated the Pledge of Allegiance in schools and committed to be the "education President."

In another speech given at the Cincinnati Unity '88 Conference, Robert Bennett, the Ohio Republican State Chairman, discussed Ohio's key political position in the 1988 presidential election. In his speech, Mr. Bennett painted Governor Dukakis as the candidate of the "dead end maze of failed and flawed policies..." Mr. Bennett concluded his speech with the phrase: "...there is only one viable course for the future of America...the election of George Bush this November."

Finally, according to a news account of Mr. Bush's appearance at the Unity '88 Conference in Cincinnati, Frank Fahrenkopf, RNC Chairman, reportedly informed Unity '88

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attendees that one strategy for the Fall was "...to establish clear and compelling directions in which Mr. Bush plans to take the country if elected." In another news article, it was reported that Mr. Bush expressed that because the Democratic primary process was complete, he was "warming up."

In addition to attending the Unity '88 Conference, Mr. Bush made another campaign-related appearance in Cincinnati at a fundraising dinner. The Ohio Republican Party made expenditures in connection with this event. Dick and Joyce Farmer invited supporters of Mr. Bush to a $5,000 per couple Victory '88 fundraising dinner held on June 24, 1988. The June 14, 1988, invitation describes Ohio as a key state for Republicans in upcoming elections and asserts that Bush is "...going out of his way to help win in Ohio, not only for himself but for every Republican on the ticket." Not only does the Bush Committee fail to overcome the presumption, the campaign-related nature of the dinner is further confirmed by a June 27, 1988, letter from Nicholas J. Vehr, the Executive Director of the Republican Finance Committee of Hamilton County, to the Ohio Republican State Chairman. In this letter, Mr. Vehr refers to the fundraising dinner at the Farmer home and declares that "the weekend proved very successful not just for the Bush for President effort, but for the State Party and our County organization."

Mr. Bush also made an appearance at another campaign-related event, a Victory '88 function held in Columbus on June 26, 1988. This event was paid for, at least in part, by

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the Ohio Republican Party. The evidence concerning this Victory '88 fundraising brunch indicates that its purpose was to benefit Mr. Bush's campaign. The invitation, signed by John Wolfe, a sponsor for the event, stated: "The Vice President needs our support to do all the things necessary to carry Ohio - A MUST WIN state." Further, a June 27, 1988 thank you letter from Robert T. Bennett, Chairman of the Ohio Republican Party, clearly states that the funds raised at the fundraising brunch would be "...instrumental in electing George Bush the next President of the United States."

Based on the evidence, the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) ("ORP") made expenditures in connection with Mr. Bush's to Ohio totaling approximately $20,000.

ii. Atlanta, Georgia

In its response, the Bush Committee acknowledges that the Unity '88 Conference held in Atlanta was campaign-related. (Bush Committee Response dated September 23, 1988.) The Bush Committee states that it was to be billed for all costs associated with Mr. Bush's participation in several campaign-related events held in Atlanta, including the Unity '88 Conference. (Id.) The Committee did not address the Atlanta Unity '88 Conference in its second response.

The Bush Committee also asserts that the Georgia Republican state party committee was responsible for all costs associated with the Victory '88 fundraising reception and dinner held in

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Atlanta. (Id.) According to the Bush Committee, the fundraising reception and dinner were "private and closed to the press" and the Vice President's participation was not campaign-related but rather for the purpose of "assisting the Georgia State Party." (Id.) Beyond these assertions, the Bush Committee fails to provide evidence to overcome the presumption that the Victory '88 events held in Atlanta on July 8, 1988, were campaign-related.

This Office obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Victory '88, Atlanta, Georgia, Friday, July 8, 1988."[9] Mr. Bush's remarks were similar to those he made during his Ohio Unity '88 Conference appearance. For example, Mr. Bush began by stating:

> The choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles - between two fundamentally opposed views of what America is and what America should be.

He also contrasted his foreign policy to that of Governor Dukakis:

> My opponent brought a suit to prevent the President from deploying a state's national guard overseas without the consent of the Governor. You can't run a foreign policy if 50 state Governors each have the right to veto a Presidential decision. You might as well invite the mayors

9. This speech, while entitled "Victory '88" by the Bush Committee, was given by Mr. Bush at the Unity '88 Conference held in Atlanta.

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> in, too, and have a real party...I believe in a strong executive who can carry out a strong, consistent foreign policy that protects America's interests around the globe -- and that's the kind of President I'll be.

Mr. Bush also discussed the Governor's support for a nuclear freeze. He described his crime policy and portrayed Governor Dukakis as a "card carrying member of the ACLU." Finally, Mr. Bush pledged that he would "...appoint judges who interpret the Constitution, not legislate from the bench."

Further, in news accounts covering the Unity '88 Conference in Atlanta, it was reported that Mr. Bush used the opportunity at the Conference to attack Governor Dukakis. For example, Mr. Bush criticized Governor Dukakis' veto of legislation requiring teachers to recite the Pledge of Allegiance with students. Mr. Bush further criticized Governor Dukakis for his purported reliance upon the U.N. and his opposition to the death penalty.

The Georgia Republican Party ("GRP") asserts that the Victory Through Unity '88 Conference was sponsored by the RNC and that it made no expenditures in connection with the Conference. It appears, however, that the GRP was at least involved with some activities associated with the Unity '88 Conference. For example, the GRP concedes that it made expenditures in connection with two events. These were described in its response as a "Victory '88-Georgia Unity

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Reception and Fundraiser," which was immediately followed by a "Victory '88-Georgia Dinner and Reception." Mr. Bush appeared at both events.

The GRP asserts that the Victory '88-Georgia Unity Reception and the Victory '88-Georgia Dinner were for party-building purposes, and "...neither featured any presidential campaign type activities." (Prochnow Affidavit at 3; see also Stuckey Affidavit at 3.) According to the GRP, the locations of the reception and dinner were "...chosen specifically to divorce these Victory '88-Georgia events from other events held in Atlanta on July 8 sponsored by the RNC and Bush Committee." (Stuckey Affidavit at 3.) The fundraising reception was held in the ballroom of the Ritz Carlton - Buckhead Hotel, and the fundraising dinner was held at the home of Mr. and Mrs. Tom Cousins. The GRP admits, however, that the planning for these events was coordinated with staff from the RNC and the Bush Committee. (Prochnow Affidavit at 2.)

Despite its assertions, the GRP fails to overcome the presumption that these appearances were campaign-related. Clearly, at minimum, neither the Victory '88-Georgia Unity Reception nor the Victory '88 Dinner was an incidental contact. As the GRP concedes, the planning for these events was coordinated with staff from the RNC and the Bush Committee.

According to the GRP, both the Reception and Dinner were invitation-only -- by mail or by hand delivery -- and required a ticket for attendance. The Buckhead reception was attended by approximately 270 people and the Dinner included about

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70 persons. According to a news report of the Reception, the "[Attendees]...paid the state Republican Party $1,000 a couple to meet the likely GOP presidential nominee...The name tags were plain white cards embossed with the gold eagle of the vice presidential seal." Mr. Bush gave a short speech at the reception and discussed the campaign and the "choices facing his audience." Further, "He talked about drawing distinctions between himself and Dukakis. 'It is not a difficult thing to do, he said. It's like night and day.'"

Based upon the foregoing, the Unity '88 Conference was campaign-related, and the Victory '88-Georgia Unity Reception and the Victory '88-Georgia Dinner, which were held in conjunction with the Unity '88 Conference, were also campaign-related. Based on the evidence, the Republican Party of Georgia made expenditures in connection with Mr. Bush's travel to that state totaling approximately $54,000.

iii. Denver, Colorado

The Bush Committee argues that the events in Colorado were party building and not campaign-related. (Bush Committee Response dated June 8, 1990.) Despite this assertion, the Bush Committee fails to overcome the presumption that the Unity '88 Conference held on June 10, 1988, was campaign-related.

During our investigation, this Office obtained from the Bush Committee "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday

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June 10, 1988." These remarks advocate the election of Mr. Bush to the Office of the President. Mr. Bush began his remarks by stating:

> Yesterday, I was home in Houston, speaking to 10,000 people at the Texas State Republican Convention. That speech, for me, represented a turning point. The primary process is over -- on, both sides -- and frankly I'm glad.

Throughout his speech, Mr. Bush referred to Governor Dukakis and the presidential campaign. For example, Mr. Bush stated:

> At issue this year are two completely different versions of our country and where it's going. Because the differences this year are so stark and the stakes are so high, I think it's our responsibility, Governor Dukakis and me, as the nominees of our parties, to spend the next five months discussing the serious issues that face us.
>
> And I'll begin with five words that are an underlying theme of this campaign: Let's look at the record.

Mr. Bush ends with a call to action:

> You are my surrogates. Will you help me get the word out? If we work together hard, undaunted, and undiscouraged, then we will win.
>
> The choice could not be clearer, nor the outcome more important. I'm going to give this race everything that I've got. I'm a fighter and I look forward to the fray. I'm going to lay out these issues and define these differences and take our case to every corner of the country.

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> If you can help me, get out there...because if you do, our vision will prevail -- and our progress will continue.

Further, according to news accounts of the Unity '88 Conference, Mr. Bush charged Governor Dukakis with opposing the B-1 Bomber. It was also reported that Mr. Bush contrasted his view of the United Nations with that of Governor Dukakis. According to one news article, Mr. Bush stated that Governor Dukakis would "rely heavily on multilateral organizations such as the U.N.," but he, as a former ambassador to the United Nations, recognizes "its limitations."

Based upon the foregoing, it is apparent that the Unity '88 Conference held in Denver on June 10, 1988, was campaign-related. The Republican state party committee of Colorado expended approximately $6,000 for or relating to Mr. Bush's travel to Denver for this event, which resulted in a $1,000 excessive in-kind contribution to the Bush Committee. This Office does not recommend that the Commission pursue the Bush Committee for its receipt of this comparatively small excessive contribution. As discussed below, however, the RNC made $32,250 in expenditures in connection with Mr. Bush's appearance at this Unity '88 Conference. Based upon this excessive contribution, this Office does recommend that the Commission find probable cause to believe the Bush Committee received excessive in-kind contributions in connection with the Denver Conference.

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iv. Republican National Committee

This Office's investigation revealed that the RNC expended approximately $84,450 for or relating to Mr. Bush's appearances at the Unity '88 Conferences in Ohio, Georgia, and Colorado. The RNC paid approximately $32,000 for Mr. Bush's appearance in Atlanta, $20,200 for his Cincinnati appearance, and $32,250 for his Denver appearance. All of the travel at issue occurred before Mr. Bush was nominated as the presidential candidate at the Republican National Convention. Because the RNC's expenditures were related to Mr. Bush's primary election campaign, those expenditures could not be included in the RNC's $8,300,000 coordinated party expenditure limit in the general election. 2 U.S.C. § 441a(d). Instead, the RNC was subject to the Act's $5,000 contribution limitation for the primary election. 2 U.S.C. § 441a(a)(2)(A).

The RNC's response in this matter consists of letters, vendor invoices, conference materials, and deposition testimony of former employees. The RNC argues that although it paid for certain portions of Mr. Bush's travel, these appearances were not for the benefit of his presidential campaign. The RNC argues that, instead, these appearances were intended to benefit the grassroots party-building programs of various state party committees and the RNC. According to the RNC, Mr. Bush did not appear as a "candidate," but as a "...very visible and popular leader of the Republican party." Thus, the RNC argues it did not pay any "candidate" expenses.

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Despite the RNC's arguments, it does not overcome the presumption that the Unity '88 Conferences were campaign-related under 11 C.F.R. § 110.8(e)(2)(ii). Further, the affirmative evidence discussed above, confirms that Mr. Bush's appearances in Cincinnati, Atlanta and Denver were, in fact, directly related to his primary election campaign.

b. Michigan

On July 20, 1988, Mr. Bush traveled to Warren and Bloomfield Hills, Michigan. The Michigan Republican State Committee ("MRSC") provided information that it expended approximately $18,000 for or relating to Mr. Bush's appearances in Michigan that day. The Bush Committee failed to provide any specific information to rebut the presumption that these were campaign-related expenditures. (Bush Committee Responses dated September 23, 1988, and June 8, 1990.)

i. Warren

While in Warren on July 20, 1988, Mr. Bush appeared at several events at the Ukrainian Cultural Center. The MRSC argues that Mr. Bush appeared at the Ukrainian Cultural Center in his official capacity. Despite this assertion, the MRSC made expenditures totaling $8,381 from its non-federal account for "staging" and "lighting" at this purported "official" event. Presumably, a state political party committee would not be paying for an "official" vice presidential appearance.

Mr. Bush also appeared publicly in Warren at the same time the Democratic Convention was being held in Atlanta. According to press accounts, Mr. Bush commented on the Democratic

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Convention and addressed comments made by the keynote speaker of the convention. Countering the keynote address by Texas Treasurer Ann Richards, Mr. Bush asserted: "I employed 400 people in her state, my state, I'll carry Texas." These appearances in Warren are presumed to be campaign-related, and the Bush Committee has failed to provide any evidence to overcome this presumption.

ii. Bloomfield Hills

On July 20, 1988, Mr. Bush also attended a Victory '88 Dinner in Bloomfield Hills, Michigan. Mr. Bush's appearance at this fundraiser was campaign-related. It was planned and paid for by the MRSC's state account. The invitation to the event described it as "A Dinner with George Bush, Vice President of the United States" and included the following statement advocating his election to President: "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States." Like the events in Warren, the event in Bloomfield Hills took place after January 1, 1988, and is presumed to be campaign-related. The evidence provided by the Bush Committee fails to overcome this presumption.

c. New Jersey

On July 22, 1988, Mr. Bush traveled to Point Pleasant Beach and Bay Head, New Jersey. The New Jersey Republican State Committee ("NJRSC") provided information that it expended approximately $30,400 from its federal account and $8,919.38 from its non-federal account for or relating to Mr. Bush's

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appearances in New Jersey on that day. The responses from the Bush Committee fail to provide any specific evidence to overcome the presumption that these events were for the purpose of influencing Mr. Bush's election. Moreover, affirmative evidence confirms that Mr. Bush's trip to New Jersey was, in fact, directly related to his presidential campaign.

i. Point Pleasant Beach

Mr. Bush's appearance in Point Pleasant Beach on July 22, 1988, included a "statement" at Jenkinson Beach and "press availability" at that site. Based upon the evidence, Mr. Bush's appearances at these events were campaign-related. According to the response from the NJRSC, the event in Point Pleasant Beach took place on Jenkinson Beach with approximately 500 persons in attendance. The event was open to the public. Mr. Bush spoke about the environment and medical waste, two visible issues of the 1988 presidential campaign. More specifically, Mr. Bush spoke to the crowd and the press about environmental problems on the New Jersey shore and about the initiatives taken by the Reagan Administration and New Jersey to address these problems.

In addition, press reports state that Mr. Bush pledged an administration devoted to tough enforcement of environmental laws and promised a "strong, effective and expanded Coast Guard" to carry out that enforcement. In another article, Mr. Bush is quoted as saying, "I'll be a good president for the environment."

He also reportedly discussed Michael Dukakis' acceptance speech at the Democratic Convention and opined that it "lacked

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specifics on defense and foreign policy." Mr. Bush apparently went on to characterize Mr. Dukakis as "a traditional liberal and a card-carrying member of the American Civil Liberties Union." Mr. Bush also made reference to the "upcoming GOP convention" and how it would reflect the "more upbeat philosophy of the Republican Party."

The NJRSC states that the sponsor for Mr. Bush's appearance at Point Pleasant was the Office of the Governor of New Jersey. This assertion, however, is undercut by evidence of its own sponsorship. The NJRSC/Victory '88 paid not only for the rental of the sound system at that event, but Mr. Bush's transportation costs as well.

In summary, this appearance was campaign-related: Mr. Bush discussed the presidential campaign, promoted his platform, and pointedly criticized the Democratic nominee. Further, the costs of this appearance were paid for by NJRSC/Victory '88.

ii. Bay Head

Similarly, Mr. Bush's appearance at a Victory '88 fundraising dinner in Bay Head was also campaign-related. The evidence concerning this event held in Bay Head on July 22, 1988, indicates that its purpose was to gain support and raise funds for Mr. Bush's campaign. The dinner invitation, itself, emphasized the importance of New Jersey to Mr. Bush's election: "New Jersey has been targeted as one of the most important states for the Vice President this fall. The outcome of the election could well hinge on what happens in our state."

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Further, according to a news account, Mr. Bush's remarks to the dinner guests included a statement that he was looking forward to an upbeat Republican National Convention next month in which he would point out the things that are right with the country. The news account further states that Mr. Bush repeated his desire to become known as the "education president" and to elect a Republican Senate with him. Another news article states that the dinner guests left with caps, visors and T-shirts bearing the "Bush for President message."

d. Pennsylvania

On August 9, 1988, Mr. Bush traveled to Erie, Pittsburgh and Philadelphia, Pennsylvania. The Republican Federal Committee of Pennsylvania ("RFCP") provided information that it expended approximately $46,089 for or relating to Mr. Bush's appearances in Pennsylvania on that day. In its response, the Bush Committee states that Mr. Bush's travel to Pennsylvania was in connection with the general election campaign.[10] (Bush Committee Response dated June 8, 1990 at 20.) The Bush

10. Of note, the Republican state party committee of Pennsylvania would not have been permitted to make expenditures in connection with the general election campaign of Mr. Bush. Pursuant to 2 U.S.C. § 441a(d)(2), a national committee of a political party may make certain expenditures in connection with the general election campaign of any candidate for President who is affiliated with that party. The Act does not provide similar expenditure authority for state party committees with respect to candidates for President. The Commission's regulations, however, state that a national party committee may make such expenditures through any designated agent, including state party committees. 11 C.F.R. § 110.7(a)(4). In this matter, there is no evidence that the state party committee of Pennsylvania was authorized to make expenditures against the national committee's limit.

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Committee also contends that the Victory '88 luncheon in Pittsburgh and one of the Victory '88 receptions in Philadelphia were fundraisers for the state party. (Id. at 22.)

As conceded by the Bush Committee, Mr. Bush's trip to Pennsylvania was campaign-related. However, based on the evidence, Mr. Bush's appearances in Pennsylvania were, in fact, directly related to his primary presidential campaign.[11] These appearances are discussed in turn below.

i. Erie

Mr. Bush's first stop in Pennsylvania was in Erie. In addition to his appearance at a Victory '88 "photo opportunity/reception" in Erie, Mr. Bush also addressed the 30th Annual Conference of the Fraternal Order of Police ("FOP"). In his speech, Mr. Bush made several transparent references to his opponent in the presidential election, Michael Dukakis. For example, Mr. Bush made a disparaging reference to the ACLU and distinguished his own views from the purported views of the ACLU. During his campaign, Mr. Bush repeatedly referred to his opponent as a "card-carrying member of the ACLU." Similarly, Mr. Bush criticized the practice of weekend furloughs for criminals, which repeated one of his campaign themes.

In light of Mr. Bush's remarks at the FOP event, Mr. Bush's appearance at this event may not have been purely in his

11. Earlier in this matter, the Commission decided on an approach consistent with its approach in MUR 2782. In that matter, the Commission determined that expenditures made by the Dukakis for President Committee prior to the Democratic National Convention were for the primary election.

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official capacity. However, it is not necessary to decide the nature of this appearance because it does not appear that the RFCP made any expenditures in connection with this event. Accordingly, any costs associated with the FOP event are not included in the total amount of in-kind contributions made by the RFCP in connection with Mr. Bush's trip to Pennsylvania.

Mr. Bush's other appearance in Erie was at a Victory '88 photo opportunity/reception. This event was sponsored by the RFCP. The photo opportunity/reception was closed to the public; it was attended by about 40 people, who were specifically invited by either letter or telephone. This appearance occurred after January 1, 1988, and the Bush Committee has provided no evidence to rebut the presumption that this event was campaign-related.[12] Further, even assuming, arguendo, that the FOP appearance was official, it is clear that the Victory '88 photo opportunity/reception was not simply an incidental contact. Consequently, Mr. Bush's stop in Erie is considered campaign-related.

ii. Pittsburgh and Philadelphia

Mr. Bush's next stop on August 9, 1988, was in Pittsburgh where he attended a Victory '88 fundraising luncheon. The evidence concerning the Victory '88 fundraising luncheon

12. In its response, the RFCP asserts that they were unable to determine conclusively whether an expenditure for sound and lighting was made in connection with the photo opportunity or the reception held in Erie. This does not matter, however, because both events or both parts of one event were campaign-related. All costs of this event were paid for by the RFCP.

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indicates that its purpose was to raise funds for Mr. Bush's campaign. The invitation, signed by six members of the Western Pennsylvania Host Committee, the sponsor for the event, stated: "The political experts believe that PA will be a key state in the 1988 Presidential Election." The invitation further stated that: "We must keep the Republican Party strong by electing George Bush as our next President..." and "As the luncheon will be an important event for the VP before he goes to New Orleans and The National Convention, we want to display the strongest support possible for him."

Mr. Bush then traveled to Philadelphia where he attended two Victory '88 fundraising receptions. Mr. Bush's appearances at the two fundraising receptions were also campaign-related. One reception was described as a "private reception and photo opportunity" and the other as a "fundraising reception." Both receptions were held at the same hotel and were sponsored by the state party committee of Pennsylvania. The private reception and photo opportunity were limited to the "first one hundred couples" who contributed $2,000. The other fundraiser was a general reception for persons who contributed $500.

According to a form letter provided by the RFCP, which was sent to solicit members for the host committee in connection with these Victory '88 events, the clear purpose of the receptions was to raise funds for Mr. Bush. This letter described the "Victory '88 Program" as "the one remaining

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legally authorized method for raising further funds to help ensure that we carry Pennsylvania for George Bush and the whole Republican ticket." (emphasis supplied).

Further, a picture of Mr. Bush appears on the cover of the invitation to the private fundraising reception, which requests the "pleasure of your company at a Gala Cocktail Reception Honoring George Bush...." The response card attached to the invitation states that the "Funds generated by the 'Pennsylvania Victory '88' Program will be used to implement a wide variety of political programs on behalf of Vice President Bush and the entire Republican ticket in Pennsylvania."

Finally, according to a news account of Mr. Bush's appearances in Pennsylvania, Mr. Bush stated that he was running a "positive campaign in contrast to the Democratic nominee, Gov. Michael S. Dukakis." The news account also quotes Mr. Bush as saying, "It's not negative to ask that he be specific on the issues. He is trying to run away from a record in Massachusetts the very, very far liberal fringe of the political spectrum, and I have to pin him down." Mr. Bush also stated that he thought the upcoming Republican convention would be "positive," but that he could not guarantee that someone would not take a "swipe at Michael Dukakis." In another news article, Mr. Bush is quoted as saying during his trip to Pennsylvania that "You've got a few hand-ringers on the side that might be worrying about it. And you've got Mike Dukakis emphasizing polls, and I'm talking about ideas and issues and peace and prosperity."

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e. Discussion

As discussed above, Mr. Bush's travel to Ohio, Georgia, Colorado, Michigan, New Jersey and Pennsylvania included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

The Bush Committee has failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). As shown by the evidence, it is apparent that a major focus of Mr. Bush's appearances in these states was the 1988 presidential campaign. At minimum, the

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evidence provided by the Respondents fails to demonstrate that the events were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided in this matter corroborates the presumption that the activities in question were, in fact, campaign-related. Consequently, because Mr. Bush conducted campaign-related activities while in Ohio, Georgia, Colorado, Michigan, New Jersey and Pennsylvania and these activities did not qualify as incidental contacts, Mr. Bush's travel to each of these states is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

Furthermore, it is uncontested that the state party committees of these states made significant expenditures in connection with Mr. Bush's travel during the summer of 1988. Based on the evidence, the Ohio Republican Party Committee made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $15,000;[13]

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13. In order to determine the amount of the apparent excessive in-kind contributions by the state party committees and the RNC, the Audit Division reviewed all financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by the state party committees and the RNC for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel during the summer of 1988. Further, because the state

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the Georgia Republican Party made expenditures which resulted in excessive contributions totaling approximately $49,000; the Michigan Republican State Committee made expenditures which resulted in excessive contributions totaling approximately $13,000; the New Jersey Republican State Committee made expenditures which resulted in excessive contributions totaling approximately $25,400; and the Republican Federal Committee of Pennsylvania made expenditures which resulted in excessive contributions totaling approximately $41,089.

This Office's investigation also revealed that the RNC expended approximately $84,450 for or relating to Mr. Bush's appearances at the Unity '88 Conferences in Ohio, Georgia, and Colorado. The RNC was subject to the Act's $5,000 contribution limitation for the primary election. 2 U.S.C. § 441a(a)(2)(A). Therefore, the RNC made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $79,450.

f. Conclusion

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions totaling approximately $223,000 from the RNC and

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(Footnote 13 continued from previous page)
party committees and the RNC could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A), that amount has been subtracted from the total amount of expenditures made by the state party committees and the RNC in connection with Mr. Bush's trips during the summer of 1988.

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the Republican state party committees of Ohio, Georgia, Michigan, New Jersey and Pennsylvania. Furthermore, because the Committee did not report the in-kind contributions from the committees, there is probable cause to believe that George Bush for President, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 434(b).

C. Prohibited Contributions

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. Based on the evidence, it appears that the New Jersey Republican State Committee and the Michigan Republican State Committee made expenditures from their state accounts to pay for Mr. Bush's travel during the summer of 1988.

The state election law of New Jersey permits corporate and labor union contributions in state elections. The state election law of Michigan permits labor union contributions in state elections. According to the response from the NJRSC, the costs involved with the Victory '88 fundraising dinner in Bay Head were paid out of the Victory '88 account, a subsidiary federal account of the NJRSC. However, the NJRSC states that one payment for this event, which totaled $8,919, was made from its non-federal account before there were sufficient funds in the Victory '88 account. Further, in its response, the Michigan state party committee admits that all payments related to

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Mr. Bush's appearances, totaling approximately $18,000, came from its non-federal account. The Committee provided non-negotiable check copies as evidence, as well as copies of its disclosure reports in which it reports the payments from its state account as "administrative expenses."

Based on the foregoing, the Bush Committee received impermissible funds totaling approximately $27,000 from the non-federal accounts of the New Jersey Republican State Committee and the Michigan Republican State Committee, in violation of 2 U.S.C. § 441b(a). Accordingly, this Office recommends that the Commission find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 441b(a).

III. RECOMMENDATION

1. Find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441a(b)(1)(A), 441a(f), and 441b(a), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2).

7/3/97
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael A. Hess, Chief Counsel
Republican National Committee
310 1st Street, S.E.
Washington, DC 20003

RE: MUR 2667
Republican National Committee
and William J. McManus, as
treasurer

Dear Mr. Hess:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by the Republican National Committee ("RNC"), on January 17, 1991, the Federal Election Commission found reason to believe that the RNC and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five

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days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican National Committee	)	MUR 2667
and William J. McManus, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("Bush Committee"). The complaint alleges, among other things, that the Republican National Committee and William J. McManus, as treasurer, ("RNC" or "Respondents") made expenditures in connection with then-Vice President Bush's travel during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On February 6, 1990, the Commission found that there was reason to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. In response to a motion submitted by Respondents, on May 22, 1990, the Commission determined to rescind its reason to believe determination regarding these Respondents.[1]

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1. Due to questions raised by Respondents, the Commission rescinded these findings against them in order to afford them notice and an opportunity to respond to the complaint and supplement in this matter.

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On January 17, 1991, the Commission again determined there was reason to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. Further, the Commission found that there was reason to believe these expenditures may have been paid from accounts containing impermissible funds in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted an adequate response.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Act provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

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Special expenditure limitations apply to national party committees regarding presidential general election campaigns, but no such special expenditure limitations apply to primary campaigns. 2 U.S.C. § 441a(d). Consequently, a national party committee, such as the Republican National Committee, is subject to the $5,000 contribution limit of 2 U.S.C. § 441a(a)(2)(A) for primary elections. Whereas for the 1988 general election campaign, the Republican National Committee's coordinated party expenditure limit was $8,300,000.

The Act also prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations further provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who

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engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding

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probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

1. Excessive Contributions

On June 10, June 24, and July 8, 1988, Mr. Bush traveled to Denver, Colorado; Cincinnati, Ohio; and Atlanta, Georgia. Each trip included, among other things, Mr. Bush's appearance at a Victory Through Unity in '88 Conference ("Unity '88 Conference").[2] This Office's investigation revealed that the RNC expended approximately $84,450 for or relating to Mr. Bush's appearances at the Unity '88 Conferences in Ohio, Georgia, and Colorado. The RNC paid approximately $32,000 for Mr. Bush's appearance in Atlanta, $20,200 for his Cincinnati appearance, and $32,250 for his Denver appearance.

All of the travel at issue occurred before Mr. Bush was nominated as the presidential candidate at the Republican National Convention. Because the RNC's expenditures were related to Mr. Bush's primary election campaign, those expenditures could not be included in the RNC's $8,300,000 coordinated party expenditure limit in the general election. 2 U.S.C. § 441a(d). Instead, the RNC was subject to the Act's

2. In its response, the RNC also discusses specific payments it made relating to Mr. Bush's appearances in New York, Texas, Illinois, and California. It appears that the RNC expended approximately $125,000 for or relating to various appearances by Mr. Bush in those states. This Office is recommending, however, that the Commission only pursue the RNC's expenditures relating to Mr. Bush's appearances at the three Unity '88 Conferences, which were held in Ohio, Georgia, and Colorado.

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$5,000 contribution limitation for the primary election. 2 U.S.C. § 441a(a)(2)(A).

The RNC's response in this matter consists of letters, vendor invoices, conference materials, and deposition testimony of former employees. The RNC argues that although it paid for certain portions of Mr. Bush's travel, these appearances were not for the benefit of his presidential campaign. (RNC Response to Subpoena to Produce Documents and Order to Submit Written Answers, hereinafter "RNC Response," dated October 7, 1991.) The RNC argues that, instead, these appearances were intended to benefit the grassroots party-building programs of various state party committees and the RNC. (Id.) According to Respondents, Mr. Bush did not appear as a "candidate," but as a "...very visible and popular leader of the Republican party." (Id.) Thus, the RNC argues it did not pay any "candidate" expenses. (Id.)

Despite the RNC's arguments, Respondents do not overcome the presumption that the Unity '88 Conferences were campaign-related under 11 C.F.R. § 110.8(e)(2)(ii). Further, affirmative evidence confirms that Mr. Bush's appearances in Denver, Cincinnati and Atlanta were, in fact, directly related to his presidential campaign.

a. Victory Through Unity in '88 Conferences

Unity '88 consisted of three conferences held in Denver, Cincinnati and Atlanta. Mr. Bush attended and spoke at all

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three conferences. Based on the available evidence, the Unity '88 Conferences were campaign-related in nature. See discussion below.

According to Respondents, Unity '88 was a part of the Republican Party's Victory Through Unity in '88 program, also known as Victory '88.[3] According to Mary Matalin,[4] Unity '88 Conferences were held in order to "energize the troops" before going into the general election. (Matalin Deposition at 21.) Similarly, Patricia Susan Giardina[5] testified that it was important for Mr. Bush to appear at Unity '88 Conferences to "rally the troops." (Giardina Deposition at 46.) Ms. Giardina defined "rally the troops" as a "means of bringing together the grassroots people" in order to "get them excited about the November election." Id. The conferences were attended by candidates (including presidential candidates), activists, and volunteers and consisted of rallies and lectures. In addition, it was usual RNC practice to set up press rooms at Unity '88 Conferences. (Matalin Affidavit at 5.) Based on several news

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3. According to the evidence, Unity '88 was part of the Republican Party's Victory '88 program. However, it appears that the RNC, the Bush Committee and the Republican state party committees used various, interchangeable terms to describe the Unity '88 Conferences, i.e., Victory '88, Unity '88 or Victory Through Unity in '88. For example, the Bush Committee entitled Mr. Bush's speech given at the Unity '88 Conference in Denver, "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday June 10, 1988."

4. Ms. Matalin was the former Director of Victory '88 at the RNC.

5. Ms. Giardina was the former Regional Finance Director for the RNC.

articles, it appears that the purpose of these press rooms was to provide a platform for Mr. Bush to make comments regarding his candidacy and to answer questions.

In addition, the Unity '88 Conference Book ("the Book"), which was given to all conference attendees, refers extensively to the presidential campaign and the major party candidates. For example, one of the first pages in the Book contains a drawing of George Bush and his statement: "A presidency can shape an era - and it can change our lives. A successful presidency can give meaning to an age." Further, Section 2 of The Book is simply entitled "George Bush" and contains several "Issue Statements by Vice President George Bush" and an article by Lee Atwater, Campaign Manager for the Bush campaign, entitled "The Best Candidate, the Best Message and the Best Campaign." There were also several campaign-related pamphlets included in a pocket of The Book. One pamphlet, "Facts About the Fiction, The National Democrats: A 1988 Political Research Fact Book," contains several charges against Michael Dukakis. These include allegations of "the Dukakis Threat" and "the Biggest Spending Governor in America."[6]

In addition to the foregoing, this Office obtained during its investigation further, specific evidence relating to each

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6. Although Mary Matalin and Patricia Susan Giardina questioned whether certain portions of The Book had actually been included for distribution to the conference attendees, (Giardina Deposition at 53 and Matalin Deposition at 45-49), the RNC included the pamphlets and all pages of The Book in response to the Commission's Subpoena and Order requesting documents relevant to the travel at issue in this matter.

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Unity '88 Conference. This evidence, which further establishes the campaign-relatedness of Unity '88, is set out in detail in the following discussion.

b. Denver, Colorado

During our investigation, this Office obtained from the Bush Committee "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday June 10, 1988." These remarks advocate the election of Mr. Bush to the Office of the President. Mr. Bush began his remarks by stating:

> Yesterday, I was home in Houston, speaking to 10,000 people at the Texas State Republican Convention. That speech, for me, represented a turning point. The primary process is over -- on, both sides -- and frankly I'm glad.

Throughout his speech, Mr. Bush referred to Governor Dukakis and the presidential campaign. For example, Mr. Bush stated:

> At issue this year are two completely different versions of our country and where it's going. Because the differences this year are so stark and the stakes are so high, I think it's our responsibility, Governor Dukakis and me, as the nominees of our parties, to spend the next five months discussing the serious issues that face us.
>
> And I'll begin with five words that are an underlying theme of this campaign: Let's look at the record.

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Mr. Bush ends with a call to action:

> You are my surrogates. Will you help me get the word out? If we work together hard, undaunted, and undiscouraged, then we will win.
>
> The choice could not be clearer, nor the outcome more important. I'm going to give this race everything that I've got. I'm a fighter and I look forward to the fray. I'm going to lay out these issues and define these differences and take our case to every corner of the country.
>
> If you can help me, get out there...because if you do, our vision will prevail -- and our progress will continue.

Further, according to news accounts of the Unity '88 Conference, Mr. Bush charged Governor Dukakis with opposing the B-1 Bomber. It was also reported that Mr. Bush contrasted his view of the United Nations with that of Governor Dukakis. According to one news article, Mr. Bush stated that Governor Dukakis would "rely heavily on multilateral organizations such as the U.N.," but he, as a former ambassador to the United Nations, recognizes "its limitations."

c. <u>Cincinnati, Ohio</u>

This Office also obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Republican Unity Dinner, Cincinnati, Ohio, Friday, June 24, 1988." These remarks were also for the purpose of advocating Mr. Bush's

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election to the Office of the President. Mr. Bush began his remarks by stating:

> We are united today because we know that the choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles - between two fundamentally opposed views of what America is and what it should be.

Throughout his speech, Mr. Bush referred to Governor Dukakis and the presidential campaign. Mr. Bush remarked that lower taxes and growth would be the hallmark of his candidacy and accused Governor Dukakis of raising taxes and helping Massachusetts earn the label "Taxachusetts." Mr. Bush promised that he would not raise taxes and would limit government spending. In addition, Mr. Bush explained that, as President, he would support SDI and nuclear deterrence. He also contrasted his foreign policy to Governor Dukakis' support for a nuclear freeze. Further, Mr. Bush described his crime policy, drug policy, and his support for the death penalty. Mr. Bush also advocated the Pledge of Allegiance in schools and committed to be the "education President."

In another speech given at the Cincinnati Unity '88 Conference, Robert Bennett, the Ohio Republican State Chairman, discussed Ohio's key political position in the 1988 presidential election. In his speech, Mr. Bennett painted Governor Dukakis as the candidate of the "dead end maze of failed and flawed policies..." Mr. Bennett concluded his speech with the phrase:

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"...there is only one viable course for the future of America...the election of George Bush this November."

Finally, according to a news account of Mr. Bush's appearance at the Unity '88 Conference in Cincinnati, Frank Fahrenkopf, RNC Chairman, reportedly informed Unity '88 attendees that one strategy for the Fall was "...to establish clear and compelling directions in which Mr. Bush plans to take the country if elected." In another news article, it was reported that Mr. Bush expressed that because the Democratic primary process was complete, he was "warming up."

d. Atlanta, Georgia

This Office also obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Victory '88, Atlanta, Georgia, Friday, July 8, 1988."[7] Mr. Bush's remarks were similar to those he made during his Ohio Unity '88 appearance. For example, Mr. Bush began by stating:

> The choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles - between two fundamentally opposed views of what America is and what America should be.

7. It appears that this speech, while entitled "Victory '88" by the Bush Committee, was given by Mr. Bush at the Unity '88 Conference held in Atlanta.

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He also contrasted his foreign policy to that of Governor Dukakis:

> My opponent brought a suit to prevent the President from deploying a state's national guard overseas without the consent of the Governor. You can't run a foreign policy if 50 state Governors each have the right to veto a Presidential decision. You might as well invite the mayors in, too, and have a real party...I believe in a strong executive who can carry out a strong, consistent foreign policy that protects America's interests around the globe -- and that's the kind of President I'll be.

Mr. Bush also discussed the Governor's support for a nuclear freeze. He described his crime policy and portrayed Governor Dukakis as a "card carrying member of the ACLU." Finally, Mr. Bush pledged that he would "...appoint judges who interpret the Constitution, not legislate from the bench."

Further, in news accounts covering the Unity '88 Conference in Atlanta, it was reported that Mr. Bush used his speech at the Conference to attack Governor Dukakis. For example, Mr. Bush criticized Governor Dukakis' veto of legislation requiring teachers to recite the Pledge of Allegiance with students. Mr. Bush further criticized Governor Dukakis for his purported reliance upon the U.N. and his opposition to the death penalty.

e. <u>Discussion</u>

As discussed above, Mr. Bush's travel to Denver, Cincinnati and Atlanta included specific events, appearances, and communications which were clearly for the purpose of influencing

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or advocating his election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

As shown by the evidence, it is apparent that a major focus of the Unity '88 Conferences held in Denver, Cincinnati, and Atlanta was the 1988 presidential campaign. The Unity '88 Conference Book was replete with references to the presidential campaign, and Mr. Bush's speeches at the conferences expressly advocated his election to the presidency and the defeat of Governor Dukakis.

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Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided by Respondents fails to demonstrate that the Unity '88 Conferences held in Denver, Cincinnati and Atlanta were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. As discussed above, the evidence affirmatively demonstrates that the activities in question were, in fact, campaign-related. Consequently, because Mr. Bush conducted campaign-related activities while at the Unity '88 Conferences in Denver, Cincinnati, and Atlanta, and these activities clearly did not qualify as incidental contacts, Mr. Bush's trips to these states are considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

It is uncontested that the RNC made significant expenditures in connection with Mr. Bush's travel to and participation in the Unity '88 Conferences in Denver, Cincinnati, and Atlanta. Based on the evidence, these expenditures resulted in excessive in-kind contributions

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totaling approximately $79,450 to George Bush's campaign for President.[8]

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling $79,450 to the Bush Committee.

2. Prohibited Contributions

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b.

In their response, Respondents submitted information indicating that the payments made in connection with the Unity '88 Conferences came from their federal account. (RNC Response, dated October 7, 1991.) A review of the Committee's reports for the relevant reporting periods indicates that the Committee had only permissible federal funds in its federal account. Thus, it

8. In order to determine the amount of the apparent excessive in-kind contribution by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel to Ohio, Georgia, and Colorado for the Unity '88 conferences during the summer of 1988. This Office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A) and had not done so, that amount has been subtracted from the $84,450 in expenditures made by Respondents in connection with Mr. Bush's trips to the Unity '88 conferences.

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appears that while the expenditures made by Respondents in connection with Mr. Bush's appearances were excessive, they were made with permissible federal funds. Therefore, this Office recommends that the Commission find that there is no probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

2. Find no probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

7/8/97
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward Gross, Esquire
Gross & Novak
Brier Hill, Building C
P.O. Box 188
East Brunswick, NJ 08816

RE: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Mr. Gross:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and its treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five

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days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer	)	MUR 2667

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Bush Committee"). The complainants allege, among other things, that the New Jersey Republican State Committee made expenditures in connection with then-Vice President Bush's travel to New Jersey during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On February 6, 1990, the Commission found reason to believe the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and its treasurer ("Respondents" or "NJRSC") violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. Further, the Commission found reason to believe that these expenditures may have been paid from accounts containing impermissible funds in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). In response to a motion submitted by Respondents, on May 22, 1990, the Commission

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determined to rescind its reason to believe determination.[1] In response to the Commission's notification, Respondents asserted that they had been injured by the actions taken by the Commission and declined to respond to the complaint.

On January 17, 1991, the Commission once again determined there was reason to believe Respondents violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a). On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted an adequate response.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by

1. Due to questions raised by Respondents, the Commission rescinded the findings against them in order to afford Respondents' notice and an opportunity to respond to the complaint and supplement in this matter.

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any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Furthermore, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations also provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the

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candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

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1. **Excessive Contributions**

On July 22, 1988, Mr. Bush traveled to Point Pleasant Beach and Bay Head, New Jersey. The Point Pleasant Beach trip included a "statement" at Jenkinson Beach and "press availability" at that site. (NJRSC Response to Subpoena to Produce Documents and Order to Submit Written Answers, dated September 18, 1991.) The Bay Head trip included Mr. Bush's attendance at a Victory '88 dinner. The New Jersey Republican State Committee provided information that it expended approximately $30,388.94 from its federal account and $8,919.38 from its non-federal account for or relating to Mr. Bush's appearances in New Jersey that day. (Id.)

In their response, Respondents state that the sponsor for the statement and press conference at Jenkinson Beach was the Office of the Governor of New Jersey. Respondents assert that during his statement and press conference, Mr. Bush discussed environmental issues only and any remarks he made concerning his campaign were in response to questions from the press and media. Of note, however, the New Jersey Republican State Committee Victory '88 Committee (NJRSC/Victory '88) paid for the rental of the sound system used at the event as well as Mr. Bush's transportation costs.

In regard to the fundraising dinner in Bay Head, Respondents state that this event was held at the home of Lawrence E. Bathgate, II and was sponsored by NJRSC/Victory '88. According to Respondents, Mr. Bush's remarks at this event consisted of "rally the troops remarks directed to

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supporters of the Republican Party." Respondents contend that they have no recollection of Mr. Bush making any comments relating to his campaign for the presidency or about the Democratic Party's presidential nominee.

As discussed below, Respondents' contentions do not overcome the presumption that Mr. Bush's appearances on July 22, 1988, were campaign-related. Moreover, affirmative evidence confirms that Mr. Bush's trip to New Jersey was, in fact, directly related to his presidential campaign.

a. Point Pleasant Beach

Based on this Office's investigation, Mr. Bush's appearance in Point Pleasant Beach on July 22, 1988, was campaign-related. According to the response from the New Jersey Republican State Committee, the event in Point Pleasant Beach took place on Jenkinson Beach with approximately 500 persons in attendance. The event was open to the public. Mr. Bush spoke about the environment and medical waste, two visible issues of the 1988 presidential campaign. More specifically, Mr. Bush spoke to the crowd and the press about environmental problems on the New Jersey shore and about the initiatives taken by the Reagan Administration and New Jersey to address these problems.

In addition, press reports state that Mr. Bush pledged an administration devoted to tough enforcement of environmental laws and promised a "strong, effective and expanded Coast Guard" to carry out that enforcement. In another article,

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an incidental contact. Consequently, Mr. Bush's stop in Erie is considered campaign-related.

Mr. Bush's next stop on August 9, 1988, was in Pittsburgh. The evidence concerning the Victory '88 fundraising luncheon in Pittsburgh indicates that its purpose was to raise funds for Mr. Bush's campaign. The invitation, signed by six members of the Western Pennsylvania Host Committee, the sponsor for the event, stated: "The political experts believe that PA will be a key state in the 1988 Presidential Election." The invitation further stated that: "We must keep the Republican Party strong by electing George Bush as our next President..." and "As the luncheon will be an important event for the VP before he goes to New Orleans and The National Convention, we want to display the strongest support possible for him."

Similarly, Mr. Bush's appearances at the two fundraising receptions held in Philadelphia were also campaign-related. One reception was described as a "private reception and photo opportunity" and the other as a "fundraising reception." Both receptions were held at the same hotel and were sponsored by the state party committee of Pennsylvania. Based on the evidence, the private reception and photo opportunity were limited to the "first one hundred couples" who contributed $2,000. The other fundraiser was a general reception for persons who contributed $500.

According to a form letter, provided by Respondents, which was sent to solicit members for the host committee in connection with these Victory '88 events, the clear purpose of

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the receptions was to raise funds for Mr. Bush. This letter described the "Victory '88 Program" as "the one remaining legally authorized method for raising further funds to help ensure that we carry Pennsylvania for George Bush and the whole Republican ticket." (emphasis supplied).

Further, a picture of Mr. Bush appears on the cover of the invitation to the private fundraising reception, which requests the "pleasure of your company at a Gala Cocktail Reception Honoring George Bush...." The response card attached to the invitation states that the "Funds generated by the 'Pennsylvania Victory '88' Program will be used to implement a wide variety of political programs on behalf of Vice President Bush and the entire Republican ticket in Pennsylvania."

Finally, according to a news account of Mr. Bush's appearances in Pennsylvania, Mr. Bush stated that he was running a "positive campaign in contrast to the Democratic nominee, Gov. Michael S. Dukakis." The news account also quotes Mr. Bush as saying, "It's not negative to ask that he be specific on the issues. He is trying to run away from a record in Massachusetts on the very, very far liberal fringe of the political spectrum, and I have to pin him down." According to the news account, Mr. Bush also stated that he thought the upcoming Republican convention would be "positive," but that he could not guarantee that someone would not take a "swipe at Michael Dukakis." In another news article, Mr. Bush is quoted as saying during his trip to Pennsylvania that "You've got a few hand-ringers on the side that might be worrying about it.

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And you've got Mike Dukakis emphasizing polls, and I'm talking about ideas and issues and peace and prosperity."

2. Discussion

As discussed above, Mr. Bush's travel to Pennsylvania included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

As shown by the evidence, it is apparent that a major focus of the Victory '88 events held in Pennsylvania was the 1988 presidential campaign. Respondents hosted a Victory '88

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reception in Erie and conducted fundraisers in Pittsburgh and Philadelphia. All of these events are presumed to be campaign-related. Further, the fundraising events were campaign-related by either expressly soliciting contributions for Mr. Bush's presidential campaign or, at the least, by expressly advocating his election. According to news accounts of Mr. Bush's trip, Mr. Bush expressly advocated his election to the presidency and made disparaging references to Governor Dukakis.

Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided by Respondents fails to demonstrate that the Victory '88 events in Pennsylvania were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. As discussed above, the evidence affirmatively demonstrates that the activities in question were, in fact, campaign-related. Further, even assuming, arguendo, that Mr. Bush's FOP appearance was official, the Victory '88 reception clearly did not qualify as an incidental contact. Consequently, because Mr. Bush conducted campaign-related activities while in Pennsylvania, Mr. Bush's

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trip to Pennsylvania is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to Pennsylvania. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $41,089.[3]

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $41,089 to George Bush's campaign for President.

B. Prohibited Contributions

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited

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3. In order to determine the amount of the apparent excessive in-kind contributions by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communications costs in connection with Mr. Bush's travel to Pennsylvania during the summer of 1988. This Office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A), that amount has been subtracted from the $46,089 in expenditures determined by the Audit Division to have been made by Respondents in connection with Mr. Bush's travel to Pennsylvania.

contributions. 2 U.S.C. § 441b. The state election law of Pennsylvania prohibits both corporate and labor union contributions in state elections.

According to Respondents, the funds used to pay for events in connection with Mr. Bush's travel to Pennsylvania were drawn from the Committee's federal and non-federal accounts. Respondents assert that the funds drawn from the non-federal account, totaling approximately $828, consisted of properly raised state committee funds.

Nonetheless, Respondents made expenditures from their non-federal account in connection with a federal election.[4] Accordingly, this Office recommends that the Commission find probable cause to believe the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 11 C.F.R. § 102.5(a). However, because the state election law of Pennsylvania prohibits both corporate and labor union contributions, this Office recommends that the Commission find there is no probable cause to believe Respondents violated 2 U.S.C. § 441b(a).

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4. Respondents provided copies of checks drawn from the Committee's state account.

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a).

2. Find no probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

Date 7/8/94

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank B. Strickland, Esquire
Wilson, Strickland & Benson, P.C.
1360 Peachtree Street, N.E.
Atlanta, GA 30309

RE: MUR 2667
Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer

Dear Mr. Strickland:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), 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.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is 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 for an extension of time. All requests for extensions of time must be submitted in writing five

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days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9604372907 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republicans (Federal Account/ Non-Federal Account) and Marvin H. Smith, as treasurer	)	**MUR 2667**
	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("Bush Committee"). The complainants allege, among other things, that the Georgia Republican Party made expenditures in connection with then-Vice President Bush's travel to Georgia during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On February 6, 1990, the Commission found reason to believe the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, ("Respondents") violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. Further, the Commission found reason to believe that these expenditures may have been paid from accounts containing impermissible funds in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). In response to a motion submitted by Respondents, on May 22, 1990,

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the Commission determined to rescind its reason to believe determinations regarding these Respondents.[1]

On January 17, 1991, the Commission once again determined there was reason to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A).[2] On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted adequate responses.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the

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1. Due to questions raised by Respondents, the Commission rescinded these findings against them in order to afford them notice and an opportunity to respond to the complaint and supplement in this matter.

2. At this time, the Commission did not find reason to believe that Respondents violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

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request or suggestion of a candidate or his or her authorized committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

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B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

1. Excessive Contributions

On July 8, 1988, Mr. Bush traveled to Atlanta, Georgia. This trip included, among other things,[3] appearances at a Victory Through Unity in '88 Conference ("Unity '88 Conference"), a "Victory '88-Georgia Unity Reception and Fundraiser" and a "Victory '88-Georgia Dinner and Fundraiser." (Georgia Republican Party's Responses dated May 25, 1990, May 13 and September 19, 1991.) The Georgia Republican Party provided information that it expended approximately $54,000 for or relating to Mr. Bush's appearances in Georgia on that day. (Id.) These events are discussed in turn below.

3. According to the response from the Bush Committee, Mr. Bush also made appearances at a press conference, a Victory '88 Meeting With Southern Leadership and a GOP-Victory '88 Southern Steering Committee Reception. It does not appear that the state party committee of Georgia paid for the expenses associated with these appearances.

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While in Atlanta on July 8, 1988, Mr. Bush participated in a Unity '88 Conference. Unity '88 was a part of the Republican Party's Victory Through Unity in '88 program, also known as Victory '88.[4] According to Mary Matalin,[5] Unity '88 Conferences were held in order to "energize the troops" before going into the general election.[6] (Matalin Deposition at 21.) Similarly, Patricia Susan Giardina[7] testified that it was important for Bush to appear at Unity '88 Conferences to "rally the troops." (Giardina Deposition at 46.) Ms. Giardina defined "rally the troops" as a "means of bringing together the grassroots people" in order to "get them excited about the November election." Id. The Conferences were attended by candidates (including presidential candidates), activists, and volunteers and consisted of rallies and lectures. In addition, it was usual RNC practice to set up press rooms at Unity '88 Conferences. (Matalin Affidavit at 5.) Based on several news articles, it

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4. According to the evidence, Unity '88 was part of the Republican Party's Victory '88 program. However, it appears that the Bush Committee, the Republican National Committee (the "RNC") and the Republican state party committees used various, interchangeable terms to describe the Unity '88 Conferences, i.e., Victory '88, Unity '88 or Victory Through Unity in '88. For example, the Bush Committee entitled Mr. Bush's speech given at the Unity '88 Conference in Denver, "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday June 10, 1988."

5. Ms. Matalin was the former Director of Victory '88 at the RNC.

6. Unity '88 consisted of three conferences held in Atlanta, Denver, and Cincinnati. Mr. Bush attended and spoke at all three conferences.

7. Ms. Giardina was the former Regional Finance Director for the RNC.

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appears that the purpose of these press rooms was to provide a platform for Mr. Bush to make comments regarding his candidacy and answer questions.

During its investigation, this Office obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Victory '88, Atlanta, Georgia, Friday, July 8, 1988." Mr. Bush began his remarks by stating:

> The choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles - between two fundamentally opposed views of what America is and what America should be.

Throughout his speech, Mr. Bush referred to Governor Dukakis and the presidential campaign. He remarked that lower taxes and growth would be the hallmark of his candidacy and accused Governor Dukakis of raising taxes. He promised that he would not raise taxes and would limit government spending. Mr. Bush explained that, as President, he would support SDI and nuclear deterrence, and he contrasted his foreign policy to that of Governor Dukakis by stating:

> My opponent brought a suit to prevent the President from deploying a state's national guard overseas without the consent of the Governor. You can't run a foreign policy if 50 state Governors each have the right to veto a Presidential decision. You might as well invite the mayors in, too, and have a real party...I believe in a strong executive who can carry out a strong, consistent foreign policy that protects America's interests around the globe -- and that's the kind of President I'll be.

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Mr. Bush also discussed the Governor's support for a nuclear freeze. He described his crime policy and portrayed Governor Dukakis as a "card carrying member of the ACLU." Finally, Mr. Bush pledged that he would "...appoint judges who interpret the Constitution, not legislate from the bench."

News accounts also reported that Mr. Bush used his speech at the Unity '88 Conference to attack Governor Dukakis. For example, it was reported that Mr. Bush criticized Governor Dukakis' veto of legislation requiring teachers to recite the Pledge of Allegiance with students. It was also reported that Mr. Bush criticized Governor Dukakis for his opposition to the death penalty.

In addition to the foregoing, the Unity '88 Conference Book ("the Book"), which was given to all Conference attendees, refers extensively to the presidential campaign and the major party candidates. For example, one of the first pages contains a drawing of George Bush and his statement: "A presidency can shape an era - and it can change our lives. A successful presidency can give meaning to an age." Further, Section 2 of the Book is simply entitled "George Bush" and contains "Issue Statements by Vice President George Bush" and an article by Lee Atwater, Campaign Manager for the Bush campaign, entitled "The Best Candidate, the Best Message and the Best Campaign." There were also several campaign-related pamphlets included in a pocket of the Book. One pamphlet, "Facts About the Fiction, The National Democrats: A 1988 Political Research Fact Book,"

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contains several charges against Michael Dukakis. These include allegations of "the Dukakis Threat" and "the Biggest Spending Governor in America."[8]

Respondents assert that the Victory Through Unity in '88 Conference was sponsored by the RNC and that they made no expenditures in connection with the Conference. It appears, however, that Respondents were involved with some activities associated with the Unity '88 Conference. For example, Respondents concede that they made expenditures in connection with two events. These were described in their response as a "Victory '88-Georgia Unity Reception and Fundraiser," which was immediately followed by a "Victory '88-Georgia Dinner and Reception." Mr. Bush appeared at both events.

Respondents assert that the Victory '88-Georgia Unity Reception and the Victory '88-Georgia Dinner were for party-building purposes, and "...neither featured any presidential campaign type activities." (Prochnow Affidavit at 3; see also Stuckey Affidavit at 3.) According to Respondents, the locations of the reception and dinner were "...chosen specifically to divorce these Victory '88-Georgia events from other events held in Atlanta on July 8 sponsored by the RNC and Bush Committee." (Stuckey Affidavit at 3.) Respondents admit,

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8. Although Mary Matalin and Patricia Susan Giardina questioned whether certain portions of the Book had actually been included for distribution to the Conference attendees, (Giardina Deposition at 53 and Matalin Deposition at 45-49), counsel for the Republican National Committee included the pamphlets and all pages of the Book in response to the Commission's Subpoena and Order requesting documents relevant to the travel at issue in this matter.

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however, that the planning for these events was coordinated with staff from the RNC and the Bush Committee. (Prochnow Affidavit at 2.)

Despite their assertions, Respondents fail to overcome the presumption that these appearances were campaign-related. Clearly, neither the Victory '88-Georgia Unity Reception nor the Victory '88 Dinner was an incidental contact. In fact, the planning for these events was coordinated with staff from the RNC and the Bush Committee. According to Respondents, both the Reception and Dinner were invitation-only, by mail or hand delivery, and required a ticket for attendance.

The fundraising reception was held in the ballroom of the Ritz Carlton, Buckhead Hotel and the fundraising dinner was held at the home of Mr. and Mrs. Tom Cousins. The Buckhead reception was attended by approximately 270 people and the Dinner included about 70 persons. According to a news report of the Reception, the "[Attendees]...paid the state Republican Party $1,000 a couple to meet the likely GOP presidential nominee...The name tags were plain white cards embossed with the gold eagle of the vice presidential seal." Mr. Bush gave a short speech at the reception and discussed the campaign and the "choices facing his audience." Further, "He talked about drawing distinctions between himself and Dukakis. 'It is not a difficult thing to do, he said. It's like night and day.'"

In light of Mr. Bush's remarks and the circumstances and setting of these events, the Victory '88-Georgia Unity Reception

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and the Victory '88-Georgia Dinner held in conjunction with the Unity '88 Conference were campaign-related.

2. Discussion

Mr. Bush's travel to Atlanta included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

It is apparent that a major focus of the Victory Through Unity in '88 Conference held in Atlanta was the 1988 presidential campaign. The Unity '88 Conference Book was replete with references to the presidential campaign.

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The Victory '88-Georgia Unity Reception and the Victory '88-Georgia Dinner were held in conjunction with the Victory Through Unity in '88 Conference and planned in coordination with the Bush Committee and the RNC. In his speech given at the Reception, Mr. Bush specifically discussed the Fall campaign and Governor Dukakis. Based on the evidence, these Victory '88-Georgia Unity events were campaign-related by either expressly soliciting contributions for Mr. Bush's presidential campaign or, at the least, by expressly advocating his election.

In sum, Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided by Respondents fails to demonstrate that the events in Georgia were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied). In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. Consequently, because Mr. Bush conducted campaign-related activities while in Georgia and these activities did not qualify as incidental contacts, Mr. Bush's trip to Georgia is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to Georgia. Based on the evidence, Respondents made expenditures

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in connection with these events which resulted in excessive contributions to George Bush's campaign for President totaling approximately $49,000.[9]

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $49,000 to the Bush Committee.

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

7/8/94
Date

Lawrence M. Noble
General Counsel

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9. In order to determine the amount of the apparent excessive in-kind contributions by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel to Georgia during the summer of 1988. This Office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A) and had not done so, that amount has been subtracted from the approximately $54,000 in expenditures made by Respondents in connection with Mr. Bush's trip to Georgia.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Eric E. Doster, Esquire
Foster, Swift, Collins and Smith, P.C.
313 South Washington Square
Lansing, MI 48933-2193

RE: MUR 2667
Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer

Dear Mr. Doster:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five

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days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Michigan Republican State Committee	)	**MUR 2667**
(Federal Account/Non-Federal Account)	)	
and Ronald D. Dahlke, as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint and supplement filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Bush Committee"). The complainants allege, among other things, that the Republican state party committee of Michigan made expenditures in connection with then-Vice President Bush's travel to Michigan during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On February 6, 1990, the Commission found reason to believe the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, ("Respondents" or "MRSC") violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. Further, the Commission found reason to believe that these expenditures may have been paid from accounts containing impermissible funds in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). In response to a motion submitted by Respondents, on May 22, 1990, the Commission

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determined to rescind its reason to believe determination regarding these Respondents.[1]

On January 17, 1991, the Commission once again determined there was reason to believe Respondents violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a). On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted an adequate response.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized

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1. Due to questions raised by Respondents, the Commission rescinded these findings against them in order to afford them notice and an opportunity to respond to the complaint and supplement in this matter.

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committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Furthermore, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations also provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however,

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presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

1. Excessive Contributions

On July 20, 1988, Mr. Bush traveled to Warren and Bloomfield Hills, Michigan. While in Warren, Mr. Bush appeared

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at several events at the Ukrainian Cultural Center. (MRSC Response to Subpoena to Produce Documents and Order to Submit Written Answers, dated September 30, 1991.) These events included a Captive Nations Welcome, Media Interviews, Staff Photo with Captive Nations Leadership, and a Captive Nations Banquet. While in Bloomfield Hills, Mr. Bush attended a Victory '88 Dinner. The Michigan state party committee provided information that it expended approximately $18,000 for or relating to Mr. Bush's appearances in Michigan that day. (Id.)

Respondents contend that Mr. Bush's appearances at the Ukrainian Cultural Center were official and that they had no involvement with these appearances. With respect to Mr. Bush's appearance at the Victory '88 fundraiser, Respondents argue that this was a bona fide party event and Mr. Bush appeared as a fundraising draw for the party, not as a candidate. The arguments and evidence presented by Respondents do not overcome the presumption that these appearances were campaign-related.

a. Warren

On July 20, 1988, Mr. Bush made several appearances at the Ukrainian Cultural Center in Warren, Michigan. Respondents assert that these appearances were in Mr. Bush's official capacity. Despite this assertion, Respondents made expenditures totaling $8,381 from their non-federal account for "staging" and "lighting" at this purported "official" event. Presumably, a state political party committee would not be paying for an "official" vice presidential appearance.

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Mr. Bush also appeared publicly in Warren at the same time the Democratic Convention was being held in Atlanta. According to press accounts, Mr. Bush commented on the Democratic Convention and addressed comments made by the keynote speaker of the convention. Countering the keynote address by Texas Treasurer Ann Richards, Mr. Bush asserted: "I employed 400 people in her state, my state, I'll carry Texas." These appearances in Warren are presumed to be campaign-related, and Respondents' assertion fails to overcome this presumption.

b. Bloomfield Hills

Similarly, Mr. Bush's appearance at a Victory '88 fundraising dinner in Bloomfield Hills on July 20, 1988, was also campaign-related. This event was planned and paid for by Respondents' state account. The invitation to the event described it as "A Dinner with George Bush, Vice President of the United States" and included the following statement advocating his election to President: "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States." Like the events in Warren, the event in Bloomfield Hills took place after January 1, 1988, and is presumed to be campaign-related. The evidence provided by Respondents fails to overcome this presumption.

c. Discussion

The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a

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contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

As shown by the evidence, it is apparent that Mr. Bush's appearances in Michigan were related to his 1988 presidential campaign. Mr. Bush's travel to Michigan took place during the Democratic Convention, which he frequently mentioned in advocating his own election. Further, although Respondents argue that Mr. Bush appeared at the Ukrainian Cultural Center in an official capacity, they paid $8,381 from their non-federal account for "staging" and "lighting" at this event. Furthermore, the invitation to the Bloomfield Hills fundraiser clearly advocated George Bush as the "next President of the United States."

Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided

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by Respondents fails to demonstrate that the events in Michigan were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. Consequently, because Mr. Bush conducted campaign-related activities while in Michigan, and these activities did not qualify as incidental contacts, Mr. Bush's trip to Michigan is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

It is uncontested that the state party committee made expenditures in connection with Mr. Bush's travel to Michigan. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $13,000.[2]

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2. In order to determine the amount of the apparent excessive in-kind contributions by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel to Michigan during the summer of 1988. This office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A) and had not done so, that amount has been subtracted from the $18,000 in expenditures made by Respondents in connection with Mr. Bush's trip to Michigan.

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling $13,000 to George Bush's campaign for President.

2. Prohibited Contributions

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The state election law of Michigan permits labor union contributions in state elections.

In their response, Respondents admit that any payments related to Mr. Bush's appearances came from their non-federal account, and they provide non-negotiable check copies as evidence. Respondents also provide copies of their disclosure reports in which they report the payments from their state account as "administrative expenses."

Accordingly, Respondents used funds drawn from their non-federal account to make in-kind contributions totaling $18,000 to the Bush Committee. Therefore, this Office recommends that the Commission find there is probable cause to believe the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

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III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

Date 7/8/97

Lawrence M. Noble
General Counsel

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Mr. Bush is quoted as saying, "I'll be a good president for the environment."

He also reportedly discussed Michael Dukakis' acceptance speech at the Democratic Convention and opined that it "lacked specifics on defense and foreign policy." Mr. Bush apparently went on to characterize Mr. Dukakis as "a traditional liberal and a card-carrying member of the American Civil Liberties Union." Mr. Bush also made reference to the "upcoming GOP convention" and how it would reflect the "more upbeat philosophy of the Republican Party."

Moreover, Respondents' assertion that the sponsor for Mr. Bush's appearance at Point Pleasant was the Governor's Office is undercut by evidence of their own sponsorship. The NJRSC/Victory '88 paid not only for the rental of the sound system at that event, but Mr. Bush's transportation costs as well.

In summary, this appearance was campaign-related: Mr. Bush discussed the presidential campaign, promoted his platform, and pointedly criticized the Democratic nominee. Further, the costs of this appearance was paid for by NJRSC/Victory '88.

b. Bay Head

Similarly, Mr. Bush's appearance at a Victory '88 fundraising dinner in Bay Head was also campaign-related. The evidence concerning this event held in Bay Head on July 22, 1988, indicates that its purpose was to garner support and raise funds for Mr. Bush's campaign. The dinner

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invitation, itself, emphasized the importance of New Jersey to Mr. Bush's election: "New Jersey has been targeted as one of the most important states for the Vice President this fall. The outcome of the election could well hinge on what happens in our state."

Further, according to a news account, Mr. Bush's remarks to the dinner guests included a statement that he was looking forward to an upbeat Republican National Convention next month in which he would point out the things that are right with the country. The news account further states that Mr. Bush repeated his desire to become known as the "education president" and to elect a Republican Senate with him. Another news article states that the dinner guests left with caps, visors and T-shirts bearing the "Bush for President message."

2. Discussion

As detailed above, Mr. Bush's travel to New Jersey included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the

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candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

As shown by the evidence, Mr. Bush's remarks at the press conference in Point Pleasant Beach included a discussion of two visible issues of the 1988 presidential campaign: the environment and medical waste. Further, in his remarks, Mr. Bush expressly advocated his election to the presidency and the defeat of Governor Dukakis. In fact, Mr. Bush was quoted as saying that he would be a good president for the environment. Moreover, the costs[2] associated with this event were paid for by the NJRSC/Victory '88.

Similarly, Mr. Bush's travel to Bay Head was also campaign-related. The Victory '88 fundraising dinner clearly solicited support in electing George Bush the next President of the United States, and the guests reportedly left the fundraiser with caps, visors and T-shirts bearing the "Bush for President message."

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2. These costs include rental of the sound system and Mr. Bush's transportation costs.

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Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided by Respondents fails to demonstrate that the events in New Jersey were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. As discussed above, the evidence affirmatively demonstrates that the activities in question were, in fact, campaign-related. Consequently, because Mr. Bush conducted campaign-related activities while in Point Pleasant and Bay Head and these activities did not qualify as incidental contacts, Mr. Bush's trip to New Jersey is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to New Jersey. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $25,400.[3]

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3. In order to determine the amount of the apparent excessive in-kind contributions by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared

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For the foregoing reasons, this Office recommends that the Commission find probable cause to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $25,400 to George Bush's campaign for President.

2. **Prohibited Contributions**

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The state election law of New Jersey permits corporate and labor union contributions in state elections.

According to the response from the New Jersey Republican State Committee, the costs involved with the Victory '88 fundraising dinner in Bay Head were paid out of the Victory '88 account, a subsidiary federal account of the NJRSC. However, Respondents state that one payment for this event totaling $8,919 was made from its non-federal account before there were

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(Footnote 3 continued from previous page)
an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel to New Jersey during the summer of 1988. This Office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A), that amount has been subtracted from the approximately $30,400 in expenditures determined by the Audit Division to have been made by Respondents in connection with Mr. Bush's trip to New Jersey.

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sufficient funds in the Victory '88 account. Therefore, this Office recommends that the Commission find probable cause to believe the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a) by paying for campaign-related activities from an account containing impermissible funds.

III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

7/8/94
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gordon Strauss, Esquire
Thompson, Hine and Flory
2900 DuBois Tower
511 Walnut Street
Cincinnati, OH 45202

RE: MUR 2667
Ohio Republican State Central
and Executive Committee a/k/a
The Ohio Republican Party
(Federal Account/Non-Federal
Account) and Robert K. Wilson,
as treasurer

Dear Mr. Strauss:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and its treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer	)	**MUR 2667**

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint and supplement filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Bush Committee"). The complainants allege, among other things, that the Ohio Republican Party Committee made expenditures in connection with then-Vice President Bush's travel to Ohio during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On February 6, 1990, the Commission found reason to believe the Ohio Republican Party Committee (Federal Account/Non-Federal Account) and its treasurer ("Respondents" or "Ohio Republican Party") violated 2 U.S.C. § 441a(a)(2)(A) by making expenditures on behalf of the Bush Committee in excess of the Act's limitations. Further, the Commission found reason to believe that these expenditures may have been paid from accounts containing impermissible funds in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). In response to a motion submitted by Respondents, on May 22, 1990, the Commission

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determined to rescind its reason to believe determination regarding these Respondents.[1]

On January 17, 1991, the Commission once again determined there was reason to believe Respondents violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a). On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted an adequate response.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized

1. Due to questions raised by Respondents, the Commission rescinded these findings against them in order to afford them notice and an opportunity to respond to the complaint and supplement in this matter.

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committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Furthermore, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations also provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the

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candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

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1. **Excessive Contributions**

On June 24-26, 1988, Mr. Bush traveled to Cincinnati and Columbus, Ohio. The Cincinnati trip included appearances at a press conference, GOP Women Leadership meeting, Victory '88 Major Donor Reception, a meeting with Agriculture Leaders, a key GOP Regional Leaders meeting, Victory Through Unity in '88 ("Unity '88 Conference"), and a Victory '88 fundraising dinner. (Ohio Republican Party Response to Subpoena and Produce Documents and Order to Submit Written Answers, dated October 4, 1991.) The Columbus trip included Mr. Bush's attendance at a Victory '88 fundraising brunch. The Ohio Republican Party Committee provided information that it expended approximately $20,000 for or relating to Mr. Bush's appearances in Ohio. (Id.)

In their response, Respondents specifically discuss Mr. Bush's appearances at the Unity '88 Conference, the Victory '88 fundraising dinner, and the Victory '88 fundraising brunch in Columbus. According to Respondents, while they made expenditures in connection with the Victory '88 fundraising dinner and brunch, the Unity '88 Conference was sponsored by the Republican National Committee (the "RNC"). Other than the assertion that certain appearances were sponsored by the RNC, Respondents offer no evidence to overcome the presumption that these appearances were campaign-related. Moreover, affirmative evidence confirms that Mr. Bush's Ohio appearances were, in fact, directly related to his presidential campaign.

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a. Cincinnati

Based on this Office's investigation, Mr. Bush's appearances in Cincinnati on June 24, 1988, were campaign-related. In Cincinnati, Mr. Bush participated in, inter alia, a Unity '88 Conference and a Victory '88 fundraising dinner.

Unity '88 was a part of the Republican Party's Victory Through Unity in '88 program, also known as Victory '88.[2] According to Mary Matalin,[3] Unity '88 Conferences were held in order to "energize the troops" before going into the general election.[4] (Matalin Deposition at 21.) Similarly, Patricia Susan Giardina[5] testified that it was important for Bush to appear at Unity '88 Conferences to "rally the troops." (Giardina Deposition at 46.) Ms. Giardina defined "rally the troops" as a "means of bringing together the grassroots people" in order to "get them excited about the November election." Id. The conferences were attended by candidates (including

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2. According to the evidence, Unity '88 was part of the Republican Party's Victory '88 program. However, it appears that the Bush Committee, the RNC and the state party committees used various, interchangeable terms to describe the Unity '88 Conferences, i.e., Victory '88, Unity '88 or Victory Through Unity in '88. For example, the Bush Committee entitled Mr. Bush's speech given at the Unity '88 Conference in Denver, "Excerpts of Remarks of Vice President George Bush Victory '88 Unity Dinner, Denver, Colorado, Friday June 10, 1988."

3. Ms. Matalin was the former Director of Victory '88 at the RNC.

4. Unity '88 consisted of three conferences held in Atlanta, Denver, and Cincinnati. Mr. Bush attended and spoke at all three conferences.

5. Ms. Giardina was the former Regional Finance Director for the RNC.

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presidential candidates), activists, and volunteers and consisted of rallies and lectures. In addition, it was usual RNC practice to set up press rooms at Unity '88 Conferences. (Matalin Affidavit at 5.) Based on several news articles, it appears that the purpose of these press rooms was to provide a platform for Mr. Bush to make comments regarding his candidacy and to answer questions.

During our investigation, this Office obtained from the Bush Committee "Excerpts of Remarks for Vice President George Bush, Republican Unity Dinner, Cincinnati, Ohio, Friday, June 24, 1988." Mr. Bush began his remarks by stating:

> We are united today because we know that the choice our nation will have to make this November is as profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles - between two fundamentally opposed views of what America is and what it should be.

Throughout his speech, Mr. Bush referred to Governor Dukakis and the presidential campaign. Mr. Bush remarked that lower taxes and growth would be the hallmark of his candidacy and accused Governor Dukakis of raising taxes and helping Massachusetts earn the label "Taxachusetts." Mr. Bush promised that he would not raise taxes and would limit government spending. In addition, Mr. Bush explained that, as President, he would support SDI and nuclear deterrence. He also contrasted his foreign policy to Governor Dukakis' support for a nuclear freeze. Furthermore, Mr. Bush described his crime policy, drug policy, and his

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support for the death penalty. Mr. Bush also advocated the pledge of allegiance in schools and committed to be the "education President."

In another speech given at the Cincinnati Unity '88 Conference, Robert Bennett, the Ohio Republican State Chairman, discussed Ohio's key political position in the 1988 presidential election. In his speech, Mr. Bennett painted Governor Dukakis as the candidate of the "dead end maze of failed and flawed policies..." Mr. Bennett concluded his speech with the phrase: "...there is only one viable course for the future of America...the election of George Bush this November."

It is clear that the purpose of these speeches was to expressly advocate the election of Mr. Bush to the Office of the President. Mr. Bush specifically referred to and commented on the policies of his opponent, Governor Dukakis. Further, Mr. Bush detailed his policy objectives in a manner that clearly solicited support for his presidential candidacy.

In addition to the foregoing, Unity '88 Conference Book ("the Book"), which was given to all conference attendees, refers extensively to the presidential campaign and the major party candidates. For example, one of the first pages contains a drawing of George Bush and his statement: "A presidency can shape an era - and it can change our lives. A successful presidency can give meaning to an age." Further, Section 2 of The Book is simply entitled "George Bush" and contains several "Issue Statements by Vice President George Bush" and an article by Lee Atwater, Campaign Manager for the Bush campaign, entitled

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"The Best Candidate, the Best Message and the Best Campaign." There were also several campaign-related pamphlets included in a pocket of The Book. One pamphlet, "Facts About the Fiction, The National Democrats: A 1988 Political Research Fact Book," contains several charges against Michael Dukakis. These include allegations of "the Dukakis Threat" and "the Biggest Spending Governor in America."[6]

According to a news account of Mr. Bush's appearances in Ohio, Frank Fahrenkopf, Republican National Committee Chairman, informed Unity '88 attendees that one strategy for the Fall was "...to establish clear and compelling directions in which Mr. Bush plans to take the country if elected." In another news article, it was reported that Mr. Bush expressed that because the Democratic primary process was complete, he was "warming up."

Another campaign-related appearance made by Mr. Bush in Cincinnati was at a fundraising dinner. Dick and Joyce Farmer invited supporters of Mr. Bush to a $5,000 per couple Victory '88 fundraising dinner held on June 24, 1988. The June 14, 1988, invitation describes Ohio as a key state for Republicans in upcoming elections and asserts that Bush is "...going out of his way to help win in Ohio, not only for

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6. Although Mary Matalin and Patricia Susan Giardina questioned whether certain portions of The Book had actually been included for distribution to the conference attendees, (Giardina Deposition at 53 and Matalin Deposition at 45-49), counsel for the Republican National Committee included the pamphlets and all pages of The Book in response to the Commission's Subpoena and Order requesting, inter alia, documents relevant to the travel at issue in this matter.

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himself but for every Republican on the ticket." Not only do Respondents fail to overcome the presumption, the campaign-related nature of the dinner is further confirmed by a June 27, 1988, letter from Nicholas J. Vehr, the Executive Director of the Republican Finance Committee of Hamilton County, to the Ohio Republican State Chairman. In this letter, Mr. Vehr refers to the fundraising dinner at the Farmer home and declares that "the weekend proved very successful not just for the Bush for President effort, but for the State Party and our County organization."

b. Columbus

Similarly, Mr. Bush's appearance at another Victory '88 function held in Columbus was also campaign-related. The evidence concerning the Victory '88 fundraising brunch held in Columbus on June 26, 1988, indicates that its purpose was to benefit Mr. Bush's campaign. The invitation, signed by John Wolfe, a sponsor for the event, stated: "The Vice President needs our support to do all the things necessary to carry Ohio - A MUST WIN state." Further, a June 27, 1988 thank you letter from Robert T. Bennett, Chairman of the Ohio Republican Party, clearly states that the funds raised at the fundraising brunch would be "...instrumental in electing George Bush the next President of the United States."

c. Discussion

As detailed above, Mr. Bush's travel to Ohio included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his

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election to the Office of the President. The Commission has frequently considered whether particular activities involving the participation of a Federal candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. The Commission has consistently determined that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See Advisory Opinions 1988-27, 1986-37, 1986-26, 1982-56, 1981-37, 1980-22, 1978-56, 1978-15, 1977-54 and 1977-42. The Commission has also indicated that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1988-27, 1986-37, 1986-26, 1984-13, and 1983-12.

As shown by the evidence, it is apparent that a major focus of the Unity '88 Conference held in Cincinnati was the 1988 presidential campaign. The Chairman of the Ohio Republican Party spoke at the Conference in support of Mr. Bush's presidential election effort and in opposition to the election of Governor Dukakis. Furthermore, the Unity '88 Conference book was replete with references to the presidential campaign. Finally, Mr. Bush's speech at the Unity '88 Conference expressly advocated his election to the presidency and the defeat of

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Governor Dukakis. In his speech, Mr. Bush specifically identified Governor Dukakis as his opponent in the presidential election; differentiated their domestic and foreign policy objectives; and generally questioned Governor Dukakis' qualifications to be President of the United States. Similarly, the Victory '88 fundraising brunch held in Columbus clearly solicited support "in electing George Bush the next President of the United States."

Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, the evidence provided by Respondents fails to demonstrate that the events in Ohio were bona fide party events and that "no aspect of the solicitation for the events, the setting for the events, and the remarks or activities of the candidate in connection with the events were for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii) (emphasis supplied).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. As discussed above, the evidence affirmatively demonstrates that the activities in question were, in fact, campaign-related. Consequently, because Mr. Bush conducted campaign-related activities while in Ohio and these activities did not qualify as incidental contacts, Mr. Bush's trip to Ohio is considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

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It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to Ohio. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $15,000.[7]

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling $15,000 to George Bush's campaign for President.

2. Prohibited Contributions

As set out above, the Act prohibits any corporation or labor union from making contributions or expenditures in connection with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The state election law of Ohio permits labor union contributions in state elections.

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7. In order to determine the amount of the apparent excessive in-kind contributions by Respondents, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communication costs in connection with Mr. Bush's travel to Ohio during the summer of 1988. This office notes that because Respondents could make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A) and had not done so, that amount has been subtracted from the $20,000 in expenditures made by Respondents in connection with Mr. Bush's trip to Ohio.

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In their response, Respondents assert that any payments related to Mr. Bush's appearances came from their federal account, and they provide checks to substantiate this statement. A review of the Committee's reports for the relevant reporting periods confirms that the Committee had only permissible federal funds in its federal account. Thus, it appears that the expenditures made by Respondents in connection with Mr. Bush's appearances were made with permissible federal funds. Therefore, this Office recommends that the Commission find there is no probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

III. GENERAL COUNSEL'S RECOMMENDATIONS

1. Find probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

2. Find no probable cause to believe that the the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b and 11 C.F.R. § 102.5(a).

7/8/94
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 11, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Andrew D. Leipold, Esquire
2000 One Logan Square
Philadelphia, PA 19103

RE: MUR 2667
Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer

Dear Mr. Leipold:

Based on a complaint and supplement filed with the Federal Election Commission and upon information supplied by you, on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and its treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a), 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 violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the 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 whether there is probable cause to believe violations have occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All

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requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Mary Ann Bumgarner or Richard M. Denholm II, the attorneys assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer	)	MUR 2667

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint and supplement filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Bush Committee"). The complainants allege, among other things, that the Republican state party committee of Pennsylvania made expenditures in connection with then-Vice President Bush's travel to Pennsylvania during the summer of 1988, which resulted in prohibited in-kind contributions to the Bush Committee.

On May 22, 1990, the Commission notified the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and its treasurer ("Respondents" or "RFCP") of the complaint and supplement in this matter. In response to the Commission's notification, Respondents submitted a motion requesting that the Commission terminate its enforcement proceedings because they had not been timely notified of the complaint in this matter. The Commission considered this motion and determined not to grant it. Subsequently, Respondents submitted a virtually identical response again asserting that

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the Commission's investigation was time-barred and declined to respond to the complaint and supplement.

On January 17, 1991, the Commission determined there was reason to believe Respondents violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a). On March 19, 1991, the Commission authorized a subpoena duces tecum to Respondents. Respondents filed a motion to quash, and on August 13, 1991, the Commission denied this motion and authorized the Office of General Counsel to file suit to enforce the subpoena. Subsequently, Respondents submitted an adequate response.

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no multicandidate political committee shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). The Act generally defines contributions to include anything of value including a gift, loan, or advance made by any person for the purpose of influencing a Federal election. 2 U.S.C. § 431(8)(A). Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of a candidate or his or her authorized committee are considered to be contributions under the Act. 2 U.S.C. § 441a(a)(7)(B)(i).

Furthermore, the Act prohibits any corporation or labor union from making contributions or expenditures in connection

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with any federal election and prohibits any political committee from knowingly accepting such prohibited contributions. 2 U.S.C. § 441b. The Commission's regulations also provide that a political committee has two alternatives to ensure that prohibited moneys are not used in connection with federal elections. 11 C.F.R. § 102.5(a)(1). It may establish a single account for both federal and non-federal activity which can receive only contributions subject to the prohibitions and limitations of the Act. 11 C.F.R. § 102.5(a)(1)(ii). Or, it may establish a separate federal account for federal activity and a second account for state and local election activity. Only funds subject to the prohibitions and limitations of the Act can be deposited into the separate federal account. 11 C.F.R. § 102.5(a)(1)(i).

Under certain conditions, a party committee may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered a contribution or expenditure on behalf of the candidate, if the event was a bona fide party event and no aspect of the solicitation, setting, and remarks or activities of the candidate was for the purpose of influencing the candidate's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, presidential candidate appearances after January 1 of the election year are presumed to be for the purpose of influencing

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a candidate's election and any related expenditures or contributions are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Expenditures for travel relating to a presidential campaign are considered to be qualified campaign expenses and must be reported by the candidate's authorized committee. 11 C.F.R. § 9034.7(a). Where trips include campaign and non-campaign related stops, the portion of the cost of the trip allocable to campaign activity shall be a qualified campaign expense. 11 C.F.R. § 9034.7(b)(2). "[I]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." Id.

B. Analysis

The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and therefore are presumed to be for the purpose of influencing Mr. Bush's campaign for the presidency. 11 C.F.R. § 110.8(e)(2)(ii). This presumption alone is a sufficient legal basis for finding probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A). The issue presented in this matter is whether the evidence rebuts the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

1. Excessive Contributions

On August 9, 1988, Mr. Bush traveled to three cities in Pennsylvania. Mr. Bush's first appearance was at a Victory '88 "photo opportunity/reception" in Erie. (RFCP Response to Subpoena to Produce Documents and Order to Submit Written

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Answers, dated October 11, 1991.) Second, Mr. Bush attended a Victory '88 fundraising luncheon in Pittsburgh. Mr. Bush then traveled to Philadelphia where he attended two Victory '88 fundraising receptions. The state party committee of Pennsylvania provided information that it expended approximately $46,089 for or relating to Mr. Bush's appearances in Pennsylvania on that day. (Id.)

In their response, Respondents provide information about the events and the amount they expended in connection with each of these events. Based upon this and other evidence, Respondents fail to overcome the presumption that these appearances were campaign-related. Moreover, affirmative evidence confirms that Mr. Bush's appearances in Pennsylvania were, in fact, directly related to his presidential campaign. These appearances are discussed in turn below.

Mr. Bush's first stop in Pennsylvania was in Erie. In addition to his appearance at a Victory '88 photo opportunity/reception, Mr. Bush also addressed the 30th Annual Conference of the Fraternal Order of Police ("FOP"). In his speech, Mr. Bush made several transparent references to his opponent in the presidential election, Michael Dukakis. For example, Mr. Bush made a disparaging reference to the ACLU and distinguished his own views from the purported views of the ACLU. During his campaign, Mr. Bush repeatedly referred to his opponent as a "card-carrying member of the ACLU." Similarly, Mr. Bush criticized the practice of weekend furloughs for criminals, which repeated one of his campaign themes.

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In light of Mr. Bush's remarks at the FOP event, Mr. Bush's appearance at this event may not have been purely in his official capacity. However, it is not necessary to decide the nature of this appearance because it does not appear that Respondents made any expenditures in connection with this event. Accordingly, any costs associated with the FOP event are not included in the total amount of in-kind contributions made by Respondents in connection with Mr. Bush's trip to Pennsylvania.

Mr. Bush's other appearance in Erie was at a Victory '88 photo opportunity/reception. This event was sponsored by Respondents.[1] The photo opportunity/reception was closed to the public; it was attended by about 40 people, who were specifically invited by either letter or telephone. This appearance occurred after January 1, 1988, and Respondents have provided no evidence to rebut the presumption that this was a campaign-related event.[2] Further, even assuming, arguendo, that the FOP appearance was official, it is clear that the Victory '88 photo opportunity/reception was not simply

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1. Some expenses for this event were paid for by the non-federal account of the Republican Federal Committee of Pennsylvania. See discussion at 11-12.

2. In their response, Respondents assert that they were unable to determine conclusively whether an expenditure for sound and lighting was made in connection with the photo opportunity or the reception held in Erie. This does not matter, however, because both events or both parts of one event were campaign-related. All costs of this event were paid for by Respondents.

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL

WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 429-7000

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JAN WITOLD BARAN
(202) 429-7330

July 13, 1994

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

BY MESSENGER

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

Re: MUR 2667 (George Bush for President Committee, Inc. and J. Stanley Huckaby, as Treasurer)

Dear Mr. Noble:

Enclosed please find your letter and Probable Cause Brief received today in the above-captioned matter. This office last appeared in this case in October 1990. This office no longer represents the respondents. Accordingly, your materials are being returned to you for appropriate handling.

Sincerely,

Jan Witold Baran

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 14, 1994

Keith Davis, Assistant Treasurer
George Bush for President
Committee, Inc.
228 South Washington Street
Alexandria, Virginia 22314

RE: MUR 2667
George Bush for
President Committee,
Inc. and J. Stanley
Huckaby, as treasurer

Dear Keith:

As per our discussion today, enclosed please find the General Counsel's letter dated July 11, 1994, and probable cause brief in MUR 2667. As we discussed, the letter and brief were originally mailed to the counsel of record, Jan Witold Baran, but were returned to this Office because he stated that the firm no longer represents George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, in this matter. Please notify this Office of your new counsel.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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Republican
National
Committee

Michael A. Hess
Chief Counsel

Thomas J. Josefiak
Deputy Chief Counsel

Allison Fahrenkopf Brigati
Associate Chief Counsel

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COUNSEL
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July 20, 1994

Lawrence M. Noble, General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20003

RE: MUR 2667
Republican National Committee

Dear Mr. Noble:

This letter requests an extension of time for the Republican National Committee (RNC) to file a response brief in the above captioned matter under review.

The RNC formally requests a two month extension so that its response would be due on September 26, 1994. In making this request the Committee recognizes your Office's reluctance to grant extensions of more than 20 days, however, there are extenuating circumstances that warrant a two month extension.

As Chief Counsel of the RNC I am responsible for preparing the RNC's response brief, however, I am just returning from over a month long illness which included hospitalization. While I am back at work my rehabilitation allows me to work for only a limited number of hours per day. Also, the case is a complicated one and deals with a matter which I have not been involved with previously. The last time the RNC heard from the Commission regarding this matter was in August of 1992 and resulted in the taking of depositions. This was six months before I assumed the position of Chief Counsel in March of 1993.

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
TDD: (202) 863-8728 • FAX: (202) 863-8654

Because of the unique circumstances of this case, including its initial procedural problems, I am requesting this additional time in order to study the file and prepare an appropriate RNC response. If the General Counsel is unable to grant this extension, I respectfully request that this matter be presented to the full Commission for its review and determination.

Thank you for your consideration of this request.

Sincerely,

Michael A. Hess

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MORGAN, LEWIS & BOCKIUS
COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103-6993
TELEPHONE: (215) 963-5000
FAX: (215) 963-5299

PHILADELPHIA
NEW YORK
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PRINCETON
BRUSSELS

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LOS ANGELES
HARRISBURG
LONDON
FRANKFURT
TOKYO

PAUL J. GRECO
DIAL DIRECT (215) 963-5099

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 25 10 57 AM '94

July 22, 1994

BY TELECOPIER &
FIRST-CLASS MAIL

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

Re: MUR 2667; Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account and Patricia K. Poprik, as Treasurer.

Dear Mr. Noble:

On July 13, 1994, we received your letter dated July 11, 1994, addressed to Andrew D. Leipold. Please be advised that Mr. Leipold is no longer associated with this firm. In his place, William M. Doran and I have been asked to assist in responding to the General Counsel's Brief concerning the above-referenced matter.

We write today on behalf of the Pennsylvania Republican State Committee ("Pa. RSC") to request an extension of time to submit a responsive brief in this matter. Since the last correspondence between the parties in 1991, there has been a significant turnover in personnel, both at the Pa. RSC and here in our office. The length of time since the parties last addressed this matter, coupled with the loss of important personnel, has made it difficult for the Pa. RSC to respond to the General Counsel's Brief within the time allotted. In addition, business requires me to be out of the country from July 22 to August 8, 1994, and Mr. Doran will also be out of the office during the same time period. For all these reasons, Pa. RSC requests 30-day extension to prepare its response.

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If you have any questions or comments concerning these matters, please do not hesitate to contact our office. Thank you for your time and effort in considering our request.

Very truly yours,

Paul J. Greco

Paul J. Greco

PJG/pjg

cc: William M. Doran, Esquire

9604372017

Cullen and Dykman
Attorneys at Law
One Riverfront Plaza
Suite 1410
Newark, New Jersey 07102-5497
TELEPHONE (201) 622-1545
TELECOPIER (201) 622-4563

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Jul 25 10 56 AM '94

July 22, 1994

Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463
Att: Mary Ann Bumgarner

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Jul 25 10 56 AM '94

Re: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Ms. Bumgarner:

This will confirm your conversation with my office wherein we have requested a twenty (20) day extension to file our brief regarding the above matter. As you were advised the papers were received by our office on July 21, 1994 and Peter G. Sheridan is on vacation from July 21, 1994 through August 1, 1994.

In addition, we have received the Statement of Designation of Counsel and will have same executed and returned immediately upon Mr. Sheridan's return.

If you have any questions please feel free to contact Jennifer Hamill or myself.

Very truly yours,

Kenneth von Schaumburg

KVS/jh
Via Facsimile and
Regular Mail

BROOKLYN OFFICE
177 MONTAGUE STREET
BROOKLYN, NEW YORK 11201-3811
TELEPHONE (718) 855-9000
TELECOPIER (718) 855-4282

LONG ISLAND OFFICE
100 QUENTIN ROOSEVELT BOULEVARD
GARDEN CITY, NEW YORK 11530-4850
TELEPHONE (516) 357-3700
TELECOPIER (516) 357-3792

WASHINGTON, D.C. OFFICE
1225 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036-2411
TELEPHONE (202) 223-8890
TELECOPIER (202) 467-1405

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July 20, 1994

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OFFICE OF GENERAL
COUNSEL

Ms. Mary Ann Bumgarner
Office of General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Ms. Bumgarner:

The George Bush for President Committee, Inc. is in receipt of your letter dated July 14, 1994, conveying the General Counsel's letter of July 11, 1994 and the probable cause brief in MUR 2667.

In accordance with the instructions in your letter, we are requesting an extension of time to respond beyond the 15-day period. Because of the complexity of the issues involved, and also in consideration of the fact that this MUR involves both the Republican National Committee and a number of Republican state party committees which may need to be contacted before a thorough response can be filed, we are hereby requesting an extension of time to respond until Monday, September 26, 1994.

We appreciate the Commission's consideration of this extension request.

Sincerely:

J. Stanley Huckaby

J. Stanley Huckaby, Treasurer
George Bush for President Committee, Inc.

9604372179

228 South Washington Street • Alexandria, Virginia 22314
Telephone 703-549-8692 • FAX 703-684-0683
Paid for by Bush-Quayle 88 Compliance Committee

LAW OFFICES
WILSON, STRICKLAND & BENSON, P.C.
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1360 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3214
(404) 870-1300
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FRANK B. STRICKLAND
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R. MERRITT GROOVER
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L. LEE ARANO
ANNE W. LEWIS
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CARMEN V. JORDAN
F. ROBERT SLOTKIN, JR.
SARA L. DOYLE

COUNSEL
JOHN C. PRESTON
ROBERT G. MCCARTLEY, P.C.
ROBERT O. WELLON

COUNSEL
CRAIG N. GOODRICH*
*ALSO ADMITTED IN D.C.

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DIVISION
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July 22, 1994

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OFFICE OF GENERAL
COUNSEL

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VIA FACSIMILE COPIER
TO (202) 219-3923 AND BY
FEDERAL EXPRESS
SATURDAY DELIVERY

Mary Ann Bumgarner, Esquire
Office of General Counsel
Federal Elections Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 2667
Georgia Republican Party and
Marvin H. Smith as Treasurer

Dear Ms. Bumgarner:

Thank you for speaking with me this morning regarding the above-styled matter. As I advised, I work with Frank Strickland, General Counsel for the Georgia Republican Party. Mr. Strickland represents the Georgia Republican Party and Marvin H. Smith in this matter.

As we discussed, Mr. Strickland requests a thirty-day extension of time to file a response on behalf of the Georgia Republican Party and Marvin H. Smith. The grounds for this request are as follows:

(1) Mr. Strickland was out of town on business on July 14, 1994, when the correspondence from the Commission and the General Counsel's brief were received in our office;

(2) Mr. Strickland is and will be out of town this week and next on business; and

(3) The witnesses from whom affidavits are needed are people who have scattered since their involvement in this matter

as volunteers six years ago, and so additional time is needed to locate them.

Based on these grounds, Mr. Strickland, on behalf of the Georgia Republican Party and Marvin H. Smith as Treasurer, hereby requests an extension of time in which to file a response up to and including August 31, 1994.

As I understand, you will present this request immediately, and we should have a decision from your office in two or three days. I also understand you will contact me immediately if there are any problems or if the request is denied.

Thank you for your courtesy and cooperation. Please let me know if you have any questions or need further information.

Very truly yours,

WILSON, STRICKLAND & BENSON, P.C.

Anne Ware Lewis

Anne Ware Lewis

AWL/sms

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 25, 1994

Anne Ware Lewis, Esquire
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, Georgia 30309

RE: MUR 2667
Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer

Dear Ms. Lewis:

This is in response to your letter dated July 22, 1994, which we received on that same date requesting an extension until August 31, 1994, to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 31, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 25, 1994

Paul J. Greco, Esquire
William M. Doran, Esquire
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, Pennsylvania 19103-6993

RE: MUR 2667
Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer

Dear Mr. Greco and Mr. Doran:

This is in response to your letter dated July 22, 1994, which we received on that same date requesting an extension of 30 days to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 29, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

9604372013

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 25, 1994

Kenneth von Schaumburg, Esquire
Cullen and Dykman
One Riverfront Plaza
Suite 1410
Newark, New Jersey 07102-5497

RE: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Mr. von Schaumburg:

This is in response to your letter dated July 22, 1994, which we received on that same date requesting an extension of 20 days to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 24, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Marilina Bumgarner

Mary Ann Bumgarner
Attorney

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COMMISSION
OFFICE OF GENERAL
COUNSEL

STATEMENT OF DESIGNATION OF COUNSEL

JUL 29 1 04 PM '94

MUR 2467

NAME OF COUNSEL: PETER G. SHERIDAN, ESQ.

ADDRESS: Cullen and Dykman, Esqs.
One Riverfront Plaza Suite 1410
Newark, NJ 07102

TELEPHONE: 201-622-1545

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date 7/29/94

Signature
Dean Armandroff
Executive Director

RESPONDENT'S NAME: Dean Armandroff, Executive Director

ADDRESS: New Jersey Republican State Committee
156 West State Street
Trenton, New Jersey 08608

HOME PHONE:

BUSINESS PHONE: 609-989-7300

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

July 22, 1994

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2667 -- Republican National Committee's Request for Extension of Time

By letter dated July 20, 1994, Chief Counsel of the Republican National Committee ("RNC") requests an extension of 60 days in which to respond to the General Counsel's Brief in this matter. (Attachment 1.) In the letter, the Chief Counsel explains that an extension is necessary because "the case is a complicated one and deals with a matter which [he has] not been involved with previously." In addition, the Chief Counsel states that he has just returned from "over a month long illness" and is currently working "only a limited number of hours per day."

Based on the foregoing and because this matter will not be prejudiced by providing the RNC with additional time to respond to the brief, the Office of the General Counsel recommends that the Commission grant the requested extension until September 26, 1994.

RECOMMENDATIONS

1. Grant the extension of time until September 26, 1994, to the Republican National Committee and William J. McManus, as treasurer.

2. Approve the appropriate letter.

Attachment
1. Request for Extension

Attorneys assigned: Mary Ann Bumgarner
Richard M. Denholm II

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican National Committee, and William J. McManus, as treasurer - Request for Extension of Time.	)	MUR 2667

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 28, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 2667:

1. Grant the extension of time until September 26, 1994, to the Republican National Committee and William J. McManus, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 22, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter and did not cast a vote.

Attest:

7-28-94
Date

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

Received in the Secretariat:	Fri.,	July 22, 1994	1:17 P.M.
Circulated to the Commission:	Mon.,	July 25, 1994	11:00 A.M.
Deadline for vote:	Thurs.,	July 28, 1994	4:00 P.M.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 29, 1994

Michael A. Hess, Chief Counsel
Republican National Committee
Dwight D. Eisenhower Republican Center
310 First Street, SE
Washington, D.C. 20003

RE: MUR 2667
Republican National
Committee and William J.
McManus, as treasurer

Dear Mr. Hess:

This is in response to your letter dated July 20, 1994, requesting an extension of 60 days to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on September 26, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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SENSITIVE

JULY 26, 1994

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2667 -- George Bush for President Committee, Inc.
Request for Extension of Time

By letter dated July 20, 1994, George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, ("Bush Committee") request an extension of 59 days, until September 26, 1994, in which to respond to the General Counsel's Brief in this matter. Attachment 1. In the letter, the Bush Committee explains that an extension is necessary because "of the complexity of the issues involved," and the need to communicate with the Republican National Committee ("RNC") and state party committees in order to submit a thorough response. Id.

Based on the foregoing and because the RNC has also requested an additional 60 days in which to respond to the brief, the Office of the General Counsel recommends that the Commission grant the requested extension until September 26, 1994.

RECOMMENDATIONS

1. Grant the extension of time until September 26, 1994, to George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Approve the appropriate letter.

Attachment
1. Request for Extension

Attorneys assigned: Mary Ann Bumgarner
Richard M. Denholm II

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George Bush for President Committee, Inc. -- Request for Extension of Time.	)	MUR 2667

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 1, 1994, the Commission decided by a vote of 4-0 to take the following actions in MUR 2667:

1. Grant the extension of time until September 2, 1994, to George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 26, 1994.

Commissioners Aikens, Elliott, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote. Commissioner Potter recused himself from this matter and did not cast a vote.

Attest:

8-2-94
Date

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

Received in the Secretariat:	Tues.,	July 26, 1994	3:56 p.m.
Circulated to the Commission:	Wed.,	July 27, 1994	11:00 a.m.
Deadline for vote:	Mon.,	Aug. 01, 1994	4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 2, 1994

J. Stanley Huckaby, Treasurer
George Bush for President Committee, Inc.
228 South Washington Street
Alexandria, VA. 22314

RE: MUR 2667
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Huckaby:

This is in response to your letter dated July 20, 1994, which we received on July 25, 1994, requesting an extension of 59 days to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on September 26, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner
Attorney

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FOSTER, SWIFT,
COLLINS & SMITH, P.C.
ATTORNEYS AT LAW

313 South Washington Square
Lansing, MI 48933-2193
PH (517) 371-8100
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COMMISSION
ADMIN

ERIC E. DOSTER
(517) 371-8241

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August 1, 1994

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COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 9 3 09 PM '94

VIA FACSIMILE & MAIL

Ms. Mary Ann Bumgarner
Mr. Richard M. Denholm II
Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 2667; Request for Extension for Filing a Responsive Brief

Dear Ms. Bumgarner and Mr. Denholm:

We represent the Michigan Republican State Committee in the above-referenced matter. The purpose of this letter is to request an extension until August 19, 1994 for purposes of filing a responsive brief. The basis of this request is that the activity concerning MUR 2667 occurred over six years ago and we need time to prepare an adequate response. In addition, there has been no activity on this file since we sent our last response to the Office of the General Counsel on or about September 30, 1991. Moreover, due to the complex issues involved in the above-referenced matter, it is difficult for the Michigan Republican State Committee to respond quickly.

Your positive consideration of this request would be appreciated. If you have any questions or comments, please contact the undersigned.

Sincerely,

FOSTER, SWIFT, COLLINS & SMITH, P.C.

Eric Doster

Eric E. Doster

/lk

cc: David J. Doyle

s:\239\eed-1\bumgarn

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 1, 1994

Eric E. Doster, Esquire
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933-2193

RE: MUR 2667
Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer

Dear Mr. Doster:

This is in response to your letter dated August 1, 1994, which we received on that same date requesting an extension until August 19, 1994, to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 19, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 10, 1994

Robert K. Wilson, Treasurer
Ohio Republican Party
172 East State Street
Suite 400
Columbus, Ohio 43215

RE: MUR 2667
Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer

Dear Mr. Wilson:

Enclosed please find a letter from the General Counsel dated July 11, 1994, and a probable cause brief in MUR 2667. The letter and brief were originally mailed to the counsel of record, Gordon Strauss, but no response has been received. This Office also attempted to contact Mr. Strauss by telephone, but he has not returned our call. Accordingly, this Office is now forwarding the letter and brief to you as treasurer of the Ohio Republican Party. If you intend to file a responsive brief, you should immediately contact this Office to request an extension of time in which to do so.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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COLLINS & SMITH, P.C.
ATTORNEYS AT LAW

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313 South Washington Square
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COUNSEL
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(517) 371-8241

August 18, 1994

BY FEDERAL EXPRESS

COPY

Ms. Marjorie W. Emmons, Secretary
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 2667; Response by the Michigan Republican State Committee to the General Counsel's Brief

Dear Ms. Emmons:

Attached for filing please find an original and nine (9) copies of the Response by the Michigan Republican State Committee to the General Counsel's Brief.

If you have any questions, please contact the undersigned.

Sincerely,

FOSTER, SWIFT, COLLINS & SMITH, P.C.

S/

Eric E. Doster

EED:csr
Enclosures
cc w/enc: Lawrence M. Noble, General Counsel, Federal Election Commission
Mary Ann Bumgarner, Office of the General Counsel, Federal Election Commission
David J. Doyle

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RESPONSE BY THE MICHIGAN REPUBLICAN STATE COMMITTEE TO THE GENERAL COUNSEL'S BRIEF

RESPONDENTS: Michigan Republican State Committee
Ronald D. Dahlke, as Treasurer

MUR 2667

By: Eric E. Doster (P41782)
FOSTER, SWIFT, COLLINS & SMITH, P.C.
313 South Washington Square
Lansing, MI 48933
(517) 371-8241

Dated: August 18, 1994

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RESPONSE BY THE MICHIGAN REPUBLICAN STATE COMMITTEE TO THE GENERAL COUNSEL'S BRIEF

RESPONDENTS: Michigan Republican State Committee MUR 2667
Ronald D. Dahlke, as Treasurer

I. INTRODUCTION

This case is about an article that appeared in the July 21, 1988 edition of the *Washington Post* (hereinafter referred to as the "Article" attached hereto as Exhibit A). The Article was attached as Exhibit 12 to the Complaint filed in this matter. On July 20, 1988, the then Vice President George Bush (hereinafter referred to as the "Vice President") visited the Ukrainian Cultural Center in Warren, Michigan. If every word contained in a newspaper article is to be believed, then the Vice President made the following statement which is the basis of this matter under review:

> "I employed 400 people in her [referring to Ann Richards] state, my state. I'll carry Texas."

See Exhibit A. In the General Counsel's Brief dated July 8, 1994 (hereinafter referred to as the "General Counsel's Brief") submitted by the Office of the General Counsel of the Federal Election Commission ("OGC"), the OGC claims that this single statement, made in response to a reporter's question, transformed an otherwise official appearance[1] into a campaign event. General Counsel's Brief, p. 6.

---

[1]See Exhibit B attached hereto for a copy of the speech given by the Vice President at the Captive Nations Banquet at the Ukrainian Cultural Center in Warren, Michigan, on July 20, 1988. See also, response to Questions 1 and 2 of the Responses to the Subpoena to Produce Documents and Order to Submit Written Answers dated September 30, 1991 (hereinafter referred to as the "Responses").

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Later in the day on July 20, 1988, in Bloomfield Hills, Michigan, the Vice President appeared for 30 minutes at a fundraiser for the Michigan Republican Party. The invitation to this fundraiser read in part as follows:

> "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States."

General Counsel's Brief, pp. 6-7. In the General Counsel's Brief, the OGC claims that this single statement transformed an otherwise party-building event[2] into a campaign event. General Counsel's Brief, pp. 6-7.

This response is submitted by the Michigan Republican State Committee ("MRSC") in reply to the General Counsel's Brief submitted by the OGC concerning MUR 2667. Based on the limited analysis in the General Counsel's Brief, the OGC is prepared to recommend to the Federal Election Commission ("Commission") to find probable cause to believe that violations have occurred in this matter. In essence, the General Counsel's Brief asserts that the July 20, 1988 visit of the Vice President to Michigan must be considered campaign related pursuant to the presumption of 11 C.F.R. § 110.8(e)(2)(ii); therefore, any disbursements in connection with this visit are expenditures on behalf of the George Bush for President Committee, Inc. The remainder of this document shall demonstrate to the Commission that the facts concerning the

[2]See response to Question 2 of the Responses.

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July 20, 1988 visit necessarily rebut the presumption of 11 C.F.R. § 110.8(e)(2)(ii).

II. CLARIFYING THE "PRESUMPTION" OF 11 C.F.R. § 110.8(e)(2)(ii)

According to 11 C.F.R. § 110.8(e)(2)(ii), there is a presumption that the July 20, 1988 visit constitutes campaign-related activity; however, a "'presumption' is not 'evidence;'[3] its efficacy is lost when the opposite party adduces prima facie evidence to the contrary." Amend v Bell, 570 P.2d 138, 141 (Wash. Sup. Ct. 1977). Rather, a "presumption" is a "legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence." Port Terminal & Warehousing Co. v John S. James Co, 92 F.R.D. 100, 106 (D.C. Ga. 1981). According to the following timeless words expressed by the Supreme Court of Washington:

> "Presumptions . . . may be looked on as bats of the law, in the twilight but disappearing in the sunshine of actual facts." Bradley v S.L. Savidge, Inc., 123 P.2d 780, 785 (Wash. Sup. Ct. 1942).

As the actual facts in the present case indicate, the Vice President's July 20, 1988 visit to Michigan does not constitute campaign-related activity. According to past Commission rulings, the mere fact that George Bush was a candidate in 1988 for the office of President of the United States does not automatically require that the July 20, 1988 visit constitutes campaign-related

---

[3]The OGC argues that a "presumption alone is a sufficient legal basis for finding probable cause to believe . . . ." General Counsel's Brief, p. 4. Since a "presumption" is not "evidence," this statement is in error.

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activity. See e.g., Advisory Opinion 1980-22, Fed. Election Camp. Fin. Guide (CCH), ¶ 5479 (April 15, 1980); Advisory Opinion 1978-56, Fed. Election Camp. Fin. Guide (CCH), ¶ 5373 (November 20, 1978); Advisory Opinion 1978-15, Fed. Election Camp. Fin. Guide (CCH), ¶ 5304 (March 30, 1978); Advisory Opinion 1977-54, Fed. Election Camp. Fin. Guide (CCH), ¶ 5301 (March 24, 1978); and Advisory Opinion 1977-42, Fed. Election Camp. Fin. Guide (CCH), ¶ 5313 (May 12, 1978). Instead, in previous rulings, the Commission has reviewed the event in question to determine whether or not the candidate's appearance was campaign-related. Id. Accordingly, the MRSC asks the Commission to review the events in question, and not transform a mere "presumption" into an automatic "conclusion."

III. THE VICE PRESIDENT'S JULY 20, 1988 VISIT TO MICHIGAN CONSISTED OF TWO SEPARATE EVENTS

As indicated on p. 5 of the General Counsel's Brief, the Vice President's July 20, 1988 visit to Michigan consisted of the following:

(a) Captive Nations Welcome
(b) Media Interviews
(c) Staff photo with Captive Nations' Leadership
(d) Captive Nations Banquet
(e) Victory '88 Dinner

To the best of the MRSC's knowledge, the above list is accurate.[4] From the above list, (a)-(d) took place at the Ukrainian Cultural Center in Warren, Michigan.[5] Since the Vice President's visit to the Ukrainian Cultural Center was an official visit, although the

[4]See response to Question 1 of the Responses.

[5]Id.

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MRSC was aware of the events that were to take place at the Ukrainian Cultural Center, the MRSC took no part in the planning of this event.[6] The Victory '88 Dinner (a fundraiser for the MRSC) took place at the private residence of Mr. and Mrs. Raj Bothra in Bloomfield Hills, Michigan.[7] The Victory '88 Dinner was not open to the public. The MRSC expended approximately $10,000 in connection with the Victory '88 Dinner. Accordingly, the Vice President's July 20, 1988 visit to Michigan consisted of two events: (1) the activities conducted at the Ukrainian Cultural Center in Warren, Michigan (official visit) and (2) the Victory '88 Dinner in Bloomfield Hills, Michigan (a party-building activity).

IV. THE REMARKS SINGLED OUT BY THE OGC AND SET FORTH IN THE JULY 21, 1988 WASHINGTON POST ARTICLE AND THE MRSC'S JULY 20, 1988 FUNDRAISER INVITATION DO NOT SATISFY THE "EXPRESS ADVOCACY" STANDARD

This case, condensed into the real issue, is whether certain phrases singled out by the OGC in this matter "expressly advocated" the election of the Vice President to the office of the President of the United States in 1988. Only if these selected phrases satisfy the "express advocacy" standard could the MRSC's $18,000 in expenses possibly constitute "expenditures" on behalf of the George Bush for President Committee, Inc. The OGC claims that the following two phrases "expressly advocated" the Vice President's election in 1988:

---

[6]Id.

[7]Id.

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> "I employed 400 people in her [referring to Ann Richards] state, my state. I'll carry Texas."
>
> "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States."

The MRSC respectfully disagrees.

In FEC v Colorado Republican Federal Campaign Committee, 839 F. Supp. 1448, 1453-55 (D. Colo. 1993), the court reiterated the well-established rule that, in order to constitute an "expenditure" to a candidate, an expense must be made to "expressly advocate" the election or defeat of a clearly identifiable candidate. See, FEC v Furgatch, 807 F.2d 857, 864 (9th Cir.) *cert. denied* 484 U.S. 850 (1987); FEC v Central Long Island Tax Reform, 616 F.2d 45, 53 (2nd Cir. 1980). In Orloski v FEC, 795 F.2d 156 (D.C. Cir. 1986), the Commission itself advocated the adoption of the "express advocacy" standard. In adopting the Commission's interpretation, the D.C. Circuit noted:

> "[T]he FEC's interpretation is consistent with Buckley [v Valeo, 424 U.S. 1 (1976)], in which the Supreme Court held that under the first amendment, the phrases 'for the purpose of influencing any election' and 'in connection with any election' must be defined as the 'express advoca[cy] [of] the election or defeat of a clearly-identifiable candidate,' a definition that was subsequently incorporated into the Act. See 2 U.S.C. § 431(17). To be sure, the Court limited these definitions to those provisions curtailing or prohibiting independent expenditures. This definition is not constitutionally required for those statutory provisions limiting contributions, see, Buckley, supra, 424 U.S. at 78-80, 96 S.Ct. at 663-664. Nonetheless the fact that Court in Buckley, formulated these

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> definitions for this statutory language demonstrates that the FEC's similar interpretation of the same language is logical, reasonable, and consistent with the overall statutory framework. The fact that the FEC adopted this interpretation for all relevant statutory provisions, even where not constitutionally required, only adds to its reasonableness for it enhances the consistency and evenhandedness with which the FEC ultimately administers the Act".

Orloski, supra, 795 F.2d at 166-67 (emphasis added). Therefore, the MRSC asks the Commission to adhere to the "express advocacy" standard in the present situation in order to maintain the "consistency and evenhandedness with which the FEC ultimately administers the Act."

The United States Supreme Court defines "express advocacy" as "express words of advocacy of election or defeat such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' or 'reject.'" Buckley, supra, 424 U.S at 46 n.52. In Furgatch, supra, 807 F.2d at 864, the Ninth Circuit Court of Appeals set forth the "express advocacy" standard as follows:

> "First, even if it is not presented in the clearest, most explicit language, speech is 'express' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed 'advocacy' if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be 'express advocacy of the election or defeat of a clearly identified candidate' when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action."

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The court in Colorado Republican Federal Campaign Committee, supra, held that the following advertisement did not constitute "express advocacy":

> "Here in Colorado we're used to politicians who let you know where they stand, and I thought we could count on Tim Wirth to do the same. But the last few weeks have been a real eye-opener. I just some ads where Tim Wirth said he's for a strong defense and a balanced budget. But according to his record, Tim Wirth voted against every new weapon system in the last 5 years. And he voted against the balanced budget amendment.
>
> Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts."

839 F. Supp. at 1451. According to the court in that case:

> "Even assuming the Advertisement indirectly discourages voters from supporting Wirth, it does not contain the direct plea for specific action required by Buckley and Furgatch."

Colorado Republican Federal Campaign Committee, supra, 839 F. Supp. at 1455.

Similarly, neither the phrase "I'll carry Texas" or a fundraiser invitation's expression of "hope" contain a direct plea for action. Although the determination of "express advocacy" is somewhat subjective, the Commission would lose credibility if it finds that "I'll carry Texas" and an expression of "hope" contain a more direct plea for action than "Tim Wirth has the right to run for the Senate, but he doesn't have the right to change the facts." Accordingly, based on Buckley, supra, Colorado Republican Federal Campaign Committee, supra, Furgatch, supra, and Orloski, supra, the remarks singled out by the OGC and set forth in the July 21, 1988

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Washington Post Article and the MRSC's July 20, 1988 fundraiser invitation do not satisfy the "express advocacy" standard. Therefore, the MRSC made no "expenditures" on behalf of the George Bush for President Committee, Inc. in 1988.

V. **THE VICE PRESIDENT'S JULY 20, 1988 30-MINUTE ATTENDANCE AT THE VICTORY '88 DINNER IN BLOOMFIELD HILLS, MICHIGAN CONSTITUTES PARTY-BUILDING ACTIVITY.**

The Complaint does not challenge the Vice President's July 20, 1988 30-minute attendance at the Victory '88 Dinner in Bloomfield Hills, Michigan as campaign-related activity. Similarly, the Factual and Legal Analysis of the Federal Election Commission dated April 25, 1991 did not challenge the Victory '88 Dinner as campaign-related activity. Nonetheless, the OGC, for the first time in these proceedings, challenges the July 20, 1988 Victory '88 Dinner as being campaign-related. General Counsel's Brief, p. 6. For the following reasons, the Vice President's July 20, 1988 30-minute attendance at the Victory '88 Dinner in Bloomfield Hills, Michigan constitutes party-building activity.

According to 11 C.F.R. §110.8(e)(1):

> "(e)(1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations in paragraph (a)(1) or (2) of this section, as long as --
>
> (i) The event is a bona fide party event or appearance; and
>
> (ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with

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> the event were for the purpose of influencing the candidate's nomination or election."

The Victory '88 Dinner complies with the above standard.

Nonetheless, based solely on the following sentence in the fundraiser invitation, the OGC concludes that the July 20, 1988 Victory '88 Dinner was campaign-related:

> "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States."

General Counsel's Brief, pp. 6-7. How did this simple sentence influence the Vice President's election? The OGC suggests that this sentence "clearly advocated George Bush as the 'next President of the United States.'" General Counsel's Brief, p. 7. As indicated earlier in this response, such a suggestion eviscerates the well-established "express advocacy" standard. A mere "hope" is not express advocacy.

Moreover, by focusing in on this single sentence of an invitation, the OGC has claimed to have found a needle, but ignored the haystack. Specifically, the OGC's position completely ignores the real purposes of the Victory '88 Dinner.

First, the Victory '88 Dinner was a bona fide party event. The MRSC planned the event. Expenses for the event were paid from the MRSC's non-federal account. Similarly, all proceeds from the event went into the MRSC's non-federal account. Since the Vice President was the Republican Party's second highest office

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holder, the Vice President attended the Victory '88 Dinner as a principal fundraising draw, and not as a candidate for President.[5]

Second, no aspect of the solicitation for the Victory '88 Dinner, the setting of the event, and the remarks or activities by the Vice President in connection with the event were for the purpose of influencing the Vice President's election to the office of President of the United States. As evidenced by the response to Question 2 of the Responses, the purpose of the Vice President's attendance at the Victory '88 Dinner was for party-building activity, including, but not limited to, fundraising for the MRSC, promoting voter recognition of party identity and idealogy, without reference to an individual candidate or election. In short, to the best of MRSC's knowledge, the Vice President spoke in general party-building terms at the Victory '88 Dinner, and not about the Presidential campaign. Thus, the Vice President's 30-minute attendance at the Victory '88 Dinner benefitted the MRSC both financially and otherwise. There can be no question that the Vice President's July 20, 1988 attendance at the Victory '88 Dinner in Bloomfield Hills, Michigan constitutes party-building activity.

VI. **THE ARTICLE IN ITS ENTIRETY DOES NOT ESTABLISH THAT THE VICE PRESIDENT'S JULY 20, 1988 VISIT TO THE UKRAINIAN CULTURAL CENTER IN WARREN, MICHIGAN CONSTITUTES CAMPAIGN-RELATED ACTIVITY.**

The OGC has focused on the Article's reference to the phrase "I'll carry Texas" in its claim that the Vice President's July 20, 1988 visit to the Ukrainian Cultural Center constitutes

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[5]See response to Question 2 of the Responses.

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campaign-related activity. The purpose of this section of the MRSC's response is to analyze all of the remarks set forth in the Article. In Common Cause v Federal Election Commission, No. 85-968, slip op. (D.D.C. June 25, 1986) reprinted in Fed. Election Camp. Guide (CCH) ¶ 9235 (hereinafter referred to as "Common Cause v FEC"), the district court analyzed newspaper reports similar to the Article. In Common Cause v FEC, the district court referenced two different standards to determine whether or not an activity was campaign-related. These two standards, when applied to the present situation, illustrate that the Vice President's July 20, 1988 visit to the Ukrainian Cultural Center in Warren, Michigan does not constitute campaign-related activity.

1. The Standard Utilized By The Commission In Common Cause v FEC Demonstrates That The Vice President's July 20, 1988 Visit To The Ukrainian Cultural Center In Warren, Michigan Does Not Constitute Campaign-Related Activity.

a. The Standard

It is important to review the facts in Common Cause v FEC, to appreciate the significance of the standard utilized by the Commission in that case. These facts are as follows:

> "On August 22, 1984, Ronald Reagan received the Republican Party's nomination for President. From the Party's convention in Dallas, Texas, Mr.Reagan flew directly to Chicago, Illinois. There, on August 24, 1984, he addressed a convention of the Veterans of Foreign Wars (VFW). Mr. Reagan did not expressly mention his candidacy during this speech. Nor did he solicit from the audience contributions to his campaign. The President did echo, however, his campaign theme -- emphasized in his acceptance speech the day before -- of a 'springtime of hope' for America. See Exhibit C to Def. Exhibit 1, at 8; Pl. Exhibit B at 1173, 1174. He also credited the previous four years of

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his administration with military strength and economic recovery and, without mentioning Walter Mondale, attacked the positions of his Democratic opponent.

Both Mr. Reagan's audience and the press reacted as if the remarks were a campaign speech. The audience chanted 'Four more years, four more years!" Pl. Statement of Mat. Facts Not in Dispute ¶ 7. The NBC Nightly News reported, 'The president flew on to Illinois, which the Reagan camp regards as a key battleground . . . . He attacked Mondale as soft on defense . . . . ' Ex. A to Complaint, at 2. Newspaper accounts of the speech further emphasized this campaign theme with headlines such as 'BATTLE FOR ILLINOIS,' Chicago Sun-Times; 'Bringing the Fight to Illinois,' Chicago Tribune; 'Democrat is Linked to 'Failed Policies'' and 'President Criticizes Mondale for Stance on Security Issues,' Washington Post; and 'CAMPAIGN SALVOS' and 'President raps rival for stand on defense,' Boston Globe. Pl. Statement of Mat. Facts, ¶ 8.

* * *

On September 20, 1984, Common Cause filed with the Commission a complaint against Reagan-Bush '84, Mr. Reagan's principal authorized campaign committee. The complaint alleged that the expenses incurred in connection with the Chicago trip were 'qualified campaign expenses,' which Reagan-Bush '84 must pay for and report. Although notified of the complaint, Reagan-Bush '84 failed to report the trip's expenses. Instead, it filed a memorandum of law on October 29, 1984, in opposition to plaintiff's administrative complaint. On December 24, 1984, the Commission's Office of General Counsel, despite defendant's response, recommended that the Commission find 'reason to believe' that Reagan-Bush '84 and its treasurer violated 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 9003.1 and § 9004.7 in failing to report the trip's expenses.

The Commission chose not to follow the General Counsel's recommendation. On January 15, 1985 it voted four to two to find no reason to believe a violation had occurred, and it dismissed the complaint." Fed. Election Camp. Guide (CCH), ¶ 9235 at 51,808.

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In dismissing the Common Cause complaint the Commission looked to see whether (1) the speech expressly advocated Mr. Reagan's re-election and (2) there was solicitation of campaign contributions. Fed. Election Camp. Fin. Guide (CCH), ¶ 9235 at 51,809.

b. The Activities at the Ukrainian Cultural Center in Warren, Michigan

Utilizing this "express advocacy" standard, it is clear that the activities at the Ukrainian Cultural Center cannot be deemed campaign-related. The Vice President's visit to the Ukrainian Cultural Center in Warren, Michigan was an official visit by the Vice President concerning issues of foreign policy. Since this was an official visit, although the MRSC was aware of the events that were to take place at the Ukrainian Cultural Center, the MRSC was not involved in the planning of any aspect of the activities at the Ukrainian Cultural Center.[9] In addition, the speech given by the Vice President at the Captive Nations Banquet clearly indicates that the Vice President's visit to the Ukrainian Cultural Center was of an official nature.[10]

Moreover, if the Ukrainian Cultural Center event is deemed campaign-related, as a practical matter, <u>any</u> official visit could be deemed campaign-related. In this regard, the Complaint in this mater argues that "Mr. Bush used a news conference specifically to address criticism that had been leveled at him at the Democratic National Convention in Atlanta." Complaint, p. 12.

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[9]See response to Question 1 of the Responses.

[10]See Attachment D to the Responses and a copy of the Vice President's speech reproduced as Exhibit B attached hereto.

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In reference to this press conference at the Ukrainian Cultural Center (which was not pre-arranged by the MRSC), the General Counsel's Brief quotes one carefully chosen phrase out of the Article, as evidence that the Warren event was campaign-related. General Counsel's Brief, p. 6. Nonetheless, the Article also admits that the Vice President was "buffeted by questions about degrading remarks aimed at him during the Democratic National Convention. . . ." Once "buffeted" by questions concerning the Presidential campaign from insistent reporters during an official visit, is it either realistic or fair to require the Vice President to refuse to respond? If the answer to this question is "Yes," any elected official on official business could be charged with "campaigning" as soon as a reporter asks a campaign-related question. What an incredible disadvantage such a requirement would place on elected officials. An elected official has no control over the press; thus, an otherwise official visit could be instantly and unexpectedly transformed into a campaign-related event by a reporter's insistence. An elected official would therefore no longer have any control over the campaign budget since planned official events could be unexpectedly transformed into campaign events to be paid for by the candidate committee.[11] The obvious solution to such a dilemma would be for the elected official to stop making official visits; however, an elected official cannot stop making official appearances during a

[11]The MRSC asserts that no purpose of the Federal Election Campaign Act would be served by creating such budgetary chaos for the campaigns of elected officials.

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campaign--public officials are required to make public appearances. Accordingly, it makes no practical sense to automatically require the conversion of the Ukrainian Cultural Center events from an official visit to a campaign stop because of questions initiated by the press.

Furthermore, beyond the common sense application of the "express advocacy" standard utilized by the Commission in Common Cause v FEC, a legal analysis of the Vice President's July 20, 1988 remarks at the Ukrainian Cultural Center demonstrates that he did not expressly advocate his election to the office of President of the United States.[12]

Under the three-part "express advocacy" standard referenced in Furgatch, supra, 807 F.2d at 864[13], the Vice President's July 20, 1988 remarks at the Ukrainian Cultural Center described in the Article cannot possibly "expressly advocate" his election to the office of President of the United States.

First, nowhere in the Article is the Vice President quoted as using such terms as "vote for," "elect," "support," "cast your ballot for," "Smith for Congress," "vote against," "defeat," or "reject," 11 C.F.R. § 109.1(b)(2); Buckley, supra, 424 U.S. 1, 44 n. 52 (1976); see also FEC v Massachusetts Citizens for Life,

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[12]Since the Vice President qualified for public funding, he could not solicit campaign contributions. The MRSC assumes that the Commission agrees that the second prong of the two-part test, concerning solicitation of campaign contributions, is irrelevant in the present case.

[13](1) An unmistakable and unambiguous message which sets forth (2) a clear plea for action to (3) vote for or against an identifiable candidate.

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Inc., 479 U.S. 238, 249 (1986). The Article specifically states that the Vice President did not mention the name of his opponent. Thus, as the Commission decided in Common Cause v FEC,[14] although the content of the Vice President's remarks may have been contrary to the position of his opponent, since the Vice President did not mention his opponent by name, the speech did not expressly advocate the Vice President's election. This conclusion is supported by the decision in FEC v National Organization for Women, 713 F. Supp. 428, 433 (D.D.C. 1989), where the court indicate that "express advocacy" must include "an explicit and unambiguous reference to a candidate." In fact, the Article indicates, and the General Counsel's Brief points out,[15] that the only person mentioned by the Vice President was Ann Richards of Texas.

Second, the Article fails to contain any "plea for action" on behalf of the Vice President; rather, the Article reflects that the content of the Vice President's remarks was informative. In particular, the Article refers to the Vice President's remarks concerning communism in the Third World and the Reagan Administration's military buildup.

Finally, after reviewing the Article and the Vice President's remarks, it is not at all clear what action was advocated by the Vice President. The General Counsel's Brief appears to place great emphasis on the Vice President's references

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[14] In Common Cause v FEC, President Reagan, "without mentioning Walter Mondale, attacked the positions of his Democratic opponent." See, supra, page 13.

[15] General Counsel's Brief, Page 6.

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to Ann Richards of Texas. The MRSC asserts that it is inconceivable that referencing Ms. Richards and carrying Texas in a Michigan press conference is tantamount to saying "vote for George Bush" or "defeat Michael Dukakis."

Accordingly, under any reasonable review of the content of the Vice President's July 20, 1988 remarks at the Ukrainian Cultural Center, it is clear that the Vice President did not expressly advocate his election to the office of the President of the United States. Moreover it appears that the Commission agrees:

> "During this stop Mr. Bush also made a speech at a Captive Nations Banquet. In light of his remarks at the event, this aspect of the trip does not appear to have been candidate related." Factual and Legal Analysis, dated April 25, 1991, p. 21 n.11.

Therefore, under the standard utilized by the Commission in Common Cause v FEC, the Vice President's July 20, 1988 official visit to the Ukrainian Cultural Center in Warren, Michigan was not campaign-related.

2. The Standard Advocated by the General Counsel Common Cause v FEC, Demonstrates that the Vice President's July 20, 1988 Visit to the Ukrainian Cultural Center in Warren, Michigan Does Not Constitute Campaign-Related Activity

a. The Standard

In Common Cause v FEC, the Court referenced the General Counsel's opinion as to what constitutes campaign-related activity:

> "whether an event is 'campaign-related' depends upon the setting in which the remarks are made, the timing of the event at which the remarks are made, the reaction that the remarks evoke, as

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well as the remarks themselves. It would be compelling evidence that an event was campaign-related if, during an official's remarks, he expressly advocates his election or solicits contributions. This Office does not consider this an exhaustive list and does not believe that any one factor is dispositive. Instead, many factors and circumstances of varying significance must be considered and only the totality of the circumstances determines whether an event is 'campaign-related.'" Fed. Election Camp. Fin. Guide (CCH), ¶9235 at 51,809.

b. The Activities at the Ukrainian Cultural Center in Warren, Michigan

In analyzing the Vice President's July 20, 1988 visit under the General Counsel's standard set forth above, the MRSC repeats the previous analysis which demonstrates that nothing in the Vice President's July 20, 1988 remarks at the Ukrainian Cultural Center expressly advocated his election. In addition, the MRSC points out the following:

1. If the Ukrainian Cultural Center is deemed campaign-related, as a practical matter, <u>any</u> official visit could be deemed campaign-related.

2. As the Article indicates, the Vice President refused to comment on his campaign during his July 20, 1988 visit. In particular, the Article states that the Vice President "refused to comment on whether Baker, who managed his unsuccessful 1980 presidential effort, will lead his campaign this fall."

3. As the Article indicates, on or about July 20, the Vice President was "spending most of his tim e raising money for the GOP." This reinforces the point that the Vice President's July 20, 1988 visit to Michigan was not campaign-related.

4. As evidenced by the example of former President Reagan's speech in <u>Common Cause v FEC</u> newspaper accounts, such as the Article, should hardly be considered as evidence of the content of a candidate's remarks. Specifically, in <u>Common Cause v FEC</u>, former President Reagan did not

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mention his candidacy nor his Democrat opponent; nonetheless, the press reported his "attacks" on Walter Mondale. Consequently, the MRSC asserts that the inherent unreliability of any information in the Article should be taken into strong consideration by the Commission in this matter.

5. Although the MRSC was aware of the events that were to take place at the Ukrainian Cultural Center, the MRSC was not involved in planning any aspect of the activities conducted at the Ukrainian Cultural Center in Warren, Michigan.[16]

Accordingly, under the "totality of the circumstances" test advocated by the General Counsel in Common Cause v FEC, the Vice President's July 20, 1988 visit to Warren, Michigan was not campaign-related activity.

The two standards referenced in Common Cause v FEC, and analyzed extensively above, are relevant standards to determine whether or not an activity is campaign-related. Nonetheless, the OGC essentially argues that the mere fact that MRSC paid $8,381.00 to the Ukrainian Cultural Center for staging and lighting expenses automatically transforms an otherwise official appearance into a campaign stop. General Counsel's Brief, p 5. If the Commission were to adopt this argument, then every expenditure made by a committee under the Federal Election Campaign Act would be presumed to be for the purpose of influencing a candidate's nomination or election -- but this certainly is not true since 2 U.S.C. § 439a, for example, allows expenditures for any "lawful purpose." Therefore, the MRSC urges the Commission to disregard as irrelevant

[16] See response to Question 1 of the Responses.

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the MRSC's payment to the Ukrainian Cultural Center as evidence that this event was campaign-related.[17]

VII. CONCLUSION

For the reasons set forth herein, the MRSC submits that a probable cause to believe finding concerning the allegations in this matter would be unwarranted.

Respectfully Submitted,

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for the Respondents

Dated: August 18, 1994

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313 South Washington Square
Lansing, Michigan 48933
(517) 371-8241

[S:\239\EED-D\MRSC\RESPONSE]

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[17] Almost six years after the fact, the MRSC cannot presently determine why it paid $8,381.00 to the Ukrainian Cultural Center for staging and lighting expenses. Please note that this payment was made in late October of a busy election year; thus, with so many checks being issued during a relatively short time period, it is possible that this expenditure was not properly scrutinized. As a result of the Commission's inquiry into this matter, perhaps the MRSC will seek a refund from the United States Government of this amount.

EXHIBIT A

JULY 21, 1988 *WASHINGTON POST* ARTICLE

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The Washington Post
July 21
Page A25, A28

Bush, Finished Fishing, Brushes Off the Gibes

'Maybe It Will Backfire on Them'

By Bill Peterson
Washington Post Staff Writer

WARREN, Mich., July 20—A reinvigorated Vice President Bush returned to the campaign trail today from a fishing trip, insisting that he had not heard a word of the ridicule heaped on him by Democrats in Atlanta and has no intention of responding to "a bunch of name-calling."

Bush, buffeted by questions about degrading remarks aimed at him during the Democratic National Convention, said he was "really at a loss" to respond because "I had not benefited from this criticism . . . by listening to it."

"I'm not being cute," he told a news conference at a Ukrainian Cultural Center in this Detroit suburb. "I literally was out of contact for four nights and three days. I recommend it. It was really good for the soul."

"That's the beauty about the wilderness," he added later. "You don't have to listen to Teddy Kennedy."

But Bush said the tenor of questions from reporters "might show desperation" on the Democrats' part. "Maybe it will blackfire on them. Maybe people won't like just tearing down the other guy," he said. "I have a feeling, I always have, that if you just go nasty, go ugly, it isn't an effective way to do business."

Sen. Edward M. Kennedy (D-Mass.) was one of the leaders of the ridicule-Bush movement in Atlanta, asking the convention "Where was George?" when the Reagan administration made controversial decisions. House Majority Whip Tony Coelho (D-Calif.) joined that Bush "wears cowboy boots over argyle socks" and took Treasury Secretary James A. Baker III fishing "in case George is too squeamish to bait his own hook."

But the remark that seemed to get under Bush's skin today was made by Texas Treasurer Ann Richards. "Poor George, he can't help it—he was born with a silver foot in his mouth," she said in her convention keynote address.

When he was asked about the remark today, Bush initially shrugged it off. But he referred to Richards several times during the next 15 minutes. At one point, he boasted that he had vetoed more times in Texas than had Richards. At another, he said, "I employed 400 people in her state, my state. I'll carry Texas."

Bush, who engaged in several rounds of name-calling after the primary season ended, went on a trout fishing trip Saturday with Baker, a longtime political ally, to a remote area near Cody, Wyo.

Baker and Bush shared a tent, fished and played softball (Baker pitched and Bush played first base) but talked "surprisingly little" about politics, Bush said.

He refused to comment on whether Baker, who managed his unsuccessful 1980 presidential effort, will lead his campaign this fall. But Baker is scheduled to fly to Washington from California this weekend with President Reagan and is expected to discuss plans to leave the Cabinet, probably before mid-August, on the flight.

Bush's visit here marked the first stop on a five-day campaign swing that coincides with the final days of the Democratic convention.

Bush said he intends to keep a low profile, spending most of his time raising money for the GOP. He

See BUSH, A28, Col. 5

BUSH, From A25

promised he would "not rain on their [the Democrats'] parade."

But during his first stop, at an annual Captive Nations banquet, Bush drew a clear contrast between his approach to communism in the Third World and that of Massachusetts Gov. Michael S. Dukakis, the Democratic Party nominee, without mentioning his name.

Bush gave an impassioned defense of the Reagan administration's military buildup, which Dukakis opposed. He boasted about the U.S. invasion of Grenada, the

Bush drew his loudest applause from the crowd of about 500 when he attacked the Democratic-controlled Congress for its waffling support of the Nicaraguan contras.

He called Congress' "on again, off again" approach to contra aid "shameful" and a "national disgrace." "If Congress doesn't vote support for the Nicaraguan freedom fighters soon, we are looking at an irreversible surrender to the forces of communism in Nicaragua, another tragic entry into the list of captive nations," he said.

Dukakis

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EXHIBIT B

SPEECH DELIVERED BY VICE PRESIDENT GEORGE BUSH AT THE UKRAINIAN CULTURAL CENTER

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CAPTIVE NATIONS BANQUET
Warren, Michigan
July 20, 1988

Some five years ago I traveled to Germany, and in the course of my trip paid what for me will always be an unforgettable visit to the small village of Moedelreuth. Down the main street ran a high concrete wall topped with densely packed barbed wire. On the near side, the villagers were peacefully going about the ordinary business of their daily lives. On the far side, soldiers stood watch with machine guns and attack dogs ran along the wall on chains.

As I looked east, I realized more profoundly than words can describe that I stood on the frontier of freedom. Only two or three stories high, that wall casts its dark shadow across half the continent of Europe, across millions of lives -- it casts its shame across human history.

Of course, one could say that, in other forms, that wall stretches beyond Europe and around the globe, closing in nation after nation. The crushing of independence in the Ukraine, the forcible occupation of the Baltic states and suppression of central Europe was followed by the spread of communist domination to Cuba, Vietnam, Laos, Cambodia, Angola, Ethiopia, Nicaragua and Afghanistan -- and others.

This is the map of subjugation; this is the litany of totalitarian conquest we mark on this, the 30th commemoration of Captive Nations Week. For many here today, this commemoration is no abstraction, but marks yet another year that their homelands remain bound and captive. For many, this anniversary marks yet another year that family and friends remain divided and loved ones remain cut off from contact.

For all Americans, this week makes a special call to our conscience. It is a time that we reaffirm the principle liberty that is America's inspiration and purpose -- and it is a time that we re-dedicate ourselves to the cause of national rights and true self-determination for all nations.

America's work will never truly be done until all the captive nations and peoples of this earth are set free.

For much of these last 30 years, it appeared, sadly, that the list of captive nations would continue to grow; in the 70s, especially, it often seemed that the forces of freedom, beleaguered and unsure of themselves, were on the retreat. People talked of the so-called "convergence" between the democratic West and the totalitarian East, and the tragically dimming hopes for the national rights of the subjugated nations were glossed over by the catch phrase "spheres of influence."

"Spheres of influence" -- to my mind, that was never anything more than a euphemism for accepting the status quo of totalitarian domination.

But the will to freedom never died in those nations, it only grew stronger in the crucible of suffering. The brave voices from the gulags and "re-education camps" were never silenced. The dissidents, the refuseniks, and others, men like Lithuanian Balys Gayavskas, Byelorussian Mikhail Kukobaka, Solidarity leader Lech Walesa, and Ukrainian activist Lev Lukyanenko -- they continued to speak out, often at mortal risk, and force the world to listen.

And then there were the refugees. I remember the story of one group of boat people from Vietnam -- they had survived brutality and famine in their own country, starvation, drowning and pirates in their leaking boat on the high seas, and when an American ship pulled alongside board, they shouted to their rescuers, "Hello America, hello freedom man!"

No, the voices from out of the captive nations, the voices of suffering humanity, would not let us forget. It has been a hallmark of this Administration to call America back to her mission as a standard bearer for liberty around the world.

We rebuilt American military strength, and so its credibility. And we didn't hesitate to use it, as in Grenada, when we liberated that small island nation from communist captivity; in Libya, where we taught Colonel Qadhafi that terrorism carries a high price; and in the Persian Gulf, where America is once again taking the lead in protecting the vital interests of the free nations -- just as you would expect from the leader of the free world.

We have met communist subversion around the world with support for freedom and democracy, sending aid to the brave freedom fighters battling to liberate their countries from communist domination. The results have been dramatic and positive.

Today we are witnessing something few dreamed possible: the heroic Afghan freedom fighters have turned back the Soviet war machine. The withdrawal of Soviet troops has begun -- the brave Mujahedeen may just be about to shorten the list of captive nations. Our goal in Afghanistan is firm and unchanged -- an independent, undivided, and free Afghanistan.

In Angola, too, our policy of support for Jonas Savimbi's UNITA forces against 40,000 Cuban mercenary troops is causing the communists to reconsider the cost of aggression in Africa. Negotiations are now under way that could get the Cubans out -- now is no time to pull the rug out from under the Angolan freedom fighters.

In Cambodia, the Soviet-supported, Vietnamese occupation forces are beginning their withdrawal. Now more than ever our strong support of the democratic resistance is vital to assure that the murderous Pol Pot never again comes to power and that a free and neutral Cambodia emerges from its long agony.

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Sadly, Congressional support for those fighting for their freedom against Soviet domination has not been universal. It is a mystery to me why there is less of a commitment to freedom on the American mainland than in Africa, Asia and Afghanistan; why the brave Nicaraguan freedom fighters are deemed less worthy than UNITA, the Mujahedeen, or the democratic forces in Cambodia.

If Congress doesn't vote support for the Nicaraguan freedom fighters soon, we are looking at an irreversible surrender to the forces of communism in Nicaragua -- another tragic entry into the list of captive nations, with seriously threatening consequences for Nicaragua's democratic neighbors. Support for the freedom fighters is the only hope for true negotiations, the only hope for democracy and human rights in Nicaragua and a real, lasting peace in the region.

Contrast the lessons of Afghanistan and Nicaragua: negotiations succeed only when backed up by firmness and resolve. Peace comes through strength; weakness, what we are seeing once again in Nicaragua, only invites aggression. I am convinced that it is because America rebuilt its strength, and reaffirmed its moral purpose as protector and friend of freedom, that the prospects for freedom and a strong, secure and durable peace in the world are brighter than at any other time in the post-war era.

Recently, we have begun to see fissures in the wall, and the first rays of light begin to break through. Groups such as Solidarity in Poland; Charter '77 in Czechoslovakia, the Free Democratic Union of Scientific Workers in Hungary, the new People's Fronts in Latvia, Lithuania, and Estonia, and the Inter-National Committee in Defense of Political Prisoners -- they speak out and are heard. Within the last month, the original flags of the Baltic States have been recognized. And the largest Helsinki monitoring group, all of whose members; have been at one time imprisoned -- four died in special regimen camps -- the Ukrainian Helsinki Group has recently been resurrected.

No one views the reforms being talked about by Mr. Gorbachev with greater hope and a greater desire for success than do I. His actions have taken real courage, and deserve our encouragement.

Nevertheless, Mr. Gorbachev should know that we will never sweep the human rights question under the rug: America feels a particular responsibility to those witnesses to the world, the Helsinki monitors, who have been imprisoned simply for calling on the Soviet Union to abide by their signed commitments to the Helsinki Accords.

Many have been released, but at least nine still languish in Soviet prisons. These include Ukrainians Mykola Horbal and Ivan Kandyba, and Lithuanians Victoras Petkus and Sigitas Tamkevicius. These brave individuals were arrested years ago for acts now permitted. However, Armenian Pavir Airykyan was arrested for nothing more than providing information on demonstrations in Armenia.

I call upon General Secretary Gorbachev to free these brave souls -- few actions would do more to improve relations with the United States than their release and the end to harassment of all Helsinki monitors.

We can not forget, too, that although the deliberations of the millennium of Christianity in Kievan Rus' were just completed with official participation, the Orthodox and Catholic Churches in Ukraine are still outlawed, and the faithful must continue to practice their religion underground and in fear.

You know some will say, when we bring up these issues, that we are being bellicose. They feel that we should remain quiet on these fundamental issues of human and and national rights. But I have learned from experience how important it is to speak up for freedom.

So on this 30th commemoration of Captive Nations week, we remember Father Popieluszco and all the other millions of victims of communism. We join our voices to the nations and people, yearning to break free, and we pledge once again that we will never cease to speak the truth, and we will never cease to work and pray for the freedom of our families, friends, our brothers all, in nations held captive around the world.

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VIA FACSIMILE AND
FEDERAL EXPRESS

August 23, 1994

Federal Election Commission
999 East Street, N.W.
Washington, D.C. 20463
Att: Mary Ann Bumgarner

Re: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Ms. Bumgarner:

This will confirm your conversation with Peter Sheridan wherein we have been granted an extension to file our brief in the above matter. As you are aware, Cullen and Dykman has only very recently been substituted as counsel. I have been in receipt of the file for a short time and am finding it difficult to locate the individuals involved in the 1988 events which are the subject of MUR 2667.

Thank you for your continued cooperation and I look forward to resolving this matter with you.

Very truly yours,

Kenneth von Schaumburg

KVS/jh

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 24, 1994

Kenneth von Schaumburg, Esquire
Cullen and Dykman
One Riverfront Plaza
Suite 1410
Newark, New Jersey 07102-5497

RE: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Mr. von Schaumburg:

During a telephone conversation on August 23, 1994, with Peter Sheridan of your firm, he requested an extension of 20 days to respond to the General Counsel's Brief in this matter. On August 23, 1994, we received your letter confirming Mr. Sheridan's request for an extension of time. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested 20 day extension. Accordingly, your response is due by the close of business on September 13, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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August 25, 1994

Mary Ann Bumgarner, Esq.
Federal Election Commission
999 "E" Street, N.W.
Washington, D. C. 20463

Re: MUR 2667
Ohio Republican State Central and Executive Committee aka The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as Treasurer

Dear Ms. Bumgarner:

This is to memorialize our conversations of the past few days in regard to the above styled and captioned matter.

Our firm serves as General Counsel to the Ohio Republican Party and has done so for the past two and one-half years. The Party's former General Counsel, Gordon Strauss, resigned from his position at the time he left Thompson, Hine and Flory and entered public service in the office of the Prosecuting Attorney for Hamilton County [Ohio]. For reasons which are unknown to me, Mr. Strauss' former firm failed to advise the Federal Election Commission of his absence or to in any other way respond to the Commission's earlier inquiries concerning this issue.

We were forwarded your August 10, 1994 correspondence by Robert K. Wilson, Treasurer of the Ohio Republican Party, only this week. With the exception of reviewing the documentation sent to Mr. Wilson by the Commission, we have not been involved in this matter.

This is a formal request for an extension of time within which the Ohio Republican Party may respond. We will endeavor to obtain and review the documents and records which involve this matter so as to reply in a responsible manner. We propose to submit our answer on or before October 7, 1994. This request is not made for the purposes of delay, but takes into account two significant professional time conflicts which my firm and I face in the coming months, as well as one important -- and pleasant -- personal time concern.

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First, I have been lead defense counsel in a lawsuit pending in the Mahoning County [Ohio] Court of Common Pleas since 1985.[1] We have been assigned a trial date of January 17, 1995 and face a discovery cut-off of November 1, 1994. To date in excess of one hundred eighty depositions have been taken concerning claims which exceed $40 million. During the week of September 12 through 16, 1994 we will be conducting depositions of witnesses in eleven cities located in six states during a period of five days. These depositions range in area from southern Florida to Wisconsin. An additional week of out-of-state depositions are scheduled starting on September 26 to September 30, 1994 and will involve witnesses between Chicago to Buffalo.

Secondly, another major trial is tentatively set in the Circuit Court of the First Judicial District (Williamson County, Illinois), during the month of December, 1994.[2] My law partner is the lead counsel in that litigation which involves contract disputes concerning the construction of a 1.25 million square foot regional shopping mall. Fortunately, I am not lead counsel on that case but it is consuming an appreciable number of man hours among the attorneys and staff in our firm.

Finally, and most importantly, my wife is expecting our second child with a due date of October 16, 1994. I am trying to complete my out-of-state depositions during the month of September so as to ensure that I will be in town for the delivery of our child.

Your courtesy and cooperation in this matter are most appreciated.

Thank you.

Very truly yours,

Scott W. Spencer

cc: Robert T. Bennett, Chairman
Ohio Republican Party
Robert K. Wilson, Treasurer
Ohio Republican Party

---

[1] *Willow Molded Products, Inc., fka Boardman Molded Plastics, et al., v. St. Elizabeth Hospital Medical Center, Inc., v. Republic Steel Corporation*, Case No. 86-CV-324 (Consolidating Case Nos. 86-CV-324, 86-CV-427 and 86-CV-428, Case No. 85-CV-276 having been dismissed by the Court in 1987.

[2] *Chamberlain Construction, Inc. v. The Edward J. DeBartolo Corporation, et al.*, Case No.92-MR-6.

C:\[illegible]\SCOTT\[illegible]\[illegible]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 29, 1994

Scott W. Spencer, Esquire
Spencer & Ehrie
Suite 500
6100 Channingway Boulevard
Columbus, Ohio 43232

RE: MUR 2667
Ohio Republican State
Central and Executive
Committee a/k/a The
Ohio Republican Party
(Federal Account/Non-Federal
Account) and Robert K. Wilson,
as treasurer

Dear Mr. Spencer:

This is in response to your letter dated August 25, 1994, which we received on August 29, 1994, requesting an extension until October 7, 1994, to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 7, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

9604372010

MORGAN, LEWIS & BOCKIUS
COUNSELORS AT LAW
2000 ONE LOGAN SQUARE
PHILADELPHIA, PENNSYLVANIA 19103-6993
TELEPHONE: (215) 963-5000
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LONDON
FRANKFURT
TOKYO

PAUL J. GRECO
DIAL DIRECT (215) 963-5090

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FEDERAL ELECTION
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OFFICE OF GENERAL
COUNSEL
AUG 30 11 34 AM '94

August 29, 1994

BY TELECOPIER &
BY FEDERAL EXPRESS

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

Re: MUR 2667; Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account and Patricia K. Poprik, as Treasurer).

Dear Mr. Noble:

Please find enclosed the response of the Republican Federal Committee and Patricia K. Poprik, as Treasurer, to the General Counsel's Brief. If you have any questions or comments concerning these matters, please do not hesitate to contact me.

Very truly yours,

Paul J. Greco

Paul J. Greco

PJG/pjg
Enclosure

cc: Chris Bravacos (w/ encl.)
William M. Doran, Esquire (w/ encl.)

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Republican Federal Committee of Pennsylvania (Federal Account/ Non-Federal Account) and Patricia K. Poprik, as Treasurer.	)	MUR 2557

RESPONSE OF REPUBLICAN FEDERAL COMMITTEE OF PENNSYLVANIA AND PATRICIA K. POPRIK, AS TREASURER TO THE GENERAL COUNSEL'S BRIEF

On July 13, 1994, the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as Treasurer (collectively, "Pennsylvania Respondents"), received the General Counsel's Brief in the above-referenced matter. By its letter dated July 25, 1994, the Federal Election Commission ("FEC") granted the Pennsylvania Respondents an extension until August 29, 1994 to respond. Today, the Pennsylvania Respondents write to address the matters raised in the General Counsel's Brief.

I. Introduction and Procedural History

The procedural posture of this matter is extraordinary, not only for the inordinate amount of time that has elapsed since the initial complaints were filed with the FEC, but also for the FEC's refusal to respect mandatory notification requirements contained in the statute and regulations governing this matter. As a result of both the delays and the legal principles involved, the FEC is required to forego taking further enforcement action at this time.

This matter arose out of a complaint and a supplemental complaint filed with the FEC by certain Democratic state committees on August 8 and September 12, 1988, respectively.

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These complaints asserted that the George Bush for President Committee, Inc.--along with various state Republican committees, including the Pennsylvania Respondents--exceeded the contribution limitations set forth in the Federal Election Campaign Act ("Campaign Act") at 2 U.S.C. §§ 441a(a)(2)(A) & 441b(a).

In enacting the Campaign Act, Congress promulgated explicit standards to which the FEC had to conform in enforcing the statute. Among these, Congress expressly provided in the Campaign Act that

> Within 5 days after receipt of a complaint, the [Federal Election] Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation.

2 U.S.C. § 437g(a)(1) (emphasis added). Despite this plain and unequivocal notice requirement set forth in the Campaign Act, the FEC failed to act within the time limit imposed by Congress.

Although the initial complaint was filed in August, 1988, the FEC did not notify the Pennsylvania Respondents of the allegations against them until May 29, 1990, over 21 months later. Given the explicit time frames for enforcement action set by the Campaign Act, the Pennsylvania Respondents accordingly moved in June, 1990 to dismiss the complaint and to terminate the compliance proceedings. See Pennsylvania Respondents' Motion to Dismiss the Complaint and to Terminate Compliance Proceedings (June 30, 1990). The FEC denied the Pennsylvania Respondents' motion in July, 1990 without explanation, writing simply that the agency had considered the motion and decided not to grant it.

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See Letter from Lois G. Lerner to Andrew D. Leipold (July 17, 1990).

Following its denial of the Pennsylvania Respondents' motion, the FEC took no further action for over nine months. Specifically, it was not until April 23, 1991 that the FEC took its next enforcement action, issuing a subpoena to the Pennsylvania Respondents to produce documents and to answer interrogatories.

Upon receipt of the subpoena, the Pennsylvania Respondents immediately moved to quash it, raising again the FEC's inability to proceed given its failure to act within the time limitations set forth in the Campaign Act. See Pennsylvania Respondents' Motion to Quash (May 13, 1991). However, the FEC denied the Pennsylvania Respondents' motion on August 26, 1991, and in so doing, once again provided no explanation or legal analysis tending to justify or excuse its failure to comply with the Campaign Act's enforcement time limits. Nevertheless, the Pennsylvania Respondents cooperated with the FEC and furnished answers to the requests for information and documents on October 11, 1991.

After the Pennsylvania Respondents answered the subpoena, two years and nine months passed. Finally, after some 33 months of inactivity, the FEC issued its General Counsel's Brief in which it announced its intention to recommend a finding of probable cause to believe that violations of the Campaign Act occurred in August, 1988.

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The FEC's presently proposed enforcement action comes six years after the events in question. Since George Bush first visited Pennsylvania in August, 1988, he was elected president, served his first term, campaigned for a second, and was replaced by a new administration nearly two years ago. The FEC's proposed enforcement action is, therefore, clearly untimely and must be terminated as a matter of law.

II. Argument

A. Having Failed To Comply With A Mandatory Requirement Of The Campaign Act, The FEC Cannot Proceed With Enforcement.

As noted above, the Pennsylvania Respondents have twice briefed the legal principles which preclude the FEC's current enforcement action. See Pennsylvania Respondents' Motion to Dismiss the Complaint and to Terminate Compliance Proceedings (June 30, 1990); Pennsylvania Respondents' Motion to Quash (May 13, 1991). In their earlier memoranda, the Pennsylvania Respondents detailedly demonstrated that the FEC is prohibited from taking further enforcement actions because it failed to act within the time limitations set by the Campaign Act. Accordingly, having briefed their position previously, the Pennsylvania Respondents will not repeat much of that legal analysis here. However, several points are worth underscoring.

First, the plain language of the Campaign Act demonstrates that the time limits within which the FEC must act to address complaints of campaign violations are mandatory, not discretionary. See 2 U.S.C. § 437g(a)(1). That the time limits

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for enforcement actions are mandatory is reinforced by the regulations promulgated pursuant to the Campaign Act. As set forth at 11 C.F.R. § 111.5(a),

> Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 C.F.R. § 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and enclose a copy of the complaint.

11 C.F.R. § 111.5(a) (emphasis added). Thus, both the Campaign Act and the regulations promulgated pursuant to it unequivocally require the FEC to act within five days of having received a complaint.

Courts have recognized the mandatory nature of Campaign Act time limits, both in the context of § 437g(a)(1) and otherwise. With respect to § 437g(a)(1) itself, the D.C. Circuit has written that "[a]fter a complaint is filed, the Commission must notify the alleged violator . . . within 5 days." FEC v. Rose, 806 F.2d 1081, 1082 n.1 (D.C. Cir. 1986) (emphasis added). With respect to other time limits for enforcement action established by the Campaign Act, the courts have been similarly resolute: while addressing the Campaign Act's requirement that petitions to review the FEC's decision to dismiss a complaint "shall be filed . . . within 60 days," see § 437g(a)(8)(b) (emphasis added), one court wrote,

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> As the Supreme Court held in Holmberg v. Armbrecht, 327 U.S. 392, 66 S. Ct. 682, 90 L. Ed. 743 (1946), "[i]f Congress explicitly puts a limit upon the time for enforcing a right which it created, there is an end of the matter. The Congressional statute of limitation is definitive." Id. at 395, 66 S. Ct. at 584.

Common Cause v. FEC, 630 F. Supp. 508, 509 (D.D.C. 1985). Thus, the courts have recognized and enforced the mandatory nature of the time limits set by Congress in the Campaign Act.

In construing the Campaign Act's time limitations to be mandatory, the courts have adopted a construction that is consistent with the statute's legislative history. With respect to § 437g(a)(1) in particular, the legislative history is clear that the five-day notification requirement was important to the enforcement scheme that Congress created for the Campaign Act. Indeed, prior to its amendment in 1976, § 437g(a)(1) did not have a five-day requirement, but rather, provided simply that

> The Commission, upon receiving any complaint under paragraph 1(A), . . . shall notify the person involved of such apparent violation.

See 2 U.S.C.S. § 437g at 187. When Congress amended the Campaign Act, it added the five-day requirement as follows:

> Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation.

See 2 U.S.C. § 437g(a)(1) (emphasis added). Thus, Congress intentionally added a requirement to the Campaign Act's enforcement provisions that directed the FEC to act within five days. Such affirmative action by Congress simply underscores

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that it intended the time limitation of § 437g(a)(1) to be a mandatory and integral part of the Campaign Act's enforcement scheme.

Thus, the FEC is not free to disregard the five-day notification time limit for proceeding with enforcement actions under the Campaign Act. The express language of the statute--taken together with correspondingly explicit regulations, court holdings, and supporting legislative history--all demonstrate that the time limit is mandatory and binding upon the FEC.

In light of this express regulatory scheme, the FEC's conduct in this matter will be subject to strict judicial review. As the United States Supreme Court has written,

> In all cases agency action must be set aside if the action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or if the action failed to meet statutory, procedural, or constitutional requirements.

Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 413-14 (1971) (quoting 5 U.S.C. §§ 706(2)(A)-(D)). Accordingly, because the Pennsylvania Respondents have demonstrated that any further FEC enforcement action would contravene the express requirements of the Campaign Act, the Pennsylvania Respondents respectfully request that the FEC terminate compliance proceedings in this matter.

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B. **The Substantial Delays In Enforcement Proceedings Have Prejudiced The Pennsylvania Respondents.**

Having delayed for six years in taking any enforcement action, the Pennsylvania Respondents now have an intolerable burden in addressing the merits of the complaint. Over the past six years, the personnel working for the Pennsylvania Respondents have changed a great deal,[1/] and those who remain must rely on distant memories to address the allegations of the complaint. Moreover, other witnesses, such as those persons who worked for the Bush Campaign or for the Republican National Committee, have also moved on, making it nearly impossible for the Pennsylvania Respondents to conduct their own investigation into the events for the purpose of responding adequately to the present allegations. Finally, access to documents which might support the Pennsylvania Respondents' legal positions has also been compromised by the long delays in the FEC's enforcement action.

The FEC asserts in the General Counsel's Brief that the Pennsylvania Respondents have the burden of overcoming a presumption that the Bush appearances in 1988 were campaign-related. If the FEC's legal position is accurate, then the five-day time limit of § 437g(a)(1) should be even more strictly enforced. Preserving a respondent's ability to marshall evidence

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1/ In this regard, the General Counsel's Brief now identifies Patricia Poprik, "as Treasurer," as a respondent. However, Patricia Poprik was not the Treasurer at the time of the events in question. Indeed, even the original notice sent by the FEC to the Pennsylvania Respondents in May, 1990 identified Jacob D. Yaros as the Treasurer.

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in his or her favor would seem to be one of the principal objectives of the Campaign Act's five-day enforcement time limit. The FEC should not be permitted to compromise that objective by delaying enforcement actions for years, and then further capitalize on the delay that it created by shifting the burden of persuasion to the respondents.

Thus, the long delay in enforcement proceedings has irreparably prejudiced the Pennsylvania Respondents' ability to address the merits of the complaint. Moreover, the prejudicial effect of the delay is all the more acute if, as the General Counsel's Brief suggests, the Pennsylvania Respondents have the burden of overcoming an evidentiary presumption against them. As a result, the Pennsylvania Respondents respectfully submit that the current compliance proceedings should be terminated.

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IV. Conclusion

For all the foregoing reasons, the Pennsylvania Respondents request that the complaint against them be dismissed and the compliance proceedings be terminated.

Dated: August 29, 1994

Paul J Greco

William M. Doran, Esquire
Paul J. Greco, Esquire
MORGAN, LEWIS & BOCKIUS
2000 One Logan Square
Philadelphia, PA 19103
(215) 963-5000

Counsel for Pennsylvania Respondents

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SARA L. DOYLE

OF COUNSEL
JOHN C. FRANKLIN
ROBERT G. MCCLOSKEY, P.C.
WILSON

COUNSEL
CRAIG M. GOODRICH*
*ALSO ADMITTED IN D.C.

RECEIVED
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ADMINISTRATION
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August 30, 1994

VIA FACSIMILE (202) 219-3923 AND
VIA FEDERAL EXPRESS

Mary Ann Bumgarner, Esquire
Office of General Counsel
Federal Elections Commission
999 E. Street, N.W.
Washington, D.C.

Re: MUR 2667
Georgia Republican Party and
Marvin H. Smith as Treasurer

Dear Ms. Bumgarner:

Thank you for speaking with me yesterday and today regarding the above-styled matter. As we discussed, I am enclosing a request for a thirty day extension of time to file a response on behalf of the Georgia Republican Party and Marvin H. Smith.

As I understand, you will present this request to the Commission and will recommend that the request be granted. I also understand we can anticipate a response by the end of this week or the beginning of next.

As we discussed, this letter will confirm that in the event the Commission denies the request, we will have some time to file the response.

Thank you very much for your continued courtesy and cooperation.

Very truly yours,

WILSON, STRICKLAND & BENSON, P.C.

Anne Ware Lewis

Anne Ware Lewis

AWL/sms

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ROBERT O. MCCAULEY, P.C.
ROBERT O. WILLIS

COUNSEL
CRAIG N. GOODRICH*

*ALSO ADMITTED IN D.C.

August 30, 1994

VIA FACSIMILE (202) 219-3923 AND
VIA FEDERAL EXPRESS

Mary Ann Bumgarner, Esquire
Office of General Counsel
Federal Elections Commission
999 E. Street, N.W.
Washington, D.C.

Re: MUR 2667
Georgia Republican Party and
Marvin H. Smith as Treasurer

Dear Ms. Bumgarner:

Thank you for speaking with me regarding the above-styled matter. As I advised, I work with Frank Strickland, volunteer General Counsel for the Georgia Republican Party. Mr. Strickland represents the Georgia Republican Party and Marvin H. Smith in this matter.

As we discussed, Mr. Strickland requests a thirty-day extension of time to file a response on behalf of the Georgia Republican Party and Marvin H. Smith. The grounds for this request are as follows:

(1) The witnesses from whom affidavits are needed are people who have scattered since their involvement in this matter as volunteers six years ago, and so additional time is needed to locate them;

(2) This case involves several respondents, and therefore our response will be somewhat involved, requiring additional time to prepare; and

(3) We understand that at least one other respondent in this case has been given until September 30, 1994 to respond,

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and therefore no action could be taken until after that date.

Based on these grounds, Mr. Strickland, on behalf of the Georgia Republican Party and Marvin H. Smith as Treasurer, hereby requests an extension of time in which to file a response up to and including September 30, 1994. As I understand, you will present this request to the Commission immediately, and we should have a decision in the next several days. I also understand you will contact me immediately if there are any problems or if the request is denied.

Thank you for your courtesy and cooperation. Please let me know if you have any questions or need further information.

Very truly yours,

WILSON, STRICKLAND & BENSON, P.C.

Anne Ware Lewis

Anne Ware Lewis

AWL/sms

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 2, 1994

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2667 --
Request for Extension of Time

By letter dated August 30, 1994, counsel for the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, ("Georgia Republicans") request an additional 30 days, until September 30, 1994, in which to respond to the General Counsel's Brief in this matter. Attachment 1. Previously, counsel requested a 30 day extension, which was granted by this Office on July 25, 1994. In the letter dated August 30, 1994, counsel for the Georgia Republicans explains that an additional 30 days is necessary in order to locate the witnesses who were involved in this matter. Further, counsel states that additional time is needed to prepare because this matter involves "several respondents, and therefore our response will be somewhat involved." Id.

Based on the foregoing and because the two major respondents in this matter have also requested extensions until the end of September to respond to the briefs, the Office of the General Counsel recommends that the Commission grant the requested extension until September 30, 1994.

RECOMMENDATIONS

1. Grant the extension of time until September 30, 1994, to the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer.

2. Approve the appropriate letter.

Attachment
Request for Extension

Attorneys assigned: Mary Ann Bumgarner
Richard M. Denholm II

9604372025

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republicans (Federal Account/ Non-Federal Account) and Marvin H. Smith, as treasurer--Request for Extension of Time.	)	MUR 2667

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 9, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 2667:

1. Grant the extension of time until September 30, 1994, to the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated September 2, 1994.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself and did not cast a vote.

Attest:

9-9-94
Date

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

Received in the Secretariat: Fri., Sept. 02, 1994 3:40 p.m.
Circulated to the Commission: Mon., Sept. 06, 1994 11:00 a.m.
Deadline for vote: Fri., Sept. 09, 1994 4:00 p.m.

bjr

9604372206

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SEPTEMBER 13, 1994

Anne Ware Lewis, Esquire
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, Georgia 30309

RE: MUR 2667
Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer

Dear Ms. Lewis:

This is in response to your letter dated August 30, 1994, which we received on August 31, 1994, requesting an additional extension until September 30, 1994, to respond to the General Counsel's Brief in this matter. After considering the circumstances presented in your letter, the Federal Election Commission has granted the requested extension. Accordingly, your response is due by the close of business on September 30, 1994.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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Bush 88 Quayle

STAN HUCKABY, Treasurer

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL 94 SEP 26 1 01 PM

September 26, 1994

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

RE: MUR 2667

Dear Mr. Noble:

With respect to the issue of "excessive overall expenditures", the Committee has already indicated in its response to the Commission's Final Audit Report that it did not contest this finding. Further, while the Footnote 2 from the Statement of the Case references the closed MUR 3467, it should be indicated that the amount in excess of the overall limit was less than the amount determined to be in excess of the Iowa and New Hampshire state limits. Therefore, the Committee has, with the settlement of MUR 3467, already paid a fine involving excessive spending resulting from the same disbursements.

As previously stated in our response of October 1990, the Committee has already provided to the Commission all documents in its possession that relate to the trips listed in this MUR. We have conducted an additional search of our files, and have verified that there is no additional information or documentation beyond that which, along with the affidavits, was previously submitted.

At issue here is the ability of the then Vice-President and second-ranking member of his party to engage in party-building and fundraising activities on behalf of the national and various state party committees, notwithstanding his candidacy for the office of President. Contrary to the opinion of the Office of General Counsel, the Committee strongly believes that the documentation and affidavits previously submitted, along with information provided by the national and state committees, do establish that these were party-building and party fundraising activities.

In addition, we are dismayed to learn that, regarding the events held in Cincinnati, Atlanta, Point Pleasant Beach, and Philadelphia, the Office of General Counsel appears to rely at least in part on "news accounts" to support its position. We believe that these so-called "news accounts" are highly subjective, and absolutely cannot be considered in any way determinative of the nature of these events.

228 South Washington Street • Alexandria, Virginia 22314
Telephone 703-549-8692 • FAX 703-684-0683
Paid for by Bush-Quayle 88

Consequently, we respectfully submit that in consideration of this response, along with the affidavits and the substantial documentation previously submitted, that the Commission find that no violations of 2 U.S.C. 441a(f), 2 U.S.C. 434(b), or 2 U.S.C. 441b(a) occurred.

Sincerely:

J. Stanley Huckaby, Treasurer
George Bush for President Committee

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Republican
National
Committee

Michael A. Hess
Chief Counsel

Thomas J. Josefiak
Deputy Chief Counsel

Allison Fahrenkopf Brigati
Associate Chief Counsel

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COMMISSION
OFFICE OF GENERAL
COUNSEL

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September 30, 1994

Mary Ann Bumgarner, Esquire
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: MUR 2667

Dear Ms. Baumgarner:

Pursuant to our conversation last week, at which time you granted the RNC an extension until today for the submission of its response in this matter, I am enclosing our response to the Brief of the General Counsel.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Michael A. Hess

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Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
TDD: (202) 863-8728 • FAX: (202) 863-8654

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	**MUR 2667**
Republican National Committee and	)	
William J. McManus, as treasurer	)	

RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE TO THE BRIEF OF THE GENERAL COUNSEL

The General Counsel of the Federal Election Commission ("FEC" or "Commission") submitted a brief ("the General Counsel's Brief"), dated August 8, 1994, recommending the Commission find probable cause to believe the Republican National Committee ("RNC") and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions to the George Bush for President Committee. The General Counsel's Brief focuses upon expenses related to appearances by Vice-President Bush at three Unity '88 Conferences conducted by the RNC in Denver (Colorado), Cincinnati (Ohio), and Atlanta (Georgia), in June and July of 1988.[1] This matter is so infected with procedural problems as to render any further adverse action by the Commission in this matter a denial of the RNC's due process rights.

These allegations arose in a complaint filed by four state Democratic Party committees on August 8, 1988 -- *six years ago.*[2] However, the Commission failed to serve the RNC with notice of the complaint until March 14, 1990 -- *19 months after receipt of the complaint by the Commission.*

[1] Footnote 2 of the General Counsel's Brief refers to other payments by the RNC for Bush travel expenses in connection with party events in 1988. Without explanation, however, the General Counsel's brief does not include these other payments in its analysis and recommendations. Presumably, the circumstances of those appearances provide even less justification for the General Counsel's arguments, and provide further support of the real and legitimate party-building role played by the Vice-President during the period in question.

[2] A supplement to the complaint was filed on September 12, 1988.

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As a preliminary – and continuing – matter, the RNC urges the Commission to recognize that the explicit requirements for prompt notification of a complaint under 2 U.S.C. § 437g(a)(1) were not followed, and that the failure to observe this most fundamental notice provision of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 *et seq.* ("FECA" or "the Act"), caused irreparable harm to the RNC's due process and other interests. This remains an incurable defect in the Commission's prosecution of this matter. Due to the Commission's refusal to dismiss the complaint at an earlier time, and the inherently inadequate steps it has taken to attempt to cure this defect, as described below, the Commission should now admit the gravity of its mistake and take no further action in this matter.

In a June 1990 response to the General Counsel following the denial of the RNC's Motion to Dismiss, the RNC set out the following position:

> So that there is no misunderstanding, let me clearly state Respondent's position: we are prepared and willing to provide information to the Commission by following the standard evidentiary practices of an ongoing MUR. Should the Commission require information from us in these proceedings, we will respond to the Commission as witnesses in this matter. However, we are not willing to reply as a Respondent in this matter, because to do so would be to accept the Commission's unsupported and improper claim to be able to waive and rewrite its statutory provisions at will. It is important to ensure Commission adherence to the fundamental procedural rights crucial to the regulation of politics in the United States.

In addition, the Commission failed to commence this action within five years of the date when the alleged claim arose. Pursuant to 28 U.S.C. § 2462, there is a five-year statute of limitations which has been held to apply to administrative proceedings. Because of the juxtaposition of the procedural defects in this matter and a recent judicial determination on the Commission's unconstitutionality, this action was not commenced within the five-year limit.

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Because the Commission and the General Counsel have persisted in pursuing this matter even in light of these overriding procedural defects, the RNC must reiterate its 1990 position in this regard. Its position was -- and remains -- that this proceeding is invalid. Nonetheless, out of deference to the Commission, the RNC sets out herein not only its prior procedural arguments, but also alternative arguments on the merits which demonstrate that the Commission should find no probable cause in this matter.

On the merits, the RNC alternatively urges the Commission to find no probable cause to believe payments by the RNC for expenses related to appearances by Vice-President Bush at these party-building events violated the Act. The presumption under 11 C.F.R. § 110.8(c)(2)(ii) that payments for costs for these Presidential candidate appearances constitute contributions to the Bush campaign is fully and sufficiently rebutted by the known facts in this matter, despite strained characterizations by the General Counsel. The evidence clearly shows that the RNC Unity '88 Conferences were "party-building" events. The circumstances of Vice-President Bush's appearances were unmistakably "party-related." No aspect of his participation in these pre-campaign party gatherings indicated a countervailing "purpose to influence" his nomination or election. The RNC maintains the Commission cannot reconcile the existence and purposes of a "party-building" exception in its regulations with any reasonable interpretation of the facts in this matter so as to deny the RNC the benefit of that exception.

By making these alternative substantive arguments, the RNC expressly maintains that it does not waive or abandon any procedural argument or defense, either before the Commission, or in any subsequent judicial proceeding.

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I. THE COMMISSION'S FAILURE TO COMPLY WITH THE NOTICE PROVISION OF 2 U.S.C. § 437(G)(A)(1) CAUSED IRREPARABLE HARM TO THE RNC'S DUE PROCESS INTERESTS AND REMAINS AN INCURABLE DEFECT IN THE COMMISSION'S PROSECUTION OF THIS MATTER

A. A Finding of Probable Cause Based on the Complaint Is Inappropriate Since the RNC Never Received the Notice Required by the Commission's Governing Statute and Regulations

The Commission's compliance regulations, 11 C.F.R. §§111.1-111.23, set out the procedures that must be followed before the Commission can make a reason-to-believe finding. Section 111.4(d)(1) requires that a complaint alleging a violation of the Act "should clearly identify as a respondent each person or entity who is alleged to have committed a violation." Any reasonable reading of the complaint filed on August 8, 1988 and the supplement filed on September 12, 1988 in this matter demonstrates that the RNC -- and other Republican committees -- are clearly charged with violating the Act:

- Page 4 of the complaint alleges "an apparent attempt to shift campaign expenses from the Bush Committee to *the Republican National Committee* and state party committees." It further alleges that "there is a clear probability that a large amount of these expenses have been improperly shifted to other committees."
- Page 7 of the complaint states: "Any payments *by the Republican National Committee* or State party committees for Bush campaign travel expenses amount to contributions to the campaign under 2 U.S.C. § 441a . "
- Page 8 of the complaint further states that "expenditures made by *the national party committees* in connection with the general election campaign of the party's Presidential nominee are chargeable to the party's spending limit under 2 U.S.C. § 441a(d)." It continues: "State

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parties are not permitted to make expenditures in connection with the general election campaign of the Presidential nominee unless the state party is designated specifically by the national party to make such expenditures. 11 C.F.R. § 110.7(a)(4). Therefore, unless a state party has received such a designation, it is prohibited from paying travel expenses of a candidate to his general election campaign."

- Pages 15 and 16 of the complaint allege various violations of the Act by the RNC and the state party committees, including:

  1(f). Acceptance of prohibited contributions in violation of 2 U.S.C. § 441b by accepting payments of campaign travel costs from state party committees whose accounts contain funds that are illegal under § 441b.

  2(d). Acceptance of prohibited contributions in violation of 2 U.S.C. § 441b by accepting payment of campaign travel costs from state party committees when accounts contain funds that are illegal under § 441b.

  2(e). Acceptance of a contribution from a state party other than contributions to a compliance fund in violation of 11 C.F.R. §§ 9003.3 and 9003.2.

- The prayer for relief at page 17 of the complaint requests that the Commission: "Require the Bush for President Committee and any other Republican committees the Commission deems appropriate to produce immediately [relevant records]."

- The September 12, 1988 supplement to the complaint restates on page 1 the allegation "that in an apparent attempt to avoid reporting such excess expenditures to the FEC the Bush Committee appeared *inter alia* to have shifted travel expenses for which it was liable to other political committees . . . ."

- Page 2 of the supplement explains Attachment A as identifying "several sources (other than the Bush for President Committee) for funding Mr. Bush's political travel, including the

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Republican National Committee, state Republican Committees, and the United States Government."

(Emphasis added).

Accordingly, the complaint filed on August 8, 1988 and the supplement filed on September 12, 1988 allege that the RNC violated the Act. The Act is *clear and explicit* on the mandatory safeguards that *must* be afforded any party alleged in a complaint to have violated the Act:

> Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint.

2 U.S.C. § 437g(a)(1).

In addition, 11 C.F.R. § 111.5 of the Commission's compliance regulations requires that:

> [U]pon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 § C.F.R. 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of the Commission compliance procedures, and enclose a copy of the complaint.

Section 111.6 of the Commission's compliance regulations requires that any respondent be given an opportunity to demonstrate that no action should be taken on matters generated by a complaint, and prohibits the Commission from taking "any action, or [making] any finding, against a respondent other than action dismissing the complaint unless it has considered" the response permitted by the regulations. 11 C.F.R. § 111. 6(b).

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The RNC was *clearly* identified as a respondent[3] in the August, 1988 complaint and September, 1988 supplement, and should have been notified within five days of the filing of the complaint, as required by 2 U.S.C. § 437g(a) (1) and 11 C.F.R. § 111.5. The RNC received no notice of this enforcement matter against it until February 26, 1990, nineteen months after the Commission had received the complaint, and then only after a reason-to-believe finding had already been made. Since no timely notice was provided to the RNC, the RNC was not provided its statutorily-required opportunity to respond to the complaint. The Commission therefore lacked the authority to take any action against the RNC in this matter, "other than action dismissing the complaint." 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.6(b).

B. The Subsequent Furnishing of the Complaint and Supplement to the RNC Demonstrated That The RNC Was a Respondent Which Should Have Received Timely Notice of the Filing of the Complaint

On February 26, 1990, the RNC received a notice of the Commission's reason-to-believe finding in MUR 2667, together with a Factual and Legal Analysis, which referred repeatedly to a complaint and supplement, "Respondent's Brief," and ""Holiday Affidavit," which formed the basis for the Commission's finding in this enforcement matter. On March 8, 1990 the RNC requested the documents referred to in the Factual and Legal Analysis in order to respond in this matter. Pursuant to this request, the Office of the General Counsel provided the RNC with copies of the complaint and supplement in this MUR 2667.

[3] Notwithstanding this contention that, as an underlying procedural matter, the RNC was identified as a respondent in the complaint and supplement, the RNC maintains that it is not – and was never – a valid or appropriate respondent in this MUR. *See* discussion *supra*.

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Section 437g(a)(12) of the Act and the Commission's regulations at 11 C.F.R. § 111.21(a) prohibit the Commission or any person from making public any information, including any complaint filed with the Commission, derived in connection with any enforcement proceeding, without the written consent of the respondent against whom the complaint was filed.

Accordingly, the complaint and supplement in this matter could only legally be provided by the Commission to respondents in this matter. By providing the RNC with a copy of the complaint and supplement in this ongoing enforcement proceeding, the Office of the General Counsel has admitted through its actions that the August 8, 1988 complaint and September 12, 1988 supplement made the RNC a respondent in this matter. If the RNC is a respondent in this complaint-generated matter, the RNC should have been provided with a notice and copy of the complaint in the timely manner mandated by the Act and required by the Commission's regulations. In addition, the RNC should have been given an opportunity to respond to the complaint before any action was taken or finding made by the Commission.

C. The Fact That the Commission Used the Same MUR Number In Its Finding Against the RNC That It Used In Its Enforcement Proceeding Against the Bush for President Committee Was Further Evidence That The Matter Was Generated by the Complaint

When the complaint in this matter was filed in August, 1988 it was assigned MUR number 2667. The Commission's reason-to-believe finding and the Factual and Legal Analysis supporting that finding also carried MUR number 2667. The additional documents provided to the RNC carry MUR number 2667, thereby demonstrating that the Commission's action against the RNC was, in fact, generated by the August 1988 complaint and September 1988 supplement.

If the matter was not generated by the complaint, but was generated internally, the Commission's procedures would have given it a different matter-under-review number, with different

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respondents. *See* 11 C.F.R. §§ 111.3, 111.8. The only possible inference from this designation is that the matter was generated by the complaint, and that the RNC was a respondent from the filing of the August 1988 complaint and September 1988 supplement.

D. The General Counsel's Brief Clearly Indicates That This Matter Was Generated by the Complaint and Supplement, and Not Internally Generated

The General Counsel's Brief rests, in large part, on allegations contained in the original August 1988 complaint. The complaint cites sixteen visits by Vice-President Bush that are alleged to have been or included campaign activity. The General Counsel's Brief focuses on three of these visits and the complaint's allegations regarding them.[4] The principal source of information for the allegations is the August 1988 complaint and September 1988 supplement, and any action taken on the basis of the complaint and supplement can only be designated as complaint-generated, and, therefore, subject to the mandatory statutory and regulatory procedures set forth above.

The General Counsel's Brief notes the Commission decided on May 22, 1990 to rescind its prior reason-to-believe findings "in order to afford [the RNC] an opportunity to respond to the complaint and supplement in this matter." *See* General Counsel's Brief n. 1. Such a statement indicates a complete lack of regard for the primacy of the statute's notification requirement and lack of appreciation for the requirement's significant purpose.

[4] *See* n. 1, *supra*.

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II. FURTHER PROCEEDINGS AGAINST THE RNC IN THIS MATTER ARE BARRED BY THE STATUTE OF LIMITATIONS BECAUSE THE COMMISSION FAILED TO COMMENCE THIS ACTION WITHIN FIVE YEARS OF THE DATE THE ALLEGED CLAIM FIRST ACCRUED

Pursuant to 28 U.S.C. § 2462, "an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued . . . ." The obvious purpose of this time limitation is to "provide notice of claims and to prevent plaintiffs from 'sleeping on their rights.'" *Sierra Club* v. *Chevron U.S.A., Inc.*, 834 F.2d 1517, 1523 (9th Cir. 1987), *see also Order of R.R. Telegraphers* v. *Railway Express Agency*, 321 U.S. 342, 348-49 (1944). The RNC maintains that the Office of the General Counsel was asleep at the switch in this instance, and that this problem inherently infects the General Counsel's arguments.

The Supreme Court has stated that statutes of limitation are:

> designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared. The theory is that even if one has a just claim it is unjust not to put the adversary on notice to defend within the period of limitation and that the right to be free of stale claims in time comes to prevail over the right to prosecute them.

Id. The statute of limitations set out in 28 U.S.C. § 2462 is a "general statute of limitations, applicable . . . to the entire federal government in all civil penalty cases, unless Congress specifically provides otherwise." *3M Company* v. *Browner*, 17 F.3d 1453, 1461 (D.C. Cir. 1994).

The five-year statute of limitations provided for under 28 U.S.C. § 2462 has recently been held to apply to administrative proceedings, as well as judicial proceedings. *3M Company* v. *Browner*, 17 F.3d 1453, 1457 (D.C. Cir. 1994). *See Williams* v. *United States Dep't of Transp.*,

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781 F.2d 1573, 1578 n. 8 (11th Cir. 1986); *H.P. Lambert Co.* v. *Secretary of the Treasury*, 354 F.2d 819, 822 (1st Cir. 1965). The same concerns of lost evidence, faded memories, and disappeared witnesses are as relevant to an agency proceeding as to a court proceeding.[5] *See R.R. Telegraphers*, 321 U.S. at 349; *3M Company*, 17 F.3d at 1457. Similarly, a defendant in an agency proceeding should be as free from stale claims as a defendant in a court proceeding. *See R.R. Telegraphers*, 321 U.S. at 348-49; *3M Company*, 17 F.3d at 1457; *Sierra Club*, 834 F.2d at 1523. Regrettably, the FECA does not include a statute of limitations. Therefore, the five-year statute of limitations set out in 28 U.S.C. § 2462 applies to this civil penalty action brought under the FECA.

Since the five-year statute of limitations dictated by § 2462 applies in this matter, the RNC maintains that an "action, suit or proceeding" has not, in fact or law, been brought within the five-year time period. This statutory restriction has been consistently construed to mean that a claim accrues at "the time at which a cause of action first existed, not the time when the violation was first discovered." *See 3M Company*, 17 F.3d at 1462 ("accrued" in § 2462 means that the running of the limitations period is measured from date of violation); *United States* v. *Core Lab.*, 759 F.2d 480, 482 (5th Cir. 1985) (date of underlying violation is accepted date for when claim first accrues, and thus, the date on which the statute of limitations begins to run); *see also Smith* v. *United States*, 143 F.2d 228, 229 (9th Cir. 1944). In other words, *"an action, suit or proceeding to assess or impose a civil penalty must be commenced within five years of the date of the violation giving rise to the penalty."* *3M Company*, 17 F.3d at 1462 (emphasis added). In this matter, the date the claim

[5] These problems are especially relevant in the context of political campaigns, many of which organizations are both fluid and transitory. Perhaps the members of the Commission, several of whom have *actually* had personal political experience, will understand this argument in the real world context of political campaigns.

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first accrued would necessarily be in June or July of 1988, when the various visits in question were undertaken by Vice President Bush or, at the latest, August 8, 1988, the date on which the complaint was filed in this matter.

Determining the date on which this action commenced is even more problematic due to the Commission's failure to follow the statutorily-required procedures, as discussed *supra*. On August 8, 1988 a complaint was filed alleging that the RNC, as well as the "Bush for President" Committee, violated certain provisions of the FECA. However, the RNC was not notified within five days of the filing of the complaint that it was a respondent in this action, as required by 2 U.S.C. § 437g(a)(1). In fact, the RNC was not notified of this action until February 26, 1990, *after* a reason-to-believe finding had already been made.

After consideration of the RNC's arguments regarding the Commission's failure to follow proper procedure, the Commission rescinded its February 6, 1990 reason-to-believe determination on May 29, 1990 and, after giving the RNC the opportunity to demonstrate that no action should be taken against it, determined yet again, on April 25, 1991, that there was reason to believe that a violation had occurred.

On October 22, 1993 the United States Court of Appeals for the D.C. Circuit concluded in *FEC* v. *NRA Political Victory Fund*, 6 F.3d 821, 823 (D.C. Cir. 1993), *cert. granted* 114 S. Ct. 2703 (1994), that the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees on the Commission was unconstitutional. Consequently, all actions of this unconstitutional Commission were null and void. The Commission, in light of this judicial action,

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has "revoted" a number of reason-to-believe findings in pending cases. However, with regard to MUR 2667, the RNC has never received notification of such a "revote".

If, in fact, no "revote" occurred with respect to the RNC's alleged violations, the Commission has failed to address or correct this constitutional flaw and, therefore, no action was taken within the five-year time period. Assuming that this MUR was "revoted" with respect to the RNC on February 18, 1994, as indicated to some of the other committee respondents that were subsequently dismissed from this matter, this would constitute a commencement date of more than five (5) years after the date on which this action accrued, and thus outside the five-year statute of limitations.

In *3M Company*, the court addressed the issue of an agency's problems in "detecting" statutory violations, whether due to an agency's enforcement efforts not being sufficiently funded, an agency not devoting an adequate number of personnel to an action, or an inefficient or ill-designed agency enforcement program:

> An agency's failure to detect violations, for whatever reasons, does not avoid the problems of *faded memories, lost witnesses and discarded documents* in penalty actions brought decades after alleged violations are finally discovered. Most important, nothing in the language of § 2462 even arguably makes the running of the limitations period turn on the degree of difficulty an agency experiences in detecting violations.

3M Company, 17 F.3d at 1461 (emphasis added). Thus, the five-year statute of limitations continued to run, despite the Commission's failure to detect alleged statutory violations due to its procedural violations and the *NRA* holding that the Commission was unconstitutional.

The Commission is required to commence an action within five years from the date when the claim first accrued. In this matter, the claim first accrued, at the latest, on August 8, 1988, when the

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complaint was filed against the RNC. This matter was either never commenced – if not "revoted" after *NRA*, and thus outside the five-year statute of limitations – or not commenced until February 18, 1994 upon the Commission "revoting" its reason-to-believe finding. If the Commission did "revote" its reason-to-believe finding with respect to the RNC's alleged violations in this matter, a period of five years, six months and ten days passed since the claim first accrued. The Commission's action is beyond the five-year statute of limitations, and the Commission is therefore barred from taking any further adverse action on this claim.

III. EVIDENCE PRESENTED BY THE RNC REBUTS THE PRESUMPTION UNDER 11 C.F.R. § 110.8(e)(2)(ii) THAT EXPENDITURES FOR VICE-PRESIDENT BUSH'S APPEARANCES AT UNITY '88 EVENTS WERE FOR THE PURPOSE OF INFLUENCING HIS NOMINATION

Expenditures for political travel by a Presidential candidate are generally considered qualified campaign expenses, and thereby subject to the contribution limitations and reporting requirements imposed upon candidates' campaign funds. 11 C.F.R. § 9034.7(a). Since its inception, however, the Commission has recognized a special exception for political travel by Presidential candidates for "party-building" purposes, and has set out specific criteria for identifying such circumstances, including rebuttable presumptions based on the timing of Presidential candidate appearances. *See* Advisory Opinion 1975-72, Fed. Election Camp. Fin. Guide (CCH) ¶ 5152.[6] These criteria were

[6] The Commission noted in that opinion: "The FECA implicitly recognizes the role of political parties in our electoral process and encourages stronger and more competitive major, minor and new parties through the payment of Federal moneys." The RNC maintains that the role of political parties in Presidential elections is not only "implicit" but *Constitutionally protected*.

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subsequently codified in the Commission's regulations governing Presidential candidate expenditure limitations, at 11 C.F.R. § 110.8(e)(1) & (2)[7]:

> (e)(1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate, and without the unreimbursed expense being considered an expenditure counting against the limitations ... of this section, as long as —
>
> (i) The event is a bona fide party event or appearance; and
>
> (ii) No aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event were for the purpose of influencing the candidate's nomination or election.
>
> (2)(i) An event or appearance meeting the requirements of paragraph (e)(1) of this section and occurring prior to January 1 of the year of the election for which the individual is a candidate is presumptively party-related;
>
> (ii) Notwithstanding the requirements of paragraph (e)(1) of this section, an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of this part 110;
>
> (iii) The presumptions in paragraphs (e)(2)(i) and (ii) of this section may be rebutted by a showing to the Commission that the appearance or event was, or was not, party-related, as the case may be.

This matter presents the Commission a typically exacting task of regulatory interpretation. This regulatory exception cannot be implemented without either: 1) being so narrowly interpreted that no Presidential candidate appearance at a party gathering in an election year could ever rebut the presumption, or 2) being so expansively read that all such appearances would qualify. The RNC

[7] The Explanation and Justification for Part 110 of the Commission's regulations states only that the revision at subsection 110.8 "reflects Commission policy on party building activities." *See* Explanation and Justification for 1977 Amendments to the Federal Election Campaign Act of 1971, *House Document No. 95-44*, January 12, 1977, p. 70. The regulatory language, in fact, tracks the Commission's analysis in Advisory Opinion 1975-72, *supra*.

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submits the solution is found in a fair and reasonable reading of the language of the regulation itself. Such an interpretation applied to these circumstances should result in a finding of no probable cause to believe the RNC violated the Act.

A. The Regulatory Standards Require Party Events To Be For "Party Building" Purposes and Presidential Candidate Appearances To Be "Party-Related"

Section 110.8(e) sets forth conditions and rebuttable presumptions regarding payments by a political party for the expenses of Presidential candidate appearances at party events. Political travel by a Presidential candidate after January 1 of the election year is presumed to be for the purpose of influencing that candidate's election absent a showing to the Commission that the candidate's appearance at a "bona fide" party event was indeed "party-related." 11 C.F.R. § 110.8(e)(1)(i) & (2)(iii).

The General Counsel's Brief invents a new standard -- invoking the phrase "campaign-related," -- which does not appear in the regulation, and the General Counsel's Brief employs this "standard" in a loose and conclusory manner. *See, e.g.*, General Counsel's Brief at 5, 15. A "campaign-related" standard does appear in 11 C.F.R. § 9004.7 with respect to allocation of Presidential travel expenses between campaign and non-campaign travel. The exclusion of that term from § 110.8(e) has substantive legal significance.

Section 110.8(e) exists, and its deliberate language and presumptions are in place, because a Presidential candidate's appearance at a party event is unavoidably "campaign-related" in the most general sense. Presidential candidates appear at party-building functions because of their role as leaders and spokespersons for the party, particularly when they are the party's nominee or presumptive nominee.

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The use of the broader "campaign-related" standard from § 9004.7 by the General Counsel ignores the particular purpose and terms of § 110.8, and thereby misstates the issue and skews the analysis. It reverses the evidentiary burden for rebutting the presumption of § 110.8(e). Instead of having to make an affirmative showing that a candidate's appearance at a "bona fide" party event was sufficiently "party-related" (or, as the Commission said in Advisory Opinion 1975-72, that it "fulfill legitimate party building purposes"), the General Counsel's Brief would require a candidate or party to demonstrate that the event bore no relationship whatever to the campaign. This is not the explicit requirement of the regulation or the Act. Nor is it consistent with the day-to-day realities of legally-conducted political campaigns.

The interpretation of the regulation at issue instead requires that appearances by a Presidential candidate at a party-building event be for "party-related" purposes rather than "for the purpose of influencing" the candidate's election. 11 C.F.R. § 110.8(e)(1)(ii). The use of the statutory standard "for the purpose of influencing," *see* 2 U.S.C. §§ 431(8)(A) & 431(9)(A), demands more than that the appearance bear some connection or relationship to the political campaign in progress. Section 9004.7 and its "campaign-related" standard address a different and more conventional question of distinguishing campaign from wholly non-campaign activity.

Section 110.8(e) does not reasonably mean, nor does it suggest, that a Presidential candidate attending a party event designed to invigorate the party's organization after a contentious primary season must pretend there is no election campaign in which that candidate is involved. It would be unrealistic and unreasonable for a Presidential candidate appearing at a state party rally to avoid completely any reference to his or her status as a candidate (particularly if asked questions by the

news media).[8] The suggested interpretation of this regulatory exception by the General Counsel's Brief is so impracticably narrow that it would preclude any candidate appearance from qualifying under it without the appearance being an entirely unnatural and absurd performance. The General Counsel's proposed interpretation has no connection with the realities of political campaigns.

The import of the regulation cannot be that a candidate is disqualified from coming within the regulation if his or her appearance seems even remotely "campaign-related." Rather, it must be that the nature of the event and activities are so lacking in a "party-related" purpose, or that such a purpose is so overtaken by clear candidate advocacy to a broader audience (as evidenced by the event's solicitation or setting, or the remarks or activities of the candidate) that expenditures for the event in totality must be viewed as "for the purpose of influencing" the candidate's election campaign rather than party building.

The RNC disputes the conclusion of the General Counsel's Brief that the relevant issue is whether the appearance occurs in the context of a genuine party-building event and is "party-related" rather than for the purpose of influencing the candidate's election. The Commission must examine the circumstances of the party event to determine if the event has a "legitimate party building purpose" and, if so, whether the party or candidate has engaged in conduct inappropriate to that purpose that appears instead "for the purpose of influencing" his or her election -- activity or remarks clearly directed to the voting public rather than the gathering of fellow partisans.

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[8] Even under the "campaign-related" standard under § 9004.7, responses to questions of the news media about the Presidential race would be treated as "incidental contacts" that do not serve to alter the nature and purposes of the event that is the reason for the candidate travel. Thus, Vice-President Bush's remarks made in response to media questions, or the "spin" placed upon the appearance by media reporting, are not relevant to the General Counsel's legal analysis of the underlying character of the event or candidate participation itself.

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The evidence in this case clearly supports the intended "party-building" purpose of the Unity '88 events and the "party-related" purpose of the Vice-President's participation. The evidence does not support any allegation that the Vice-President's appearances were outside that purpose, nor that they could be characterized as having the purpose of influencing his Presidential race. In particular, as discussed *infra*, Vice-President Bush's brief remarks at these events were directed to two party-building themes appropriate to the RNC's Unity '88 Conferences: 1) establishing the party message for the entire Republican campaign effort; and 2) rallying party activists to work for the entire Republican ticket.

Thus, the RNC urges the Commission to give sensible and practicable meaning and effect to this regulatory exception. The Commission should not retreat to a "campaign-related" quick-trigger for maintaining the presumption of 11 C.F.R. § 110.8 that would deny Presidential candidates a role in assisting party-building activity. Vice-President Bush's role as party leader is as relevant to the 1988 election as could be the roles of the President and Vice President -- again as party leaders -- in any future elections. The Commission should not dispose of this matter on the basis of how it would be decided *absent* § 110.8(e) but, rather, based upon a reasonable interpretation of the terms and purpose of the regulation itself. That reasonable interpretation must be based in political reality and constitutional imperatives.

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B. The RNC'S Unity '88 Conferences Were Bona Fide Party-Building Events

In previous responses to the FEC, the RNC provided the Commission the affidavits of Mary Matalin, dated March 19, 1992 ("Matalin affidavit") and Pat Giardina, dated December 20, 1991 ("Giardina affidavit"). The testimony of these RNC employees with direct knowledge and responsibilities regarding the Unity '88 Conferences demonstrates these party meetings were "bona fide" party-building events and the participation by Vice-President Bush was genuinely "party-related."

Mary Matalin served as Director of the "Victory '88" program at the RNC from April 1988 to November 1988. As she described, the "Victory '88" program encompassed "the non-allocable, party-building activities which were conducted at all levels of the party on behalf of the entire Republican ticket for the 1988 elections," including "voter registration, absentee ballots, ballot integrity, get-out-the-vote, list development programs, slate cards, sample ballots, palm cards, and generic phone banks that all benefited the Republican Party and its candidates."
Matalin affidavit p. 1.

As part of the "Victory '88" party-building program, Ms. Matalin organized the Unity '88 Conferences in the summer of 1988 "to promote unity in the Party following the Primary season and encourage communication among grassroots party activists and Republican leaders in anticipation of the 1988 Fall elections." *Id.* With respect to § 110.8(e), Ms. Matalin's testimony provides significant and persuasive evidence the events were held for "bona fide" "party-building" purposes and that "no aspect of the solicitation for the event [or] setting of the event" were "for the purpose of influencing" Vice-President Bush's candidacy for office. Matalin affidavit pp. 2-4:

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Invitations to attend these conferences were extended by mail to various Republicans around the country, including Republican party staff, party grassroots activists, members of the National Federa[tion] of Republican Women, the College Republicans, the Young Republicans, Republican National Committee members, and supporters from national, state and local Republican campaigns . . .

Attendees at the conferences were from all levels of the Republican party, and included officeholders, such as governors, senators, and congressmen, as well as Republican party officials and activists, party staff, Republican National Committee members, party professionals, and campaign supporters from each conference region. For example, Western state legislators attended the conference held in Denver, Colorado. Also attending were supporters of participating Republican officeholders and candidates, including the supporters from the Presidential campaigns of Senator Robert Dole, Vice President Bush, Governor Pete du Pont, General Al Haig, Congressman Jack Kemp, and Pat Robertson. Workers from the various state, regional and local campaigns also attended, including gubernatorial, congressional and state legislative races . . . *These conferences were geared toward grassroots party activists, not the general public, and the general public did not attend the conference sessions* . . .

Participants at the conferences included Republican party officials and dignitaries; Republican officeholders and candidates; political operatives; and grassroots party activists involved in campaigns at all levels of the Republican party, from the Presidential campaign to local legislative campaigns . . .

The presentations at these conferences centered on the overall message of the Republican party, both nationally and regionally, for the 1988 general elections. Conference participants briefed attendees on the broad political themes of the upcoming elections, including education, the environment, crime, and the economy, as well as subjects such as the use of volunteers, the mechanics of party-building programs, the plans for the upcoming Republican convention, the issues emerging in various campaigns, and the Victory '88 voter contact programs. Each conference provided an opportunity for regional party activists and national political leaders to discuss the party's goals and to formulate Republican strategy for the Fall elections. Local Republican candidates discussed their themes and messages with leaders in the party, so that they could compare their campaign themes of the party. The conferences also elicited communication between party leadership and grassroots supporters, and generated enthusiasm among grassroots party supporters for the work in the coming months. Each conference also gathered together the supporters of all major candidates, not just one candidate, to demonstrate unified grassroots support for Republican candidates up and down the ticket.

Matalin affidavit pp. 2-4 (emphasis added).

This testimony describes a classic, archetypal, undeniably "bona fide" party-building event, and demonstrates that "no aspect of the solicitation for the event [or] setting of the event" was "for the purpose of influencing" Vice-President Bush's candidacy.[9] The General Counsel's Brief has presented no legitimate basis for disputing that these were genuine party-building meetings.

The RNC's Unity '88 Conferences represent precisely the type of party gathering contemplated by and within the expenditure exception for payment of Presidential candidate expenses under 11 C.F.R. § 110.8(e). These events -- like the National Convention itself -- represented an appropriate and exempt "gathering of the troops." The RNC respectfully submits that any other interpretation of the nature of these conferences would render the regulatory provision meaningless.

C. Vice-President Bush's Appearances at Unity '88 Events Were Significantly and Sufficiently "Party Related"

As described in the testimony of Ms. Matalin, Vice-President Bush was invited along with other 1988 Republican Presidential candidates and party officials to participate in RNC Unity '88 events. Her testimony further notes:

> Each conference typically started with a cocktail reception at the conference hotel, followed by a political rally. At the rally, music was played, and Republican officials, such as former RNC Chairman Bill Brock, RNC Chairman Frank Fahrenkopf and RNC Co-Chairman Maureen Reagan, were introduced. Also introduced were all the Presidential candidates in attendance, national office holders and candidates, state and local candidates and elected officials, RNC members and state party activists. I recollect that during their introductions, some of these persons gave brief remarks. Vice-President Bush made brief remarks on party unity and the importance of the grassroots activists' work. Several others also delivered brief remarks, and some spoke at the working sessions the next day.

---

[9] Mary Matalin's testimony regarding the RNC's Unity '88 Conferences was corroborated in all material respects by the Affidavit of Pat Giardina, dated December 20, 1991, which was also submitted to the Commission. Ms. Giardina was an RNC Regional Finance Director during this period who assisted in organizing the conferences.

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Matalin affidavit, p. 5.

Vice-President Bush's participation in these conferences was clearly not a separate or isolated political event. Vice-President Bush appeared and made brief remarks in the context of and surrounded by a full array of party leaders, officeholders and candidates at a "bona fide" party-building event.

The General Counsel's Brief emphasizes, however, particular excerpts from Vice-President Bush's comments, *as apparently reported in newspaper articles*.[10] The RNC urges the Commission to carefully review the remarks of Vice-President Bush cited by the General Counsel's Brief and consider them in the context of a general party-building and unifying event intended to "rally the troops."

The Vice-President's comments relied upon by the General Counsel are entirely consistent with the traditional purposes and rhetoric of such events and remarkably lacking in direct self-promotion and clearly not "express advocacy." It is difficult to imagine speeches by the party's presumptive Presidential nominee in such a setting that would be more appropriately "party-related" and less susceptible to criticism as personal campaigning without expecting the candidate to appear entirely detached from his party's campaign themes and strategy or oblivious to current political events.

[10] The hearsay objections inherent in the General Counsel's reliance on newspaper articles to create a presumption should be obvious, but they have not deterred the General Counsel. Does the General Counsel accept every statement that appears in a newspaper as fact?

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Despite the General Counsel's characterizations, the Vice-President's comments were either informational (e.g., how the political issues will be framed and how contrasts between party positions will be drawn in the campaign) or traditional political party cheerleading (e.g., get out and work for the ticket). While often critical of the issue positions of his opponent and opponent's party, the Vice-President's remarks were entirely within the unifying and rallying purposes of the Unity '88 events and, indeed, all party-building gatherings that would fall under 11 C.F.R. § 110.8(e). Speeches containing criticism of the opposition and drawing of stark contrasts are a mainstay of political party events and are integral to message development for the party and its candidates throughout the entire ticket. Most significantly, Vice-President Bush's remarks were directed to an audience of party activists, not to the general voting public.

The General Counsel's Brief also attaches great significance to the providing of notebooks to attendees of RNC Unity '88 conferences that included information about Vice-President Bush, other Republican candidates and the party's issue positions. As the General Counsel acknowledges, however, these notebooks were not disseminated to the general voting public. They are typical of information packets for party activists attending such party-building events, and are designed to give party workers stimulus and talking points for supporting the Republican ticket.[11] The Commission has long recognized the non-allocable, generic nature of party publications and materials used for internal party purposes and general party ticket support. *See* Advisory Opinion 1975-87, Fed. Election Camp. Fin. Guide (CCH) ¶ 5178.

[11] In fact, based upon the deposition of Ms. Matalin in this matter, there remains considerable confusion about the *specific* contents of any notebooks which might have been distributed, and even whether the notebooks were ever widely circulated to party activists.

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The RNC urges the Commission to interpret 11 C.F.R. § 110.8 in a reasonable and practicable manner, so that its exception for "party-related" appearances is applicable to real political life. In that regard, the RNC reiterates its objection to the General Counsel's application of a broad "campaign-related" standard with respect to the particular requirements of § 110.8. Instead, Vice-President Bush's participation in RNC Unity '88 Conferences should be clearly viewed as "party-related" within the meaning of 11 C.F.R. § 110.8(e), and the presumption therein rebutted under these facts. Further, as discussed *infra*, "no aspect of . . . the remarks or activities of the candidate in connection with the event" suggests this party-building purpose was diminished or supplanted by an identifiable "purpose to influence" his election.

D. Vice -President Bush's Appearances at Unity '88 Events Were Not for the Purpose of Influencing His Presidential Election

1. Vice-President Bush's appearances did not involve "express advocacy"

In *Buckley* v. *Valeo*, 424 U.S. 1 (1976) ("*Buckley*"), the Supreme Court considered whether a provision requiring persons other than candidates or political committees to report their "contributions" or "expenditures" was too vague. The Court stated:

> "Contributions" and "expenditures" are defined in parallel provisions in terms of the use of money or other valuable assets "for the purpose of . . . influencing" the nomination or election of candidates for Federal office. It is the ambiguity of this phrase that poses constitutional problems.
>
> There is no legislative history to guide us in determining the scope of the critical phrase "for the purpose of influencing." It appears to have been adopted without comment from earlier disclosure acts. . . . Where the constitutional requirement of definiteness is at stake, we have the further obligation to construe the statute, if it can be done consistent with the legislature's purpose, to avoid the shoals of vagueness.

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Id. at 77-8. To preserve the constitutionality of the Act's use of "for the purpose of influencing" language, the Court concluded:

> [W]e construe "expenditure" . . . to reach only funds used for communications that expressly advocate [footnote] the election or defeat of a clearly identified candidate. This reading is directed precisely to that spending that is unambiguously related to the campaign of a particular federal candidate.

Id. at 80. Accordingly, *Buckley's* holding has been cited to mean:

> [U]nder the First Amendment, the phrases "for the purpose of influencing any election" and "in connection with any election" must be defined as the "express advoca[cy] [of] the election or defeat of a clearly-identifiable candidate," a definition that was subsequently incorporated into the Act.

See 2 U.S.C. § 431(17); *Orloski* v. *FEC*, 795 F.2d 156, 166-7 (D.C. Cir. 1986). The Court has consistently adhered to *Buckley's* application of the "express advocacy" standard to interpret the scope of "expenditure" under the Act, and other federal courts have followed the same analysis. *See, e.g., FEC* v. *Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986); *FEC* v. *Colorado Republican Federal Campaign Committee*, 839 F. Supp 1448 (D. Colo. 1993).

The Commission must apply the "express advocacy" standard in determining under § 110.8(e) whether the Vice-President's appearances were "for the purpose of influencing" his nomination campaign rather than for appropriately "party-related" purposes. In this regard, the RNC respectfully suggests the Commission review the analysis of a court decision upon which the FEC has frequently relied in considering whether communications contain express advocacy:

> We conclude that speech need not include any of the words listed in *Buckley* ["vote for," "elect," "support," etc.] to be express advocacy under the Act, but it must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate. This standard can be broken into three main components. First, even if it is not presented in the clearest, most explicit language, speech is "express" for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech

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> may only be termed "advocacy" if it presents a clear plea for action, and thus speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be "express advocacy of the election or defeat of a clearly identified candidate" when reasonable minds could differ as to whether it encourages a vote for or against a candidate or encourages the reader to take some other kind of action.
>
> We emphasize that if any reasonable alternative reading of speech can be suggested, it cannot be express advocacy subject to the Act's disclosure requirements.

FEC v. *Furgatch*, 807 F.2d 857, 864 (9th Cir. 1987).

Under this analysis, to be viewed as specifically "for the purpose of influencing" his election, Vice-President Bush's remarks at RNC Unity '88 events would have to unmistakably and unambiguously ask attendees to vote for him.

Not a single line of Vice-President Bush's remarks quoted by the General Counsel's Brief contains such express advocacy language. Vice-President Bush's comments were, admittedly, partisan and critical of the opposing party and its standard-bearer, and encouraged party workers to actively support the Republican ticket, as befits the setting and purpose of the event. He acknowledged that he needed their help, as did all Republican candidates. But Vice-President Bush's remarks did not expressly advocate voting for him.

The remarks of Vice-President Bush at RNC Unity '88 events do not contain explicit requests or exhortations for votes precisely because he was speaking for a party-related purpose to an audience of party activists at a party-building event. As with all such appearances that would come within the regulatory exception of § 110.8(e) for purely partisan gatherings, support from the attendees for the candidate appearing may be fairly presumed. If the candidate makes an appeal for votes, which Vice-President Bush did not, the candidate is clearly speaking to a different audience --

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the general voting public -- and the appearance may be viewed as "for the purpose of influencing" his election. That was neither the intention or the result at RNC Unity '88 conferences, however.

2. The "totality of the circumstances" demonstrate Vice-President Bush's appearances at Unity '88 events were not for the purpose of influencing his Presidential nomination or election

The General Counsel's Brief cites a series of Commission advisory opinions that reviewed the "campaign-related" nature of candidate appearances. *See* General Counsel's Brief at 14. Although the RNC disputes the relevance to this matter of the specific analysis and conclusions of those opinions, since they are decided upon the broader "campaign-related" standard of 11 C.F.R. § 9004.7, the general approach of the Commission in such cases should lead it to conclude Vice-President Bush's appearances at RNC Unity '88 events were not for the purpose of influencing his election campaign.

First, Vice-President Bush's appearances did not involve either (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election or defeat of any candidate (as discussed above). *See* General Counsel's Brief at 14. Second, where the Commission has "indicated that the absence of solicitations for contributions or express advocacy regarding candidates" is not determinative, *id.*, it has generally employed "totality of the circumstances" analysis to reach its conclusion. *See, e.g.*, Advisory Opinion 1988-27, Fed. Election Camp. Fin. Guide (CCH) ¶ 5934, and *Common Cause* v. *FEC*, No. 85-968, slip op. (D.D.C. June 25, 1986) *reprinted in* Fed. Election Camp. Fin. Guide (CCH) ¶ 9235 ("*Common Cause*").[12]

[12] In MUR 1790 (from which *Common Cause* originated), Commissioners Joan D. Aikens and John Warren McGarry reached their conclusion that an appearance by President Reagan at a Veterans of Foreign Wars

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A review of the "totality of the circumstances" surrounding the Bush appearances at RNC Unity '88 events clearly supports the conclusion that his participation was "party-related" and not "for the purpose of influencing" the Republican Presidential nomination: the Presidential primaries were over, the other candidates contending for the Republican nomination were invited and participated in the conferences; and neither Vice-President Bush (nor anyone else) made reference to any ongoing battle for the nomination.

Nor do the "totality of the circumstances" indicate a "purpose to influence" the general election instead of party-building purposes: the general voting public was not invited nor attended the events; Bush's remarks were directed to his fellow party members, and not to the general voting public; and, Bush addressed party-building themes appropriate to the RNC's Unity '88 Conferences -- the party message for the entire Republican campaign effort (necessarily including contrasts with the likely Democratic nominee's record and issue positions), and the need for party activists to work for the entire Republican ticket.

Pursuant to § 110.8(e), "no aspect" of Vice-President Bush's appearances at RNC Unity '88 events involved seeking votes for his Presidential candidacy. His audience was fellow partisans almost certain to vote Republican already. Bush's appearances were instead intended to and succeeded in rallying the Republican troops for the upcoming general election campaign. That is why he was invited, and that is the role he performed.

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convention was not attributable as an expenditure of his re-election campaign "[a]fter considering all of these elements within the totality of the circumstance test – including the presence or absence of express advocacy, the presence or absence of solicitation of contributions, the timing, setting and purpose of the event." Statement of Reasons, p. 15.

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If the Commission chooses to utilize its "totality of the circumstances" approach in this matter, the RNC urges it to do so in a reasonable and practicable manner, in light of political reality, and make sense of the regulatory exception under § 110.8(e). The RNC maintains that the Commission should recognize that Vice-President Bush's appearances at RNC Unity '88 events were not "for the purpose of influencing" his own candidacy, but for the "party-related" purposes specifically contemplated and permitted by the Commission's regulations. The presumption in section 110.8(e) of election-influencing activity on behalf of the Presidential candidate is rebutted under these facts.

CONCLUSION

The Commission should find no probable cause to believe Vice-President Bush's Appearances at RNC Unity '88 events violated the Act. The RNC makes this submission while expressly stating that it does not waive or abandon any of the procedural rights or arguments raised in the long course of its dealing with the Commission on this matter.

Respectfully submitted,

Michael A. Hess

Allison F. Brigati

Counsel for the Republican National Committee
and William J. McManus, as treasurer

September 30, 1994

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September 30, 1994

VIA FACSIMILE TRANSMISSION TO 1-202-219-1923

Mary Ann Bumgarner, Esq.
Federal Election Commission
999 "E" Street, N.W.
Washington, D. C. 20463

Re: MUR 2667
Ohio Republican State Central and Executive Committee aka The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as Treasurer

Dear Ms. Bumgarner:

Thank you for your telephone calls earlier today. This is to formalize my request on behalf of the Ohio Republican Party that our office be provided copies of the transcripts of the depositions taken in this matter by the Federal Election Commission. The witnesses we are aware have been deposed are Mary Matalin and Patricia Susan Giardina.[1] Additionally, please provide me copies of the speeches made by Vice President Bush and Chairman Bennett between June 24 through 26, 1988. The only copy of the Vice President's remarks we have been able to find has apparently been sent to the archives of his proposed Presidential library and is unavailable for several years. Moreover, Chairman Bennett's speech was made extemporaneously and no hard copy is available from any source. The preliminary audit report placed a great deal of weight on the statements of the deposed witnesses and the speeches made by Vice President Bush and Chairman Bennett. However, only a few selected phrases from the lengthy depositions and speeches were quoted in the preliminary audit report.

We have been able to speak to approximately a dozen of the individuals who were principally involved in the organization of the conferences investigated by the Commission. Those interviews suggest that then-Vice President Bush's visits to Cincinnati and Columbus in June, 1988 were in fact

[1]Preliminary audit report, pages 6 through 9.

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legitimate efforts to raise funds for generic, allocable activities.[2] It is therefore critical that we have the opportunity to examine all of the statements made by Ms. Matalin and Mr. Gearan, as well as copies of the speeches, to determine the context in which the quoted phrases were made. Moreover, we must know whether the testimony of the deposed witnesses is consistent with the recollections of the individuals who organized the events.

As we discussed, with the exception of Chairman Bennett, none of the Ohio Republican Party employees who were involved in the 1988 events are still employed at the Party. We have nonetheless been able to track down several of them; however they now reside and work throughout the country. In light of the October 6 deadline for the Party to submit its response to the Commission, time is of the essence concerning our request for copies of the transcripts and speeches. Given the fact that the law presumes that an appearance of a presidential candidate after January 1 of an election year is to be for the purpose of influencing a candidate's election,[3] unless provided copies of the transcripts of witnesses and speeches relied upon by the General Counsel's Office in reaching its decision, the Party is required to rebut a presumption without fully knowing the factual bases upon which it is premised. That is fundamentally unfair.

We believe that we may well have developed evidence which is persuasive in rebutting the presumption that then-Vice President Bush's travel to Ohio was primarily for the benefit of his campaign. Being deprived of the full text of the deposition transcripts and speeches puts the Party in the position of having to rebut statements without being aware of the specifics of the evidence against it, however. The Party is essentially shooting in the dark in attempting to respond to the charges made against it.

In anticipation of being provided copies of the transcripts and speeches at issue, at your request we are providing our firm's overnight billing accounts with Federal Express and UPS to permit you to immediately forward the documents to our office. The account numbers are:

Federal Express
UPS

If you have any comments or questions, please feel free to contact me. Thank you for your courtesy and cooperation in this matter.

Very truly yours,

Joseph E. Spencer

[2]We have also confirmed that at least one stop on the Ohio visit was an official appearance on behalf of the White House.

[3]11 C.F.R. § 110.8(e)(2)(ii).

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September 29, 1994

RECEIVED
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COUNSEL
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Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 2667

Dear Mr. Noble:

We represent the Georgia Republican Party and Marvin H. Smith, Treasurer, respondents in MUR 2667. We enclose multiple copies of the respondents' Brief for filing.

Sincerely,

Frank B. Strickland

FBS:lww

Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republicans (Federal Account/	)	MUR 2667
Non-Federal Account) and Marvin H.	)	
Smith, as treasurer	)	

RESPONDENTS' BRIEF

I. INTRODUCTION

After more than six years of investigation -- including extensive interrogatories and document requests -- the Office of General Counsel asks the Federal Election Commission ("Commission") to find probable cause against the Georgia Republican Party for the sweeping violation of making illegal expenditures in connection with President Bush's travel to Georgia during the summer of 1988. This, says the General Counsel's office, resulted in prohibited in-kind contributions to the Bush Committee.

In order to justify its finding against these Respondents, the General Counsel's Brief ("Brief") at 4-8 recites a number of events in Atlanta on July 8, 1988. Despite this tactic of guilt by association, the uncontroverted facts are that the Georgia Republican Party paid only for two events -- a reception and a dinner, both of which raised funds for the Georgia Republican Party. These events were heretofore what has been traditional party building activity -- a Party's leader (here the Vice President of the United States, then a candidate and likely presidential nominee of the Republican Party) -- appearing at an event to support all candidates on the Party's ticket and

to raise money for a state party. The events did not raise money for the national ticket and, according to two persons who filed affidavits with the Commission, it is their best recollection that neither of the Georgia Republican Party events "featured any presidential campaign type activities" nor were open to the press. Affidavits of Pamla H. Prochnow ("Prochnow Aff.) and John M. Stuckey, Jr. ("Stuckey Aff.").

The General Counsel office's position, if adopted by the Commission, would effectively negate any party building activities by a Party's nominee at events sponsored by the Party. This over-broad position (perhaps the product of an investigation that has taken too long and is replete with procedural errors and inexcusable demands for information followed by inexplicable delays by the Commission's staff) is supported in the Brief with exactly two shreds of "evidence":

- "the planning for these events was coordinated with staff from the RNC [Republican National Committee] and the Bush Committee" (the Brief neglects to tell us precisely how the Vice President, his motorcade and Secret Service escort are supposed to know where and when to go without this legally suspect "coordination"), and
- one news report of an event (closed to the media, according to the Prochnow and Stuckey affidavits), that has not been provided by the General Counsel's office.

As set forth below, the Brief strains mightily to find something to support its preordained conclusion. It fails, but in the process lays waste to any notion that a Party's standard bearer should be allowed to support a state party's ticket by appearing at an event.[1] The Brief is wrong

[1] Of course, the irony is that should the Commission find in favor of the Democrats who filed this complaint in 1988, the ruling will no doubt be used aggressively by the Republicans as they monitor the 1996 activities of President Clinton.

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as a matter of law and wrong as a matter of policy. The Commission should find no probable cause in this matter and dismiss the complaint against Respondents.

II. FACTS

This Brief spends a great deal of time on events which these Respondents did not plan, coordinate, finance or receive funds as a result of. See Brief at 4-8. The Brief wrongly blurs all the events that occurred in Georgia in this MUR. The lone events involving these Respondents were a fundraising reception for the Party held in the ballroom of the Ritz Carlton Buckhead Hotel and a fundraising dinner for the Party held at a private home. The Brief incorrectly seeks to place a direct link between these events and the Unity '88 Conference, which is apparently under investigation as a separate part of this MUR not involving these Respondents. Respondents stated in Affidavits filed three years ago, and uncontroverted by the Brief, that the locations of the reception and dinner were "chosen specifically to divorce these Victory '88 Georgia events from other events held in Atlanta on July 8 sponsored by the RNC and Bush Committee" Stuckey Aff. at 3. According to the Affidavits and other materials submitted to the Commission three years ago,[2] these events were party building events designed to raise money for the Georgia Republican Party. Numerous leaders of the national and state party were invited and appeared on the invitation, and the evening was designed as special events for the Georgia Party and its slate of candidates.

[2] Respondents do not have additional evidence to submit to the Commission, given that the events in question occurred more than six years ago. This passage of time is prejudicial to Respondents given that it becomes even more difficult for participants to remember the events in order to respond to the Brief. See 3M v. Browner, No. 91-1126 (D.C. Cir. March 4, 1994).

III. DISCUSSION

Respondents were not responsible for any of the events in this voluminous partisan complaint other than the Georgia Republican Party's fundraising reception and dinner. The facts are that these fundraising events did not benefit the Bush campaign; they benefited the grassroots party-building programs of the Georgia Republican Party and its entire ticket. Mr. Bush appeared at these events not as a candidate, but as the very visible and popular leader of the Republican Party. The evidence in this case remains sufficient to rebut the presumption of 11 C.F.R. § 110.8(e)(2)(ii).[3]

The sole reason put forth in the Brief supporting its conclusion that the Respondents fail to rebut the presumption is the broad and legally unsubstantiated notion that these events could not have been "incidental contact" since "the planning for these events were coordinated with staff from the RNC and the Bush Committee." Brief at 9. The Brief fails to include any details of what this insidious "planning" entailed. Is it what time the event started? The location? The number of people attending? The purpose of the event? The size of the room? What entrance the Secret Service should use? Whether the Vice President wants a glass of water when he speaks? The Brief fails to show that the activities here violated 2 U.S.C. §441a(a)(7)(B)(i). It

[3] Indeed, given that this case involves events now more than six years old and given that the Commission originally found reason to believe more than four years ago, and given that Respondents submitted responses more than three years ago which the Commission is just now asking Respondents to address, and given that the Commission has now (correctly) dropped its initial finding that expenditures were made with impermissible funds, this matter becomes quite simple. Basically, it boils down to whether political parties can conduct ticket-wide party building activities with their Presidential candidate, even if he or she appears not as a candidate but as a leader of the Party and, in this case, the country. It does not seem that any Respondent could have violated the Federal Election Campaign Act unless the Commission is now choosing, in some sort of crusade to eliminate political parties as we know them, to revise on its own what has previously been traditional Party-building activities.

further defies logic for the Commission to adopt on this basis the position that a state party (or any other entity) cannot, for fear of violating federal election laws, speak to a presidential or vice-presidential campaign about the logistics for an event raising funds for that party.[4]

Aside from "coordination", the Brief cites only a news report of the closed-media reception. Brief at 9. This is a very slim reed upon which to base probable cause, especially since that report is hardly damning. According to the Brief, the news report said that attendees "paid the state Republican Party $1,000 a couple to meet the likely GOP presidential nominee...The name tags were plain white cards embossed with the gold eagle of the vice presidential seal." Id. Even the General Counsel's evidence confirms that there was no solicitation for the candidate's campaign. Cf. Brief at 10. Furthermore, the materials cited are not campaign materials -- they are embossed with the vice presidential seal and not with campaign logos. Even accepting the quoted remarks as accurate (which is doubtful given that the reporter apparently did not hear them first-hand), they are not dispositive. The touchstone is whether there was express advocacy. Brief at 10. Here, there was not. A speech by a vice president discussing the "choices facing his audience" in an upcoming election is perfectly permissible for a party leader, as it must be permissible to draw distinctions between the two parties' standard bearers. This evidence is simply too weak for the Commission to find probable

[4] By way of analogy, even the Rules of the House of Representatives, which are extraordinarily strict in keeping separate official and campaign activities, recognize that there must be an exception for coordination and scheduling. As the Rules note: "Questions sometimes arise over the potential, and arguably unavoidable, overlap or intrusion of some minimal campaign-related activities into official operations when dealing with the practical, day-to-day realities of a Member's functioning office. ... Similarly, scheduling assistance and information from the Member's official staff may be requested by the campaign staff to ensure that the Member's campaign schedule does not conflict with his official agenda." House Ethics Manual (1992) at 201. Similarly, the "coordination" necessary in this case falls within the same parameters.

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cause in this matter and most certainly does not support the sweeping conclusions of the Brief at page 11.

The Brief, in its rush to confirm its conclusion no matter what facts may get in the way, also demonstrates a naiveté of politics. These events occurred at a time when the Bush campaign was no longer soliciting contributions since the primaries were over. Accordingly, there were not and could not have been solicitations for the Bush campaign. Secondly, while Mr. Bush had the nomination locked up at this time, it was too far from the Republican convention, let alone the November elections, to advocate his own election in November. The campaign, in effect, was in limbo since it was still before the Convention and Mr. Bush was not the Party's official nominee.

To decide as the General Counsel recommends would establish the rule that party building activity cannot include a presidential or vice presidential candidate without the event being completely allocable to the presidential campaign. As a practical matter, that would drastically reduce party building events for the entire ticket. That, in turn, would effectively render America's political parties perpetually ineffectual, a result certainly not intended by either the statute or the regulations.

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IV. CONCLUSION

The activities cited in the Brief fall safely within 11 C.F.R § 110.8 (e)(1)(i) as bona fide party events. The facts of the case itself as presented by General Counsel's Brief and the uncontroverted Prochnow and Stuckey affidavits rebut the presumption of 11 C.F.R. § 110.8 (3)(2)(ii). Accordingly, the Commission should find no probable cause against the Georgia Republican Party and Marvin H. Smith, as treasurer.

Frank B. Strickland

General Counsel, Georgia Republican Party
Attorney for Respondents

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1994

VIA OVERNIGHT DELIVERY

Mr. Scott W. Spencer, Esq.
Spencer & Ehrie
Suite 500
6100 Channingway Boulevard
Columbus, Ohio 43232

RE: MUR 2667
Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-federal Account and Robert K. Wilson, treasurer

Dear Mr. Spencer:

This is in response to your letter dated September 30, 1994, which we received on October 3, 1994, in which you request copies of the deposition transcripts of Mary Matalin and Patricia Susan Giardina and copies of speeches made by then-Vice President Bush and Chairman Bennett. After considering the circumstances presented in your letter, this Office is providing you with the requested documents. Please find enclosed copies of the deposition transcripts and copies of the speeches made by Mr. Bush and Chairman Bennett at the Cincinnati Unity '88 Conference. (Of note, the Ohio Republican Party previously provided this Office with a copy of Mr. Bennett's speech.)

This Office has already granted your client an extension until October 6, 1994. We expect your response on that date. If you have any questions, please telephone me at (202) 219-3690.

Sincerely,

Richard M. Denholm II
Attorney

Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	:	
	:	**MUR 2667**
Ohio Republican State Central	:	
and Executive Committee a/k/a/	:	
The Ohio Republican Party	:	
(Federal Account/Non-Federal Account	:	
and Robert K. Wilson, as treasurer	:	

AFFIDAVIT OF NORM CUMMINGS IN SUPPORT OF THE RESPONSE OF THE OHIO REPUBLICAN STATE CENTRAL COMMITTEE AND EXECUTIVE COMMITTEE TO THE BRIEF OF THE GENERAL COUNSEL

Now comes Norman B. Cummings, after first being duly cautioned and sworn, deposes and states of his own personal knowledge, information and belief:

1. My name is Norman B. Cummings.

2. I am presently campaign manager for the Blackwell for State Treasurer [Ohio] Committee and have served in that position since March 1, 1994.

3. During all of June, 1988, I was employed as a Regional Political Director by the Republican National Committee, and continued in that position at all times material herein.

4. On June 24 and 25, 1988, the Republican National Committee conducted a twenty-four state party building conference known as "Unity '88" in Cincinnati, Ohio.

5. The purpose of "Unity '88" was to organize Republican Party activists for the purpose of assisting the entire Republican ticket from the courthouse to the White House during the 1988 general election.

6. In conjunction with "Unity '88", the Republican National Committee invited Pat Robertson, Jack Kemp, Bob Dole, Alexander Haig and George Bush to speak to the attendees. In addition, numerous other incumbent Republicans either holding or then running for offices ranging from state legislatures to the United States Congress and Senate, as well as several gubernatorial candidates, were invited and attended the "Unity '88" conference held in Cincinnati.

7. The travel and hotel expenses incurred by many of the nationally known office holders were paid by the Republican National Committee.

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8. In order to fund its non-allocable GOTV activities, the Ohio Republican Party organized and sponsored two fundraising events in Cincinnati, one a dinner at the home of Dick and Joyce Farmer on June 24, 1988, the second a luncheon which I believe took place on June 25, 1988.

9. The Ohio Republican Party independently paid the expenses associated with each of these fundraising events as a component of its fundraising effort for its non-allocable GOTV campaign; most of these expenses represented costs associated with then-Vice President Bush's travel, security and housing.

10. While in Ohio, on June 26, 1988, then-Vice President Bush made an official appearance in Columbus before the national board of the Fraternal Order of Police on behalf of the White House as function of his position within the executive branch of the federal government.

11. While in the Columbus-area, then-Vice President Bush appeared at a third fundraising event at the home of John Galbreath just outside Columbus; this event was also for the purpose of raising funds necessary to finance the non-allocable GOTV activities of the Ohio Republican Party, which once again paid for certain expenses not attributable to either the "Unity '88" conference or Mr. Bush's appearance before the Fraternal Order of Police. Those expenses were incurred as a result of obtaining the Vice President's appearance at the non-allocable GOTV fundraiser.

Further affiant sayeth naught.

Norman B. Cummings

Sworn to and subscribed in my presence this 5TH day of October, 1994.

SCOTT W. SPENCER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date
Section 147.03 R.C.

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C:\TEXTNET\BUSCUMMINGS.AFF

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'ALSO ADMITTED IN INDIANA

RICHARD S. GERBER
SARA J. DANEMAN
OF COUNSEL

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

October 5, 1994

VIA UPS OVERNIGHT DELIVERY

Federal Election Commission
Lawrence Noble, Esq.
Office of the General Counsel
999 "E" Street
Washington, D. C. 20463

Re: In the matter of Ohio Republican State Central and Executive Committee a/k/a/ The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer
MUR 2667

Dear Mr. Noble:

You will find enclosed the original and ten copies of the response brief, with attached affidavits and exhibits, in regard to the above styled and captioned matter. Please time stamp and file as many copies as you require by rule, returning the extra time stamped copies to our office.

If you have any comments or questions, please feel free to contact me.

Thank you.

Very truly yours,

Scott W. Spencer

Encls.

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

OCT 6 2 34 PM '94

In the matter of	:	
	:	**MUR 2667**
Ohio Republican State Central	:	
and Executive Committee a/k/a/	:	
The Ohio Republican Party	:	
(Federal Account/Non-Federal Account	:	
and Robert K. Wilson, as treasurer	:	

RESPONSE OF THE OHIO REPUBLICAN STATE CENTRAL AND EXECUTIVE COMMITTEE TO THE BRIEF OF THE GENERAL COUNSEL

[With Affidavits and Exhibits in Support]

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I. HISTORICAL BACKGROUND

This matter was generated by four Democrat state organizations filing a complaint with the Federal Election Commission (hereinafter "FEC" or "Commission") alleging, among other claims, that then-President George Bush's appearance at two party-building events and one official function between June 24 through June 26, 1988 constituted an excess contribution by the Ohio Republican State Central and Executive Committee. In a notice dated July 11, 1994, (and not served on the State Party until on or about August 10, 1994), the General Counsel of the Commission purportedly notified the Ohio Republican State Central and Executive Committee (hereinafter "Ohio Party") that the Commission has found reason to believe that the Ohio Party and its treasurer, Robert K. Wilson (hereinafter "Treasurer Wilson"), had violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a) by allegedly making excessive in-kind contributions to the George Bush for President Committee, Inc.[1] The enforcement action resulted from the filing of a complaint and supplement filed by the Democrat Parties of Ohio, South Carolina, Tennessee and Michigan.[2] The General Counsel's

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[1]Lawrence M. Noble, FEC General Counsel correspondence, dated July 11, 1994.

[2]General Counsel's brief, page 1, dated July 8, 1994.

Brief is directed toward expenses related to appearances by then Vice-President Bush at several appearances in Cincinnati and Columbus, Ohio between June 24 through 26, 1994, related to party-building functions, as well as an official appearance before the Fraternal Order of Police on behalf of the White House.

II. THE COMMISSION'S FAILURE TO TIMELY ACT ON THIS MATTER BARS ITS PROSECUTION OF THE ALLEGED VIOLATION BY THE OHIO REPUBLICAN PARTY

The allegations against the State Party and Treasurer Wilson arose in a complaint filed with the FEC by four state Democrat Party committees on August 8, 1988, more than six years ago. The State Party was first made aware of this enforcement matter on or about August 10, 1994, more than six years after the events which allegedly resulted in a violation.

A. THE COMMISSION'S FAILURE TO COMPLY WITH THE NOTICE PROVISION OF 11 C.F.R. § 111.5 CAUSED IRREPARABLE HARM TO THE STATE PARTY'S DUE PROCESS RIGHTS AND REMAINS AN INSURMOUNTABLE DEFECT IN THE COMMISSION'S PROSECUTION OF THIS MATTER

1. The FEC's mandatory compliance regulations specify the procedures that must be followed in order for the Commission to make a reason-to-believe finding. See 11 C.F.R. §§ 111.1 - 111.23. To date, neither the State Party nor Treasurer Wilson have been provided a copy of the August 8, 1988 complaint filed by the four Democratic State Committees. 11 C.F.R. §111.5 states that:

> *(a) Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and*

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enclose a copy of the complaint.

In addition, 11 C.F.R. § 111.6 provides in part that:

> ***(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.***

The State Party and Treasurer Wilson were denied the opportunity to respond to the complaint as guaranteed by 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.5. In fact, the first time the State Party and Treasurer Wilson were aware of this enforcement matter was on or about August 10, 1994, when the Office of General Counsel sent a letter to Treasurer Wilson. That notice was given more than six years after the initial complaint was filed by the four state Democratic organizations!

In the interim substantially the entire political staff of the State Party has moved onto new endeavors, greatly compromising the ability of the State Party and Treasurer Wilson to respond. For example, a copy of the speeches made by State Party Chairman Robert Bennett and then-Vice President Bush were requested of the Commission because they were not available from either the State Party nor the George Bush for President Committee, Inc. The individuals who were involved in organizing the events addressed in the complaint are scattered literally all over the United States. As if finding the people who have information material to the defense of the State Party and Treasurer Wilson was not difficult enough, their memories are taxed by the passage of six years time. Although the Commission did finally provide copies of the depositions of Mary Matalin and Patricia Susan Giardina, as well as some one thousand three hundred pages of associated documents, they were not delivered to undersigned counsel until the afternoon of October 4, 1994. The *instant* response had

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to be deposited with an overnight delivery service to satisfy the October 6, 1994 deadline established by the Commission less than twenty-seven hours later.

B. THE STATUTE OF LIMITATIONS CREATED BY 2 U.S.C. § 437(G)(A)(1) BARS THIS ACTION

28 U.S.C. § 2462 provides that:

> *Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.*

2 U.S.C. § 437G(a)(1) provides in material part that:

> *Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. *** Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. ****

The five year bar to bringing this action should be applied by the Commission. The obvious purpose of the rights afforded by 28 U.S.C. § 2462 is underscored by *Sierra Club v. Chevron U.S.A., Inc.*, 834 F.2d 1517, 1523 (9th Cir. 1987) when the court noted that the time limitation is to "provide notice of claims and to prevent plaintiffs from 'sleeping on their rights.'" See also: *Order of R.R. Telegraphers v. Railway Express Agency*, 321 U.S. 342, 348-49 (1944).

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The United States Supreme Court has stated that statutes of limitations are:

> **** designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared. The theory is that even if one has a claim it is unjust not to put the adversary on notice to defend within the period of limitation and that the right to be free of stale claims in time comes to prevail over the right to prosecute them.*

Id. The statute of limitations set out in 28 U.S.C. § 2462 is a "general statute of limitations, applicable ... to the entire federal government in all civil penalty cases, unless Congress specifically provides otherwise." *3M Company v. Browner*, 17 F.3d 1453, 1961 (D.C. Cir. 1994). The five year statute of limitations provided in 28 U.S.C. § 2462 has been expressly held to apply to administrative proceedings such as the enforcement action now before the Commission, as well as judicial proceedings in furtherance of such administrative proceedings. See also: *Williams v. United States Dep't of Transp.*, 781 F.2d 1573, 15787 n. 8 (11th Cir. 1986); *H.P. Lambert Co. v. Secretary of the Treasury*, 354 F.2d 819, 822 (1st Cir. 1965). The concerns of lost evidence, faded memories, and unavailable witnesses are as relevant to an agency proceeding as to a court proceeding. See: *R.R. Telegraphers*, 321 U.S. at 348-49; *3M Company*, 17 F.3d at 1457. Because the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431, et seq., [hereinafter "Act"] does not include a statute of limitations, the five year statute of limitations provided in 28 U.S.C. § 2462 controls to prohibit this civil penalty action brought under the Act.

28 U.S.C. § 2462 mandates that the within action must be brought, if at all, "... within five years from the date when the claim first accrued...." For purposes of 28 U.S.C. § 2462, date when claim first accrued is date of underlying violation, not date of final administrative order assessing

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penalty. *United States v. Core Laboratories, Inc.*, 759 F.2d 480 (5th Cir. 1985). Further, the limitations period of 28 U.S.C. § 2462 is not tolled during administrative proceedings. Id. Stated another way, "... an action, suit or proceeding to assess or impose a civil penalty must be commenced within five years of the date of the violation giving rise to the penalty." *3M Company*, 17 F.3d at 1462. In this matter, the date the claim first accrued would be no later than June 26, 1988, the date on which then-Vice President Bush left the last of the events addressed in the General Counsel's Brief.[3] The claim was forever barred after June 27, 1993, five years and one day after the alleged violations occurred. The fact of the matter is that the State Party and Treasurer Wilson were first notified of the underlying complaint on after August 10, 1994, more seventy-seven months after the then-Vice President's visits to Cincinnati and Columbus. In fact, during the interim, Vice President Bush completed his term in that office, was elected President of the United States, completed a full term in that office, followed by President Clinton's election and satisfaction of one-half of his first term! Obviously, a great deal of time has passed since this matter was initiated by the four Democratic state parties.

III. THE JANUARY 11, 1991 ACTION OF THE COMMISSION HAS BEEN RENDERED A NULLITY BY THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

On October 22, 1993, the United States Court of Appeals for the District of Columbia concluded that the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees on the FEC was unconstitutional. *FEC v. NRA Political Victory Fund*, 6 F.3d 821, *cert. granted* 114 S. Ct. 2703 (1994). All actions taken by the unconstitutionally comprised Commission were null and void. In an attempt to revive a number of reason-to-believe

[3]General Counsel's brief, page 5.

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actions, the Commission "revoted" several pending cases, a procedure not authorized by the Commission's rules of procedure. The July 8, 1994 notice served on the State Party on or about August 10, 1994 notes that "... on January 17, 1991, the Federal Election Commission found reason to believe that your clients, the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and its treasurer, violated 2 U.S.C. §§ 441b(a), 441a(a)(2)(A), and 11 C.F.R. § 102.5(a) ...."[4] Inasmuch as by its own statement the Commission admits that it failed to address or correct this fatal constitutional flaw, no legitimate action was taken within or without the five-year statute of limitations provided by 28 U.S.C. § 2462. The Commission is barred by law from pursuing the allegations made against the State Party and Treasurer Wilson at this time.

IV. THE OVERWHELMING WEIGHT OF THE EVIDENCE REBUTS THE COMMISSION'S PRESUMPTION PURSUANT TO 11 C.F.R. § 110.8(e)(2)(ii) THAT THE EXPENDITURES MADE BY THE OHIO REPUBLICAN PARTY WERE FOR THE PURPOSE OF INFLUENCING HIS NOMINATION

A. THE JUNE 24 THROUGH JUNE 26, 1988 EVENTS RAISED FUNDS FOR THE OHIO REPUBLICAN PARTY'S NON-ALLOCABLE PARTY BUILDING PROGRAMS

1. NUMEROUS PRESIDENTIAL CANDIDATES AND NATIONAL PARTY LEADERS ATTENDED THE CINCINNATI VICTORY THROUGH UNITY IN '88 CONFERENCE

On June 24 through June 25, 1988, then-Vice President Bush, Senator Bob Dole, former Secretary of State Alexander Haig, Jr., Congressman Jack F. Kemp and television evangelists Pat Robertson – all 1988 Republican Party presidential hopefuls[5], visited a regional party building

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[4]General Counsel's correspondence, dated July 11, 1994.

[5]*The Akron Beacon Journal*, Sunday, June 26, 1988.

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meeting in Cincinnati, Ohio. Those in attendance included Republican National Committee Chairman Frank Fahrenkopf[6], New Hampshire Governor John Sununu[7], New Jersey Governor Thomas Kean and Senators Alphonse D'Amato of New York and Nancy Kassenbaum of Kansas,[8] former Labor Secretary Bill Brock and former Transportation Secretary Drew Lewis.[9] The travel expenses for all of the presidential aspirants as well as the governors, United States senators and many other dignitaries were paid either by the Republican National Committee.[10] Delegates for the various Republican presidential candidates from twenty-four states between New Hampshire to the Dakotas were invited, as were numerous congressional, state and local incumbents and candidates.[11] The purpose, as noted in newspaper headlines, was to create a cheerleader environment for the Republican Party. Headlines noted that "Party Hoopla Staged to Whip Up Enthusiasm for Campaign Momentum", and that "Republican Rally Peps Up Local Supporters".[12] In conjunction with the Cincinnati event, then-Vice President Bush attended a Victory '88 Major Donor Reception and a Victory '88 fundraising dinner. In addition, on June 26, 1988, then-Vice President Bush attended a Victory '88 fundraising brunch while in Columbus on an official visit arranged by the White House

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[6] *The News Journal*, Saturday, June 25, 1988.

[7] *The Cincinnati Post*, Saturday, June 25, 1988.

[8] *The Cincinnati Enquirer*, Friday, June 24, 1988.

[9] *The Plain Dealer*, Wednesday, June 22, 1988.

[10] Norm Cummings Affidavit.

[11] *The Plain Dealer*, Wednesday, June 22, 1988.

[12] *The Cincinnati Enquirer*, Saturday, June 25, 1988.

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to appear before the board of the Fraternal Order of Police.[13] The Victory '88 fundraising events in Cincinnati and Columbus funded approximately one-half of the total State Party budget for exempt, non-allocable party building activities such as GOTV drives, voter registration, absentee ballot programs, distribution of slate cards and sample ballots and operation of phone banks.[14] All three of the Ohio Victory '88 fundraising events were sponsored and paid for by the Ohio Republican Party.[15]

11 C.F.R. § 110.8(e)(1)(i) provides in material part:

> *(e)(1) A political party may make reimbursement for the expenses of a candidate who is engaging in party-building activities, without the payment being considered a contribution to the candidate and without the unreimbursed expense being considered an expenditure counting against the limitations in (a)(1) or (2), as long as--*
>
> *(i) the event is a bona fide party event or appearance; and*
>
> *(ii) no aspect of the solicitation for the event, the setting of the event and the remarks or activities of the candidate in connection with the event were for the purposes of influencing the candidate's nomination or election.*

In addition, 11 C.F.R. 106.1(b)(1) and (2) provides in pertinent part that:

> *(1) Expenditures for rent, personnel, overhead, general administrative, fundraising and other day-to-day costs of political committees need not be attributed to individual candidates, unless these expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.*
>
> *(2) Expenditures for educational campaign seminars, for training of campaign workers and for registration*

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[13]Norm Cummings Affidavit.

[14]James Wray Affidavit.

[15]James Wray Affidavit.

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> *or get-out-the-vote drives of committees need not be attributed to individual candidates unless these expenditures are made on behalf of a clearly identified candidate, and the expenditure can be directly attributed to that candidate.*

Then-Vice President Bush was the draw by which the State Party raised funds used solely for GOTV drives, voter registration, absentee ballot programs, distribution of slate cards and sample ballots and operation of phone banks. Pursuant to the provisions of 11 C.F.R. 110.8(e)(1)(i) and 11 C.F.R. 106.1(b)(1) and (2), the State Party was permitted to pay for the travel and associated expenses associated with raising funds to pay for its non-allocable party building efforts. It was those very efforts which were funded with the appearances of then-Vice President Bush at the Cincinnati and Columbus Victory '88 fundraisers. Those fundraisers paid for approximately one-half of the State Party's non-allocable party building efforts.[16] The expenses associated with then-Vice President Bush's appearance were legitimate "expenditures" relating to "fundraising" efforts to finance the State Party's non-allocable party building program.[17]

As is noted in materials provided to the Commission by the Republican National Committee, entitled "Victory '88, Voter Contact Program Activities":

> *The Victory '88 voter contact program consists of a menu of activities to be carried out by state and local party organizations with funds raised in accordance with FEC guidelines. Funds expended on these programs are not allocable to the nominee's total campaign budget. Further, there are no limits on the amount of funds which can be spent on these activities.*

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[16]Norm Cummings Affidavit.

[17]Robert Bennett Affidavit.

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The activities are:

I. *Voter Registration*
***

II. *Voter List Development*
***

III. *Volunteer Material*
***

IV. *Presidential Phone Banks*
***

V. *Voter Contact Mail*
***

VI. *Ballot Security*
***

[Page 33, materials subpoenaed from Matalin and Giardina]

2. THEN-VICE PRESIDENT BUSH'S CINCINNATI APPEARANCES WERE FOR A BONA FIDE PARTY EVENT AND NOT FOR THE PURPOSE OF INFLUENCING HIS PRIMARY ELECTION

In association with his appearance in Cincinnati on June 24 and June 25, 1988, then-Vice President Bush undertook the role of "preacher preaching to the choir." In addition to speaking to a meeting of "key GOP Regional Leaders"[18], a "GOP Women Leadership meeting"[19], then-Vice President Bush met with a group of Republican Agricultural leaders.[20] His appearances were for the purpose of party building and not to influence his primary election. At the time of the Vice President's Ohio appearances, the Ohio presidential primary had already occurred. Ohio Revised Code § 3501.01(E) provides that:

> *(E) "Primary" or "primary election" means an election held for the purpose of nominating persons*

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[18]General Counsel's Brief, page 5.

[19]General Counsel's Brief, page 5.

[20]James Wray Affidavit.

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> *as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties and as delegates and alternates to the conventions of political parties. Primary elections shall be held on the first Tuesday after the first Monday in May of each year.*

The "first Tuesday after the first Monday in May" of 1988 fell on May 3rd. The Republican National Convention occurred in mid-August, 1988. Therefore, at the time of their appearance in Cincinnati, none of the presidential candidates -- including then-Vice President Bush -- could alter the delegates committed to their respective candidacy as their appearance was after the date of the Ohio primary but before the national convention. The only purpose served by the appearance of all of the presidential candidates was party unity and building organizational strength from the local to the national level. Incumbent and challenger candidates for state legislature to the United States Senate who had been nominated at the primary election were in attendance at the Cincinnati "Victory Through Unity in '88 Conference." The "Victory Through Unity in '88 Conference" was paid for by the Republican National Committee.[21] The evidence provided to the Commission by the Republican National Committee confirms that it paid for the appearances of all of the individuals noted on page 1, above.[22] The appearance of those national party leaders was the attraction which permitted the State Party to raise funds necessary to pay for its non-allocable party building programs. The Republican National Committee separately paid for the party building Unity '88 conference which was held in conjunction with the Victory '88 fundraisers sponsored by the State Party.

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[21]General Counsel's Brief, page 5.

[22]See hotel and associated expenses which reflect payment by the Republican National Committee, attached hereto.

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3. THE PRESUMPTION CREATED BY 11 C.F.R. § 110.8(e)(2)(ii) IS REBUTTABLE, NOT CONCLUSIVE

Pursuant to 11 C.F.R. § 110.8(e)(2)(ii), there is created a presumption that the June 24 through June 26 visit constituted campaign related activity; however, such presumption may be rebutted by contrary evidence. A "'presumption' is not 'evidence;' its efficacy is lost when the opposite party adduces prima facie evidence to the contrary." *Amend v. Bell*, 570 P.2d 138, 141 (Wash. Sup. Ct. 1977). Rather, a "presumption" is a legal device which operates in the absence of other proof to require that certain inferences be drawn from the available evidence." *Pot Terminal & Warehousing Co. v. John S. James Co.*, 92 F.R.D. 100, 106 (D.C. Ga. 1981).

Then-Vice President Bush's June 24 through 26, 1988 visit to Ohio was not campaign related activity. The trip to the two cities was for the sole purpose of party-building and fundraising in conjunction with such activities. The mere fact that George Bush, Pat Robertson, Jack Kemp, Al Haig or Bob Dole were candidates for the office of President of the United States does not conclusively establish that any of their visits were prohibited campaign-related activity. See e.g., Advisory Opinion 1980-22, Fed. Election Camp. Fin. Guide (CCH), ¶ 5479 (April 15, 1980); Advisory Opinion 1978-56, Fed. Election Camp. Fin. Guide (CCH), ¶ 5373 (November 20, 1978); Advisory Opinion 1978-15, Fed. Election Camp. Fin. Guide (CCH), ¶ 5304 (March 30, 1978); Advisory Opinion 1977-54, Fed. Election Camp. Fin. Guide (CCH), ¶ 5301 (March 24, 1978); and Advisory Opinion 1977-42, Fed. Election Camp. Fin. Guide (CCH), ¶5313 (May 12, 1978). The Commission has historically examined the event in question to determine whether the primary purpose was related to campaign or party-building. The evidence before the Commission demonstrates that the events in Cincinnati and Columbus on June 24 through June 26, 1988 were for the purpose of

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building the state and national party, financing the non-allocable party-building efforts of the State Party and to permit centralized campaign education. It is clear that the evidence -- not speculation -- offered by the State Party and Treasurer Wilson rebutted the presumption erroneously reached by the General Counsel's staff.

V. THE REMARKS SINGLED OUT BY THE FEC AND SET FORTH IN THE JULY 8, 1994 GENERAL COUNSEL'S BRIEF DO NOT SATISFY THE "EXPRESS ADVOCACY" STANDARD WHEN TAKEN AS A WHOLE

This case, reduced to its essence, turns on whether a few phrases taken out of context from some one thousand five hundred pages of testimonial and documentary evidence converted a party building convocation into an event having the primary purpose of "expressly advocating" the election of the Vice President to the office of the President of the United States in the 1988 general election. The clear and overwhelming evidence is that the events of three days, taken as a whole, were not for the purpose of "express advocacy". Only if these selected phrases, taken as a whole and in context, satisfy the "express advocacy" standard established by the courts of this nation could the State Party's approximately $20,000 in expenses possibly constitute "expenditures" on behalf of the George Bush for President Committee, Inc. The FEC claims that the following phrases "expressly advocated" the election of then-Vice President Bush in 1988:

> *We are united today because we know that the choice our nation will have to make this November is a profound as any we have ever faced. It is a choice not just between two different styles of government, but between two fundamental values and principles -- between two fundamentally opposed views of what America is and what it should be.*

In addition, the Commission alleges that an extemporaneous speech made by Robert T. Bennett, Chairman of the State Party, "expressly advocated" then-Vice President Bush's election. In

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his welcoming remarks to the attendees, Chairman Bennett said:

> *Good Afternoon. It is a great pleasure and honor for me to be able to welcome the leaders of the Republican Party to the Great State of Ohio.*
>
> *Ohio has long been the crossroads of America. From the earliest days of our nation, the principal routes of commerce passed through Ohio and Ohioans were playing a key role in shaping our nation through agriculture, our industry and our contribution to the political and social fabric of America. In the 1800's, Ohio was a key stop on a route of another kind ... the underground railroad as former slaves found freedom at the end of their journey through Ohio. The industrial revolution which transformed America into the most productive nation in the world, began in the steel mill's and factories of Cleveland and Youngstown. It was right here in Cincinnati that the leadership developed to market the crops and livestock of our farms to a hungry nation. Throughout this history of this nation, Ohio and Ohioans have played crucial roles in the direction of America.*
>
> *America is at another crossroads today. It is a political crossroad in which this nation must decide where we go from here. And, once again, that crossroad is in Ohio. There is no question that Ohio will be a pivotal state in choosing the next president. That choice will determine whether the nation follows George Bush in blazing a trail into a bright future for America, or doubles back into the dead end maze of failed and flawed policies of Michael Dukakis and the Democratic Party.*

The State Party suggests that the law clearly requires a great deal more to satisfy the "express advocacy" standard required to be proven by the FEC..

In FEC v. Colorado Republican Federal Campaign Committee, 839 F. Supp. 1448, 1453-55 (D. Colo. 1993), the court reiterated the well-established rule that, in order to constitute an

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"expenditure" to a candidate, an expense must be made to "expressly advocate" the elation or defeat of a clearly identifiable candidate. Se, FEC v. Furgatch, 807 F.2d 857, 864 (9th Cir.) cert. denied 484 U.S. 850 (1987); FEC v. Central Long Island Tax Reform, 616 F.2d 45, 53 (2nd Cir. 1980). In Orloski v. FEC, 795 F. 2d 156 (D.C. Cir. 1986), the Commission itself advocated the adoption of the "express advocacy" standard. In adopting the Commission's interpretation, the D.C. Circuit noted:

> *"[T]he FEC's interpretation is consistent with Buckley [v Valeo, 424 U.S. 1 (1976)], in which the Supreme Court held that under the first amendment, the phrases 'for the purpose of influencing any election 'must be defined as the 'express advoca[cy] [of] the election or defeat of a clearly-identifiable candidate,' a definition that was subsequently incorporated in the Act. See 2 U.S.C. § 431 (17). To be sure, the Court limited these definitions to those provisions curtailing or prohibiting independent expenditures. This definition is not constitutionally required for those statutory provisions limiting contributions, see, Buckley, supra, 424 U.S. at 78-80, 96 S. Ct. at 663-664. Nonetheless the fact that Court in Buckley, formulated these definitions for this statutory language demonstrates that the FEC's similar interpretation of the same language is logical reasonable, and consistent with the overall statutory framework. The fact that the FEC adopted this interpretation for all relevant statutory provisions, even where not constitutionally required, only adds to its reasonableness for it enhances the consistency and evenhandedness with which the FEC ultimately administers the Act."*

Orloski, supra, 795 J.2d at 166-167 (emphasis added). Therefore, the State Party respectfully asks the Commission to adhere to the "express advocacy: standard in the present situation in order to maintain the "consistency and evenhandedness with which the FEC ultimately administers the Act."

The United State Supreme Court defines "express advocacy" as "express words of advocacy

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of election or defeat such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' or 'reject.'" Buckley, supra, 424 U.S. at 46 n.52. In Furgatch, supra, 807 F.2d at 864, the Ninth Circuit Court of Appeals set forth the "express advocacy" standard as follows:

> *"First, even if it is not presented in the clearest, most explicit language, speech is 'express' for present purposes if its message is unmistakable and unambiguous, suggestive of only one plausible meaning. Second, speech may only be termed 'advocacy' if it presents a clear plea for action, and this speech that is merely informative is not covered by the Act. Finally, it must be clear what action is advocated. Speech cannot be 'express advocacy of the election or defeat of a clearly identified candidate' when reasonable minds could differ a s to whether it encourages a vote for or against a candidate or encourages the reader to take some kind of action."*

The Court in Colorado Republican Federal Campaign Committee, supra, held that the following advertisement did not constitute, "express advocacy":

> *"Here in Colorado we're used to politicians who let you know where they stand, and I thought we could count on Tim Wirth to do the same. But the last few weeks have been a real eye-opener. I just saw some ads where Tim Wirth said he's for a strong defense and a balanced budget. But according to his record, Tim Wirth voted against every new weapon system in the last 5 years. And he voted against the balanced budget amendment.*
>
> *Tim Wirth has a right to run for the Senate, but he doesn't have a right to change the facts."*

839 F. Supp. at 1451. According to the Court in that case:

> *"Even assuming the Advertisement indirectly discourages voters from supporting Wirth, it does no contain the direct plea for specific action required by Buckley and Furgatch."*

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Colorado Republican Federal Campaign Committee, supra, 839 F. Supp. at 1455.

Similarly, contrasting two substantially different philosophies of government does not rise to the standard of "express advocacy". The statement "It is a choice not just between two different styles of government, but between two fundamental values and principles -- between two fundamentally opposed views of what America is and what is should be" is not "express advocacy". Likewise, an address which underscores the importance of Ohio to the presidential election process is not "express advocacy" Both of these statements are expressions of hope which contain a direct plea for action for the nation and party. Accordingly, based on Buckley, supra, and Orloski, supra, the remarks singled out by the FEC do not satisfy the "express advocacy" standard. Therefore, the State Party made no "expenditures" on behalf of the George Bush for President Committee, Inc. in 1988.

This is consistent with the testimony of Patricia Susan Giardina, regional finance director of the Republican National Committee in June, 1988. Ms. Giardina testified during her August 3, 1992 deposition that there were no Bush for President balloons, signs, hats or other campaign material distributed to the attendees of the "Unity '88" conference in Cincinnati. [Giardina Depo. Tr. 48, 54, 64 and 83] It was her testimony that the only banner in the conference said "Victory '88" and the handmade signs in the room "were rally signs, victory in November, rah rah kind of signs". [Giardina Depo. Tr. 64 and 83] She also testified that the Republican National Committee did not do any fundraising in association with any "Unity '88" or "Victory '88" event. [Giardina Depo. Tr. 23, 25, 68 and 70] Ms. Giardina testified that the purpose of the conference was to "... bring together the grassroots people who become involved in campaigns and bringing them together to discuss the general election campaign and kind of kicking off the campaigns in general, rallying them together

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to get them excited about the November election." [Giardina Depo. Tr. 46] She further explained that "Part of the Victory '88 program would be voter contact. *** It would be a variety of ways to contact voters, telephone, direct mail, door to door, that type of thing." [Giardina Depo. Tr. 61]

Finally, the FEC alleged that in conjunction with the Cincinnati "Unity '88" conference, "press rooms" were set up "to provide a platform for Mr. Bush to make comments regarding his candidacy and to answer questions."[23] Ms. Giardina was asked about a "formal press conference" having been arranged for then-Vice President Bush in Cincinnati. She testified that "I'm not sure what you mean by 'formal.' It was more of a spontaneous press conference." [Giardina Depo. Tr. 73]

VI. THE VICE PRESIDENT'S JULY 26, 1988 APPEARANCE BEFORE THE FRATERNAL ORDER OF POLICE WAS AN OFFICIAL FUNCTION ON BEHALF OF THE WHITE HOUSE

On Sunday, June 26, 1988, then-Vice President Bush spoke to the national board of the Fraternal Order of Police in an address which discussed initiatives in the war against drug trafficking. Included in the speech were proposals to use unneeded military bases as prisons[24] and to impose the death penalty against "drug kingpins".[25] During his appearance before the police organization, there was no discussion of Mr. Bush's election effort and therefore no "express advocacy" necessary to convert his appearance into a partisan event.

VII. THE THEN-VICE PRESIDENT'S JULY 26, 1988 APPEARANCE AT THE VICTORY '88 BRUNCH AT THE HOME OF DAN GALBREATH WAS FOR THE PURPOSE OF FINANCING THE STATE PARTY'S NON-ALLOCABLE GOTV PROGRAM

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[23]General Counsel's Brief, page 7.

[24]*The Washington Times*, June 27, 1988.

[25]*The Dayton Daily News*, June 27, 1988.

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The complaint further challenges the Vice President's July 28, 1988 attendance at a Victory '88 brunch at the home of Dan Galbreath outside Columbus, Ohio. The Commission alleges that the inclusion of the statement "The Vice President needs our support to do all the things necessary to carry Ohio -- a MUST WIN state" transformed the fundraising event into a fundraising effort on behalf of the Bush campaign. As demonstrated above, the State Party was solely responsible for the two Cincinnati and one Columbus fundraising events. All of the funds raised were deposited into the State Party's non-allocable GOTV account and used expressly for that purpose. The State Party did reimburse the travel and associated expenses related to those fundraising appearances as permitted by 11 C.F.R. § 110.8(e)(1)(i) and 11 C.F.R. § 106.1(b)(1) and (2). The Commission alleges that because State Party Chairman Bennett, in a thank you note sent to contributors to the June 26, 1988 brunch after the event had taken place, wrote that the funds would be "... instrumental in electing George Bush the next President of the United States," the event was impermissible. In fact the funds were intended to, and did, benefit the entire Republican ticket from the courthouse to the White House through the State Party's non-allocable GOTV activities.

The Victory '88 brunch at the home of Dan Galbreath complies with the spirit and letter of the law.

How a single phrase from a thank you note influenced the Vice President's election? The FEC suggests that this sentence "clearly solicited support in 'electing George Bush the next President of the United States.'"[26] That position ignores the fact that the communication was sent after the contributors had made their donation to the "Victory '88" account. As indicated earlier in this response, such a suggestion eviscerates the well-established "express advocacy" standard. A mere

[26]General Counsel's Brief, page 12.

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"hope" or thank you is not express advocacy.

Moreover, by focusing in on this single sentence of a thank you note, the FEC ignores the real purposes of the Victory '88 fundraising events.

First, the Victory '88 luncheon, dinner and brunch were bona fide party events. The State Party planned the events. Expenses for the events were paid as fundraising expenses for the State Party's non-allocable GOTV account. Similarly, all proceeds from the event went into the State Party's non-allocable GOTV account. Since the Vice President was the Republican Party's second highest office holder, the Vice President attended the Victory '88 events as a principal fundraising draw, and not as a candidate for President.

Second, no aspect of the solicitation for the Victory '88 events, the setting of the events, and the remarks or activities by the Vice President in connection with the events were for the purposes of influencing the Vice President's election to the office of President of the United States. The purpose of the Vice President's attendance at the Victory '88 events was for party-building activity, including, but no limited to, fundraising for the State Party, promoting voter recognition of party identity and ideology, without reference to an individual candidate or election. In short, to the best of the State Party's knowledge, the Vice President spoke in general party-building terms at all the Victory '88 events, and not about the Presidential campaign. Thus, the Vice President's attendance at the Victory '88 events benefitted the State Party both financially and otherwise. There can be no question that the Vice President's July 24, 25 and 26, 1988 attendance at the Victory '88 events in Cincinnati and outside Columbus constitutes party-building activity.

VIII. CONCLUSION

For reasons set forth herein, the State Party and Treasurer Wilson submit that a probable cause to believe finding concerning the allegations in this matter would be unwarranted.

Respectfully submitted,

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Concessions to Jackson may ensure convention harmony for Democrats

By Larry Eichel
Associated Press

Jesse Jackson got much of what he wanted as a Democratic committee made significant [illegible] Saturday in the rules governing how the party will choose its future presidential nominees.

The revisions, contained in an agreement hammered out in Washington between negotiators for Jackson and nominee-apparent Michael S. Dukakis, do not apply to the 1988 nomination fight — which helps explain why Dukakis was willing to give ground in the hopeness of keeping the peace.

And the peace was kept. By adopting the package unanimously, the Democratic rules committee guaranteed that there will be no rules fights on the floor of the Democratic National Convention next month in Atlanta.

In general, the changes ensure that the makeup of future conventions will more closely reflect the

popular vote in state caucuses and primaries. Jackson has frequently complained that his delegate total is smaller than it would be if party rules called for true proportional representation.

Jackson's chief representative at the Washington meeting, Harold Ickes, called the agreement a "fair and equitable compromise; we're pleased with it." Dukakis' rules negotiator, Ted Devine, also termed the changes a "compromise" and said, "A number of these changes are very positive."

Both men talked of a spirit of cooperation and unity, and the tenor of the meeting seemed to reflect it. There was no visible rancor. There was, in fact, no dissent whatsoever. Instead, there was a lot of talk about winning in November.

"The whole thing was a natural compromise," said Elaine Kamarck, an expert on party rules. "Remember, Dukakis didn't have a stake in these things, and nothing they're doing has any bearing on the nomination. So if you're Mike Dukakis, you go along. What do you care about 1992? You just want to get through the convention."

Under the new rules, which are to be ratified in Atlanta, the number of party officers and elected officials — the "superdelegates" — would be cut from the current total of 643 to 384 by eliminating automatic seats for members of the Democratic National Committee. The result would be to cut the superdelegates as a share of the total convention from more than 15 percent to about 10 percent.

In other campaign news reported Saturday:

• The Democratic Platform Committee, meeting in Denver, roundly rejected a call from the Jackson campaign for higher taxes on the wealthy and a Pentagon freeze as it headed toward adoption of a succinct platform tailored to Dukakis' stands.

• For the first time in 50 years, the Republican Party is close to matching the Democrats in numbers, a party adviser said Saturday in Cincinnati.

Robert Teeter, pollster for Vice President George Bush's campaign, spoke to Republicans from 34 states gathered at a two-day unity conference.

He said that while polls still indicate the GOP is running slightly behind the Democratic Party in popularity, "the fact is, we are doing a better job attracting the younger people."

To win the presidency in November, however, Republicans must attract independents and some Democrats as President Reagan did in the past two elections, he said.

On Friday, party Chairman Frank J. Fahrenkopf Jr. said the presence on the Democratic ticket of Ohio Sen. John Glenn, often mentioned as a prospect for the vice presidential nomination, would make the GOP's job more difficult.

Former GOP presidential hopefuls Pat Robertson, Senate Minority Leader Bob Dole and Alexander M. Haig Jr. also addressed the session Saturday, saying they would be surrogate speakers for Bush, the probable Republican nominee.

• The New York Times said that, based on experience, regional appeal and campaign skills, Dole is emerging as the early choice of top aides and advisers to Bush for the second spot.

• Bush urged Iowa Republicans by telephone from Washington to help him and underscore the "enormous differences" he has with Dukakis.

"The point is, I believe, if we can do that and do it with integrity, the American people are going to see the clearest-cut choice in an election since the McGovern-Nixon race in 1972," Bush told the state party convention.

Associated Press

Sen. Bob Dole addresses Republicans in Cincinnati

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Bush expects Ohio to be key battleground

News Journal, Mansfield, O. Saturday, June 25, 1988

CINCINNATI (AP) — Vice President George Bush said Friday that Ohio will be a key battleground in the 1988 presidential election, particularly if U.S. Sen. John Glenn is on the Democratic ticket.

But Bush said he would not write off the state and its 23 electoral votes to the Democrats.

"I think I can win in Ohio when people realize we've done a good job with the economy and with the agricultural bill," Bush said.

The vice president was here to open a two-day regional Republican conference. He used the occasion to attack Michael Dukakis, the governor of Massachusetts and likely Democratic nominee.

"I've said that I want to use this campaign to talk about the fundamental differences between our party and our opponent's," Bush said. "Those differences were brought into high relief with the announcement yesterday by the governor of Massachusetts of a $115 million tax hike for his state.

"In his announcement, he said this represented a sharp contrast with the policies of this administration. I couldn't agree more."

Bush said the Reagan administration cut taxes and pledged, if elected, that he would not raise taxes of any kind for four years.

The vice president's schedule included private meetings with women's groups. He said he is aware he trails Dukakis among women and acknowledged a special effort to address women's issues.

However, Bush said he remained opposed to the equal-rights amendment while expressing support for women's rights.

The vice president expressed what he called deep concern over the drought that has affected Ohio and other Midwestern states this spring.

"I want to assure the agricultural community of Ohio that I am deeply concerned about their fears," Bush said. "Their fears are being realized in Washington, and we're working desperately to put together a program, and it's a bipartisan effort."

Asked about the role that pollution from the burning of coal and other fuels might be playing in the drought about restricting that pollution. He favors using ethanol and methanol to cut down the use of oil, and use of nuclear power instead of coal-burning. In areas dependent on coal, Bush said he favors cleaner burning of it.

Glenn, D-Ohio, has been mentioned frequently as a possible running mate for Dukakis. While Glenn has said he would consider the second spot, he has not indicated that it has been offered.

Frank J. Fahrenkopf Jr., chairman of the Republican National Committee, said Glenn's presence on the ticket would make the GOP's job more difficult.

"We're not going to discredit his record. That's something for the people of Ohio to judge," Fahrenkopf said of Glenn. "He is a national hero. People take a lot of pride in that, and it can transcend party affiliations."

Fahrenkopf said the November campaign would be three-pronged, focusing on the economy, comparisons between Bush and Dukakis, and Bush's vision of the future.

Republicans from 24 states are attending the two-day regional GOP conference billed as a unity rally and strategy session for the November elections.

The gathering is one of three regional conferences the Republican National Committee is sponsoring across the country this year. Invitations for the rally were sent to party officials, GOP elected officials and party delegates from New England to the Dakotas.

Bush delegates and alternate delegates who have supported other GOP presidential candidates were invited to the rally, officials said.

Other GOP presidential contenders were expected to attend the gathering, including Sen. Robert Dole of Kansas, television evangelist Pat Robertson and former Secretary of State Alexander Haig Jr. Also expected were GOP National Committee Chairman Frank Fahrenkopf, Sen. Alfonse D'Amato of New York, governors John Sununu of New Hampshire and Thomas Kean of New Jersey, Bush campaign officials and Maureen Reagan, daughter of President Reagan.

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The Cincinnati Post

SATURDAY, JUNE 25, 1988

LAWRENCE A. LAMBERT/The Cincinnati Post

New Jersey Gov. Thomas Kean, left, Kansas Sen. Robert Dole and Vice President George Bush, all here Friday for a GOP unity rally, were critical of the Democrats' apparent presidential nominee, Massachusetts Gov. Michael Dukakis, for approving a state tax increase.

Bush shows GOP fighting form

By Bob Hanshaw
Post staff reporter

The spirited George Bush who swept through Cincinnati Friday is the man Republicans think can knock out Massachusetts Gov. Michael Dukakis in November.

Vice President Bush, displaying pugnacity that dismayed party faithful, came out swinging against Dukakis during opening proceedings of the "Unity 88" conference, a two-day strategy session for Republicans from 23 states.

During an afternoon press conference, and throughout a packed rally later at the Clarion Hotel's grand ballroom, Bush took swipes at Dukakis' record, especially on the issue of taxes. Dukakis Thursday signed a $40 million cigarette tax bill and said he supported raising another $75 million in taxes.

Bush said he strongly opposes tax increases of any form.

"I will not raise your taxes, period. He just has, in his home state, and refuses to rule out a tax hike for the nation," Bush said. "We know what that means."

Bush also verbally pounded Dukakis for supporting prison furlough programs, refusing to sign a bill requiring teachers to lead students in the Pledge of Allegiance and supporting an increase in the capital gains tax.

Bush's conservative message, echoed by Republican-standard bearers like Republican National Committee Chairman Frank Fahrenkopf Jr., Kansas Sen. Robert Dole, Pat Robertson and New Hampshire Gov. John Sununu — a few of the GOP leaders who spoke at the rally — played well among the 1,100 who attended.

"He has charisma. He's nice looking. He comes across as the all-American boy," said Tina Braley, 28, of Duluth, Ga., in town for another convention. "He's definitely what you look for in a president."

Bush, who arrived in Cincinnati at 1:15 p.m. Friday, also met with Republican women, farm leaders, major donors and regional organizers. He left Cincinnati at 10 p.m. after attending a private fund-raiser.

The conference, which attracted 250 organizers, continues today with strategy sessions featuring Robertson, Dole and Alexander Haig, all former Bush opponents.

No Republican has been elected president this century without winning Ohio, and both Bush and Fahrenkopf described Ohio as a "key battleground." They said the state will be much tougher to take if Dukakis chooses Sen. John Glenn, D-Ohio, as his running mate.

As for choosing his own running mate, Bush said he is "maximizing the suspense factor, so that when we go to New Orleans (for the GOP convention, Aug. 15-18) everyone is 100 percent surprised."

Asked whether he had ruled out being the vice presidential candidate, Dole — President Gerald Ford's running mate in 1976 — said: "I never rule in or out anything."

Bush downplayed the lead Dukakis holds in many polls. Fahrenkopf, pointing out that it's difficult to run in the shadow of a president, said Bush is just beginning to distinguish himself from Ronald Reagan.

The vice president made moves in that direction, distancing himself from the controversy over Panamanian strongman Manuel Antonio Noriega and turmoil in Reagan's Justice and Defense departments.

"The things I've run in my life have been clean," Bush said. "Nobody has ever, that I know of, leveled any charges against me."

Bush and Dole met with 20 area farmers to talk about the effects of the drought on crop and livestock production. Farmers are asking that the federal government extend deadlines to pay back loans and release surplus grains to feed livestock.

Tom McMillan, a Wilmington, Ohio, farmer and a Dole supporter, was asked if a continued dry spell could hurt Bush's chances.

"This drought is not political," said the 60-year-old farmer. "It's going to hurt you, it's going to hurt me, it's going to hurt everyone who eats three meals a day, eventually.

"This is not a partisan thing."

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THE CINCINNATI ENQUIRER Friday, June 24, 1988

Bush here today for GOP rally

Ohio's importance makes Republicans turn up the heat

BY HOWARD WILKINSON
The Cincinnati Enquirer

When Vice President George Bush arrives in Cincinnati this afternoon, he'll be coming to a state that may hold the key to his winning the presidency this fall.

Ohio, with its 23 electoral votes, is considered by most political professionals to be one of a handful of states — which includes California and New Jersey — where the stakes are highest and where the battle between Bush and Democratic nominee Michael Dukakis will be fought the hardest.

Robert Bennett
. . . Ohio GOP leader

That's part of the reason the Republican National Committee chose Cincinnati as a site for one of its "Unity 88" weekends, where Republicans from around the region gather for old-fashioned hoopla and cheerleading by nationally-known GOP leaders.

Bush is scheduled to be here today for some private fund-raisers and a GOP rally at the Clarion Hotel. The vice president will leave Cincinnati tonight, but hundreds of GOP activists from around the midwest will stay behind for a day of speech-making.

Expected to attend the Saturday sessions at the Clarion are three of Bush's former rivals for the Republican nomination, Senate Minority Leader Robert Dole, former TV evangelist Pat Robertson and former Secretary of State Alexander Haig, along with other GOP notables such as Sen. Alphonse D'Amato of New York, Sen. Nancy Kassenbaum of Kansas, and Gov. Thomas Kean of New Jersey.

When Ohio Republicans look at the presidential campaign and Bush's chances of winning Ohio, they see a "wild card" in the form of U.S. Sen. John Glenn of Ohio, who is said to be under serious consideration as Dukakis' running mate.

Ohio GOP chairman Robert Bennett, who arrived in Cincinnati Thursday for the weekend conference, said there is "no doubt" Glenn's presence on the ticket would make a difference for the Democrats, but said Ohio could still be won by Bush.

"I don't think a New England liberal can get elected," Bennett said. "It would have to be an extraordinary person and that person is not Mike Dukakis."

In Ohio, Bennett said, Bush will win by keeping the votes of the blue collar and ethnic voters of the state who gave Ohio to Ronald Reagan in 1980 and 1984.

The state's blue collar, ethnic voters may have a history of electing Democrats to state and local offices, Bennett said, but in national elections, they tend to go to the Republicans.

Bennett's counterpart in the Ohio Democratic party, state chairman James Ruvolo, said there are two reasons Dukakis will win Ohio, even without Glenn on the ticket — "Reagan's policies and Bush's personality."

"Bush is not a leader; and voters in Ohio are going to see that," Ruvolo said.

"As far as Reagan's policies are concerned, the industrial Midwest has not been helped by the Reagan administration and the farm policy has been a disaster. This is going to be decided on issues; and, on issues, the Democrats win," he said.

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The Cleveland Plain Dealer
Wednesday, June 22, 1988

Bush is set to address regional GOP conference

CINCINNATI (AP) — Vice President George Bush is to address the opening of a two-day Republican Party regional conference drawing party faithful from 24 states.

Billed as a unity rally, the Cincinnati gathering Friday is one of three regional conferences the Republican National Committee is sponsoring nationwide this year. Invitations for the rally were sent to party officials, GOP elected officials and party delegates from New England to the Dakotas, a spokesman said.

Those invited include Bush delegates and alternate delegates who have supported other GOP presidential candidates this year, officials said.

The gathering will allow party strategists and convention-bound delegates to discuss plans aimed at defeating the Democrats this fall, Bush campaign spokesman Tahlman Krumm Jr. said.

Also expected are GOP National Committee chairman Frank Fahrenkopf; Sen. Alfonse D'Amato of New York; Govs. John Sununu of New Hampshire and Thomas Kean of New Jersey; Bush campaign officials including national manager Lee Atwater; Bill Brock, a former labor secretary and Tennessee senator; former Transportation Secretary Drew Lewis; and Maureen Reagan, daughter of President Reagan.

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Bush takes hard line on raising taxes

VP rules out increase, says Dukakis refuses to

BY HOWARD WILKINSON
The Cincinnati Enquirer

If George Bush plans to paint Michael Dukakis as a tax-and-spend liberal in the fall campaign, he laid on the first coat Friday in Cincinnati.

"Michael Dukakis has refused to rule out raising taxes as a first resort," Bush told a crowd of about 600 Republicans at the party's "Unity '88" rally. "Well, I won't raise taxes in the first, second, third or fourth resort."

Bush stated his position even more clearly at press conference before the rally: "I will not raise your taxes, period. He (Dukakis) just has, in his home state."

The vice president criticized Dukakis, the governor of Massachusetts, for announcing on Thursday a $115 million tax increase in his state to close a budget deficit. Most of the package is made up of increases in excise taxes, such as the tax on cigarettes.

The vice president indicated he would go even farther than President Reagan in ruling out all forms of new taxes, including excise taxes.

The tax increase was not the only issue to draw Bush's fire Friday, and Bush told Republicans why he was making his attack on the Dukakis record now.

"Michael Dukakis has been in the position that he is because of where Jesse Jackson has been coming from. It made Dukakis look like a conservative or moderate," Bush said.

"I've been beat on pretty good by the Democrats and now I'm getting my turn; and you know, I kind of like it."

Bush's visit to the rally kicked off a two-day session of non-stop beating on Democrats.

The Vice President was accompanied during his visit at the Clarion Hotel by nationally known Republicans. They included two of his vanquished opponents for the GOP nomination, Senate Minority Leader Robert Dole and Pat Robertson, former TV evangelist.

The Cincinnati conference, which runs through today, is the second of three across the country before the Republican convention in New Orleans. An earlier one was in Denver, and another is to be held in Atlanta.

The emphasis is on party unity — Dole, Robertson and former Secretary of State Alexander Haig enthusiastically endorsed their former primary opponent — and on turning on Republican volunteers for the fall campaign.

"We believe all of us who ran made our party a stronger party," Dole said. "In the process, we made our candidate a stronger candidate."

Robertson, the last Republican challenger to drop out of the race, said the party is "united and we are not going to see Ohio, or the rest of the country, go for a mediocre liberal."

Frank Fahrenkopf, chairman of the Republican National Committee, said the rallies are designed to kick off the party's "three-legged stool" strategy for winning the presidential election.

The first leg, Fahrenkopf said, will be the "then and now" approach in which "we show the voters that life in this country is much better now than it was 7½ years ago."

"The second leg will be to show voters there are substantial differences between what we offer this country and what the Democrats offer," Fahrenkopf said.

"The third leg will be telling voters where George Bush and the Republican party want to take this country."

Bush used a bit of each leg of the stool in Cincinnati. He talked about the Reagan administration's "record of 68 months of uninterrupted economic growth."

In the speech to the Republicans and in a press conference, Bush hammered at the "plain as day" differences between himself and Dukakis.

He criticized Dukakis for refusing to sign a state law ordering the Pledge of Allegiance to be said in Massachusetts schools and for allowing "weekend passes for first degree murderers" in a program that grants prison furloughs to convicted felons.

"Michael Dukakis has said he is a card-carrying member of the ACLU (American Civil Liberties Union)," Bush said. "Well, I never have belonged to the ACLU, and I never will."

Asked whether he would rule out all forms of tax increases, even excise taxes, Bush said he would — although he would not extend that pledge to "user fees" like those charged for entering national parks.

Bush's vow went farther than the tax opposition voiced repeatedly by President Reagan.

The administration has supported about $200 billion in tax increases during the past seven and a half years, including excise taxes and a tax increase Reagan agreed to last winter as part of a budget deficit-reduction compromise with Congress.

Asked if he was concerned his stand would lock him in if elected, Bush said he was not. "I think it's reassuring to the working men and women in this country."

Bush left Cincinnati on Friday night for a campaign stop today in Columbus, Ohio.

(The Associated Press contributed to this story.)

THE CINCINNATI ENQUIRER
Saturday, June 25, 1988

The Washington Times

MONDAY, JUNE 27, 1988

Vice President George Bush tells a Fraternal Order of Police meeting in Columbus, Ohio, yesterday that shutting down obsolete military bases could save as much as $5 billion a year.

Use unneeded bases as prisons, Bush says

By Ralph Z. Hallow
THE WASHINGTON TIMES

COLUMBUS, Ohio — Vice President George Bush proposed yesterday closing unneeded military bases around the country and using some of them to relieve prison overcrowding.

He thus linked the anti-drug proposals he has been making during his presidential campaign to a perennial problem of getting Congress to save as much as $5 billion a year through shutting down obsolete bases.

Mr. Bush said Congress has resisted closing bases because of the reluctance of some members to face the political heat from constituents caused by the loss of jobs and income such military facilities generate in their districts.

"The single-most important thing Congress could do in the war on drugs is alleviate the shortage of state prison space, responsible for the premature release of countless criminals," Mr. Bush told a meeting of the 400-member executive board of the Fraternal Order of Police, representing 44 states.

"Where needed, we should convert [the closed bases] to minimum-security prisons for use by the states," the vice president said.

He later told reporters he would "amend" the minimum-security prisons proposal to include the use of closed military bases for housing the overflow of persons convicted of drug-related crimes "where it might lend itself to [that purpose]."

Noting that studies show taxpayers "are spending anywhere from $2 billion to $5 billion a year on domestic military bases that we don't need," he vowed that if elected, a "priority of mine will be to work with Congress to eliminate such bases."

The House Armed Services Committee approved a base-closing bill earlier this month, adding amendments aimed at softening the election-year impact of the loss of federal funds in members' districts.

"I don't have a specific list of bases to close," Mr. Bush said at a press conference after the speech. "I would ask my defense secretary to thoroughly review the matter, send it to Congress, use the procedures Congress is now trying to work out, and make decisions that have been very difficult to make in the past."

Reminded that Texas and Florida, two states he is counting on to win in November, have a large number of military bases, Mr. Bush said no state should be exempt from possible closings.

"I come from Texas, and if elected, I don't think it would be right to advocate streamlining defense procurement and defense spending, and yet rule out a state because I happen to come from there," he said.

He also denied published reports his campaign was narrowing the choices for the No. 2 spot on the GOP ticket. The Washington Times last week reported that Senate GOP leader Robert Dole of Kansas and Rep. Jack Kemp of New York were the leading contenders, and yesterday The New York Times, citing unnamed Bush aides, said Mr. Dole was emerging as the early choice.

"We have not begun the process in terms of [drawing up] long lists or short lists [of possible vice presidential choices]," he said.

Mr. Bush said he worried that such press speculation would cause people to think he was "floating certain names" through his aides. "It doesn't seem to me to be fair to individuals to do this," he said.

He said he had instructed his campaign pollster Robert Teeter "to draw up guidelines on how to go about selecting a vice presidential candidate." But, he added, "in the final analysis, I have to make that decision."

Asked why he needed Mr. Teeter or anyone else to draw guidelines for him on choosing a running mate, Mr. Bush said, "The Teeter role is to say, 'Here are the groups you want to get suggestions from, here's how polling fits in.' " He said Mr. Teeter "probably would have suggestions as to how geography" would help his candidacy the most in picking a vice president.

Nevertheless, Mr. Bush said, "this is a decision that will not be made by a committee. It is something I have to make myself."

He said the criteria he would use include "a philosophical and temperamental compatibility, so you're not looking over [your shoulder], wondering if the vice president is posturing and cutting up the president."

Bush targets crime policies in FOP speech

Dayton Daily News Mon. June 27, 1988

By Tim Miller
COLUMBUS BUREAU

COLUMBUS — In a strong speech to a very receptive audience, Vice President George Bush on Sunday outlined crime policies that included a call for the death penalty for drug "kingpins," the elimination of some military bases to fund more prisons and even changes for the movie industry.

Bush

Bush said there are clear differences between himself and Massachusetts' Gov. Michael Dukakis, his expected opponent in the fall presidential election. In his 30-minute speech to the national board of the Fraternal Order of Police, he chastised Dukakis for opposing the death penalty, for supporting furlough programs for prisoners and for describing himself as a "card-carrying member of the American Civil Liberties Union."

Bush received loud ovations from the crowd of several hundred when he called for the death penalty for drug pushers who are "poisoning our kids." He later added, "I have never been a member (of the ACLU) and I never will be because they are always coming down on the side of the criminals and less on the side of the victims of crime."

Near the end of his speech that included praise of police officers as "living heroes," Bush conceded, "I have an uneasy feeling that I'm preaching to the choir."

At a news conference following the speech, Bush refused to name what military bases he might close if elected, but restated his position that $2 billion to $5 billion is being spent each year on unneeded domestic military bases, money that could be used to fund state prisons. In some instances, he said, military bases could be converted to prisons.

He said Congress has been developing a formula to determine what bases might be unnecessary and said he would instruct his secretary of defense to prepare a closing list. "I don't think any state should be above looking at what base should be closed," he said.

The money and space is needed to fight the war on drugs, he said.

"The single most important thing Congress could do in the war on drugs is alleviate the shortage of state prison space, (which is) responsible for the premature release of countless criminals."

Bush said the American people have placed the drug issue at the top of national concerns and he was critical of those in the entertainment business who treat drug usage lightly, singling out a scene in the movie *Crocodile Dundee* that depicts a man taking cocaine. He praised the movie, but said, "That scene was outrageous."

At his news conference, Bush said he does not support censorship of movies saying, "It has to be exhortation. . . . I think the industry ought to take a new look" at how it exhibits drug usage.

He did reiterate his support for mandatory drug testing for "anyone responsible for the public safety," such as airline pilots, but declined to propose a list of who should be tested.

Bush made light of recent reports that one of his opponents in the Republican primaries, Senate Minority Leader Robert Dole of Kansas, is under strong consideration to be his vice presidential running mate. He praised Dole for strongly supporting him now, but said he has not begun to prepare a list of possible running mates.

He said he has asked his pollster, Robert Teeter, to prepare some guidelines governing the procedure to select someone, but said the process has gone no further. He said his main concerns are to find someone who could take over the presidency and who would be politically and personally compatible.

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Bush GN

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CLARION CINCINNATI

CLARION CINCINNATI

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PLEASE INDICATE ADDRESS CORRECTIONS AND PROMOTIONS.
IN CASE OF ERROR ON YOUR BILL, SEND THIS AND DESCRIPTION OF INVOICE ITEM. HOWEVER, YOU REMAIN OBLIGATED TO PAY THE PORTIONS OF YOUR BILL NOT IN DISPUTE WITHIN 30 DAYS.

REPUBLICAN NATIONAL COMMITTEE
ATTN: JOANNA ASHWORTH
310 1ST STREET SE
WASHINGTON
DC 20003

TERMS: NET 30 DAYS

PLEASE RETURN THIS PORTION WITH YOUR REMITTANCE

CUSTOMER NAME	ACCOUNT NO.	INVOICE DATE	DUE INVOICE DUE
REPUBLICAN NATIONAL COMMITTEE	10822	6/30/88	7/30/88

		KASSEBAUM, NANCY	
6/27/88	049151	HOTEL TRANSFER	147.57
		LEWIS, D.	
6/27/88	049154	HOTEL TRANSFER	143.[illegible]
6/27/88	049155	[illegible]	97.37
6/27/88	049156	[illegible]	147.57
6/27/88	049157	TRANSFER	76.56
6/27/88	049317	MR.	9.62
6/27/88	050400	[illegible]	11.50
6/27/88	050403	[illegible]	82.50
6/27/88	051086	[illegible]	159.47
6/28/88	039970	[illegible]	4,500.00CR
		REPUBLICAN NATL COMMITTEE	
6/28/88	040296	HOTEL TRANSFER	13,720.10
		REPUBLICAN NATL COMMITTE.	

PREVIOUS BALANCE	NEW CHARGES	PAYMENTS	PREPAID CHARGES	[illegible]
	12,684.28			
CURRENT 12,684.28	OVER 30 DAYS	OVER 60 DAYS		~~12,684.28~~

/12,521.56

[redacted]

ATTACHMENT 4
Page 139 of 316

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ARION CINCINNATI

MAKE CHECKS PAYABLE TO	INVOICE DATE	ACCOUNT NO.
	6/30/88	10800
	DATE PAYMENT DUE 7/30/88	PAGE NO. 8

CLARION CINCINNATI

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PLEASE PREPARE A CERTIFIED CHECK FOR PAYMENT. IN CASE OF ERROR OR YOUR BILL DOES NOT AGREE WITH OUR RECORDS, YOU MUST NOTIFY US IN WRITING WITHIN 30 DAYS. FAILURE TO NOTIFY US IN WRITING WITHIN 30 DAYS WILL NOT BE ACCEPTED.

REPUBLICAN NATIONAL COMMITTEE
ATTN. JOANNA ASHWORTH
310 FIRST STREET SE
WASHINGTON
DC 20003

TERMS: NET 30 DAYS

PLEASE RETURN THIS PORTION WITH YOUR REMITTANCE

TO NAME	ACCOUNT NO.	INVOICE DATE	DATE PAYMENT DUE
REPUBLICAN NATIONAL COMMITTEE	10800	6/30/88	7/30/88

6/27/88	041909	HOTEL TRANSFER FAHRENKOPF, FRANK 3/3	23.00✓
6/27/88	042908	HOTEL TRANSFER SUNUNU, GOV.	.50✓
6/28/88	044050		21.85✓
6/28/88	047176	TRANSFER	115.01✓
6/28/88	048495	TRANSFER A, RAY	17.14✓
6/28/88	048950	TRANSFER	146.22✓
6/28/88	048951		.50✓
6/28/88	048953		190.38✓
6/28/88	048955		21.85✓
6/28/88	048956		153.02✓
6/28/88	048958	HOTEL TRANSFER DOLE, ROBERT	220.02✓
6/28/88	048959	HOTEL TRANSFER	.50✓

Kansas State Party Net 115 — 115.01

Peter Secchia — + 191.09

CURRENT	OVER 30 DAYS	OVER 60 DAYS	OVER 90 DAYS

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ATTACHMENT 4
Page 140 of 316

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	:	
	:	**MUR 2667**
Ohio Republican State Central	:	
and Executive Committee a/k/a/	:	
The Ohio Republican Party	:	
(Federal Account/Non-Federal Account)	:	
and Robert K. Wilson, as treasurer	:	

AFFIDAVIT OF ROBERT T. BENNETT IN SUPPORT OF THE RESPONSE OF THE OHIO REPUBLICAN STATE CENTRAL COMMITTEE AND EXECUTIVE COMMITTEE TO THE BRIEF OF THE GENERAL COUNSEL

Now comes Robert T. Bennett, after first being duly cautioned and sworn, deposes and states of his own personal knowledge, information and belief:

1. My name is Robert T. Bennett.

2. I am presently serving as the duly elected Chairman of the Ohio Republican State Central Committee and Executive Committee and held such position throughout all of 1988.

3. On June 24 and 25, 1988, the Republican National Committee conducted a twenty-four state party building conference known as "Unity '88" in Cincinnati, Ohio.

4. The purpose of "Unity '88" was to organize Republican Party activists from throughout the twenty-four states for the purpose of assisting the entire Republican ticket from local races to the White House campaign.

5. In conjunction with "Unity '88", the Republican National Committee invited Pat Robertson, Jack Kemp, Bob Dole, Alexander Haig and George Bush to speak to the attendees. Numerous incumbent or challenger candidates for the various state legislatures, Congress, the United States Senate and Governor's Mansions were also invited to attend and participate.

6. Because he was the highest ranking elected office holder in attendance, the Ohio Republican Party invited then-Vice President Bush to attend three fundraisers sponsored by the Ohio Republican Party, the purpose of which was financing the state party's non-allocable GOTV and associated programs.

7. Two of the fundraisers were held in Cincinnati; one was a dinner at the home of Dick

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and Joyce Farmer on the evening of June 24, 1988, the second was a luncheon on June 25, 1988.

8. On June 26, 1988, Vice President Bush made an official appearance on behalf of the White House before the national board of the Fraternal Order of Police in Columbus, Ohio. Prior to his speech to the Fraternal Order of Police, Mr. Bush attended a brunch fundraiser at the country home of John Galbreath south of Columbus.

9. All three of the fundraisers then-Vice President Bush attended during his June 24 through 26, 1988 visit to Ohio were for the sole purpose of financing the Ohio Republican Party's non-allocable GOTV and associated programs. Expenses associated in conducting the fundraisers were approximately $20,000 and represented expenses for travel, security and lodging which were not incurred as result of Mr. Bush's participation in the "Unity '88" conference or his official appearance before the police officers.

10. The additional expenses of approximately $20,000 were paid entirely by the Ohio Republican Party as an expense associated with the non-allocable GOTV program fundraisers.

11. The proceeds of the three fundraisers for the benefits of the Ohio Republican Party's non-allocable GOTV program represented approximately one-half of the total budgeted expenditures for that purpose during calendar year 1988.

Further affiant sayeth naught.

Robert T. Bennett

Sworn to and subscribed in my presence this 5TH day of October, 1994.

SCOTT W. SPENCER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date
Section 147.03 R.C.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	:	
	:	**MUR 2667**
Ohio Republican State Central	:	
and Executive Committee a/k/a/	:	
The Ohio Republican Party	:	
(Federal Account/Non-Federal Account)	:	
and Robert K. Wilson, as treasurer	:	

AFFIDAVIT OF JAMES WRAY IN SUPPORT OF THE RESPONSE OF THE OHIO REPUBLICAN STATE CENTRAL COMMITTEE AND EXECUTIVE COMMITTEE TO THE BRIEF OF THE GENERAL COUNSEL

Now comes James Wray, after being first duly cautioned and sworn, deposes and states the following of his own personal knowledge, information and belief:

1. My name is James Wray.

2. I am presently employed by, and the principal of, J. R. Wray and Associates, a government affairs and event management firm.

3. During all of June, 1988, I was employed as National Field Director of the Bush for President Committee, and continued in that position until November 15, 1988.

4. On June 24 and 25, 1988, the Republican National Committee organized and conducted a twenty-four state party building conference known as "Unity '88" in Cincinnati, Ohio; the Cincinnati event was one of three sponsored by the Republican National Committee around the country during 1988.

5. The purpose of the "Unity '88" conferences was to organize Republican Party activists for the purpose of assisting the entire Republican ticket from local races up to and including the Republican Party effort to retain the White House in 1988.

6. Five presidential hopefuls -- Jack Kemp, Bob Dole, Alexander Haig, Pat Robertson and George Bush -- appeared at and participated in the Cincinnati "Unity '88" conference. In addition, numerous incumbent and challenger candidates for state legislature, congressional and United States Senate seats, as well as gubernatorial candidates, were invited to and participated in the Cincinnati "Unity '88" event.

7. In conjunction with the "Unity '88" conference in Cincinnati, the Ohio Republican Party sponsored and paid for three fundraisers for the purpose of funding the state committee's non-allocable GOTV program; one of these three events took place

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committee's non-allocable GOTV program; one of these three events took place outside Columbus, Ohio prior to then-Vice President Bush's appearance at an official function before the national board of the Fraternal Order of Police on behalf of the White House.

8. The travel and lodging expenses of numerous nationally known then or former office holders were paid by the Republican National Committee. Unrelated expenses which were incurred as a result of then-Vice President Bush's appearance at the fundraisers for the benefit of the Ohio Republican Party's non-allocable GOTV program were paid by the state party as a fundraising expense.

9. While participating in the "Unity '88" conference, then-Vice President Bush and several other nationally known members of the Republican Party, including several former presidential aspirants, spoke to meetings of key GOP regional party leaders, a GOP Women's Leadership meeting, Republican Farmers and other groups which were participating in the party building conference.

Further, Affiant sayeth naught.

Subscribed to and sworn in my presence this 5th day of October, 1988.

SCOTT W. SPENCER, Attorney At Law
NOTARY PUBLIC, STATE OF OHIO
My commission has no expiration date
Section 147.03 R.C.

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Cullen and Dykman
Attorneys at Law
One Riverfront Plaza
Suite 1410
Newark, New Jersey 07102-5497

TELEPHONE (201) 622-1545
TELECOPIER (201) 622-4563

September 16, 1994

OCT 26 11 10 AM '94
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

VIA FEDERAL EXPRESS

Marjorie W. Emmons
Federal Election Commission
999 E Street N.W.
Suite 905
Washington, DC 20463

Re: FEC v. NJRSC, MUR 2667

Dear Ms. Emmons,

Please find an original and ten (10) copies of a Brief in Opposition to General Counsel's Brief recommending a finding of probable cause.

Thank you for your attention to this matter.

Respectfully Submitted,

Peter G. Sheridan

Peter G. Sheridan

cc: Ed Gross
Virginia Littell
Michael Hess

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WASHINGTON, D.C. 20036-2611
TELEPHONE (202) 223-8665
TELECOPIER (202) 467-1405

Before The Federal Election Commission

In the Matter of :
New Jersey Republican State Committee :
(Federal Account/Non-Federal Account) :
and Virginia N. Littell, as Treasurer :

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
OCT 26 11 10 AM '94

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BRIEF IN OPPOSITION TO
BRIEF OF GENERAL COUNSEL RECOMMENDING
A FINDING OF PROBABLE CAUSE

CULLEN AND DYKMAN, ESQ.
One Riverfront Plaza,
Suite 1410
Newark, New Jersey 07102
(201) 622-1545
(201) 622-4563 (facsimile)
Attorneys for New Jersey
Republican State Committee
and Virginia N. Littell, as
Treasurer

On the Brief:

Peter G. Sheridan, Esq.
Kenneth von Schaumburg, Esq.

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Procedural History

On August 8, 1988 a complaint was filed against George Bush for President, Inc. ("Bush Committee") with the Federal Election Commission ("FEC" or "Commission") by the Democratic parties of Ohio, South Carolina, Tennessee and Michigan ("Democrats"). The politically motivated complaint alleged, *inter alia*, that the Bush Committee had knowingly undertaken a pattern of activity to cloak certain pre-nomination campaign expenses as official business of the Office of the Vice President. More specifically, the Democrats alleged sixteen (16) occurrences in June and July 1988 wherein the Bush Committee should have paid for and reported its activities to the FEC on campaign related expenses. Of these sixteen (16) events, one occurred in New Jersey on July 22, 1988.

On September 12, 1988, Richard Wiener, Chair of the Michigan Democratic Party, supplemented the complaint by way of a letter. Wiener conjectured, without the benefit of any audit or analysis by an accountant, that the Bush Committee must have under-reported and under-allocated primary expenses.

The New Jersey Republican State Committee ("NJRSC") was initially notified by the FEC that it was involved in this matter in late February 1990 — more than 18 months after the alleged violation(s) occurred and complaint was filed. At that time, the FEC found reason to believe that the NJRSC, together with other state parties, may have violated certain provisions of the Federal Election Campaign Act of 1971 ("Act").

Subsequently, on May 1, 1990, the NJRSC filed motions with the FEC challenging enforcement proceedings on the basis of procedural

violations.[1] The FEC, as a result, rescinded its reason to believe determination in late May 1990.

On January 17, 1991, after an eight (8) month hiatus in proceedings, the FEC reinstated its reason to believe determination. By August 1991, the FEC denied procedural challenges to the reason to believe determination and also denied respondents' motion to quash a subpoena *duces tecum*. On September 18, 1991, the NJRSC responded to the subpoena by submitting certain records and affidavits.

After three years of dead silence and 18 months after President Bush left office, the NJRSC received notification on or about July 20, 1994 that General Counsel of the FEC ("General Counsel") "is prepared to recommend that the Commission find probable cause that violations occurred." (Letter from General Counsel dated July 11, 1994.)

STATEMENT OF FACTS

The alleged violations center on two events of July 22, 1988. The first was a speech on environmental policy delivered by several Republicans, including Vice President George Bush and New Jersey Governor Thomas H. Kean, at Point Pleasant Beach; the second was a relatively small dinner at the home of Lawrence Bathgate to benefit the State Republican Party.

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[1] Despite this response on the merits, the NJRSC incorporates the procedural challenges contained within its previous motions and preserves its right to further challenge the FEC's prosecution of this matter.

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Point Pleasant Beach

Vice President Bush was in the State of New Jersey on July 22, 1988, at the invitation of Governor Kean. (McGlynn Affidavit, exhibit A, paragraph 5; Armandroff Affidavit, exhibit B, paragraph 2; and Palatucci Affidavit, exhibit D, paragraph 2). It was not unusual for McGlynn, in his role as Chief of Staff to the Governor, to contact both the Office of the President and the Office of the Vice President to inform them of various New Jersey initiatives and seek the presence of the President or Vice President in New Jersey to highlight certain initiatives. (McGlynn Affidavit, exhibit A, paragraph 3.) In that regard, Vice President Bush was invited and came to New Jersey to discuss the garbage and medical waste that was washing up on New Jersey beaches and to discuss governmental policy to end such pollution. (McGlynn Affidavit, exhibit A, paragraphs 4 and 5). In addition to Vice President Bush, Governor Kean and other Republican leaders addressed about 500 people on the policy to end ocean dumping of sludge and garbage.

In the summer of 1988, Governor Kean's 20-point Ocean Cleanup Plan attracted the attention of the Reagan Administration and other government officials across the nation. The New Jersey initiatives were consistent with federal initiatives and required federal resources for implementation. For example, the federal Clean Water Act adopted Kean's plan, and now prohibits ocean dumping of sludge. It was reasonable for Vice President Bush, in his official capacity, to accept the Governor's invitation to address critical

environmental problems facing the entire United States.

The event had all the characteristics of an official event. It was opened to the public (Armandroff Affidavit, exhibit B, paragraph 7); it was announced by the Office of the Vice President; the Vice President was invited by the Governor of New Jersey; it concerned a federal issue; and the Vice President's remarks were confined to that issue. Other officials who attended the event were Congressman Molenari of New York, Governor Kean, several cabinet officers of the Kean Administration and other New Jersey legislators as well as local officials.

All contacts with the press and media regarding the Point Pleasant Beach event were made by a representative of the Advance Team from the Office of the Vice President. (Armandroff Affidavit, exhibit B, paragraph 6.) The only written announcement for this event was in a press announcement from the Office of the Vice President and, because it made no reference to the Bush campaign, no aspect of the solicitation for the event could be characterized as campaign-related. (11 C.F.R. 110.8(e)(1)(ii).) All of the actions taken by the Office of the Vice President support the contention that official, not campaign related, activity was to occur at Point Pleasant Beach.

The setting of Vice President Bush's visit at a New Jersey beach was perfectly logical. It was Chief of Staff McGlynn's recommendation that Point Pleasant Beach be the location for the speech because it was centrally located on the New Jersey shore and was near McGlynn's home, making it convenient for the Governor's

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office to assist in the planning of the appearance. (Mullynn Affidavit, exhibit A, paragraph 7.)

Vice President Bush delivered a carefully crafted speech which discussed the environmental policies of the federal government. He did not address the upcoming fall campaign. However, in direct response to press questions, Vice President Bush made some references to the campaign. (Palatucci affidavit, exhibit D, paragraph 8.) In fact, the Philadelphia Inquirer correctly reported that campaign references were in response to questions. In part, the article stated: "Bush, wearing a T-shirt emblazoned with the slogan 'Save our Shores,' also addressed political concerns yesterday as he fielded questions in the rain from reporters." (Complaint, exhibit 16, emphasis added.) Clearly, the article supports the fact that campaign references were incidental to the policy address of the Vice President. Obviously, the Vice President cannot control press questions, and similarly he cannot ignore such questions.

There is no evidence of political activity at the Point Pleasant Beach appearance. Furthermore, the Bush Committee had no presence or role at the Point Pleasant Beach event and campaign literature was not distributed. (Armandroff Affidavit, exhibit B, paragraphs 9 and 10.)

Bay Head

The NJRSC fundraiser at Bathgate's residence was a "bona fide Party event" and neither the solicitation for the event, the

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setting of the event nor the remarks and activities of the Vice President in connection with the event, were for the purpose of influencing his election. See, 11 C.F.R. §110.8(a)(1). The purpose of the event was to reward Party faithful for their good work, and raise money for the NJRSC.

The fundraising dinner for the NJRSC was specifically crafted to meet Party building exemptions. All arrangements for the Bay Head fundraiser were directed by persons representing the NJRSC, the New Jersey Governor's Club, and/or Victory '88, in cooperation with members of the Advance Team from the Office of the Vice President. No Bush Committee personnel participated in the planning or staging of the fundraiser. (Goldberg Affidavit, exhibit C, paragraph 7 and Bathgate Affidavit, exhibit E, paragraphs 3, 4 and 5.)

The solicitation for this event consisted of personal letters from Bathgate. (Goldberg Affidavit, exhibit C, paragraph 6 and Bathgate Affidavit, exhibit E, paragraph 6.) The primary message of the invitation letter was that the event was to benefit the New Jersey "Victory '88 Fund." The Victory '88 Fund inures to the benefit of State Republican Party candidates. The guest list was comprised of Republican Party regulars, Party contributors, local and State officials, and Republican Party candidates. The purpose of the low-key dinner was to generate energy and revenue for the New Jersey Republican Party. Vice President Bush was present at the fundraiser as the standard bearer of the Republican Party. He was acting as a chief Party spokesperson at a Party function.

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Throughout the evening, the Vice President acted as the Vice President should - as a leader of his Party. He posed for photographs, informally chatted with the guests at their dinner tables and accepted small gifts from the Victory '88 Committee. (Bathgate Affidavit, exhibit E, paragraph 7.) He held no meetings at this event with Bush Committee leaders within the State or with any other Party strategists. See, FEC Advisory Opinions 1982-56 and 1986-6.

There is no evidence that the Vice President had prepared any remarks and no transcript of his remarks is known to the NJRSC. As stated by William Palatucci, one of the guests at the fundraiser, the Vice President's remarks were to "rally the troops" in support of the state Party. There is no recollection that the Vice President's general remarks to the guests contained any reference to his campaign. (Palatucci Affidavit, exhibit D, paragraphs 10 through 13 and Bathgate Affidavit, exhibit E, paragraphs 9 through 10.)

The characteristics of this fundraiser support the respondent's contention that it was essentially a Party building event. Fundraisers are usually organized differently. For example, it is a regular practice of most major Republican fundraisers in New Jersey to invite the electronic media and press reporters located in New Jersey, New York, and Philadelphia, as well as the wire services (Associated Press). In this case, the dinner was closed to the press with one exception. The local daily paper, The Asbury Park Press, was invited to cover the event as a

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social event in Monmouth County.

Most Republican fundraisers have printed invitations which are distributed by [illegible] mailing with large committees to maximize the sale of tickets. Here, a dinner committee was not formed, invitations were by letter, and only loyal Republican supporters were solicited. Finally, the event took place at a point in a campaign cycle where Party building activities are in the forefront. The event was held in July – which is "down time" squeezed between the last primary elections and the National Convention. July is historically a period during a campaign cycle when Party building and "fence mending" activities within one's own Party take place.

POINT I

THE CASE MUST BE DISMISSED BECAUSE ANY SUBSEQUENT ACTION TO IMPOSE A CIVIL PENALTY IS BARRED BY THE STATUTE OF LIMITATIONS

The primary purpose of limiting the time in which an action must be brought is to foreclose stale claims. See, 3M Company v. Browner, 17 F.3d 1453, 1459 (D.C. Cir. 1994). The Act establishes a procedure for determining whether the FEC should bring an action to impose a civil fine or penalty. 2 U.S.C.A. §437g. Any person may file a complaint alleging a violation of the Act. The Commission must give notice of the complaint within five (5) days to an alleged violator and the respondent has fifteen (15) days to demonstrate that no action should be taken. 2 U.S.C.A.

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§437g(a)(1).

Thereafter, the Commission may notify a respondent of its finding that it has "reason to believe a violation has occurred," and in light of such finding it may conduct an investigation. 2 U.S.C.A. §437g(a)(2). Subsequent to the completion of the investigation or audit, General Counsel must make a recommendation to the Commission with regard to whether probable cause exists. The respondent has fifteen (15) days to respond to the recommendation. 2 U.S.C.A. §437g(a)(3). The statute then mandates a ninety (90) day conciliation process wherein the parties attempt to resolve the issues amicably. 2 U.S.C.A. §437g(a)(4)(A)(a) In the event the parties cannot agree, then the Commission may, upon an affirmative vote, institute a civil action for various relief including civil penalties and an injunction. 2 U.S.C.A. §437g(a)(b)(A).

The administrative process of the Act must be read in pari materia with other statutes, including those which impose a limitation upon the time in which an action must be commenced. When two laws relate, ordinarily a court of law would give effect to each so long as it can be done while preserving their sense and purpose. See, AT&T v. M/V Cape Fear, 763 F. Supp. 97 (D.C.N.J. 1991); S & S Screw Machine Company v. Coss Corp. 647 F. Supp. 600 (M.D. Tenn. 1986). The Act must be read in conjunction with the statute of limitations.

Congress, as far back as 1830, recognized that the various government agencies must proceed in a reasonably expeditious manner

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if an agency seeks to impose a civil fine or penalty upon a violator. Congress imposed a five (5) year statute of limitation on such actions." 28 U.S.C.A. §2462. The statute reads:

> Except as otherwise provided by Act of Congress, action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

28 U.S.C.A. §2462.

In this case, the issue is when did the claim against the NJRSC "first accrue."

It is well settled law that a claim accrues at "the time at which a cause of action first existed." See, 3M Company v. Browner, 17 F.3d. 1453, 1462 (D.C. Cir., 1994), Evans v. Gee, 36 U.S. 80, 84 (1837)). Consistently, the term accrued "has been taken to mean that the running of the limitation period in penalty actions is measured from the date of the violation." 3M Company, at 1462; United States v. Core Lab, 759 F.2d 480, 482 (5th Cir. 1985). In Core Lab, the court stated "that the date of the underlying violation has been accepted without question as the day when the claim first accrued, and therefore as the date on which the statute began to run." Core Lab, at 482.

More than six years have passed since the date that the alleged violation accrued (July 33, 1988). The Commission has had actual notice of the alleged violation since August 8, 1988 when the Democrats filed the complaint against the Bush Committee. The

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Commission completed its investigation of the matter in the fall of 1991. The Commission, for its own reasons, has not acted since that time and the statute of limitations now bars any claim for a civil penalty. The point is that the Commission should not make a finding of probable cause when there is no reasonable likelihood that a court will impose a penalty.

POINT II

GENERAL COUNSEL FAILED TO MEET HIS BURDEN OF PROOF TO SUPPORT A FINDING OF PROBABLE CAUSE

In order to support a finding of probable cause, General Counsel must satisfy the Commission by clear proof that Vice President Bush's activities in New Jersey on July 22, 1988 were for the purpose of influencing his campaign for president. In order to meet this burden of proof, General Counsel argues that its burden is minimal because the statute provides a presumption that all activities of a candidate after January 1 of an election year are to influence the candidate's election. Hence, General Counsel asserts that the presumption, plus the mere fact that Vice President Bush was in New Jersey, is sufficient to meet the burden of proof. General Counsel states that any activities after January 1 of the election year "are presumed to be for the propose of influencing Mr. Bush's campaign for the presidency . . . [and that] alone is a sufficient legal basis for finding probable cause . . ." (General Counsel's Brief, page 4). The respondent respectfully disagrees with the proposition that the "presumption" fulfills the

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General Counsel's burden of proof.

General Counsel is hiding behind the presumption in order to conceal the alarming lack of proof and insufficient record to support its position despite a six year investigation. The presumption merely imposes upon the respondent the burden of going forward to rebut the presumption. Once such evidence is proffered, then General Counsel must sustain its case by presentation of credible evidence. The federal law states in part:

> [a] presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

F.R.E. 301.

Hence, the burden of proving probable cause remains with General Counsel while the burden of going forward is upon the respondent. In other words, the NJRSC must present evidence; it cannot merely sit back. To that extent, the NJRSC has submitted clear and convincing evidence to support its arguments. The Point Pleasant Beach event was an official function of the Office of the Vice President, and the private dinner party in Bay Head falls within the Party building exemption set forth in the Act. NJRSC supported its contentions through the affidavits of five prominent and respected persons. They are Edward McGlynn, Esq., then Chief of Staff to Governor Thomas H. Kean (Exhibit A), Dean Armandroff, then Assistant Chief of Staff (Exhibit B), Rona Goldberg, then

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assistant to the Executive Director of the Governor's Club (Exhibit C), William Palatucci (Exhibit D), and Lawrence E. Bathgate, II, Esq., then a trustee of the Governor's Club (Exhibit E). These affidavits, taken together, satisfy the burden of going forward and meet the presumption.

In stark contrast to the affidavits offered by respondent, General Counsel strings several newspaper articles together in order to attempt to sustain its burden of proof. General Counsel does not even identify the articles from which it quotes in the brief. (General Counsel's Brief at pages 6-7). General Counsel has not proffered a single sworn statement, affidavit, deposition, testimony or any writing of a witness. The record is void of any credible evidence upon which the Commission can base a decision.

Although newspaper articles are widely read, they are not admissible evidence. See, Larez v. City of Los Angeles, 946 F.2d 630 (1991). The Commission cannot rely on such articles in its deliberations. It is elementary that such articles are hearsay and accordingly inadmissable under the federal rules of evidence.

Certainly, an administrative agency may relax the rules of evidence, but a finding of probable cause cannot be predicated on inadmissable hearsay alone. "Administrative agencies may not sanction as evidence something which is clearly not evidence." Application of Milton Hardware Co., 19 Ohio App. 2d 157 (1969). General Counsel had more than sufficient time to locate and interview witnesses and produce credible evidence. In the absence of such evidence, the FEC must conclude that General Counsel cannot

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sustain its burden of proof. As a matter of law, the Commission must rule that the newspaper articles relied upon by General Counsel are hearsay and cannot be used to sustain a finding of probable cause. The lack of credible evidence in this matter clearly demonstrates that General Counsel has failed to meet its burden of proving that the activities of Vice President Bush were campaign related.

POINT III

THE POINT PLEASANT AND BAY HEAD EVENTS WERE NOT FOR THE PURPOSE OF INFLUENCING VICE PRESIDENT BUSH'S ELECTION AS SET FORTH IN 11 C.F.R.§110.8(e)(2)9(ii)

General Counsel argues that NJRSC made excessive contributions of approximately $25,400 in violation of 2 U.S.C.A. § 441 a (a)(2)(A) for the activities of July 22, 1988. NJRSC's position is that the expenditures related to the official visit at Point Pleasant Beach are not contributions because they related to official activities of the Vice President, and that the expenditures related to the Bay Head event are exempt because they were Party building activities.

Point Pleasant Beach

The federal election law and regulations are not intended to handcuff an official from performing his official duties. In fact, Vice President Bush had an affirmative duty to carry out his official responsibilities during 1988. The Vice President obviously has an obligation to articulate the administrative policy

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on various subjects including the environment. The facts of this case clearly support the official nature of the visit. The event was free of any factors which would render it campaign related. The facts show that:

a. the event was planned by two government offices;
b. the announcement was from the Office of Vice President;
c. the advance work was by the Office of Vice President;
d. there was no campaign material distributed;
e. the speech of the Vice President was carefully drafted to avoid campaign related matters; and
f. the speech concerned a federal issue.

Hence, the expenditures related to the Point Pleasant appearance are not subject to federal election laws. The rental of a sound system and ground transportation by the NJRSC ($1,900) are not contributions to a candidate. Consequently, as to this event, there is no need to apply the above-mentioned statutory and regulatory provisions regarding contribution limitations and prohibitions to the NJRSC. The Commission should strike the complaint with regard to said costs.

Bay Head

The fundraiser held at Bay Head was a normal and traditional practice of a State Party to take advantage of the appearance in this State of a Party leader. The event was held to encourage Party regulars and Party supporters to raise revenue and to, in effect, "build" the Party. As such, this fundraiser would have occurred in conjunction with the Vice President's appearance at Point Pleasant Beach, whether or not the Vice President had been a candidate for President of the United States. The Bay Head

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fundraiser was a "bona fide Party event" and neither the solicitation of the event, the setting of the event nor the remarks and activities of the Vice President in connection with the event, were for the purpose of influencing his election. See, 11 C.F.R. §110.8(e)(1). Furthermore, the evidence effectively rebuts the presumption that the fundraiser was for the purpose of influencing his election. See, 11 C.F.R. §§110.8(e)(2)(ii) and (iii).

All contributions from the Bay Head fundraiser were permissible funds under 2 U.S.C.A. §441b(a) and 11 C.F.R. §102.5, and were deposited into the Victory '88 federal account. In conclusion, the Party expenditures for the fundraiser, including reimbursement to the federal government for travel expenses on Air Force II, were in conjunction with the Party building fundraiser and thus exempt.

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POINT IV

THERE IS NO EVIDENCE THAT THE NJRSC KNOWINGLY MADE ANY PROHIBITED CONTRIBUTION OR EXPENDITURES

In order for General Counsel to prevail, its burden of proof is to show that NJRSC knowingly made prohibited contributions and expenditures. 2 U.S.C.A. §441a(f). The pertinent section of the statute reads:

> No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

2 U.S.C.A. § 441 a(f) (emphasis added).

The word "knowingly" imposes a great burden on General Counsel. Knowingly means "with knowledge; consciously; intelligently; willfully; intentionally." See, Black's Law Dictionary, at 872 (6th ed. 1990). In reviewing the facts of both the Point Pleasant Beach appearance and the Bay Head event, there is no evidence of intentional wrongdoing.

The Point Pleasant Beach appearance was directed and staged by the Chief of Staff of Governor Kean's office in coordination with the Vice President's office. There was no involvement by the NJRSC except the payment of the rental of the sound system and some minor transportation expenses. The NJRSC representatives were not involved. The facts show that there was a conscious effort to confine the activities to the official duties of the Vice President. There is nothing which suggests that the NJRSC representatives knew anything except that it was an official visit.

The Bay Head fundraiser was specifically designed as a Party building activity. NJRSC carried out the event believing that it had planned and executed the event in compliance with the Party building exemption set forth in the statute. The fundraiser was limited to loyal Republicans from New Jersey. There was limited press coverage and its purpose was to invigorate the Party faithful to work diligently during the fall campaign. The funds exclusively benefitted to the State Party. There is no evidence to support a finding that the NJRSC knowingly made prohibited expenditures. To the contrary, the NJRSC made a good faith effort to comply with all of the standards concerning exempt Party building activities.

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POINT V

ANY DECISION OF THE COMMISSION IS SUSPECT DUE TO THE UNCERTAIN STATUS OF COMMISSION MEMBERS

The separation of powers doctrine of the United States Constitution clouds the efficacy of any decision by the FEC in this case. In a recent case, the court held that the *ex officio* appointments of the Secretary of Senate and Clerk of House of Representatives to the Commission violated the separation of powers doctrine. The courts decision is clear and unambiguous. The court stated that "Congress exceeded its legislative authority when it placed its agents... on the independent Commission....". FEC v. NRA Political Victory Fund, 6 F. 3d 821, 822 (D.C. Cir. 1993). As a result, the FEC has reconstituted itself in order to be in conformance with the decision. That is to say, the Secretary and the Clerk no longer participate in Commission hearings.

Nonetheless, the decision impacts this matter in that all enforcement proceedings thus far are invalid and unconstitutional due to the Clerk and Secretary being present on the Commission. Every decision during the first five years of this matter's existence has been dictated by a Commission which has been violative of the United States Constitution. The pervasive input by the Secretary and Clerk taint the entire proceeding.

The NJRSC is directly subject to the authority of the Commission. The Commission has been investigating the NJRSC since 1988. The decisions of the Commission throughout the five year period (including the FEC's findings of reason to believe in

February, 1990 and January, 1991) directly affected the continued prosecution of this case.

This matter is ridden with acts and decisions made by a Commission that had no constitutional legitimacy. The FEC is in an extraordinary and unique position due to its sensitive political nature. It is of the utmost importance that the FEC remain politically balanced and neutral in fact as well as in appearance. The fact that this investigation was initiated and ratified by a Commission which was in violation of the basic constitutional tenet of separation of powers demands that this proceeding be terminated.

Any decision of the Commission is suspect due to the unconstitutional status of the Commission's membership. The judgment, bias, and reasoning of the *ex officio* members and the influence they had over other members cannot be erased from the record. The FEC decision must apply and this case must be dismissed.

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CONCLUSION

Based on the foregoing facts and law, the Commission should not find probable cause and it should dismiss this matter.

Cullen and Dykman

Peter G. Sheridan

Peter G. Sheridan

Edward Gross, Esq.
Brier Hill Court, Bldg. C
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(908) 254-4200
Attorney for New Jersey Republican State Committee

Federal Election Commission
MUR 2667
New Jersey Republican State Committee
(Federal Account/Non-Federal Account)
and Kathleen Donovan, as Treasurer

AFFIDAVIT OF
EDWARD R. MCGLYNN

STATE OF NEW JERSEY:
ss
COUNTY OF ESSEX :

EDWARD R. MCGLYNN, of full age and being duly sworn upon his oath says:

1. I am an attorney at law of the State of New Jersey currently employed with the law firm of Robinson, St. John & Wayne, Gateway One, Newark, New Jersey and am fully familiar with the facts stated herein.

2. In July of 1988, I was the Chief of Staff to New Jersey Governor Thomas H. Kean. At that time, I held no position with the New Jersey Republican State Committee or with any other state or national Republican party committee.

3. I served as Chief of Staff to Governor Kean from December 24, 1985 to January 16, 1990. During my tenure, I was in communication with the Office of the President and the Office of the Vice President on a regular basis. My contacts were normally with Andy Card, who was with the Office of Political Affairs for the President, and Frank Donatelli, who was Director of that

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Office. It was not uncommon for me to inform them of various New Jersey initiatives and determine if either the President or Vice President wanted to come to New Jersey to see or learn about these initiatives on a first-hand basis.

4. In 1987, Governor Kean had initiated his 20 point Ocean Clean-up Plan in response to the pollution of New Jersey beaches and ocean waters. By 1988, the administration of then President Ronald Reagan and Congress had begun to take interest in New Jersey's proposals regarding medical waste and ocean dumping.

5. In the summer of 1988, Governor Kean was desirous of having a visit from either President Reagan or then Vice President George Bush to draw more attention to the Governor's ocean clean-up proposals. Toward that end, it is my recollection that I telephoned someone in either the Vice President's office or the President's office stating Governor Kean's desires regarding such a visit and pointing out that Governor Kean's ocean clean-up proposals were in line with federal initiatives of the Reagan administration. In response to Governor Kean's request, Vice President Bush agreed to make an official visit to New Jersey.

6. I do not recall with whom I had this conversation nor do I recall that any documentation was made of this communication or any other communication regarding the Point Pleasant Beach event.

7. It was my decision to have Vice President Bush make an appearance at South Jenkinson Beach, Point Pleasant Beach, New Jersey because that location is near to my residence and is centrally located along the New Jersey shore.

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8. To my recollection, the only individuals present on the stage at the Point Pleasant Beach event were Vice President Bush, Governor Kean, New Jersey State Department of Environmental Protection Commissioner Richard Dewling and Representative Guy Molinari of New York.

9. The State of New Jersey made no payment of any costs related to Vice President Bush's visit to New Jersey or his activities while in the State on July 22, 1988.

10. I do not recall any correspondence or other communications with the office of the Vice President in follow-up to the Vice President's visit to New Jersey on July 22, 1988.

11. This Affidavit is made in support of the New Jersey Republican State Committee's response to the Federal Election Commission's Order to Answer Questions and Subpoena to Produce Documents.

EDWARD R. McCLYMN

Sworn and Subscribed
to before me this 12 day
of September, 1991.

Evelyn V. Bernal-Silva
Notary Public of New Jersey

EVELYN V. BERNAL-SILVA
A Notary Public of New Jersey
My Commission Expires May 15, 1995

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Edward Grossi, Esq.
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(908) 254-4200
Attorney for New Jersey Republican State Committee

Federal Election Commission MUR 2667 New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Kathleen Donovan, as Treasurer	AFFIDAVIT OF DEAN ARMANDROFF

STATE OF NEW JERSEY:
ss
COUNTY OF MIDDLESEX:

DEAN ARMANDROFF, of full age and being duly sworn upon his oath says:

1. In July 1988, I was Special Assistant to New Jersey Governor Thomas Kean's Chief of Staff, Edward McGlynn.

2. At that time, I helped coordinate the visit of Vice President George Bush to New Jersey, in particular his appearance at Point Pleasant Beach, New Jersey. Mr. Bush was visiting the state on July 22, 1988, at the invitation of Governor Kean.

3. My responsibility in regard to planning the Point Pleasant Beach event was to work with the local authorities in setting up the site, stage, and security.

4. In carrying out my responsibilities, I had direct contact with members of the Advance Team from the Office of Vice President. However, due to the time that has elapsed since the event occurred, the only name that I can recollect as a contact from the Advance Team is Tom Jasien, who was the "site advance person."

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5. I also had direct contact with Russell Schriefer, who was then the Regional Director of the Bush for President Committee. I may also have had contact with other members of the Bush for President Committee but I cannot recollect their names at this time. I cannot recollect the specific nature of my contacts with these individuals regarding the Point Pleasant Beach event.

6. To my knowledge, all contacts with the press and media regarding the Point Pleasant Beach event were made by a representative of the Advance Team from the Office of the Vice President. The New Jersey Republican State Committee issued no press release regarding this event.

7. There were no invitations to the Point Pleasant Beach event but rather it was a public event with approximately 300 persons in attendance on the beach with approximately 200 people on the adjacent boardwalk.

8. To my recollection the only persons present on stage at the Point Pleasant Beach event were Vice President Bush, Governor Kean and Representative Guy Molinari of New York.

9. No solicitation of funds for the Bush for President Campaign was made at this event by Vice President Bush or by any other person.

10. To my knowledge, no Bush for President literature was distributed at this event.

11. To my knowledge the only expenses related to Vice President Bush's appearance at Point Pleasant Beach were for rental of the sound system and for bus transportation of Vice President Bush's entourage from Lakehurst Naval Air Station to Point Pleasant

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Beach. These expenses were paid out of the New Jersey Victory '88 federal account.

12. This Affidavit is made in support of the New Jersey Republican State Committee's response to the Federal Election Commission's Order to Answer Questions and Subpoena to Produce Documents.

DEAN ARMANDROFF

Sworn and Subscribed
to before me this 8th day
of September, 1991.

Notary Public of New Jersey

GEORGEANN G. GARROD
A Notary Public of New Jersey
My Commission Expires August 23, 1993

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Edward Gross, Esq.
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Attorney for New Jersey Republican State Committee

Federal Election Commission
MUR 2667
New Jersey Republican State Committee
(Federal Account/Non-Federal Account)
and Kathleen Donovan, as Treasurer

AFFIDAVIT OF
RONA GOLDBERG

STATE OF NEW JERSEY:
COUNTY OF MERCER : ss

RONA GOLDBERG, being of full age and duly sworn upon her oath says:

1. I am the Executive Director of the Governor's Club, Inc., an independent fundraising organization, conducting fundraising events and accepting contributions or making expenditures for the benefit of the New Jersey Republican Party.

2. In July of 1988, I was assistant to the Executive Director of the Governor's Club. My duties in that position involved assisting with fundraising events as well as being responsible for receipt and payment of invoices for expenses related to fundraising activities, receipt and deposit in the New Jersey Republican State Committee/Governor's Ball and Victory '88 accounts of contributions to the New Jersey Republican Party, and preparation and filing of reports required under Federal and State election law.

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8. The Bay Head event was a "closed" event. The Governor's Club did not issue any press release in regard to the Bay Head event.

9. The Governor's Club did not issue any press release regarding Vice President Bush's appearance at Point Pleasant Beach, New Jersey.

10. All expenses of the Bay Head fundraiser were paid out of the New Jersey Victory '88 account which is a Federal account, with the exception of one payment in the amount of $8,919.38 which was paid out of the NJRSC:Governor's Ball account prior to the Bay Head event due to a lack of funds in the Victory '88 account at that time.

11. All contributions received from the Bay Head fundraiser were deposited into the New Jersey Victory '88 Federal account. All contributions were from individual, non-corporate contributors.

12. Although the New Jersey Republican State Committee and the Governor's Club had no involvement with Vice President Bush's appearance at Point Pleasant Beach, New Jersey, on July 22, 1988, two invoices for expenses related to the Point Pleasant Beach event were received from the National Victory '88 office. New Jersey Victory '88 subsequently paid the two invoices from the Victory '88 Federal account.

13. I was in attendance at the fundraiser at Bay Head on July 22, 1988. At that fundraiser neither Vice President Bush nor any other person made a solicitation for contributions to the Bush for President Campaign.

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14. This affidavit is made in support of the New Jersey Republican State Committee's response to the FEC's Order for Written Answers and Subpoena to Produce Documents.

Rona L Goldberg
RONA GOLDBERG

Sworn and subscribed to
before me this 11th day
of September, 1991.

Tanya Robin Visconi
Notary Public of New Jersey
My Commission expires 10/7/91

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EDWARD GROSS, ESQ.
Brier Hill Court, Bldg. C
P.O. Box 188
East Brunswick, NJ 08816
(908) 254-4200
Attorney for New Jersey Republican State Committee

FEDERAL ELECTION COMMISSION MUR 2667 New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Kathleen Donovan, as Treasurer	AFFIDAVIT OF WILLIAM PALATUCCI

STATE OF NEW JERSEY:
COUNTY OF : ss

WILLIAM PALATUCCI, of full age and being duly sworn upon his oath says:

1. In July of 1988, I was a consultant to the Republican National Committee and the Executive Director Nominee of what became the New Jersey Bush/Quayle Campaign.

2. At that time, I learned from either Edward McGlynn or Ken Connolly of Governor Thomas Kean's Office that Vice President George Bush would be appearing in New Jersey on July 22, 1988, at the invitation of Governor Kean.

3. It was my understanding that Governor Kean had invited the Vice President to New Jersey because of environmental issues facing the State.

4. My involvement in the planning of the Point Pleasant Beach event was limited to one or two contacts with the Advance Team from the Office of the Vice President regarding minor logistical issues. I do not recall the names of the person or

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persons with whom I had contact in this regard nor can I recall any details of those conversations.

5. I was present at Point Pleasant Beach when Vice President Bush appeared there with Governor Kean and New York Congressman Guy Molinari.

6. At this event, Vice President Bush made no solicitation for contributions to his Presidential campaign nor did Governor Kean or Congressman Molinari.

7. I do recall that Vice President Bush spoke about ocean dumping and medical waste problems on the New Jersey Shore, about Governor Kean's legislative initiatives to remedy these problems, and about the Reagan/Bush administration's environmental efforts.

8. Vice President Bush may have made some remarks at Point Pleasant Beach in relation to his campaign and his position on the environment but these remarks were in response to questions from the press and media.

9. I was not involved in the planning of the State party fundraiser at the home of Lawrence Bathgate, II at Bay Head but I did attend this event.

10. It is my recollection that several candidates for public office were in attendance at the fundraiser at Mr. Bathgate's home and it is my recollection that the Vice President's remarks at that event were solely related to the activities of the Republican party.

11. Vice President Bush had just returned from his trip to Poland and spoke very emotionally about that trip and about meeting with Lech Walesa and the Vice President used the events in Poland

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as a platform for an appeal to the attendees to support the Republican party.

12. It is my recollection that Vice President Bush spoke specifically on behalf of candidates Pete Dawkins and Joseph Azzolina and voiced his appreciation for the efforts of those persons present at the fundraiser.

13. I do not recall any comments by Vice President Bush at the Bay Head event relating to his campaign for President of the United States, nor did he make any solicitation for contributions to his campaign.

14. This Affidavit is made in support of the New Jersey Republican State Committee's response to the Federal Election Commission's Order to Answer Questions and Subpoena to Produce Documents.

WILLIAM PALATUCCI

Sworn and Subscribed
to before me this
10th day of September,
1991.

Donna L. Brose
Notary Public of New Jersey

DONNA L. BROSE
A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 4/26/94

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sponsored by the Office of the Vice President or the Bush for President Committee.

4. I received no assistance from the Bush for President Committee in staging the fundraising dinner at Bay Head.

5. I had no direct communications with anyone from the Bush for President Committee or from the Republican National Committee regarding this event, although to my knowledge Lorraine Russo, my Executive Assistant, had contact with Craig Whitney, a member of the Advance Team from the Office of the Vice President.

6. Invitations to this event consisted of a personal letter from me to a select group consisting of friends, colleagues, business associates, members of the Governor's Club, members of the Governor's Ball Committee and the Republican State Committee Office's listing of active major contributors.

7. Vice President Bush's activities at the event at Bay Head consisted of posing with guests for photographs, shaking hands with guests, cocktails, dinner, remarks to the guests and receiving small gifts presented by me on behalf of New Jersey Victory '88 and the Republican State Party.

8. To my knowledge the Vice President's remarks were unprepared and there was no transcript of his remarks.

9. The Vice President's remarks centered around his recent trip to Poland and the new found freedom in that country. However, the major focus of the Vice President's remarks was the need to

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support the Republican Party as a whole, and positive remarks regarding the Republican Party and Republican Party candidates from New Jersey who were present at the event.

10. Neither Vice President Bush nor any other person made any solicitation of funds on behalf of the Bush for President campaign.

11. No Bush for President literature was distributed at this event.

12. This event was closed to the press with the exception of two reporters from the Asbury Park Press, Marguerite Henderson and Sherry Conohan, who were invited guests and whose coverage of the event was limited to the social and general interest aspects of the event, including coverage of any remarks by the Vice President in response to questions from the guests.

13. All of the gross proceeds from this event were deposited in the New Jersey State Victory '88 federal account.

This Affidavit is made in support of the New Jersey Republican State Committee's response to the FEC's Order for Written Answers and Subpoena to Produce Documents.

LAWRENCE E. BATHGATE, II

Sworn to and subscribed
before me this 10th day
of September 1991

LORAINE RUSSO
A Notary Public of New Jersey
My comm. expires 4/18/94

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COMMISSION
OFFICE OF GENERAL
COUNSEL

Oct 27 3 36 PM '94

Edward Gross, Esq.
Brier Hill Court, Building C
P.O. Box 188
East Brunswick, New Jersey 08816
(908) 254-4200
Attorney for New Jersey Republican State Committee

FEDERAL ELECTION COMMISSION MUR 2667 New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Kathleen Donovan, as Treasurer	AFFIDAVIT OF LAWRENCE E. BATHGATE, II

STATE OF NEW JERSEY:
: SS
COUNTY OF OCEAN :

LAWRENCE E. BATHGATE, II, of full age and being duly sworn upon his oath says:

1. On July 22, 1988, I hosted a New Jersey Republican State Party fundraiser at my residence in Bay Head, New Jersey, and I am fully familiar with the facts surrounding that event.

2. In July 1988 I served, and I continue to serve, as a trustee of the Governor's Club which is an independent fundraising organization, conducting fundraising events and directly and indirectly accepting contributions or making expenditures for the benefit of the New Jersey Republican Party. At that time I also served as the Republican National Finance Chairman.

3. I hosted the fundraising dinner at the request of the New Jersey Republican State Committee for the benefit of Victory '88 and the State Republican Party. The event was not generated nor

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3. In mid-July, 1988, I became aware from my supervisor Mark Husik, that Vice-President George Bush would be visiting the state on July 22, 1988, and that the New Jersey Republican State Committee/Victory '88 would be holding a fundraising dinner at the home of Lawrence Bathgate II in Bay Head, New Jersey.

4. I had no involvement in any aspect of the Vice President's travel to and from the State of New Jersey nor regarding his appearance at Point Pleasant Beach, New Jersey, on July 22, 1988.

5. In preparation for the fundraiser at Bay Head, I worked closely with Lorraine Russo, Executive Assistant to Mr. Bathgate. I assisted in preparation of the guest list and mailing of invitation letters, as well as making arrangements for the evening's activities.

6. Invitations were sent in the form of letters to friends, colleagues and business associates of Mr. Bathgate, members of the Governor's Club, members of the Governor's Ball Committee, and the Republican State Committee office's listing of active major contributors. To my knowledge, two different forms of the invitation letter were mailed. One was designated the "Turtle" letter because it was sent to persons who had participated in a fundraising dinner two years prior held at "Turtle Pond" in Rumson, New Jersey. The second letter was designated "Bay Head" and indicated those persons who had not attended the Turtle Pond event in 1986.

7. I do not recall having any communication with anyone from the Bush for President Committee regarding any aspect of the fundraiser at Bay Head.

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IN THE FEDERAL ELECTION COMMISSION

ROBERT T. BENNETT **CHAIRMAN,** **OHIO REPUBLICAN PARTY** **172 EAST STATE STREET** **COLUMBUS, OHIO 43215,**	:
COMPLAINANT,	:
vs.	:
TED STRICKLAND **PO BOX 580** **1337 THOMAS HOLLOW** **LUCASVILLE, OHIO 45648,**	:
and	:
TED STRICKLAND FOR CONGRESS **PO BOX 580** **1337 THOMAS HOLLOW** **LUCASVILLE, OHIO 45648,**	:
RESPONDENTS.	:

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OFFICE OF GENERAL
COUNSEL

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NOTICE OF SUBSTITUTION OF COUNSEL

Notice is given to the Court, Clerk of Courts, and all counsel of record that The Ohio Republican Party, Complainant in the above captioned matter, will be represented by H. Donald Bussinger.

H. Donald Bussinger
Sup. Ct. Reg. No. 0034332
6100 Channingway Blvd., Suite 500
Columbus, Ohio 43232
(614)759-7374
(614)759-0099

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	:	
	:	**MUR 2667**
Ohio Republican State Central and	:	
Executive Committee a/k/a	:	
The Ohio Republican Party	:	
(Federal Account/Non-Federal Account	:	
and Robert K. Wilson, as treasurer)	:	

NOTICE OF SUBSTITUTION OF COUNSEL

Notice is given to the Court, Clerk of Courts, and all counsel of record that The Ohio Republican Party, in the above captioned matter, will be represented by H. Donald Bussinger.

H. Donald Bussinger
Sup. Ct. Reg. No. 0034332
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Columbus, Ohio 43232
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(614)759-0099

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BEFORE THE FEDERAL ELECTION COMMISSION

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SENSITIVE

In the Matter of	)	
	)	
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, et al.	)	MUR 2667
	)	
	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a complaint and supplement filed by the Democratic Parties of Ohio, South Carolina, Tennessee and Michigan against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, ("the Bush Committee"). Complainants allege, among other things, that the Bush Committee expended funds in excess of the expenditure limitation established by 2 U.S.C. § 441a(b)(1)(A) for publicly financed campaigns for nomination to the Office of President. Complainants further allege that the Republican state party committees of Georgia, Michigan, New Jersey, Ohio and Pennsylvania and the Republican National Committee ("RNC") made expenditures in connection with then-Vice President Bush's travel during the summer of 1988, which resulted in prohibited in-kind contributions.[1] According to complainants, the Bush

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1. Complainants also made similar allegations against thirteen other state committees. Concerning these other committees, the Commission found reason to believe that the Republican state party committees of California, Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, South Carolina, Tennessee, Texas, and Wisconsin violated 2 U.S.C. §§ 441b(a) and 441a(a)(2)(A) and 11 C.F.R. § 102.5(a); the Republican state party committee of New Mexico violated 2 U.S.C. § 441a(a)(2)(A); and the committee of North Carolina violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a). On February 18, 1994, the Commission voted to take no further action against these committees and close the file as it pertained to them. The Commission sent admonishment letters to

Committee also failed to report the receipt of these alleged in-kind contributions.

On February 6, 1990, the Commission determined that there was reason to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2). On January 17, 1991, the Commission found reason to believe the RNC and its treasurer and the Republican state party committees of Michigan, New Jersey, Ohio and Pennsylvania, and their respective treasurers, violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a). The Commission also determined that the state party committee of Georgia and its treasurer violated 2 U.S.C. § 441a(a)(2)(A).

This report contains recommendations to assure that this matter conforms to the Court's opinion in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994)(No. 93-1151) ("NRA"). This report also contains probable cause recommendations against the Bush Committee, the RNC and the state party committees of Michigan, New Jersey, Ohio, Pennsylvania and Georgia ("Respondents").

(Footnote 1 continued from previous page)
these Respondents.

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II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Based on the complaint, its supplement, and the responses filed in this matter, and consistent with the Commission's November 9, 1993, decisions concerning compliance with the NRA opinion, this Office recommends that the Commission ratify the determinations to:

1. Find reason to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

2. Find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

3. Find reason to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

4. Find reason to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

5. Find reason to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

6. Find reason to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

7. Find reason to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

8. Approve the Factual and Legal Analyses that were attached to the General Counsel's Reports dated January 12, 1990, and December 14, 1990.

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For the Commission's convenience, this Office has attached the certifications in this matter dated February 9 and 28, 1990, and January 22, 1991. Attachment 1.

III. ANALYSIS

Full discussion of the Respondents' violations in this matter is contained in the General Counsel's Briefs signed on July 8, 1994. The factual and legal analysis set forth in each of the General Counsel's Briefs is incorporated as if fully set forth herein.

A. Overview

In general, Respondents' reply briefs present little or no new evidence. Instead, Respondents have chosen to focus on alleged procedural defects; attempt to "redefine" the presumption found at 11 C.F.R. § 110.8(e); make express advocacy arguments; or rehash evidence previously presented to the Commission at earlier stages of the enforcement process. The following sections address Respondents' procedural arguments as well as their substantive arguments. As will be demonstrated, Respondents fail to overcome the legal presumption of 11 C.F.R. § 110.8(e)(2)(ii) and, accordingly, there is probable cause to believe the RNC and state party committees made excessive in-kind contributions to the Bush Committee.

B. Procedural Arguments

1. Failure to Receive Notification of Complaint

In response to the General Counsel's Brief, the RNC (Attachment 2), the Republican Federal Committee of

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Pennsylvania ("Pennsylvania") (Attachment 3) and the Ohio Republican Party ("Ohio") (Attachment 4) again make the argument that they were not properly notified of the complaint in this matter.[2] For example, Pennsylvania asserts that the FEC has refused to respect the mandatory notification requirements of 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.5.[3] Attachment 2 at 4-5. Similarly, the RNC and Ohio also argue that they were not notified within the statutorily required five-day time frame. Attachment 3 at 4-9 and Attachment 4 at 2-4.

The complaint in this matter was filed on August 8, 1988. A supplement to the complaint was filed on September 12, 1988. The Bush Committee, which was the primary focus of both the complaint and supplement, was the only Respondent to receive timely notice. On February 21, 1990, the RNC and the state party committees of Georgia, Michigan, New Jersey, and Ohio were initially notified of the Commission's reason to believe findings. Although the file in this matter provides no explanation as to why these Respondents were not timely notified of the complaint and supplement, it appears that they

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2. This Office notes that the other similarly situated respondents in this matter -- the state party committees of Georgia, Michigan and New Jersey -- do not make the argument again that they had not been properly notified of the complaint.

3. Pursuant to 2 U.S.C. § 437g(a)(1), within five days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. See also, 11 C.F.R. § 111.5.

were treated as internally-generated respondents. In any event, the Commission subsequently corrected any defects in notice as to these Respondents. Specifically, the Commission rescinded its reason to believe findings and afforded Respondents notice and an opportunity to respond to the complaint and supplement.

Pennsylvania was named only in the supplement to the complaint, not in the complaint itself, and no reason to believe finding had been made against the committee at this time. After receipt of notification (before any reason to believe finding), Pennsylvania filed a motion asserting that the Commission's investigation was defective because it was not timely notified of the supplement. The Commission denied this motion.

After providing all Respondents with the opportunity to respond to the complaint and supplement, the Commission reviewed their responses and once again determined, on January 17, 1991, that there was reason to believe the RNC and the state party committees of Michigan, New Jersey, and Ohio violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a), and that the state party committee of Georgia violated 2 U.S.C. § 441a(a)(2)(A). The Commission also found reason to believe the state party committee of Pennsylvania violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

Because the Commission cured any procedural defects which may have existed in this case, this argument is without merit.

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2. FEC v. NRA

The RNC, Ohio and the New Jersey Republican State Committee ("New Jersey") (Attachment 5) rely on the Court's decision in NRA as a basis for challenging the constitutionality of the Commission and its proceedings in this matter. Specifically, these Respondents assert that all actions by the Commission prior to the NRA decision are suspect due to the unconstitutional status of the Commission's membership. Respondents further assert that the Commission has failed to address or correct this constitutional flaw. The RNC and Ohio go on to say that even if the Commission were to attempt to correct this constitutional flaw by revoting this matter, it is too late because the five-year statute of limitations at 28 U.S.C. 2462 has expired. 3M Company v. Browner, 17 F.3d 1453 (D.C. Cir. 1994)("3M"). See discussion below.

In its decision in NRA, the Court of Appeals acknowledged that the Commission is empowered to reconstitute itself without Congressional intervention. 6 F.3d at 827-28. In accordance with NRA, the Commission reconstituted itself as a constitutional six-member body. The reason to believe findings upon which this matter is proceeding are subject to the review and ratification of the reconstituted six-member Commission; further, any finding of probable cause will be made by the reconstituted Commission. As noted above, this report contains recommendations to assure that this matter conforms to the Court of Appeals' opinion in NRA. Because the Supreme Court's

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recent decision in NRA did not alter in any way the holding of the Court of Appeals, Respondents' arguments are without basis.

3. 3M Company v. Browner

The RNC, Ohio, New Jersey and the Georgia Republican Party ("Georgia") (Attachment 6) argue that further prosecution of this matter is barred by the decision in 3M. For example, New Jersey argues that in light of 3M, this case must be dismissed because "any subsequent action to impose a civil penalty is barred by the [five-year] statute of limitations [of 28 U.S.C. § 2462]." Attachment 5 at 9. Similarly, Ohio argues that prosecution of this matter comes too late because the claim accrued no later than June 26, 1988, the date that Vice President Bush attended the last event in Ohio. Georgia argues that it provided all relevant evidence to the Commission at earlier stages of the enforcement process and, based on the passage of time and the decision in 3M, it has no additional evidence to submit. Attachment 6 at 3.

In 3M, the Court of Appeals held that the general federal statute of limitations found at 28 U.S.C. § 2462 barred assessment of civil penalties for any violation committed by 3M more than five years before the Environmental Protection Agency ("EPA") commenced its proceedings under the Toxic Substances Control Act ("TSCA") (15 U.S.C. § 2615). This "catch all" statute of limitations provides: "Except as otherwise provided by Act of Congress, an action, suit or proceeding for the

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enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued. . . ." The court held that for purposes of the statute of limitations at Section 2462, the government's claim "first accrued" at the time of the violations.

Respondents' argument first fails because the statute of limitations at Section 2462 clearly does not apply to administrative enforcement actions, such as the instant matter, in which the Commission seeks to correct a violation through voluntary compliance prior to civil litigation. Consequently, the 3M decision has no effect on the Commission's ability to proceed to probable cause in this matter and to seek voluntary compliance, including civil penalties, through conciliation with Respondents. Moreover, this is an important case to pursue because it involves violations that occurred during a publicly funded campaign.

If Section 2462 applies at all to the Commission's actions, it is only in the context of seeking compliance through civil action in district court. However, even within the context of civil suit, it is very unsettled whether Section 2462 applies. The two district court cases that have addressed this question since the 3M decision have split. In Federal Election Commission v. Williams, No. 93-6321-ER (C.D. CA. Jan. 31, 1995), the U.S. District Court for the Central District of California held that Section 2462 does not apply to the Commission's enforcement actions and awarded the Commission

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a $10,000 civil penalty against the defendant for violations of 2 U.S.C. § 441f. Another U.S. District Court decision, however, determined that Section 2462 applies to civil actions seeking civil penalties, but not to claims for injunctive and declaratory relief. Federal Election Commission v. National Republican Senatorial Committee, No. 93-1612 (D. D.C. Feb. 24, 1995).

Assuming, arguendo, the NRSC decision was immediately affirmed and followed in all jurisdictions, the instant matter can proceed nonetheless because NRSC bars only civil suits seeking civil penalties. Of significance here, neither Section 2462 nor the NRSC decision limits in any way the Commission's authority to complete administrative investigations and seek voluntary conciliation prior to filing suit or appropriate declaratory or injunctive relief in court. In sum, because there is no legal limitation on proceeding in this matter and because the violations arose in connection with a publicly funded campaign, the Commission should proceed to probable cause in this case.

C. Substantive Arguments

1. Propositions of Law

Mr. Bush's travel to Georgia, Michigan, New Jersey, Ohio and Pennsylvania included specific events, appearances, and communications which were clearly for the purpose of influencing or advocating his election to the Office of the President. At the time the travel at issue took place -- the summer of 1988 -- the Bush Committee had exhausted or was about to meet its overall

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expenditure limitation established at 2 U.S.C. § 441a(b)(1)(A). Based upon the audit of the Bush Committee, it did in fact exceed its overall expenditure limit in 1988 by $214,219.62.

It is uncontested that the RNC and the state party committees of Georgia, Ohio, Michigan, New Jersey and Pennsylvania made significant expenditures in connection with Mr. Bush's travel during the summer of 1988. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive in-kind contributions totaling approximately $223,000.

Under certain conditions, party committees may make reimbursements for the expenses of a presidential candidate who engaged in party-building activities. These reimbursements will not be considered contributions or expenditures on behalf of the candidate, if the event was a "bona fide party event or appearance" and "[n]o aspect of the solicitation for the event, the setting of the event, and the remarks or activities of the candidate in connection with the event, [was] for the purpose of influencing the candidate's nomination or election." 11 C.F.R. § 110.8(e)(1)(i) and (ii). Even if these requirements are met, however, "an event or appearance occurring on or after January 1 of the year of the election for which the individual is a candidate is presumptively for the purpose of influencing the candidate's election, and any contributions or expenditures are governed by the contribution and expenditure limitations of this part 110." 11 C.F.R. § 110.8(e)(2)(ii).

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The travel, events, and appearances at issue in this matter occurred after January 1 of the election year and, therefore, are presumed to have been for the purpose of influencing Mr. Bush's campaign for the presidency. This presumption alone is a sufficient legal basis for finding probable cause to believe the party committees violated 2 U.S.C. § 441a(a)(2)(A) by making excessive contributions in connection with Mr. Bush's appearances. The issue presented in this matter is whether Respondents have provided sufficient evidence to rebut the campaign-related presumption of 11 C.F.R. § 110.8(e)(2)(ii).

By its own terms, the presumption is an absolute standard: not only must the event be a bona fide party event, but absolutely "no aspect" of the solicitation for the event, its setting, or the remarks or activities of the candidate can be for the purpose of influencing his or her campaign. Even if all of this is true, an event or appearance is still presumed to be campaign-related if it occurs after January 1 of the election year. Consequently, when any aspect of the solicitation for the event, the setting, or the candidate's remarks or activities is for the purpose of influencing his or her candidacy, it is apparent the presumption cannot be overcome. Moreover, arguments that the event or appearance was mainly or primarily party-building do not adequately rebut the plain terms of the presumption.

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Further, in keeping with the Act's broad definitions[4] of contribution and expenditure, 11 C.F.R. § 110.8(e)(2)(ii) requires only that the activity at issue be "for the purpose of influencing a federal election." It does not require that the activity "expressly advocate" the election or defeat of a federal candidate.[5] See, e.g., 2 U.S.C. § 441d. Nor is it required that the event or appearance solicit contributions or result in contributions for the candidate for it to be campaign-related for purposes of the presumption. Although expressly advocating the election or defeat of a candidate or soliciting campaign contributions are certainly two obvious ways in which an event can be for the purpose of influencing a candidate's nomination or election, these are not the exclusive ways.

The Commission has frequently considered whether particular activities involving the participation of a Federal

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4. The Act and Commission's regulations define the terms of contribution and expenditure to include gifts of anything of value and any purchase or payment made for the purpose of influencing the election of any person to Federal office. 2 U.S.C. §§ 431(8)(A)(i) and (9)(A)(i); 11 C.F.R. §§ 100.7(a)(1) and 100.8(a)(1). If certain activity is for the purpose of influencing a federal election, then the statutory limits of 2 U.S.C. § 441a(a) will apply. See Advisory Opinion 1994-15.

5. Although 11 C.F.R. § 110.8(e)(2)(ii) requires only that the activity be for the purpose of influencing a federal election, the evidence substantiates that much of Mr. Bush's activity during the summer of 1988 involved express advocacy.

candidate, or communication referring to a Federal candidate, result in a contribution or expenditure on behalf of such a candidate under the Act. It is clear that financing such activities will result in a contribution or expenditure on behalf of a candidate if the activities involve either: (1) the solicitation, making or acceptance of contributions to the candidate's campaign; or (2) communications expressly advocating the nomination, election, or defeat of any candidate. See, e.g. Advisory Opinions 1988-27, 1986-37, 1986-26. It is also significant to note that the absence of solicitations for contributions or express advocacy regarding candidates will not preclude a determination that an activity is "campaign-related." Advisory Opinions 1990-5, 1988-27, 1988-22, 1986-37, 1986-26, 1984-13, and 1983-12.

Advisory Opinion ("AO") 1992-6 presents a contemporary illustration of the Commission's position on this issue. In that opinion, the Commission decided that an honorarium and travel expenses for a speech on a college campus by a presidential candidate would not be considered a contribution as long as the candidate did not mention any campaign issues either in his speech or at collateral events. Not only was it represented that the candidate would "not mention his own candidacy or that of anyone else in his speech . . . [n]o collateral campaign events (e.g. rallies, press conferences, luncheons, etc.) or publicity will be conducted by or involve Mr. Duke's participation or that of his campaign personnel."

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Based upon these and other representations, the Commission found that payment of an honorarium and travel expenses would not constitute a contribution or expenditure. The Commission specifically warned, however, that:

> any reference by Mr. Duke to his campaign, or to the campaign or qualifications of another presidential candidate, either during the speech or during any question and answer period (held just before or after the speech) would change the character of the appearance to one that was for the purpose of influencing a federal election. The Commission note[s] the significance of a question and answer period in these circumstances given that Mr. Duke [is] putting himself in this situation just prior to the Tennessee presidential primary, and such questions, or Mr. Duke's answers to them, were a very foreseeable development.

The Commission also takes a strict view of the payment of travel expenses for a presidential candidate even prior to an actual declaration of candidacy. The Commission specifically addressed such questions in AO 1986-6 involving a multicandidate committee that was, in fact, organized by then-Vice President Bush. The committee represented that Mr. Bush was not a candidate for any office, including the presidency, and that it intended "to support Republican candidates and the Republican Party with appearances on their behalf by the Vice President." The question presented was whether the committee could pay for "the expenses of the Vice President for travel to party functions, candidate rallies, fundraisers, and similar events, and for hospitality suites at such events" without these expenditures being "treated as made

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for the purpose of influencing the Vice President's nomination or election to Federal office." According to the Committee, the only references to Mr. Bush's potential candidacy would be made "in an incidental manner or in response to the public or press." Under very limited conditions, the Commission found that the expenditures need not be allocated to the potential candidacy of Mr. Bush. The Commission outlined the limitations as follows:

> In the Commission's view, this statement should be narrowly interpreted to apply only to incidental contacts and incidental remarks, such as those in response to questions. Thus, the Commission assumes that it excludes public statements referring to the Vice President's possible intent to campaign for Federal office in the 1988 election cycle or to the campaign intentions of potential opponents for Federal office in 1988. See also the remarks described in Advisory Opinions 1985-40 and 1982-56. Furthermore, the Commission also interprets your description of these appearances as excluding such activities on behalf of the Vice President's potential candidacy as soliciting funds, holding meetings (which constitute more than incidental contacts) with individuals or the press regarding such a potential candidacy or regarding the formation of a campaign organization, or distributing campaign paraphernalia related to such a candidacy. The Commission further interprets your request as referring only to the Vice President's appearances on behalf of local, state, or Federal congressional or senatorial candidates or party-building events as described by 11 C.F.R. § 110.8(e) rather than appearances primarily related to the presidential nomination process, such as the delegate selection process. Compare Advisory Opinion 1985-40.

Further, the Commission specifically noted that its opinion did not apply to such expenditures after Mr. Bush became a candidate.

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Once Mr. Bush became a presidential candidate -- as he was when he was traveling during the summer of 1988 -- the standards under which he could accept expenditures for appearances in support of the party that would be deemed outside of the limitations of the Act became even stricter. See 11 C.F.R. § 110.8(e). In fact, after January 1 of the presidential election year, the Act presumes that the candidate's appearances are campaign-related. Id. Moreover, "if any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." 11 C.F.R. § 9034.7(a).

2. Discussion of Responses

a. George Bush for President Committee, Inc. and J. Stanley Buckaby, as treasurer

i. Response

In response to the General Counsel's Brief, the Bush Committee first addresses the issue of "excessive overall expenditures" made by the Bush Committee during the 1988 election cycle. Attachment 2. The Bush Committee states that it has already indicated in its response to the Commission's Final Audit Report that it did not contest this finding nor the amount. Id. at 1. The Committee argues, however, that because the amount in excess of the overall limit was less than the amount in excess of the Iowa and New Hampshire state limits in

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MUR 3467,[6] the Committee has already paid a fine involving excessive spending resulting from the same disbursements when it settled MUR 3467. Id.

Second, with regard to Mr. Bush's travel, the Bush Committee states it has already provided all documents in its possession that relate to the trips in this matter and that this documentation, along with information provided by the national and state committees, establishes that these were party-related activities. Id.

Finally, the Bush Committee argues that the "news accounts" cited by this Office are subjective and should not be considered determinative of the nature of these events. Id. Based on the foregoing, the Bush Committee requests that the Commission find that no violation of 2 U.S.C. §§ 441a(f), 434(b) or 441b(a) occurred.

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6. Originally, the Commission voted to refer four matters arising from the audit of George Bush for President Committee, Inc. to this Office for enforcement purposes. These matters included (1) the Bush Committee's receipt of excessive contributions from individuals and political committees; (2) the allocation of Committee expenditures to several states; (3) the Committee's use of Air Force II for campaign travel; and (4) the Committee's expenditures subject to the overall limitation. The first two issues relating to excessive contributions and excessive state expenditures in Iowa and New Hampshire were previously considered in MUR 3467, which is now closed. This matter addresses the remaining two issues which relate to the Committee's use of Air Force II for campaign travel and the Committee's expenditures subject to the overall limitation.

ii. Analysis

The arguments presented by the Bush Committee are unpersuasive. First, the Committee's argument pertaining to the overall expenditure limit has been previously addressed within the repayment context. See Explanation and Justification for 11 C.F.R. § 9038.2, 56 Fed. Reg. 35908 (July 29, 1991). When a primary candidate exceeds both the state and overall expenditure limitations, as the Bush Committee did, the Commission has developed two approaches to calculating the repayment. The first approach, and the one used in the 1988 election cycle, treats the state and overall expenditure limitations as separate for repayment purposes to the U.S. Treasury. Thus, the Audit staff would identify those particular expenditures that exceed both limits and subtract those from the excessive amount repayable under one limit or the other. The second approach, and the one adopted for the 1992 election cycle, simply uses the larger of the two excessive amounts to calculate the repayment. 11 C.F.R. § 9038.2(b)(2)(v).

Because this matter concerns the 1988 election cycle, this Office has used the first approach and treated the Bush Committee's state and overall expenditures as two separate issues and violations. Consistent with the Commission's approach regarding repayments for the 1988 election cycle,

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these two violations should be counted separately for purposes of the civil penalty as well.[7] Thus, for the purposes of this matter, the Committee has not, with the settlement of MUR 3467, already paid a fine involving excessive spending resulting from the same disbursements. Therefore, the Committee's excessive overall expenditures should be included in the calculation of the civil penalty.

Second, the evidence previously submitted by the Bush Committee failed to rebut the presumption that Mr. Bush's appearances during the summer of 1988 were campaign-related, and the Bush Committee offers no new evidence. In fact, the evidence previously provided corroborates the presumption that the activities in question were campaign-related. See General Counsel's Brief dated July 8, 1994. Further, contrary to the Bush Committee's assertion, the newspaper articles were not dispositive of this Office's probable cause recommendations.[8]

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer,

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7. In making excessive state expenditures during the 1988 election, the Bush Committee violated 2 U.S.C. § 441a(b)(1)(A) and 26 U.S.C. § 9035(a).

8. Of note, Respondents criticize the mention of newspaper articles to bolster this Office's position that the events in question were campaign-related. Several Respondents, however, rely on their own newspaper articles to support their position that the events at issue were either "official" or "party-building."

violated 2 U.S.C. § 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2) by exceeding the Committee's overall limitation and 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions totaling approximately $223,000 from the RNC and the Republican state party committees of Ohio, Georgia, Michigan, New Jersey and Pennsylvania.[9] Furthermore, because the Committee did not report these in-kind contributions, we recommend that the Commission find there is probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 434(b). Finally, because the state election law of New Jersey permits corporate and labor union contributions and the state election law of Michigan permits labor union contributions in state elections, the Bush Committee received impermissible funds totaling approximately $27,000 from the non-federal accounts of the New Jersey and the Michigan Republican State Committee ("Michigan"), in violation of 2 U.S.C. § 441b(a). Accordingly,

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9. In order to determine the amount of the apparent excessive in-kind contributions made by the RNC and the state party committees, the Audit Division reviewed all of the financial documents that were obtained through discovery. Subsequently, the Audit Division prepared an analysis of the amounts expended by Respondents for ground, Air Force II and White House Communications costs in connection with Mr. Bush's travel during the summer of 1988. This Office notes that because the other Respondents could each make a $5,000 contribution to the Bush Committee pursuant to 2 U.S.C. § 441a(a)(2)(A), that amount has been subtracted from the total amount of expenditures determined by the Audit Division to have been made by Respondents in connection with Mr. Bush's travel during the summer of 1988.

this Office also recommends that the Commission find probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. § 441b(a).

b. Republican National Committee and William J. McManus, as treasurer

i. Response

In addition to the procedural arguments discussed above, the RNC sets forth two major arguments. Attachment 3. First, the RNC attempts to redefine the legal presumption at 11 C.F.R. § 110.8(e)(2)(ii). The RNC begins by arguing that the General Counsel's Brief applies a "new standard" by the use of the phrase "campaign-related" -- which does not appear in 11 C.F.R. § 110.8(e). Id. at 17. The RNC argues that 11 C.F.R. § 110.8(e) requires only a showing that a candidate's appearance at a "bona fide" party event was sufficiently "party-related" or, as stated in Advisory Opinion 1975-72, that it "fulfill legitimate party building purposes." Id. at 18.

Second, the RNC applies standards other than the presumption and argues that the evidence rebuts the conclusion that Mr. Bush's appearances during the summer of 1988 were for the purpose of influencing his election. Id. at 15. The Committee argues that the RNC's Unity '88 Conferences were bona fide party-building events and Mr. Bush's appearances at Unity '88 events were "significantly and sufficiently party-related." Id. at 23. The Committee maintains that "'no aspect of . . . the remarks or activities of the candidate in connection with the event' suggests

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this party-building purpose was diminished or supplanted by an identifiable 'purpose to influence' his election." Attachment 3 at 26.

The RNC also argues that "[t]he Commission must apply the 'express advocacy' standard in determining under § 110.8(e) whether the Vice-President's appearances were 'for the purpose of influencing' his nomination campaign . . . ." Id. at 27. The RNC further asserts that Mr. Bush's remarks were not express advocacy and were directed to an audience of party activists, not the general voting public. The RNC states:

> Vice President Bush's comments were, admittedly, partisan and critical of the opposing party and its standard bearer, and encouraged party workers to actively support the Republican ticket, as befits the setting and purpose of the event. He acknowledged that he needed their help, as did all Republican candidates. But Vice President Bush's remarks did not expressly advocate voting for him.

Attachment 3 at 28.

ii. Analysis

Contrary to the RNC's assertion, this Office has not applied a legal standard different from the one set forth at 11 C.F.R. § 110.8(e)(2)(ii). As is evident within the context of the legal discussion in the General Counsel's Brief, the term "campaign-related" means "for the purpose of influencing an election" as that term is used in the regulation. As the Commission has stated elsewhere, "[a] payment of costs to sponsor and finance public appearances by candidates for Federal office that are 'campaign-related' is considered made

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'for the purpose of influencing Federal elections' and to constitute a 'contribution' to or 'expenditure' on behalf of such candidates . . . ." AO 1988-22 at 11,469. In sum, the legal standard applied in this matter is precisely the standard contained in 11 C.F.R. § 110.8.

Relatedly, the RNC misconstrues the presumption. It first argues that in order to overcome the presumption, it need only demonstrate that the events at issue were "sufficiently party-related." In support, the RNC relies on an advisory opinion which was decided before the regulation was passed. In point of fact, the RNC's position is clearly contrary to the plain language of the regulation. The presumption contained in section 110.8 contemplates that an event is party-related, but it further requires that no aspect of the event is for the purpose of influencing the presidential candidate's election. Instead of demonstrating that "no aspect" of Mr. Bush's appearances was for the purpose of influencing his presidential election, the RNC merely presents conclusions that all events were sufficiently party-building. It is not a question of being sufficiently party-related, but that it is only party-related. Based on the remarks described by the RNC itself, it is clear that Mr. Bush was discussing his campaign as well as his opponent and, therefore, the events and activities clearly fail to meet the requirement that no aspect of the event be for the purpose of influencing the candidate's election.

In the alternative, the RNC argues that in order for Mr. Bush's appearances to be for the purpose of influencing his

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election, his remarks at Unity '88 events would have to "unmistakably and unambiguously ask attendees to vote for him." Attachment 3 at 28. Again, this is a misconstruction of the regulation. In light of the RNC's argument, it appears at least in part to be based upon the requirements for an "independent expenditure," which requires express advocacy. 2 U.S.C. § 431(17). What constitutes an "independent expenditure," however, is plainly irrelevant to this matter. As discussed above, at issue here is whether expenditures made in conjunction with and on behalf of Mr. Bush's committee were excessive in-kind contributions. This determination, of course, turns on whether any aspect of his appearances was campaign-related.

The record is replete with evidence which demonstrates that many aspects of Mr. Bush's appearances at the RNC-sponsored Unity '88 Conferences were for the purpose of influencing his presidential election. The conferences were attended by candidates, activists, and volunteers and consisted of rallies and lectures. According to Mary Matalin, RNC Victory '88 Director, it was usual RNC practice to set up press rooms at Unity '88 Conferences. Based on several news articles, Mr. Bush used these press rooms to make comments regarding his candidacy. The campaign-related nature of the Unity '88 Conferences is further substantiated by the Unity '88 Conference Book ("the Book"), which was given to conference attendees. The Book refers extensively to the presidential campaign and the major party candidates. For example, one of the first pages in the Book contains a drawing of George Bush and his statement: "A presidency can shape an era -

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and it can change our lives. A successful presidency can give meaning to an age." Further, Section 2 of The Book is simply entitled "George Bush" and contains several "Issue Statements by Vice President George Bush" and an article by Lee Atwater, Campaign Manager for the Bush Campaign, entitled "The Best Candidate, the Best Message and the Best Campaign." There were also several campaign-related pamphlets included in a pocket of The Book. One pamphlet, "Facts About the Fiction, The National Democrats: A 1988 Political Research Fact Book," contains several charges against Michael Dukakis. These include allegations of "the Dukakis Threat" and "the Biggest Spending Governor in America."

This Office also obtained from the Bush Committee excerpts of Mr. Bush's speeches at the Unity '88 Conferences. For example, in Denver, Mr. Bush referred to Governor Dukakis and the presidential campaign throughout his speech. For example, Mr. Bush stated:

> At issue this year are two completely different versions of our country and where it's going. Because the differences this year are so stark and the stakes are so high, I think it's our responsibility, Governor Dukakis and me, as the nominees of our parties, to spend the next five months discussing the serious issues that face us. And I'll begin with five words that are an underlying theme of this campaign: Let's look at the record.

Mr. Bush ends with a call to action:

> You are my surrogates. Will you help me get the word out? If we work together hard, undaunted, and undiscouraged, then we will win.
>
> The choice could not be clearer, nor the outcome more important. I'm going to give this race

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> everything that I've got. I'm a fighter and I look forward to the fray. I'm going to lay out these issues and define these differences and take our case to every corner of the country.
>
> If you can help me, get out there...because if you do, our vision will prevail -- and our progress will continue.

Further, according to news accounts of the Unity '88 Conference, Mr. Bush charged Governor Dukakis with opposing the B-1 Bomber. It was also reported that Mr. Bush contrasted his view of the United Nations with that of Governor Dukakis. According to one news article, Mr. Bush stated that Governor Dukakis would "rely heavily on multilateral organizations such as the U.N.," but he, as a former ambassador to the United Nations, recognizes "its limitations."

Similarly, at the Unity '88 Conference in Cincinnati, Mr. Bush again referred to Governor Dukakis and the presidential campaign. Mr. Bush remarked that lower taxes and growth would be the hallmark of his candidacy and accused Governor Dukakis of raising taxes and helping Massachusetts earn the label "Taxachusetts." Mr. Bush promised that he would not raise taxes and would limit government spending. In addition, Mr. Bush explained that, as President, he would support SDI and nuclear deterrence. He also contrasted his foreign policy to Governor Dukakis' support for a nuclear freeze. Further, Mr. Bush described his crime policy, drug policy, and his support for the death penalty. Mr. Bush also advocated the Pledge of Allegiance in schools and committed to be the "education President."

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In another speech given at the Cincinnati Unity '88 Conference, Robert Bennett, the Ohio Republican State Chairman, described Governor Dukakis as the candidate of the "dead end maze of failed and flawed policies . . . ." Mr. Bennett concluded his speech by stating: "There is only one viable course for the future of America . . . the election of George Bush this November."

Next, while participating in the Unity '88 Conference in Atlanta, Mr. Bush discussed the choices that the Nation would have to make in the fall election. Further, he contrasted his foreign policy to that of Governor Dukakis by stating:

> My opponent brought a suit to prevent the President from deploying a state's national guard overseas without the consent of the Governor. You can't run a foreign policy if 50 state Governors each have the right to veto a Presidential decision. You might as well invite the mayors in, too, and have a real party...I believe in a strong executive who can carry out a strong, consistent foreign policy that protects America's interests around the globe -- and that's the kind of President I'll be.

Mr. Bush also discussed the Governor's support for a nuclear freeze. He described his crime policy and portrayed Governor Dukakis as a "card carrying member of the ACLU." Finally Mr. Bush pledged that he would "appoint judges who interpret the Constitution, not legislate from the bench."

In news accounts covering the Unity '88 Conference in Atlanta, it was reported that Mr. Bush used his speech at the Conference to attack Governor Dukakis. For example, Mr. Bush

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criticized Governor Dukakis' veto of legislation requiring teachers to recite the Pledge of Allegiance with students. Mr. Bush further criticized Governor Dukakis for his purported reliance upon the U.N. and his opposition to the death penalty.

In summary, the evidence in this matter clearly demonstrates that aspects of Mr. Bush's appearances at the Unity '88 Conferences were for the purpose of influencing his presidential election. At each Unity '88 Conference, not only did Mr. Bush criticize Governor Dukakis and his policies, but he went on to describe the policies he would implement if he was elected President. Moreover, other speakers at Unity '88 -- e.g. Chairman Bennett in Cincinnati -- promoted Mr. Bush's candidacy. Additionally, the literature distributed at the Conferences promoted Mr. Bush's candidacy and must be considered related to his presidential campaign.

It is uncontested that the RNC made significant expenditures in connection with Mr. Bush's travel to and participation in the Unity '88 Conferences in Denver, Cincinnati, and Atlanta. Based on the evidence, these expenditures resulted in excessive in-kind contributions totaling approximately $79,450 to George Bush's campaign for President. For the foregoing reasons, this Office recommends that the Commission find probable cause to believe the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling $79,450 to the Bush Committee. In

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addition, while it appears that the expenditures made by the RNC in connection with Mr. Bush's appearances were excessive, they were made with permissible federal funds. Therefore, this Office recommends that the Commission find that there is no probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

c. Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party and Robert K. Wilson, as treasurer

i. Response

Ohio acknowledges that 11 C.F.R. § 110.8(e)(2)(ii) creates a legal presumption that Mr. Bush's June 24 through June 26 visit to Ohio constituted campaign-related activity. Attachment 4. The Committee argues, however, that the evidence overcomes the presumption. Id. at 7. Mr. Bush's trip to Cincinnati included, inter alia, appearances at the Unity '88 Conference and a Victory '88 fundraising dinner. In his trip to Columbus, Mr. Bush made an apparently official appearance at the Fraternal Order of Police and also participated in a Victory '88 fundraising brunch. Ohio made expenditures in connection with the Victory '88 dinner and brunch.[10] Ohio generally maintains that Mr. Bush's appearances at these events were party-related and that Mr. Bush's speeches and remarks did not rise to the level of express advocacy. Id. at 14.

10. The campaign-related nature of the Unity '88 Conference is discussed above in the section on the RNC.

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Because Ohio misconstrues the legal presumption, its arguments focus on the purported lack of express advocacy as evidence that the presumption has been overcome. At the same time, the Committee's argument tacitly acknowledges instances of express advocacy because it argues that the "clear and overwhelming evidence is that Mr. Bush's appearances in Ohio, taken as a whole, were not for the purpose of express advocacy." Attachment 4 at 14. (emphasis added). In addition, the Committee argues that both fundraisers were for the benefit of the state committee and occurred after the state primary.

ii. Analysis

Although Ohio is correct that the presumption may be rebutted, it has failed to do so. To begin with, the fact that these events may have been party-building is simply not the end of the analysis. The regulation contemplates that an event is a "bona fide party event," but requires that no aspect of the solicitation for the event, its setting, or the activities or remarks of the candidate may be for the purpose of influencing the candidate's election. Ohio's argument that "taken as a whole," the purpose of Mr. Bush's appearance was not express advocacy of his campaign does not overcome the presumption because the issue is whether any aspect of the event or Mr. Bush's activities was for the purpose of influencing his

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election. Based on the record, the Committee simply cannot overcome the "no aspect" requirement of the regulation.[11]

In fact, the record clearly demonstrates that, in addition to party-building, aspects of the Victory '88 fundraisers were for the purpose of influencing Mr. Bush's campaign. First, the invitation to the Victory '88 dinner describes Ohio as a key state for Republicans in upcoming elections and asserts that Bush is "going out of his way to help win in Ohio, not only for himself but for every Republican on the ticket." The campaign-related nature of the dinner is further confirmed by a June 27, 1988, letter from Nicholas J. Vehr, the Executive Director of the Republican Finance Committee of Hamilton County, to the Ohio Republican State Chairman. In this letter, Mr. Vehr refers to this fundraising dinner and declares that "the weekend proved very successful not just for the Bush for President effort, but for the State Party and our County organization."

Similarly, the invitation to the Victory '88 fundraising brunch held in Columbus was also campaign-related. It stated: "The Vice President needs our support to do all the things necessary to carry Ohio - A MUST WIN STATE." Further, concerning the fundraiser itself, the thank you letter from Robert T. Bennett, Chairman of the Ohio Republican Party, to the persons who attended the event states that the funds raised

11. Of course, even if this prong was satisfied, the timing of the event presumes that it was campaign-related.

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at the brunch would be "instrumental in electing George Bush the next President of the United States." Id. The Committee argues that this letter was not express advocacy because it was sent after the fundraiser, but this argument fails to address the obvious -- i.e., at least aspects of the event were for the purpose of influencing Mr. Bush's election. Further, these Victory '88 fundraisers were clearly collateral to the larger campaign-related Unity '88 Conference at which Mr. Bush spoke. See AO 1992-6. It is also clear that Mr. Bush's remarks went beyond mere "incidental contacts." 11 C.F.R. § 9034.7(b)(2); AO 1986-6; cf. AO 1992-6. Based on the foregoing, Ohio's arguments that Mr. Bush's appearances were solely for party-building and not "for the purpose of influencing his election" must fail.

It is uncontested that the state party committee made expenditures, totaling $20,000, in connection with Mr. Bush's travel to Ohio on behalf of the Bush Committee, which resulted in excessive contributions totaling approximately $15,000. Accordingly, this Office recommends that the Commission find probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a the Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling $15,000 to the Bush Committee. Because the evidence and the Committee's reports

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for the relevant reporting periods confirm that the Committee had only permissible federal funds in its federal account, it appears that the expenditures made by Respondents in connection with Mr. Bush's appearances were made with permissible federal funds. Therefore, this Office recommends that the Commission find there is no probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

d. Georgia Republicans and Marvin H. Smith, as treasurer

i. Response

In Atlanta, Mr. Bush participated in a number of events including the Unity '88 Conference, a Victory '88 Reception Fundraiser, and a Victory '88 Dinner Fundraiser. The campaign-related aspects of the Unity '88 Conference are discussed above under the section on the RNC.

Concerning the state party committee, Georgia contends that the presumption of 11 C.F.R. § 110.8(e)(2)(ii) is rebutted because it paid for only two events -- a reception and a dinner -- both of which raised funds for the Georgia Republican Party and were traditional party building activity. Attachment 5 at 3. The Committee also argues that "[t]he touchstone is whether there was express advocacy" and that Mr. Bush's remarks at these events did

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not rise to the level of express advocacy. Id. at 5. Georgia contends that "[a] speech by a vice president discussing the 'choices facing his audience' in an upcoming election is perfectly permissible for a party leader, as it must be permissible to draw distinctions between the two parties' standard bearers." Id. Finally, Georgia criticizes the Probable Cause Brief's citations to news articles covering Mr. Bush's appearances in Atlanta, but the Committee does not specifically contend that anything was misreported in the articles.

ii. Analysis

Like several other respondents, Georgia misconstrues the presumption found at 11 C.F.R. § 110.8. The fact that these events may have been party-building is not the end of the analysis. The event not only has to be a "bona fide party event," but no aspect of the event may be for the purpose of influencing the presidential candidate's election. Further, even if these two conditions are met, an event is presumed to be campaign-related under the regulations if it occurs after January 1 of the election year. Georgia's argument that there was no express advocacy of Mr. Bush's campaign at the Victory '88 events does not overcome the presumption because the issue is whether any aspect of Mr. Bush's activities or remarks was for the purpose of influencing his election. It is clear that Mr. Bush's remarks were campaign-related and, consequently, the Committee cannot satisfy the requirement that no aspect of

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these events was for the purpose of influencing Mr. Bush's candidacy. Accordingly, Georgia fails to overcome the presumption.

The "Victory '88-Georgia Unity Reception and Fundraiser," which was immediately followed by a "Victory '88-Georgia Dinner and Reception" were collateral events to the larger campaign-related Unity '88 Conference at which Mr. Bush spoke and not merely "incidental contacts." 11 C.F.R. § 9034.7(b)(2); AO 1986-6; cf. AO 1992-6. Guests at the reception "paid the state Republican Party $1,000 a couple to meet the likely GOP presidential nominee." As the committee has acknowledged, Mr. Bush gave a short speech at the reception and discussed the campaign and the "choices facing his audience." Further, according to a news report, "he talked about drawing distinctions between himself and Dukakis. 'It is not a difficult thing to do, he said. It's like night and day.'"[12]

In light of Mr. Bush's remarks and the circumstances and setting of these events, the Victory '88 Reception and Dinner held in conjunction with the Unity '88 Conference were campaign-related. Georgia acknowledges that the planning for these events was coordinated with staff from the RNC and the Bush Committee. It is also uncontested that Georgia made expenditures totaling $54,000 in connection with Mr. Bush's travel to Georgia. Based on the evidence, Respondents made

12. While newspaper articles may bolster the presumption, they are certainly not dispositive of the issues in this matter. The presumption alone is sufficient for a finding of probable cause to believe.

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expenditures in connection with these events which resulted in excessive contributions to the Bush Committee totaling approximately $49,000. Accordingly, this Office recommends that the Commission find probable cause to believe the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $49,000 to the Bush Committee.

e. New Jersey Republican State Committee and Virginia N. Littell, as treasurer

i. Response

In response to the General Counsel's Brief, New Jersey sets out its version of the procedural history and facts of this matter as well as four general arguments. Attachment 6. In addition to its procedural arguments, the Committee argues unpersuasively that the events in New Jersey were not for the purpose of influencing Mr. Bush's election. Id. at 12-15. The Committee also argues that it did not "knowingly" make any prohibited contributions or expenditures in connection with Mr. Bush's visit to New Jersey. Id. at 17-18. In support of these arguments, the Committee proffers affidavits from five persons associated with the events that took place in New Jersey. They are: (1) Edward McGlynn, Esq., then Chief of Staff to Governor Thomas H. Kean; (2) Dean Armandroff, then Assistant Chief of Staff: (3) Rona Goldberg, then assistant to the Executive Director of the Governor's Club; (4) William Palatucci, who in July 1988 was the Executive Director Nominee

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of the New Jersey Bush/Quayle campaign; and (5) Lawrence E. Bathgate, II, Esq., then a trustee of the Governor's Club. Id. at 21-34. The information set forth in these affidavits is included in New Jersey's recitation of the facts of this matter.

According to the Committee, Vice President Bush was invited to New Jersey by Governor Kean. On July 22, 1988, Mr. Bush, as well as Governor Kean and other Republican leaders, addressed about 500 people on the environmental problem of ocean dumping of sludge and garbage. Id. at 4. New Jersey asserts that the Bush Committee had no role at the Point Pleasant Beach event and that campaign literature was not distributed. According to the Committee, Vice President Bush made references to his campaign only in response to press questions.

With respect to the fundraiser held in Bay Head at the residence of Lawrence Bathgate, New Jersey asserts that this was a "bona fide Party event" to "reward Party faithful for their good work, and raise money for the NJRSC."[13] Id. at 6-7. According to the Committee, all arrangements for the dinner were directed by persons representing the Committee, the New Jersey Governor's Club, and/or Victory '88, in cooperation with members of the Advance Team from the Office of the Vice President. Id. The Committee contends that the primary message of the invitation letter from Mr. Bathgate was that

13. In its response, the New Jersey Republican State Committee is referred to as the "NJRSC."

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this event was for the benefit of the New Jersey "Victory '88 Fund."[14] The Committee further asserts that "[t]here is no evidence that the Vice President had prepared any remarks and no transcript of his remarks is known to the NJRSC." Id. at 8. The local daily paper, The Asbury Park Press, was the only press invited to cover the event. Id. at 8-9. The Committee also states that the event took place at a point in a campaign cycle where party-building activities are in the forefront. The "event was held in July - which is 'down time' squeezed between the last primary elections and the National Convention. July is historically a period during a campaign cycle when Party building and 'fence mending' activities within one's own Party take place." Id. at 9.

In summary, the Committee argues that Mr. Bush was performing his official duties while at Point Pleasant Beach and the fundraiser held at Bay Head was a normal and traditional practice of a state party taking advantage of the appearance of a party leader in their state. Further, New Jersey argues that the evidence provided by them "effectively" rebuts the presumption of 11 C.F.R. § 110.8(e)(2)(ii).

Finally, the Committee argues that it must be proven that New Jersey knowingly made prohibited contributions and

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14. According to the Committee, "the Victory '88 Fund inures to the benefit of State Republican Party regulars, Party contributors, local and State officials, and Republican Party candidates." Id. at 8.

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expenditures, and there is no evidence of intentional wrongdoing in this matter. Id. at 18.

ii. Analysis

Neither the Committee's arguments nor their affidavits overcome the presumption that Mr. Bush's appearances in New Jersey were campaign-related. Although they offer more detail about Mr. Bush's appearances, the additional information does not vitiate the finding that at least some aspects of Mr. Bush's appearances were for the purpose of influencing his nomination or election.

In regard to Mr. Bush's appearance in Point Pleasant, the event took place on Jenkinson Beach and was open to the public. Mr. Bush spoke about the environment and medical waste, two visible issues of the 1988 presidential campaign. In press reports, Mr. Bush is quoted as saying, "I'll be a good president for the environment." He also reportedly discussed Michael Dukakis' acceptance speech at the Democratic Convention and opined that it "lacked specifics on defense and foreign policy." Mr. Bush apparently went on to characterize Mr. Dukakis as "a traditional liberal and a card-carrying member of the American Civil Liberties Union." Mr. Bush also made reference to the "upcoming GOP convention" and how it would reflect the "more upbeat philosophy of the Republican Party."

Based on the extent of Mr. Bush's campaign-related remarks at Point Pleasant, these public statements were not made "in an incidental manner" or simply in response to questions. The

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Commission takes a narrow view of what may be considered to be incidental contacts or remarks. E.g., AO 1986-6; 1992-6. For example, even within the context of Mr. Bush not being a declared candidate, the Commission specifically excluded as incidental such things as "public statements referring to the Vice President's possible intent to campaign for Federal office . . . or to the campaign intentions of potential opponents." AO 1986-6. Because Mr. Bush's remarks at Point Pleasant included discussions of campaign issues, his candidacy and his opponent's campaign positions, these remarks went beyond incidental and were public statements intended to influence a federal election. See AO 1986-6. Cf. AO 1992-6 (the Commission determined that any reference by a candidate to his campaign, or to the campaign or qualifications of another presidential candidate, either during a speech or during any question and answer period held prior to or after the speech will change the character of the appearance to one that is for the purpose of influencing a federal election.) Moreover, the Commission's regulations provide that "[i]f any campaign activity, other than incidental contacts, is conducted at a stop, that stop shall be considered campaign-related." 11 C.F.R. § 9034.7(b)(2).

Further, Respondents' assertion that Mr. Bush's appearance at Point Pleasant was purely official is undercut by evidence of their own sponsorship. The NJRSC/Victory '88 paid not only for the rental of the sound system at that event, but Mr. Bush's transportation costs as well. It is highly unlikely

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the Committee would pay for these costs if Mr. Bush's appearance was only official. In summary, this appearance was not purely official, but campaign-related because Mr. Bush discussed the presidential campaign, promoted his platform, and pointedly criticized the Democratic nominee. Further, the costs of this appearance were paid for by NJRSC/Victory '88.

Similarly, Mr. Bush's appearance at a Victory '88 fundraising dinner in Bay Head on July 22nd was also campaign-related. To begin with, the dinner invitation itself emphasized the importance of New Jersey to Mr. Bush's election: "New Jersey has been targeted as one of the most important states for the Vice President this fall. The outcome of the election could well hinge on what happens in our state." While New Jersey asserts that the invitation letter was not part of a "typical" fundraiser mass mailing, the Committee fails to address the content of this invitation. Moreover, even if the purpose of the event was to raise funds for the state party, as the Committee asserts, this does not preclude a determination that "aspect[s] of the solicitation for the event" were related to Mr. Bush's campaign.

Further, according to the Asbury Park Press news account of the dinner, Mr. Bush's remarks to the dinner guests included a statement that he was looking forward to an upbeat Republican National Convention next month in which he would point out the things that are right with the country. The news account further states that Mr. Bush repeated his desire to become known as the "education president." The affidavit of the host,

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Mr. Bathgate, avers that "no Bush for President literature was distributed" at the dinner. Attachment 5 at 34. (emphasis added). Significantly, Mr. Bathgate does not aver that other Bush for President paraphernalia were not distributed and, in fact, it was reported that the dinner guests left with caps, visors and T-shirts bearing the "Bush for President message."

Finally, the Committee misinterprets the application of 2 U.S.C. § 441a(f) and the term "knowingly" as it is set forth in this section. New Jersey is not being cited for a violation of 2 U.S.C. § 441a(f) in which the term knowingly is applied, rather the Commission found reason to believe that the NJRSC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions to the Bush Committee. Section 441a(a)(2)(A) does not contain a knowledge requirement.[15]

Mr. Bush's appearances in New Jersey were campaign-related and appear to have been used as a vehicle to provide him with continued public exposure prior to the nominating convention without requiring the Bush Committee to make additional campaign expenditures. Mr. Bush's appearances in New Jersey, as well as his other appearances during the summer of 1988, were at a time when the Bush Committee had spent or was about

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15. Moreover, it is clear that Congress intended there be two distinct standards -- "knowingly" and "knowing and willful." See MUR 3429. A "knowing" violation of section 441a(f) requires only that the recipient committee have knowledge of receipt of the contributions at issue, and not that the recipient committee intended to accept contributions that exceeded the limitations in violation of the law. See FEC v. John A. Dramesi for Congress Committee, 640 F. Supp. 985, 987 (D.N.J. 1986). See also MUR 3527.

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to expend funds in excess of its 1988 overall expenditure limit. It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to New Jersey. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $25,400.

For the foregoing reasons, this Office recommends that the Commission find probable cause to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $25,400 to the Bush Committee. Because the state election law of New Jersey permits corporate and labor union contributions in state elections and one payment for the Bay Head event totaling $8,919 was made from its non-federal account, this Office also recommends that the Commission find probable cause to believe the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

f. Michigan Republican State Committee and Ronald D. Dahlke, as treasurer

In response to the General Counsel's Brief, Michigan makes two general arguments. Attachment 7. The Committee first argues that the legal presumption of 11 C.F.R. § 110.8(e)(2)(ii) is not enough for a finding of probable cause

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to believe. Second, Michigan argues that neither Mr. Bush's visit to the Ukrainian Cultural Center in Warren nor his attendance at the Victory '88 Dinner in Bloomfield Hills involved express advocacy.

According to the Committee, "[t]his case, condensed into the real issue, is whether certain phrases singled out by OGC in this matter 'expressly advocated' the election of the Vice President to the Office of the President of the United States in 1988." Id. at 7. The Committee argues that only if Mr. Bush expressly advocated his election at these events would Michigan's $18,000 in expenses constitute expenditures on behalf of the Bush Committee. Id. The Committee further argues that its expenditures in connection with these events were not for the Bush Committee because the activities at the Ukrainian Cultural Center were purely official and the fundraising dinner was purely party-building.

First, as previously discussed, the presumption alone is a sufficient legal basis for finding probable cause to believe Michigan violated 2 U.S.C. § 441a(a)(2)(A). Thus, the issue in this matter is not whether this Office may rely on this presumption, but rather whether the evidence presented by Michigan rebuts it.

Second, the express advocacy arguments set forth by Michigan are based upon a misconstruction of the law. As discussed fully above, the presumption does not turn on express advocacy, but turns on the timing of the event and whether any aspect of the solicitation for the event, the setting, or the

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remarks and activities of the candidate was for the purpose of influencing Mr. Bush's campaign. Moreover, the Committee bases its arguments on law relating to independent expenditures -- made without cooperation or consultation with the candidate -- which, by definition, require express advocacy. 2 U.S.C. § 431(17). Such arguments are inapposite to this matter, however, because there is no question that the Committee's expenditures were coordinated with the Bush Committee; the issue is whether the expenditures were for the purpose of influencing Mr. Bush's campaign. Because at least aspects of Mr. Bush's appearances at the events in Michigan were campaign-related, Michigan's expenditures in connection with these events are governed by the limitations of the Act. 11 C.F.R. § 110.8(e)(2)(ii).

Aside from misconstruing the law, Michigan also fails to provide evidence to overcome the presumption. Michigan first argues that all of the events at the Ukrainian Cultural Center were official. Essentially, Michigan argues that because Mr. Bush's speech at the Ukrainian Cultural Center was given in his official capacity, his press conference at the Center was also official. The Committee further contends that it was not involved in "planning" any aspect of these activities. In particular, the Committee contends that the press conference at the Center was "not prearranged by [the Committee]." Attachment 7 at 17.

The Committee's argument fails for several reasons. To begin with, Mr. Bush's speech and the press conference at the

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Ukrainian Cultural Center were separate events; although the speech may have been official, that does not mean the press conference was also official. In fact, the evidence is to the contrary. The Committee carefully argues that it did not "plan" or "prearrange" the press conference, but it apparently did arrange for the press conference and, in fact, paid the Ukrainian Cultural Center for staging and lighting expenses in the amount of $8,381.00.[16] Presumably, the Committee paid for the costs of the press conference because it was not considered to be "official business." Further, the Committee essentially concedes that the press conference was campaign-related, by acknowledging that Mr. Bush did discuss his presidential campaign. Id. at 15. This press conference took place at the same time the Democratic Convention was being held in Atlanta. According to the Washington Post article dated July 21, 1988, Mr. Bush commented during the press conference on the Democratic Convention and addressed comments made by the keynote speaker of the convention, Texas Treasurer Ann Richards. Regardless of whether Mr. Bush's speech at the Ukrainian Cultural Center was official, Mr. Bush's separate press conference, paid for by the state committee, was for the purpose of influencing his election. See AO 1986-6; cf. 1992-6.

Turning to the Victory '88 fundraising dinner in Bloomfield Hills, the Committee argues that this was a bona

16. The Committee states that it cannot determine why it paid for these expenses. Id. at 23.

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fide party event planned by Michigan and attended by Mr. Bush as a principal fundraising draw to benefit Michigan's non-federal account. Id. at 12. The invitation to the event described it as "A Dinner with George Bush, Vice President of the United States" and included the following statement: "P.S. Just to let you know that your picture will be taken with the Vice President, George Bush, who we hope to be the next President of the United States." The Committee offers no evidence to overcome the presumption that this appearance was campaign-related. Instead, the Committee argues no express advocacy and asserts "to the best of [its] knowledge," Mr. Bush "spoke in general party-building terms" at the dinner.

Respondents' argument is simply not enough to overcome the presumption. The event in Bloomfield Hills took place after January 1 of the election year and is presumed to be campaign-related. Although it may have been principally a fundraiser for the state party committee, based upon the invitation alone, it is clear that the Committee cannot show that "no aspect of the solicitation for the event" was related to Mr. Bush's campaign.

It is uncontested that the state party committee made expenditures in connection with Mr. Bush's travel to Michigan. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in excessive contributions totaling approximately $13,000. Therefore, this Office recommends that the Commission find probable cause to believe that the Michigan Republican State Committee (Federal

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Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). Furthermore, because the state election law of Michigan permits labor union contributions in state elections and Michigan admits that any payments related to Mr. Bush's appearances came from their non-federal account, this Office recommends that the Commission find there is probable cause to believe the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

g. Republican Federal Committee of Pennsylvania and Patricia K. Poprick, as treasurer

i. Response

Pennsylvania makes no attempt to rebut the presumption of 11 C.F.R. § 110.8(e)(2)(ii) in its response. Attachment 8. Instead, as discussed above, the Committee focuses on the defective notice and argues that it has been prejudiced in this matter as a result. Pennsylvania argues that over the past six years, the personnel has changed a great deal and those who remain must rely on distant memories to address the allegations of the complaint. Id. at 9. The Committee further asserts that if it has the burden of overcoming the campaign-related presumption, then the Commission's notice requirements should be even more strictly enforced. Id.

ii. Analysis

As discussed at Section III, Part B, the Commission cured any procedural defects which existed in this case.

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Pennsylvania received notification of the complaint and supplement in this matter, and was given the opportunity to respond fully prior to the Commission's January 17, 1991, reason to believe determinations. Moreover, throughout the enforcement process, Pennsylvania has had several opportunities to present evidence to rebut the campaign-related presumption, but has failed to do so. Specifically, Pennsylvania was given the opportunity to respond to the complaint and supplement; the Commission's reason to believe determinations; discovery requests; and General Counsel's Brief. At each step in the process, Pennsylvania was given ample time to provide complete and full responses and, in some instances, was granted extensions of time to present rebuttal evidence. While the personnel working for Pennsylvania may have changed over the course of this case, at the time Pennsylvania was first notified of the complaint and supplement in 1990, the events at issue were not a "distant memory" to its staff. Contrary to its assertion, Pennsylvania has not been denied a timely opportunity to locate staff members and present statements or affidavits from former staff members based upon memories close in time to the events at issue.

It is uncontested that the state party committee made significant expenditures in connection with Mr. Bush's travel to Pennsylvania. Based on the evidence, Respondents made expenditures on behalf of the Bush Committee which resulted in

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excessive in-kind contributions totaling approximately $41,000. See General Counsel's Brief dated July 8, 1994.

Accordingly, this Office recommends that the Commission find probable cause to believe the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) by making excessive in-kind contributions totaling approximately $41,000 to the Bush Committee. In addition, Respondents made expenditures from their non-federal account in connection with a federal election.[17] Therefore, this Office recommends that the Commission find probable cause to believe the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 11 C.F.R. § 102.5(a). However, because the state election law of Pennsylvania prohibits both corporate and labor union contributions, this Office recommends that the Commission find there is no probable cause to believe Respondents violated 2 U.S.C. § 441b(a).

D. Conclusion

Respondents have failed to overcome the presumption of 11 C.F.R. § 110.8(e)(2)(ii). At minimum, Respondents have failed to demonstrate that no aspect of the solicitation for the events, the setting for the events, and the remarks or

17. Respondents provided copies of checks drawn from the Committee's state account.

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activities of Mr. Bush in connection with the events was for the purpose of influencing Mr. Bush's nomination or election. 11 C.F.R. § 110.8(e)(1)(i) and (ii).

In fact, not only do Respondents fail to rebut the presumption, the evidence provided by Respondents corroborates the presumption. As discussed above, the evidence affirmatively demonstrates that the activities in question were, in fact, campaign-related. Consequently, because Mr. Bush conducted campaign-related activities while in Georgia, Michigan, New Jersey, Ohio and Pennsylvania and these activities did not qualify as incidental contacts, Mr. Bush's trips are considered to be campaign-related. See 26 U.S.C. § 9034.7(b)(2) and 11 C.F.R. § 110.8(e)(2)(ii).

IV. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTIES

Attached for the Commission's approval are seven proposed conciliation agreements for the Bush Committee, the RNC, and the state party committees of Ohio, Georgia, New Jersey, Michigan, and Pennsylvania. Attachment 9.

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V. RECOMMENDATIONS

1. Ratify the determination to find reason to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

2. Ratify the determination to find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

3. Ratify the determination to find reason to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

4. Ratify the determination to find reason to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

5. Ratify the determination to find reason to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

6. Ratify the determination to find reason to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

7. Ratify the determination to find reason to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

8. Approve the Factual and Legal Analyses that were attached to the General Counsel's Reports dated January 12, 1990, and December 14, 1990.

9. Find probable cause to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

10. Find probable cause to believe the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

11. Find no probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

12. Find probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

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13. Find no probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

14. Find probable cause to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

15. Find probable cause to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

16. Find probable cause to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) and Ronald D. Dahlke, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

17. Find probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a).

18. Find no probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

19. Approve the attached proposed conciliation agreements and appropriate letters.

5/10/95
Date

Lawrence M. Noble
General Counsel

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Attachments:

1. Certifications
2. Response from Bush committee
3. Response from the RNC
4. Response from Ohio
5. Response from Georgia
6. Response from New Jersey
7. Response from Michigan
8. Response from Pennsylvania
9. Proposed conciliation Agreements - 7

Attorneys assigned: Mary Ann Bumgarner
Richard M. Denholm II

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: MAY 17, 1995

SUBJECT: MUR 2667 - GENERAL COUNSEL'S REPORT DATED MAY 10, 1995.

The above-captioned document was circulated to the Commission on Thursday, May 11, 1995 at 4:00.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	XXX
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, May 23, 1995.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2667
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, *et al*.	)	

AMENDED CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 13, 1995, do hereby certify that the Commission took the following actions in MUR 2667:

1. Decided by a vote of 4-1 to

   a) Ratify the determination to find reason to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

   b) Ratify the determination to find reason to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a).

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c) Ratify the determination to find reason to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

d) Ratify the determination to find reason to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

e) Ratify the determination to find reason to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

f) Ratify the determination to find reason to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

g) Ratify the determination to find reason to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

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h) Approve the Factual and Legal Analyses that were attached to the General Counsel's Reports dated January 12, 1990, and December 14, 1990.

Commissioners Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented; Commissioner Potter recused himself from this matter and was not present at the time of its consideration.

2. <u>Decided by a vote of 4-1 to</u>

a) Find probable cause to believe the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2).

b) Find probable cause to believe the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A).

c) Find no probable cause to believe that the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §441b(a) and 11 C.F.R. § 102.5(a).

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d) Find probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), but take no further action and close the file.

e) Find no probable cause to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

f) Find probable cause to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and Marvin Smith, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), but take no further action and close the file.

g) Find probable cause to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), but take no further action and close the file.

h) Find probable cause to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a), but take no further action and close the file.

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i) Find probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a), but take no further action and close the file.

j) Find no probable cause to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

k) Approve the proposed conciliation agreement with the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, as recommended in the General Counsel's May 10, 1995 report

l) Approve the proposed conciliation agreement with the Republican National Committee and William J. McManus, as treasurer, as recommended in the General Counsel's May 10, 1995 report

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m) Send appropriate letters.

Commissioners Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented; Commissioner Potter recused himself from this matter and was not present during its consideration.

Attest:

6-20-95
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. J. Stanley Huckaby, Treasurer
George Bush for President Committee, Inc.
228 South Washington Street
Alexandria, VA 22314

RE: MUR 2667

Dear Mr. Huckaby:

As you have been previously notified, the Federal Election Commission ("Commission") found reason to believe that the George Bush for President Committee, Inc. and you, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), and 441a(b)(1)(A), provisions of the Federal Election Campaign Act of 1971, as amended, 26 U.S.C. § 9035 of the Presidential Election Campaign Fund Act, and 11 C.F.R. § 9033.2(b)(2) of the Commission's regulations.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe, and approved the Factual and Legal Analysis previously mailed to you. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, on that same date, the Commission found that there is probable cause to believe the George Bush for President Committee, Inc. and you, as treasurer, violated 2 U.S.C.

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§§ 434(b), 441b(a), 441a(f), and 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2), in connection with then-Vice President Bush's travel and appearances during the summer of 1988.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved 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 accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. Michael A. Hess, Esq.
Ms. Allison F. Brigati, Esq.
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2667
Republican National Committee and William J. McManus, as treasurer

Dear Mr. Hess and Ms. Brigati:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the Republican National Committee and William J. McManus, as treasurer, ("Respondents") violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe that the Respondents violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), and approved the Factual and Legal Analysis previously mailed to the Respondents. You should refer to that document for the basis of

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the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, on that same date, the Commission voted to find that there is probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. The Commission also determined that there was no probable cause to believe that Respondents violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved 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 accept the agreement. Please make the check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9604372936

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. H. Donald Bussinger, Esq.
6100 Channingway Blvd., Suite 500
Columbus, OH 43232

RE: MUR 2667
Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer

Dear Mr. Bussinger:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the Ohio Republican State Central and Executive Committee a/k/a The Ohio Republican Party (Federal Account/Non-Federal Account) and its treasurer ("Respondents") violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe that the Respondents violated

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2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), and approved the Factual and Legal Analysis previously mailed to the Respondents. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, it will be provided upon request.

Furthermore, on that same date, the Commission voted to find that there is probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. After considering the circumstances of this matter, however, the Commission also determined to take no further action against Respondents. The Commission also found that there was no probable cause to believe that Respondents violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). Accordingly, the Commission closed its file in this matter as it pertains to these Respondents.

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. William M. Doran, Esq.
Mr. Paul J. Greco, Esq.
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103

RE: MUR 2667
Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer

Dear Messrs. Doran and Greco:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and its treasurer ("Respondents") violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe that the Respondents violated

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2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), and approved the Factual and Legal Analysis previously mailed to the Respondents. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, on that same date, the Commission voted to find that there is probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. After considering the circumstances of this matter, however, the Commission also determined to take no further action against Respondents. The Commission also found that there was no probable cause to believe that Respondents violated 2 U.S.C. § 441b(a). Accordingly, the Commission closed its file in this matter as it pertains to these Respondents.

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. Peter G. Sheridan, Esq.
Mr. Kenneth von Schaumburg, Esq.
Cullen & Dykman
Suite 1410
Newark , New Jersey 07102

RE: MUR 2667
New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer

Dear Messrs. Sheridan and von Schaumburg:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and its treasurer violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe that the New Jersey Republican

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State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), and approved the Factual and Legal Analysis previously mailed to the Respondents. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, on that same date, the Commission voted to find that there is probable cause to believe the New Jersey Republican State Committee (Federal Account/Non-Federal Account) and Virginia N. Littell, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. After considering the circumstances of this matter, however, the Commission also determined to take no further action against these Respondents. Accordingly, the Commission closed its file in this matter as it pertains to them.

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. Frank B. Strickland, Esq.
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, Georgia 30309-3214

RE: MUR 2667
The Georgia Republicans
(Federal Account/Non-Federal
Account) and Marvin H. Smith,
as treasurer

Dear Mr. Strickland:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the Georgia Republicans (Federal Account/Non-Federal Account) and its treasurer ("Respondents") violated 2 U.S.C. § 441a(a)(2)(A).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior finding that there is reason to believe that the Respondents violated 2 U.S.C. § 441a(a)(2)(A), and approved the Factual and Legal Analysis previously mailed to Respondents. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

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Furthermore, on that same date, the Commission voted to find that there is probable cause to believe Respondents violated 2 U.S.C. § 441a(a)(2)(A), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. After considering the circumstances of this matter, however, the Commission also determined to take no further action against Respondents. Accordingly, the Commission closed its file in this matter as it pertains to these Respondents.

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 22, 1995

Mr. Eric E. Doster, Esq.
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933

RE: MUR 2667
Michigan Republican State Committee (Federal Account/Non-Federal Account)

Dear Mr. Doster:

On January 17, 1991, the Federal Election Commission (the "Commission") found reason to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) and its treasurer violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 63 U.S.L.W. 4027 (U.S. Dec. 6, 1994) (No. 93-1151). The Commission has taken several actions to comply with the Court of Appeals' decision. The Commission, consistent with that opinion, remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on June 13, 1995, the Commission ratified its prior findings of reason to believe that the Michigan Republican State Committee (Federal Account/Non-Federal Account) violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), and approved the Factual and Legal Analysis previously mailed to

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the Committee. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, on that same date, the Commission voted to find that there is probable cause to believe the Michigan Republican State Committee (Federal Account/Non-Federal Account) violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a), and 11 C.F.R. § 102.5(a), in connection with then-Vice President Bush's travel and appearances during the summer of 1988. After considering the circumstances of this matter, however, the Commission also determined to take no further action against the Committee. Accordingly, the Commission closed its file in this matter as it pertains to the Michigan Republican State Committee (Federal Account/Non-Federal Account).

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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Ohio Republican Party

Robert T. Bennett
Chairman

Martha C. Moore
Vice-Chairman

MUR 2667

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 10 3 28 PM '95

MEMORANDUM

To: Mr. Richard Denholm
Federal Election Commission

From: Tom Whatman
Executive Director

Date: July 10, 1995

Subject: Legal Representation

This is to inform you that the general counsel for the Ohio Republican Party is:

Mr. Robert Huffman
Huffman, Landis, Weaks, & Wist
103 N. Miami Street
West Milton, OH 45383
(513) 698-4153
(513) 698-7376 (fax)

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172 E. State Street, Suite 400, Columbus, Ohio 43215-4367 • (614) 228-2481 • FAX (614) 228-1093

Republican
National
Committee

Michael A. Hess
Chief Counsel

Thomas J. Josefiak
Deputy Chief Counsel

Allison Fahrenkopf Brigati
Associate Chief Counsel

July 11, 1995

JUL 11 4 02 PM '95
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Lawrence M. Noble, General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20003

RE: MUR 2667
Republican National Committee

Dear Mr. Noble:

This letter requests an extension of time for the Republican National Committee (RNC) to respond to the Commission's probable cause finding and proposed conciliation agreement in the above captioned matter under review.

The RNC requests an extension until July 21, 1995. Since I was out of the country from June 22nd until July 5th and because the Commission's notice was internally misdirected, I was not made aware of the Commission's letter until July 10th.

Thank you for your consideration of this request.

Sincerely,

Allison Fahrenkopf Brigati

Allison Fahrenkopf Brigati

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Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8638
TDD: (202) 863-8728 • FAX: (202) 863-8654

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 21, 1995

Ms. Allison F. Brigati, Esq.
Republican National Committee
310 First Street, N.W.
Washington, D.C. 20003

RE: MUR 2667
Republican National Committee and William J. McManus, as treasurer

Dear Ms. Brigati:

This letter confirms our July 18 and July 20, 1995 telephone conversations concerning the above-captioned matter. On July 18, 1995, I telephoned you to inform you that the Commission had received the RNC's extension request, dated July 11, 1995. In your letter, you requested an extension until July 21, 1995, in which to respond to the Commission's post-probable cause conciliation agreement. I explained to you at that time that a formal extension was not necessary because we are in the statutorily mandated conciliation period and have 30 to 90 days to settle this matter. You said that the RNC would respond to the Office of General Counsel on July 21, 1995.

On July 20, 1995, you telephoned me and stated that "we have a problem." You explained that Mr. Hess has been ill recently and has not been in the office. You also explained that the "person" who wrote the RNC's response is out of the country until the week of August 7, 1995. You declined to identify this person. You also explained that you were the only one in the office in a position to discuss this matter, but that you needed until the week of August 7, 1995, to respond.

I explained to you that the Commission is only required to attempt to conciliate for a period of 30 days. You again stated that you would need until the week of August 7, 1995, to respond. I informed you that the Commission hoped for a settlement in this matter and that we would look forward to the RNC's response during the week of August 7, 1995. You agreed to respond during that week and added that if we did not receive a response, we should

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consider that a rejection of the Commission's offer. Accordingly, if no response is received by close-of-business on August 11, 1995, we will so inform the Commission and recommend that the Commission proceed to the next stage of the enforcement process.

Sincerely,

Richard M. Denholm II
Attorney

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COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N. W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
TELEX 89-593 (COVLING WSH)
CABLE COVLING

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE 44-(71)-495 5655
TELEFAX 44-(71)-495 3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32 2 512 9890
TELEFAX 32 2 502 1598

BOBBY R. BURCHFIELD
DIRECT DIAL NUMBER
(202) 662-5350

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

July 24, 1995

Richard Denholm, II, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2667

Dear Mr. Denholm:

Thank you for your letter of July 21, 1995. I will review it and discuss it with Mr. Huckaby in the near future, and we certainly will have a response to you well within the 30-to-90 day period within which you are operating. The press of other matters may not allow me to discuss this with you in any detail during the coming week, however.

I note that your letter was addressed to me at "1201 Park Road, N.W., Washington, D.C. 20010-2022." That address is unfamiliar to me. You should direct all future correspondence to me at the address set forth above.

Thank you for your attention to this matter.

Sincerely,

Bobby R. Burchfield

Bobby R. Burchfield

cc: J. Stanley Huckaby

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Republican
National
Committee

David A. Norcross
General Counsel

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

Aug 11 3 32 PM '95

August 11, 1995

Richard M. Denholm II
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2667

Dear Mr. Denholm:

This letter is the response of the Republican National Committee and William J. McManus, as treasurer, to the General Counsel's letter of June 22, 1995, and to the proposed conciliation agreement in MUR 2667.

The allegations in this matter arose out of events and a complaint filed in 1988. In addition to the obvious staleness of this case, the RNC continues to object strongly to its procedural context: 1) the Commission's original failure to comply with the notice provision of 2 U.S.C. §437g(a)(1) caused irreparable harm to the RNC's due process interests and remains an incurable defect in the Commission's prosecution of this matter, and 2) further proceedings against the RNC in this matter are barred by the statute of limitations because the Commission failed to commence this action within five years of the date the alleged claim first accrued.

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TDD: (202) 863-8728 • FAX: (202) 863-8774

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Very truly yours,

David A. Norcross
General Counsel

Allison Fahrenkopf Brigati
Associate Chief Counsel

For the Republican National Committee
and William J. McManus, as treasurer

cc: Chairman Danny Lee McDonald
Vice-Chairman Lee Ann Elliott
Commissioner Joan D. Aikens
Commissioner John Warren McGarry
Commissioner Trevor Potter
Commissioner Scott E. Thomas

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 15, 1995

David A. Norcross, Esq.
Allison F. Brigati, Esq.
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2667

Dear Mr. Norcross and Ms. Brigati:

This Office is in receipt of your letter to Mr. Denholm dated August 11, 1995, regarding the above-captioned matter. Based upon that letter, this Office understands that the Republican National Committee and William J. McManus, as treasurer, do not intend to pursue post-probable cause conciliation of this matter. If this is not your position, please notify this Office immediately.

Sincerely,

Elizabeth A. Strange
Assistant General Counsel

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COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N. W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX: (202) 662-6291
TELEX: 89-593 (COVLING WSH)
CABLE: COVLING

BOBBY R. BURCHFIELD
DIRECT DIAL NUMBER
(202) 662-5350

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE: 44-171-495-5655
TELEFAX: 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE: 32 2 512 9890
TELEFAX: 32 2 502 1598

September 2, 1995

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 7 12 02 PM '95

Richard M. Denholm II, Esq.
Federal Election Commission
Office of the General Counsel
999 E. Street, N.W.
Washington, DC 20463

Re: MUR 2667

Dear Mr. Denholm:

I am enclosing the designation of counsel form in MUR 2667 for George Bush for President Committee, Inc. ("the Committee") and J. Stanley Huckaby, Treasurer. This designation was omitted from my prior correspondence.

I apologize for any inconvenience.

Sincerely,

Bobby R. Burchfield

Bobby R. Burchfield

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
SEP 7 12 24 PM '95

Enclosure

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2667 - George Bush for President Committee, Inc.

NAME OF COUNSEL: Bobby R. Burchfield, Esq.

ADDRESS: Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, DC 20004

TELEPHONE: 202-662-5350

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

8/31/95
Date

Signature

RESPONDENT'S NAME: George Bush for President Committee, Inc.

ADDRESS: J. Stanley Huckaby, Treasurer
228 South Washington Street, Suite 200
Alexandria, VA 22315

HOME PHONE:

BUSINESS PHONE: 703-549-7705

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Oct 17 9 04 AM '95

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, et al.	)	MUR 2667

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 13, 1995, the Commission found probable cause to believe that George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer ("Bush Committee") violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), and 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2). On that same date, the Commission also found probable cause to believe the Republican National Committee and William J. McManus, as treasurer ("RNC"), violated 2 U.S.C. §§ 441a(a)(2)(A). The Commission also found that there was no probable cause to believe the RNC violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a).[1] These findings were made in connection with then-Vice President Bush's travel and appearances during the summer of 1988.

On June 13, 1995, the Commission also approved conciliation agreements to be sent to the Bush Committee and the

1. On June 13, 1995, the Commission also ratified its reason to believe findings that the Bush Committee violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), and 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2) and the RNC violated 2 U.S.C. §§ 441a(a)(2)(A) and 441b(a) and 11 C.F.R. § 102.5(a).

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RNC ("Respondents"). Despite numerous telephone conversations and written correspondence with Respondents, postprobable cause conciliation has been unsuccessful. For the reasons discussed below, this Office recommends that the Commission take no further action against the Bush Committee and the RNC and close the file in this matter.

II. ANALYSIS

A. Responses

In written responses from the Bush Committee (Attachment 1) and the RNC (Attachment 2) to the Commission's findings of probable cause, and during negotiations, Respondents have relied heavily on the argument that the Commission is time-barred from pursuing this matter because it failed to commence this action within five years of the date the alleged claim first accrued.

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The RNC has raised once again the procedural argument that the "Commission's original failure to comply with the notice provision of 2 U.S.C § 437g(a)(1) caused irreparable harm to the RNC's due process interests and remains an incurable defect in the Commission's prosecution of this matter.[2] Attachment 2 at 1.

B. Discussion

As the Commission is aware, a definitive ruling has not been made as to whether the 5-year federal catch-all statute of limitations found at 28 U.S.C. § 2462 applies to Commission-initiated enforcement suits seeking civil penalties. As discussed in the General Counsel's Report dated April 28, 1995, this Office does not recommend that the Commission concede that the Section 2462 statute of limitations is applicable to the FECA as a matter of law. Instead, in evaluating cases potentially affected by the imposition of a 5-year statute of limitations, this Office has taken a cautious view.

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2. As discussed in the General Counsel's Report dated May 10, 1995, any procedural defects which may have existed in this case were cured by the Commission.

Accordingly, until such time as a definitive ruling is made on the applicability of Section 2462 to the FECA, this Office will take into consideration the age of a violation when making its recommendations, starting with the date of the violation. See General Counsel's Report dated April 28, 1995.

The activity in the present matter took place between June, 1988 and August, 1988. Based on the foregoing discussion, if Section 2462 were to apply it is unlikely that the Commission would be able to obtain civil penalties from the Bush Committee and the RNC, should it become necessary to file suit. Moreover, this case does not appear to be worth pursuing for the purpose of obtaining possible equitable and/or declaratory relief. For example, the Bush Committee is no

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longer actively involved in the political process.[5] Further, because this matter is very fact specific, a declaratory judgment is unlikely to deter any future attempts by the RNC to engage in campaign-related activity under the guise of party-building activity. Finally, in light of the age of this case, and because Respondents continue to dispute the factual and legal assertions in the conciliation agreements, this Office does not believe that continued pursuit of this matter is the best utilization of the Commission's limited resources.

Accordingly, this Office recommends that the Commission take no further action against the Bush Committee and the RNC and close the file in this matter.

III. RECOMMENDATIONS

1. Take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer.
2. Take no further action against the Republican National Committee and William J. McManus, as treasurer.
3. Approve the appropriate letters.
4. Close the file.

10/16/95
Date

Lawrence M. Noble
General Counsel

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5. This Office also notes that the portion of the audit referral for the Bush Committee relating to excessive contributions and state expenditures was the subject of MUR 3467. That matter was settled with a signed conciliation agreement and the payment of a $40,000 civil penalty.

Attachments
1. Response from the Bush Committee
2. Response from the RNC

Staff Assigned: Mary Ann Bumgarner

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: OCTOBER 19, 1995

SUBJECT: MUR 2667 - GENERAL COUNSEL'S REPORT DATED OCTOBER 16, 1995.

The above-captioned document was circulated to the Commission on Tuesday, October 17, 1995 at 11:00.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, October 31, 1995.

Please notify us who will represent your Division before the Commission on this matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2667
George Bush for President Committee,	)	
Inc. and J. Stanley Huckaby, as	)	
treasurer, et al.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 31, 1995, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2667:

1. Take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Take no further action against the Republican National Committee and William J. McManus, as treasurer.

3. Approve the appropriate letters as agreed during the meeting discussion.

4. Close the file.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

10-31-95
Date

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

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Bobby R. Birchfield, Esquire
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 2667
George Bush for President Committee, Inc.
and J. Stanley Huckaby, as treasurer

Dear Mr. Birchfield:

On June 22, 1995, your clients, George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, were notified that the Federal Election Commission found probable cause to believe that they had violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2). On August 29, 1995, you submitted a response to the Commission's probable cause to believe findings.

After considering the circumstances of this matter, on October 31, 1995, the Commission determined to take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and closed the file in this matter. The Commission reminds you that the expenditures made on behalf of your clients by the Republican National Committee and the Republican state party committees of California, Colorado, Florida, Georgia, Illinois, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas and Wisconsin, in connection with then-Vice President Bush's travel during the summer of 1988, were prohibited contributions to George Bush for President Committee, Inc., in violation of 2 U.S.C. §§ 441a(f) and 441b(a). Further, these contributions should have been reported pursuant to 2 U.S.C. § 434(b). Your clients should take steps to insure that this kind of activity does not occur in the future.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you

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wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. David A. Norcross, Esquire
Ms. Allison F. Brigati, Esquire
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2667
Republican National Committee and
William J. McManus, as treasurer

Dear Mr. Norcross and Ms. Brigati:

On June 22, 1995, you were notified that the Federal Election Commission found probable cause to believe that your clients, the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A). You were also notified that the Commission found no probable cause to believe that your clients violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a). On August 11, 1995, you submitted a response to the Commission's probable cause to believe finding.

After considering the circumstances of this matter, on October 31, 1995, the Commission determined to take no further action against the Republican National Committee and William J. McManus, as treasurer, and closed the file in this matter. The Commission reminds you that the expenditures made by your clients, in connection with then-Vice President Bush's travel during the summer of 1988, were excessive in-kind contributions to George Bush for President Committee, Inc., in violation of 2 U.S.C. § 441a(a)(2)(A). Your clients should take steps to insure that this kind of activity does not occur in the future.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you

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wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mark Brewer, Chairman
Michigan Democratic Party
606 Townsend
Lansing, MI 48933

RE: MUR 2667

Dear Mr. Brewer:

This is in reference to the complaint and supplement to the complaint the Michigan Democratic Party filed with the Federal Election Commission on August 8, 1988 and September 12, 1988, respectively, against George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer. Based on the complaint and supplement, the Commission found that there was reason to believe that:

> (1) George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (3) the California Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (4) the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the Republican Party of Florida Federation Campaign Committee and James H. Stelling, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (7) the Illinois Republican State Central Committee and Dallas Ingemunson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (8) the Republican Party of Kentucky and Larry J. Steinberg, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (9) the Republican State Central Committee of Maryland and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (10) the Massachusetts Republican State Committee and Lawrence Novak, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (11) the Michigan Republican State Committee and

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its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (12) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (13) the Republican Campaign Committee of New Mexico and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (14) the North Carolina Republican Executive Committee and Steve Stroud, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a); (15) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (16) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (17) the South Carolina Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (18) the Tennessee Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (19) the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); and (20) the Republican Party of Wisconsin and Robert R. Barrow, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

As a result of these findings of violations of provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and the Commission's regulations, the Commission instituted an investigation in the matter.

In consideration of the circumstances of this matter, however, the Commission determined on February 18, 1994, to take no further action against the Republican state party committees of California, Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, New Mexico, North Carolina, South Carolina, Tennessee, Texas and Wisconsin and closed the file as to these respondents. Admonishment letters were sent to these respondents.

After an investigation was conducted and the General Counsel's and the respondents' briefs were considered, on June 13, 1995, the Commission found that there was probable cause to believe that:

(1) the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a) 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (3) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (4) the Michigan Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio

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Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); and (7) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), and 11 C.F.R. § 102.5(a).

On that same date, the Commission also found that there was no probable cause to believe that:

(1) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); (2) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); and (3) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

In consideration of the circumstances of this matter, however, the Commission also determined on June 13, 1995, to take no further action against the Republican state party committees of Georgia, Michigan, New Jersey, Ohio, and Pennsylvania and closed the file as to these respondents.

Finally, on October 31, 1995, after once again considering the circumstances of this matter, the Commission determined to take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and the Republican National Committee and William J. McManus, as treasurer. The Commission also voted to close the file and send admonishment letters to these respondents. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
General Counsel's Reports
dated February 14, 1994,
May, 10, 1995 and
October 16, 1995
Certification dated June 13, 1995

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Will Cheek, Chairman
Tennessee Democratic Party
1808 West End Avenue, #515
Nashville, TN 37203

RE: MUR 2667

Dear Mr. Cheek:

This is in reference to the complaint the Tennessee Democratic Party filed with the Federal Election Commission on August 8, 1988, against George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer. Based on the complaint and a subsequently filed supplement to the complaint, the Commission found that there was reason to believe that:

> (1) George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (3) the California Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (4) the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the Republican Party of Florida Federation Campaign Committee and James H. Stelling, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (7) the Illinois Republican State Central Committee and Dallas Ingemunson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (8) the Republican Party of Kentucky and Larry J. Steinberg, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (9) the Republican State Central Committee of Maryland and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (10) the Massachusetts Republican State Committee and Lawrence Novak, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (11) the Michigan Republican State Committee and

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its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (12) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (13) the Republican Campaign Committee of New Mexico and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (14) the North Carolina Republican Executive Committee and Steve Stroud, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a); (15) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (16) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (17) the South Carolina Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (18) the Tennessee Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (19) the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); and (20) the Republican Party of Wisconsin and Robert R. Barrow, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

As a result of these findings of violations of provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and the Commission's regulations, the Commission instituted an investigation in the matter.

In consideration of the circumstances of this matter, however, the Commission determined on February 18, 1994, to take no further action against the Republican state party committees of California, Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, New Mexico, North Carolina, South Carolina, Tennessee, Texas and Wisconsin and close the file as to these respondents. Admonishment letters were sent to these respondents.

After an investigation was conducted and the General Counsel's and the respondents' briefs were considered, on June 13, 1995, the Commission found that there was probable cause to believe that:

(1) the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a) 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (3) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (4) the Michigan Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio

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Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); and (7) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), and 11 C.F.R. § 102.5(a).

On that same date, the Commission also found that there was no probable cause to believe that:

(1) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); (2) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); and (3) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

In consideration of the circumstances of this matter, however, the Commission also determined on June 13, 1995, to take no further action against the Republican state party committees of Georgia, Michigan, New Jersey, Ohio, and Pennsylvania and closed the file as to these respondents.

Finally, on October 31, 1995, after once again considering the circumstances of this matter, the Commission determined to take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and the Republican National Committee and William J. McManus, as treasurer. The Commission also voted to close the file and send admonishment letters to these respondents. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
General Counsel's Reports
dated February 14, 1994,
May, 10, 1995 and
October 16, 1995
Certification dated June 13, 1995

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank S. Holleman, III
South Carolina Democratic Party
2301 Devine Street
Columbus, SC 29250

RE: MUR 2667

Dear Mr. Holleman:

This is in reference to the complaint the South Carolina Democratic Party filed with the Federal Election Commission on August 8, 1988, against George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer. Based on the complaint and a subsequently filed supplement to the complaint, the Commission found that there was reason to believe that:

(1) George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (3) the California Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (4) the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the Republican Party of Florida Federation Campaign Committee and James H. Stelling, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (7) the Illinois Republican State Central Committee and Dallas Ingemunson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (8) the Republican Party of Kentucky and Larry J. Steinberg, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (9) the Republican State Central Committee of Maryland and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (10) the Massachusetts Republican State Committee and Lawrence Novak, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (11) the Michigan Republican State Committee and

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its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (12) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (13) the Republican Campaign Committee of New Mexico and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (14) the North Carolina Republican Executive Committee and Steve Stroud, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a); (15) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (16) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (17) the South Carolina Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (18) the Tennessee Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (19) the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); and (20) the Republican Party of Wisconsin and Robert R. Barrow, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

As a result of these findings of violations of provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and the Commission's regulations, the Commission instituted an investigation in the matter.

In consideration of the circumstances of this matter, however, the Commission determined on February 18, 1994, to take no further action against the Republican state party committees of California, Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, New Mexico, North Carolina, South Carolina, Tennessee, Texas and Wisconsin and closed the file as to these respondents. Admonishment letters were sent to these respondents.

After an investigation was conducted and the General Counsel's and the respondents' briefs were considered, on June 13, 1995, the Commission found that there was probable cause to believe that:

(1) the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a) 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (3) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (4) the Michigan Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio

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Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); and (7) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), and 11 C.F.R. § 102.5(a).

On that same date, the Commission also found that there was no probable cause to believe that:

(1) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); (2) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); and (3) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

In consideration of the circumstances of this matter, however, the Commission also determined on June 13, 1995, to take no further action against the Republican state party committees of Georgia, Michigan, New Jersey, Ohio, and Pennsylvania and closed the file as to these respondents.

Finally, on October 31, 1995, after once again considering the circumstances of this matter, the Commission determined to take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and the Republican National Committee and William J. McManus, as treasurer. The Commission also voted to close the file and send admonishment letters to these respondents. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
General Counsel's Reports
dated February 14, 1994,
May, 10, 1995 and
October 16, 1995
Certification dated June 13, 1995

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

December 11, 1995

David J. Leland, Chairman
Ohio Democratic Party
88 E. Broad Street
#1920
Columbus, OH 43215

RE: MUR 2667

Dear Mr. Leland:

This is in reference to the complaint the Ohio Democratic Party filed with the Federal Election Commission on August 8, 1988, against George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer. Based on the complaint and a subsequently filed supplement to the complaint, the Commission found that there was reason to believe that:

> (1) George Bush for President Committee, Inc., and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (3) the California Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (4) the Colorado Republican Federal Campaign Committee and Douglas L. Jones, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the Republican Party of Florida Federation Campaign Committee and James H. Stelling, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (7) the Illinois Republican State Central Committee and Dallas Ingemunson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (8) the Republican Party of Kentucky and Larry J. Steinberg, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (9) the Republican State Central Committee of Maryland and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (10) the Massachusetts Republican State Committee and Lawrence Novak, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (11) the Michigan Republican State Committee and

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its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (12) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (13) the Republican Campaign Committee of New Mexico and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (14) the North Carolina Republican Executive Committee and Steve Stroud, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 102.5(a); (15) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (16) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (17) the South Carolina Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (18) the Tennessee Republican Party and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (19) the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); and (20) the Republican Party of Wisconsin and Robert R. Barrow, as treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a).

As a result of these findings of violations of provisions of the Federal Election Campaign Act of 1971, as amended, Chapters 95 and 96 of Title 26, U.S. Code, and the Commission's regulations, the Commission instituted an investigation in the matter.

In consideration of the circumstances of this matter, however, the Commission determined on February 18, 1994, to take no further action against the Republican state party committees of California, Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, New Mexico, North Carolina, South Carolina, Tennessee, Texas and Wisconsin and closed the file as to these respondents. Admonishment letters were sent to these respondents.

After an investigation was conducted and the General Counsel's and the respondents' briefs were considered, on June 13, 1995, the Commission found that there was probable cause to believe that:

(1) the George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b), 441b(a) 441a(f), 441a(b)(1)(A), 26 U.S.C. § 9035 and 11 C.F.R. § 9033.2(b)(2); (2) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (3) the Georgia Republicans and its treasurer, violated 2 U.S.C. § 441a(a)(2)(A); (4) the Michigan Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (5) the New Jersey Republican State Committee and its treasurer, violated 2 U.S.C. §§ 441a(a)(2)(A), 441b(a) and 11 C.F.R. § 102.5(a); (6) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio

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Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A); and (7) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441a(a)(2)(A), and 11 C.F.R. § 102.5(a).

On that same date, the Commission also found that there was no probable cause to believe that:

(1) the Republican National Committee and William J. McManus, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); (2) the Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party and Robert K. Wilson, as treasurer, violated 2 U.S.C. § 441b(a) and 11 C.F.R. § 102.5(a); and (3) the Republican Federal Committee of Pennsylvania and Patricia K. Poprik, as treasurer, violated 2 U.S.C. § 441b(a).

In consideration of the circumstances of this matter, however, the Commission also determined on June 13, 1995, to take no further action against the Republican state party committees of Georgia, Michigan, New Jersey, Ohio, and Pennsylvania and closed the file as to these respondents.

Finally, on October 31, 1995, after once again considering the circumstances of this matter, the Commission determined to take no further action against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and the Republican National Committee and William J. McManus, as treasurer. The Commission also voted to close the file and send admonishment letters to these respondents. This matter will become part of the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8). If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
General Counsel's Reports
dated February 14, 1994,
May, 10, 1995 and
October 16, 1995
Certification dated June 13, 1995

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

David A. Norcross, Esquire
Republican National Committee
310 First Street, S.E.
Washington, D.C. 20003

RE: MUR 2667
Republican State Central Committee of Maryland (Federal Account/Non-Federal Account) and Kent Swanson, as treasurer
Colorado Republican Federal Campaign Committee (Federal Account/Non-Federal Account) and Douglas L. Jones, as treasurer
South Carolina Republican Party (Federal Account/Non-Federal Account) and John Camp, as treasurer
Republican Party of Wisconsin (Federal Account/Non-Federal Account) and Robert R. Barrow, as treasurer

Dear Mr. Norcross:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Marylinn Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

William Robert Baker, Esquire
209 N. Main Street
P.O. Box 245
Ashland City, TN 37015-0245

RE: MUR 2667
Tennessee Republican Party (Federal Account/Non-Federal Account) and Joe R. Arnold, as treasurer

Dear Mr. Baker:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Vigo G. Nielsen, Jr., Esquire
Nielsen, Merksamer, Parrinello,
Mueller & Naylor
591 Redwood Highway, #4000
Mill Valley, CA 94941

RE: MUR 2667
California Republican Party (Federal Account/Non-Federal Account) and Shawn Steel, as treasurer

Dear Mr. Nielsen:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Kenneth L. Connor, Esquire
119 E. Park Avenue
Tallahassee, FL 32301

RE: MUR 2667
Republican Party of Florida Federation
Campaign Committee (Federal
Account/Non-Federal Account) and
James H. Stelling, as treasurer

Dear Mr. Connor:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Martha Weisend, Treasurer
Texas Republican Congressional Committee
P.O. Box 855
Austin, TX 78767

RE: MUR 2667
Texas Republican Congressional Committee
(Federal Account/Non-Federal Account)
and Martha Weisend, as treasurer

Dear Ms. Weisend:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Arthur C. Zeidman, Esquire
General Counsel
North Carolina Republican Executive Committee
1410 Hillsborough Street
Raleigh, N.C. 27605

RE: MUR 2667
North Carolina Republican Executive Committee (Federal Account/Non-Federal Account) and Steve Stroud, as treasurer

Dear Mr. Zeidman:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Paul Kelly, Jr., Esquire
Hinkle, Cox, Eaton, Coffield & Hensley
218 Montezuma
P.O. Box 2068
Santa Fe, New Mexico 87504-2068

RE: MUR 2667
Republican Campaign Committee of New Mexico (Federal Account/Non-Federal Account) and Andrea Smith, as treasurer

Dear Mr. Kelly:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Craig S. Burkhardt, Esquire
Sorling, Northrup, Hanna,
Cullen & Cochran, Ltd.
Suite 800, Illinois Building
P.O. Box 5131
Springfield, IL 62705

RE: MUR 2667
Illinois Republican State Central Committee
(Federal Account/Non-Federal Account)
and Dallas Ingemunson, as treasurer

Dear Mr. Burkhardt:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. Eric E. Doster, Esquire
Foster, Swift, Collins & Smith, P.C.
313 South Washington Square
Lansing, MI 48933

RE: MUR 2667
Michigan Republican State Committee
(Federal Account/Non-Federal Account)
and William H. Gnodtke, as treasurer

Dear Mr. Doster:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. Peter G. Sheridan, Esquire
Mr. Kenneth von Schaumburg, Esq.
Cullen & Dykman
One Riverfront Plaza
Suite 1410
Newark, New Jersey 07102

RE: MUR 2667
New Jersey Republican State Committee
(Federal Account/Non-Federal Account)
and H. George Buckwald, as treasurer

Dear Mr. Sheridan and Mr. von Schaumburg:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. Frank B. Strickland, Esquire
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, GA 30309-3214

RE: MUR 2667
The Georgia Republicans (Federal Account/Non-Federal Account) and Bob Mayzes, as treasurer

Dear Mr. Strickland:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. William M. Doran, Esquire
Mr. Paul J. Greco, Esquire
Morgan, Lewis & Bockius
2000 One Logan Square
Philadelphia, PA 19103

RE: MUR 2667
Republican Federal Committee of Pennsylvania (Federal Account/Non-Federal Account) and Patricia K. Poprik, as treasurer

Dear Mr. Doran and Mr. Greco:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Mr. Robert Huffman, Esquire
Huffman, Landis, Weaks & Wist
103 N. Miami Street
West Milton, OH 45383

RE: MUR 2667
Ohio Republican State Central and Executive Committee a/k/a: The Ohio Republican Party (Federal Account/Non-Federal Account) and Robert K. Wilson, as treasurer

Dear Mr. Huffman:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

9604372045 4

FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Larry J. Steinberg, Treasurer
Republican Party of Kentucky
P.O. Box 1068
Frankfurt, Kentucky 40602

RE: MUR 2667
Republican Party of Kentucky (Federal Account/Non-Federal Account) and Larry J. Steinberg, as treasurer

Dear Mr. Steinberg:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

9 6 0 4 3 7 2 0 4 5 5

FEDERAL ELECTION COMMISSION
Washington, DC 20463

December 11, 1995

Robert Ruzzo, Esquire
Sherburne, Powers & Needham
One Beacon Street
Boston, MA 02108

RE: MUR 2667
Massachusetts Republican State Committee
(Federal Account/Non-Federal Account)
and Lawrence Novak, as treasurer

Dear Mr. Ruzzo:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Mary Ann Bumgarner

Mary Ann Bumgarner
Attorney

95043720456

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BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-512-9890
TELEFAX 32-2-502-1598

BOBBY R. BURCHFIELD
DIRECT DIAL NUMBER
(202) 662-5350

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
DEC 26 10 42 AM '95

December 21, 1995

CLOSED

Lawrence M. Noble, Esq.
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20463

Re: MUR 2667

Dear Mr. Noble:

I have reviewed your letter of December 11, 1995, regarding MUR No. 2667. The Commission is unquestionably correct in its decision to take no action against the George Bush for President Committee, Inc. ("the Committee") and J. Stanley Huckaby, its treasurer, in this matter.

Your letter is puzzling, however. In conveying that the Commission has decided to take no action, your letter accuses then-Vice President Bush of accepting "prohibited contributions," and failing to report those contributions. These gratuitous comments are not formal findings of the Commission, and the public file should so indicate.

Moreover, as you and the staff responsible for this matter are well aware, the staff thoroughly investigated this matter for over seven (7) years and was unable to muster any credible evidence to support the allegations. The fact that the Commission, after such a thorough review, elected to take no action underscores the impropriety of your suggestion that a violation occurred.

Finally, your admonition that the Committee "should take steps to ensure that this kind of activity does not occur in the future," is so bizarre as to warrant no comment.

Please consider this letter as a formal request by the Committee to correct any suggestion in your letter that the Commission made any finding of any violation. We also ask that you add this letter to the public record.

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
DEC 26 10 42 AM '95

If you have any questions about this matter, please feel free to call me.

Best personal regards.

Sincerely,

Bobby R. Burchfield

cc: Mr. J. Stanley Huckaby

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 4, 1996

Bobby R. Burchfield, Esquire
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 2667
George Bush for
President Committee,
Inc. and J. Stanley
Huckaby, as treasurer

Dear Mr. Burchfield:

On December 26, 1995, this Office received your letter dated December 21, 1995, in which you reference the letter of December 11, 1995, sent to you by the Office of the General Counsel. In your letter you request that this Office "correct any suggestion" in its letter of December 11 that the Commission made any finding of any violation against George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer, and you also request that your letter be placed on the public record.

This Office reminds you that on June 13, 1995, the Commission found probable cause to believe George Bush for President Committee, Inc. and J. Stanley Huckaby, as treasurer (the "Bush Committee"), violated 2 U.S.C. §§ 434(b), 441b(a), 441a(f), and 441a(b)(1)(A), 26 U.S.C. § 9035, and 11 C.F.R. § 9033.2(b)(2). It was not until October 31, 1995, after considering the circumstances of this matter, that the Commission determined to take no further action against the the Committee. Thus, the admonitions to the Committee in this Office's letter of December 11, 1995, were based upon findings by the Commission.

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As requested, your letter dated December 21, 1995, will be place on the public record. If you have any questions, please contact Mary Ann Bumgarner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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TRANSCRIPT OF PROCEEDINGS

OGC 6142

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 19 AM 9:03

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

IN RE:	
GEORGE BUSH FOR PRESIDENT, INC. and J. STANLEY HUCKABY, TREASURER.	MUR 2667

DEPOSITION OF MARY MATALIN

Washington, D. C.

Wednesday, August 5, 1992

ACE - FEDERAL REPORTERS, INC.
Stenotype Reporters
1120 G Street, NW
Washington, D.C. 20005
(202) 347-3700

NATIONWIDE COVERAGE

9604372041

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

IN RE:	
GEORGE BUSH FOR PRESIDENT, INC. and J. STANLEY HUCKABY, TREASURER.	MUR 2667

DEPOSITION OF MARY MATALIN

Washington, D. C.

Wednesday, August 5, 1992

Deposition of MARY MATALIN, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Room 657, at 6:14 p.m. before MARLENE KNOWLES, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

-- continued --

9604370462

APPEARANCES:

THERESA HENNESSY, ESQ.
RICHARD M. DENHOLM II, ESQ.
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D. C. 20463
On behalf of Federal Election
Commission.

BOBBY R. BURCHFIELD, ESQ.
General Counsel
1030 Fifteenth Street, N.W.
Washington, D. C. 20005
On behalf of the Deponent.

BENJAMIN L. GINSBERG, ESQ.
General Counsel
Republican National Committee
310 First Street, S.E.
Washington, D. C. 20003
On behalf of the Deponent.

9 5 0 4 3 7 2 0 4 6 3

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Mary Matalin	
by Mr. Denholm	4

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9 8 0 4 3 7 2 0 4 4 4

P R O C E E D I N G S

Whereupon,

MARY MATALIN

was called as a witness and, having first been duly sworn, was examined and testified as follows:

MR. BURCHFIELD: Can I just say at the outset, in addition to making the -- I won't make the elaborate version of the speech about objections, but I do want to say that we you appreciate your accommodating Ms. Matalin's schedule on short notice. That was, I know, an imposition on you, and it was circumstances beyond our control. We appreciate you going out of your way to do it. Enough said about that.

Proceed.

EXAMINATION

BY MR. DENHOLM:

Q My name is Richard Denholm and I'm representing the Commision here today along with assistant general counsel, Theresa Henessy.

This deposition is being taken pursuant to a subpoena issued by the Commission on June 25th, 1992 in connection with an investigation designated as MUR 2667.

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I want to remind you that according to section 437(g) of Title 2 of the United States Code, the confidentiality of this investigation must be maintained until the Commission closes this matter.

I'll be asking questions to obtain information involved in the Commission's investigation of alleged violations of the Federal Election Campaign Act of 1971 as amended.

The questions will not necessarily be limited to your involvement, but will include request for information regarding other persons. Please treat these proceedings as if you are in a court of law and remember that you are under oath.

If you do not hear or understand a question, will you please tell me in order that I may repeat it or rephrase it?

A (No verbal response.)

Q You have to have a verbal response.

A Yes.

Q Thank you.

If you realize you've made an incomplete or inaccurate answer, please let me know and I will let you

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1 modify your response. The court reporter can only take
2 down words, so it is necessary that all your responses be
3 verbal.
4 If you need to take a break, let me know and
5 we'll take a break. After I finish my line of
6 questioning, I will instruct the court reporter to go off
7 the record. Only Ms. Hennessy or I may instruct the court
8 reporter to go on or off the record.
9 Would you state your full name and address,
10 please.
11 A Mary Matalin. 3031 Sedgwick Street, Northwest,
12 Apartment 501, Washington, D.C. 20008.
13 Q Are you represented by counsel here today?
14 A I am.
15 Q Can you please state your counsel's name.
16 A Bobby Burchfield and Ben Ginsberg.
17 Q Are they representing you personally?
18 MR. BURCHFIELD: Yes.
19 MR. DENHOLM: Can the witness answer, please.
20 THE WITNESS: Yes.
21 MR. DENHOLM: I'm going to show you a document.
22 I will have the court reporter mark this as Exhibit 1. I

1 will have her hand it to you for your review and your
2 counsel's review.
3 (Matalin Exhibit 1 identified.)
4 THE WITNESS: Do you want me to read this?
5 MR. DENHOLM: Take a look through it.
6 MR. BURCHFIELD: Just take a minute and thumb
7 through it.
8 (Witness reviewed document.)
9 MR. BURCHFIELD: While she's looking at that,
10 let me just note that Ms. Matalin is here in her personal
11 capacity and not as a witness testifying on behalf of any
12 institution or organization. And the subpoena that is
13 directed to her -- we interpret as directed to her in a
14 personal capacity in seeking documents of her personal
15 possession, custody or control.
16 THE WITNESS: Am I trying to read too much into
17 this? Is this just asking me to be here?
18 BY MR. DENHOLM:
19 Q Okay, well --
20 A I'm trying to be studious here. It looks like
21 this is just a request for my appearance. Is that --
22 Q Is that what the document says to you?

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A That's what it looks like.

Q Does it state that you are to appear for a deposition and to bring documents?

A It does say that.

Q Can you take a look at page 4 of that document, please. Is it true that it is dated June 25, 1992?

A Yes, it is true.

Q Did you bring documents today with you relevant to the subpoena?

THE WITNESS: Is that what that box is?

MR. BURCHFIELD: No.

THE WITNESS: Then I didn't bring any documents.

BY MR. DENHOLM:

Q You didn't bring any documents relevant to the subpoena?

A No, sir.

Q Do you have documents relevant to the subpoena?

A Whatever I have had has been turned over to my able counsel.

Q And counsel would be who?

A Bobby Burchfield and Ben Ginsburg.

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1 MR. BURCHFIELD: Let me just state that
2 Ms. Matalin, upon inquiry, had no documents in her
3 personal possession responsive to the subpoena. Any files
4 that were within her purview at the RNC were in fact
5 searched. And you have gotten the documents that would
6 have been responsive to your much broader subpoena on the
7 RNC.
8 BY MR. DENHOLM:
9 Q Where are you currently employed?
10 A Bush-Quayle '92, 1030 15th Street.
11 Q What is your job title?
12 A I'm deputy campaign manager for political
13 operations.
14 Q How long have you been in that position?
15 A Since December 4, 1991.
16 Q Where were you employed just prior to that?
17 A Republican National Committee.
18 Q How long were you employed there?
19 A From approximately January of 1989 until coming
20 to Bush-Quayle '92.
21 Q Were you employed during June, July and August
22 1988?

9 4 0 4 3 7 2 0 4 7 0

A Was I employed?

Q Where were you employed during --

A The Republican National Committee.

Q When did you begin there?

MR. BURCHFIELD: Asked and answered. You may answer.

THE WITNESS: I am really confused. I thought you just asked me about my most previous employment. Now you are talking about 1988?

BY MR. DENHOLM:

Q That's correct. You were employed by the Republican National Committee during June, July and August of 1988?

A Yes, sir.

Q What were your responsibilities at the Republican National Committee during June, July and August of 1988?

A I was director of Victory '88.

Q And what were your job responsibilities in that position?

A As the national director, essentially my job was to oversee the nationwide partybuilding program and

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1 oversee staff related to implementing those programs.

2 Q Is that what Victory '88 was?

3 A Excuse me?

4 Q If you don't understand the question, you can

5 tell me you don't understand.

6 A I don't understand your question. Was it what?

7 Q Was Victory '88 a national partybuilding program?

8 A Victory '88 was a national partybuilding program.

9 Q Are you familiar with Unity '88?

10 A Yes, sir.

11 Q Can you describe Unity '88 for me, please.

12 A Unity '88 was conferences -- partybuilding

13 conferences to educate and inspire the grassroot

14 activists.

15 Q Were Victory '88 events organized?

16 A I don't understand your question.

17 Q I'm sorry, what don't you understand about the

18 question?

19 A Were they organized? Or were they

20 free-for-alls? I mean, honestly, I don't know what that

21 means.

22 Q You don't understand the word "organized"?

9 6 0 4 3 7 2 9 4 7 2

A I don't know what portion you -- yes, they were organized as opposed to spontaneously occurring events.

MR. BURCHFIELD: Let me just encourage the witness not to argue with the examiner.

THE WITNESS: Sorry.

MR. BURCHFIELD: And if she says she doesn't understand the question, I would appreciate it if you could make an attempt to rephrase it rather than engaging with the witness in an argument.

MR. DENHOLM: Well, I'm just trying to find out what the witness doesn't understand about the question so that I can straighten that out.

THE WITNESS: In an environment that is one constantly fraught with disorganization, you can -- might understand how I didn't understand what organized meant.

MR. BURCHFIELD: Was there a question pending?

MR. DENHOLM: I believe the witness said that they were organized.

BY MR. DENHOLM:

Q Is that correct?

A Yes.

Q Who organized the Victory '88 events?

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A I don't know what you mean by "Victory '88 event." That's why I'm having trouble with this question.

Q What would a Victory '88 event mean to you?

A A Victory '88 event to me would mean a fundraising event.

Q So who would organize fundraising events?

A The fundraisers.

Q And who were fundraisers?

A Margaret Alexander, Fred Bush, those that were responsible for raising money.

Q Anybody else?

A Well, there were a number of people working on those events, many of whom I didn't know. There was a staff that worked on the events.

Q Were you the supervisor for Victory '88?

MR. BURCHFIELD: Object to form. You may answer.

THE WITNESS: I was -- my title was national Victory '88 director. I don't know how to -- I don't really understand your question.

BY MR. DENHOLM:

Q How was the idea for Victory '88 created?

A It has long been a practice at the Republican National Committee where I had been employed off and on since the early '80s to engage in partybuilding, volunteer-intensive, state party, coordinate with the national party activities.

I cannot ever remember a time or a year where there weren't these sorts of nonallocable partybuilding volunteer activities ever since the law was amended in 1979, as you have presented at the outset of this discussion. They have been called various things in various years and because it was 1988 and we expected we were going to win that year, we just called it Victory '88. But it was no different than any program run in previous election cycles.

Q You said, "we called it Victory '88." Who are "we"?

A We at the Republican National Committee.

Q Did you report to anybody regarding decisions as far as Victory '88?

A Frank Fahrenkopf.

Q Were you also in charge of Unity '88?

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A As a component of Victory '88, yes, I was.

Q So Unity '88 was a component of Victory '88?

A There were conferences, there were partybuilding, volunteer activities.

Q Did you have to consult with Mr. Fahrenkopf before you can make a decision regarding Victory '88?

A As an employee would to an employer. I certainly kept him informed of, as did all of his employees, of what their activities were.

MR. DENHOLM: I'm going to show you a document. I'll have the court reporter mark this as Exhibit 2.

(Matalin Exhibit 2 identified.)

MR. DENHOLM: I'll have the court reporter hand it to you and you can review it.

I'd ask that you direct your attention to pages 9, 180, 198.

MR. BURCHFIELD: 9, 180 and 188?

MR. DENHOLM: No, 198, Counselor.

MR. BURCHFIELD: 180 and 198?

MR. DENHOLM: 90, 180, and 198?

THE WITNESS: What was that again?

MR. BURCHFIELD: I'm sorry. Could you just read

9 5 0 4 3 7 2 0 4 7 6

the full set of page numbers for us again.

MR. DENHOLM: Sure. I asked her to look at page 9, page 180 and page 198.

MR. BURCHFIELD: Thank you.

MR. DENHOLM: You're welcome.

(Witness reviewed document.)

BY MR. DENHOLM:

Q Could you describe those three documents for me.

A They look like regulation RNC purchase orders to me.

Q At the bottom of the page where it says "approved by" --

A Yes, sir.

Q -- on each page could you tell me the name that appears there or names?

A Matalin/CAP, which was Carla Phillips.

Q And that is your name at the bottom of those pages?

A Yes.

Q Could you tell me what those documents related to.

9 5 0 4 3 7 2 0 4 7 7

A Well, they clearly say that they are for Unity '88 conference, that's document 180. Unity '88 conference document 198; Unity '88 conference document 9.

Q Okay. Thank you.

Now, in your role with Victory '88, did you meet with anybody regarding strategy?

A I met with the representatives from the other committees and their other campaigns and other state parties. So specifically that would be the Congressional Committee, Senate Committee, Governors Association, the campaign and state parties.

Q The Presidential Committee?

A Uh-huh.

Q Is that a yes?

A Yes, I'm sorry.

Q Do you know Margaret Alexander?

A I do indeed.

Q Did you know her in 1988?

A I did indeed.

Q And where do you know her from?

A We are social and business friends.

Q Did you know her at the RNC in 1988?

9 5 0 4 3 7 2 0 4 7 8

A I did.

Q And what was her job title at the RNC?

A I don't remember.

Q What were her job responsibilities?

A She worked in the finance area.

Q What would that entail?

A Raising money.

Q Did she work with state parties?

A I believe so.

Q Do you know what she did with state parties?

A I do not.

Q Do you know Pat Giardina?

A I do.

Q Where do you know her from?

A She is my deputy with the campaign.

Q At Bush-Quayle '92?

A She is.

Q Did you know her in 1988 at the Republican National Committee?

A I did.

Q And what was her job title then?

A I don't remember.

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Q What were her job responsibilities then?

A She worked at the Republican National Committee. The whole committee worked on essentially the same effort, which were these partybuilding activities. I don't recall precisely what exact area and what her daily responsibilities are -- were.

Q Was there an overall goal for Victory '88?

MR. BURCHFIELD: Object to form.

BY MR. DENHOLM:

Q You may answer.

A If the goal -- the goal was to make sure that all the campaigns at every level, from the top of the ticket to the bottom of the ticket, were working in unison. That was the goal. And the secondary goal was to make sure that as many volunteers as wanted to could work on these sorts of activities for the ticket.

Q And what was the top of the ticket?

A George Bush and Dan Quayle.

Q What was the bottom of the ticket?

A Legislative state, legislative candidates.

Q In the states?

A Yes, sir.

9 5 0 4 3 7 2 0 4 8 0

Q What was the goal of Unity '88?

A To educate and inspire the state and local activists.

Q Anything else?

A No.

Q Was there any fundraising of Victory '88 events?

A I'm sorry, I really didn't hear.

Q Was there fundraising at Victory '88 events?

A I did not do Victory '88 events.

Q Was a goal of Victory '88 to raise money?

MR. BURCHFIELD: Object to form.

THE WITNESS: A goal of Victory '88 was to design and implement plans for the ticket to -- obviously to implement these plans moneys had to be raised. But it was not a -- no, that was not the goal. But clearly you could not get at the goal unless you had resources to implement the plan.

BY MR. DENHOLM:

Q Were there Victory '88 events?

MR. BURCHFIELD: Objection; asked and answered. You may answer.

THE WITNESS: I do not understand what you mean

9 6 0 4 3 0 2 0 4 8 1

1 by "Victory '88 event."

2 BY MR. DENHOLM:

3 Q What would a Victory '88 event mean to you?

4 A It's a -- it would be in my mind a fundraising

5 event.

6 Q Was there any fundraising at Unity '88 events?

7 A No.

8 Q Why was there a need to have a separate set of

9 conferences called Unity '88?

10 A Because when you are going to the general

11 election, the whole ticket from the top to the bottom has

12 to go forward together. And there was a need to -- there

13 is always a need to energize the troops before you go into

14 the general election. There is nothing tricky about it.

15 Q So that's why you called them Unity '88 events?

16 A Right. They are postprimary events, where there

17 had been other races.

18 Q Who attended Victory '88 events?

19 MR. BURCHFIELD: Object to form.

20 THE WITNESS: Volunteers and activists and

21 candidates and state party folk and political community.

22 BY MR. DENHOLM:

Q Who would be activists or --

A People who stuff envelopes, make phone calls, go door to door.

Q And who were the candidates that attended?

A Local candidates.

Q Anybody else?

A Well, Senate candidates, Congressional candidates.

Q Presidential candidates?

A Well, yes, of course.

Q Who attended Unity '88 events?

A I'm sorry, I thought you were talking about Unity '88 events. Was this whole conversation on some other event?

Q No, I believe I asked who attended Victory '88 events.

A Oh then I made a mistake.

Q Well, let's go back. Who attended Victory '88 events?

A I do not know.

Q Who attended Unity '88 events?

A My previous answer.

9 5 0 4 3 7 2 0 4 8 3

Q Could you restate your answer, please.

A The Unity '88 events are attended by activists, volunteers, candidates.

Q And candidates would include --

A Yes.

Q -- presidential candidates? Okay.

Who was considered a participant in the Unity '88 conferences?

A Activists and volunteers, candidates.

Q Was there a difference between people who attended and people who participated?

A No. I don't -- unless I'm misunderstanding what you are asking.

MR. BURCHFIELD: Object to form.

BY MR. DENHOLM:

Q Were there participants in Victory '88 events?

A I don't know. I didn't do Victory '88 events.

Q Were you in charge of Victory '88?

A Victory '88 events were fundraising events. I am not a fundraiser, wasn't a fundraiser then, so I don't know what the events were and I don't know who went to them.

9 6 0 4 3 7 2 0 4 3 4

Q Did anybody under your supervision organize those events?

A Not under my supervision.

Q To attend a Unity '88 event, was there an admission charged?

A No.

Q Did you make arrangements for anyone to appear at Victory '88 events?

A Did I personally?

Q Yes.

A No.

Q Did anybody else?

A Victory '88 staff must have.

Q Who was in charge of the Victory '88 staff?

A I was.

Q Did you make arrangements for anybody to appear at Unity '88 events?

A Did I personally?

Q Yes.

A No.

Q Anybody under your supervision?

A Yes.

9 6 0 4 3 7 2 0 4 8 5

1 Q Who were those people?

2 A Well, there were over 100. I'm not sure who, in

3 every case, secured which person to speak at the events.

4 Q Was there an immediate supervisor for these 100

5 people?

6 A Me.

7 Q How were people invited to Unity '88 events?

8 MR. BURCHFIELD: Object to form and foundation.

9 THE WITNESS: By letter, if I'm remembering.

10 BY MR. DENHOLM:

11 Q Did the RNC keep copies of those letters?

12 A I don't know.

13 Q Do you know who would know?

14 A No, I don't.

15 Q Did you see the letters?

16 A Yes.

17 Q Did you keep copies of the letters?

18 A I don't remember.

19 Q If you saw one, would you remember?

20 A Uh-huh.

21 Q Did you have any contact with state party

22 committees regarding Unity '88 events?

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A Did I personally? I did not personally contact the state parties about the Unity '88 events.

Q Who did?

A I believe they were notified via letter from the chairman of the Republican National Committee.

Q Who drafted those letters?

A Someone on his staff I'm sure. I don't know, I can't answer that question.

Q You can't answer that question or you won't answer that question?

A I do not know who drafted letters for Frank Fahrenkopf.

Q Did Mr. Fahrenkopf have a speechwriter?

A I do not know.

Q Did you have any contact with state party committees regarding Victory '88?

A No.

Q Did anybody under your supervision?

A I don't understand what you mean by "Victory '88."

MR. BURCHFIELD: Are we talking about Victory '88 events now or something different?

9 6 0 4 3 7 2 0 4 8 7

1 THE WITNESS: I don't understand what you mean
2 by this. It is an umbrella name. Did I talk to state
3 parties, yes.
4 BY MR. DENHOLM:
5 Q Regarding Victory '88?
6 A Victory '88 -- regarding their plans. Regarding
7 the weather. I don't really know what you mean by this.
8 Q You contacted them regarding their plans; is
9 that --
10 A Every state -- the central clearinghouse for all
11 volunteer activities, hence the moniker partybuilding
12 activities, what were the state parties. And all the
13 candidates coordinated through the states. And they in
14 turn coordinated with the RNC.
15 Q Do you remember making arrangements for Mr. Bush
16 to speak at any Unity '88 event?
17 A No.
18 Q Any other trip at the request of Margaret
19 Alexander?
20 A No.
21 Q Did Mr. Bush appear at any Victory '88 event that
22 you know of?

9 6 0 4 3 7 2 0 4 3 8

A I don't know. I didn't do the Victory '88 events.

Q Did he appear at any Unity '88 event?

A He did.

Q Was it ever the case during the summer of 1988 that Unity '88 conferences and Victory '88 fundraisers occurred in the same cities?

MR. BURCHFIELD: Object; foundation.

MR. GINSBERG: You mean at the same time, Counselor?

THE WITNESS: I don't know. I don't know. I didn't do the fundraisers.

BY MR. DENHOLM:

Q So if there was a Unity '88 conference, you are saying you would not know if there was a Victory '88 fundraiser on the same day?

A That is correct.

Q On a different day?

A I didn't do the fundraisers.

Q During the summer of 1988, did you ever call the Office of the Vice President to arrange an appearance by Mr. Bush?

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A No.

Q Did you tell anybody to?

A I put together the agendas. And to the extent he would have been on the agenda, I'm sure someone was instructed to make those arrangements --

Q By you?

A -- my staff, as instructed -- someone on my staff instructed by me to secure speakers for the agenda.

Q Did you ever personally call anyone at the Office of Vice President regarding his appearances?

A No.

Q Did the Office of Vice President ever call you regarding Mr. Bush's appearances?

A No.

Q Who on your staff would you have told to call the Office of Vice President?

A Most likely Carla Phillips or Pat Giardina or Grace Moe, and a number of deputies and how they divvied up the operation after getting the general instructions, I don't know.

Q Do you know who they would have talked to?

A No, sir.

9 5 0 4 3 7 2 0 4 2 0

Q What would you have told your members of the staff when they called the Office of Vice President to make plans for an appearance by Mr. Bush?

A What would I have told them? We're inviting you to a Unity '88 event.

Q So it would be the RNC inviting Mr. Bush to appear at a Unity '88 event?

A Right. I'm guessing this -- I don't remember this, but I'm presuming the protocol is that some piece of paper from the chairman of the Republican National Committee must have been submitted to the Vice President's Office. That's the -- how the system works.

Q Please don't guess.

A Okay. Just trying to be helpful.

Q Did you keep telephone records of calls?

A No.

Q Did you keep notes regarding telephone calls?

A No.

Q Did you keep any records regarding Unity '88?

A I did not personally keep them. I'm sure RNC kept them.

Q Regarding Victory '88?

9 5 0 4 3 7 2 0 4 2 1

A I don't know. I have no personal records of any of that.

Q Would the RNC have records regarding Victory '88?

A I don't know.

Q Did they have records regarding Victory '88?

MR. BURCHFIELD: When?

MR. DENHOLM: During the summer of 1988.

THE WITNESS: Did they have records as the program was ongoing?

BY MR. DENHOLM:

Q Did they keep records?

MR. BURCHFIELD: In 1988?

MR. DENHOLM: Yes.

THE WITNESS: Yes.

BY MR. DENHOLM:

Q In 1989 did they have records regarding Victory '88?

A I wasn't there, I did not -- I wasn't there after the fall of '88.

Q In 1989 did they have records regarding Victory '88?

A I don't know.

9 6 0 4 3 7 2 0 4 2 2

1 Q In 1990 did they have records regarding
2 Victory '88?
3 A I do not know.
4 Q Who would have been in charge of keeping records
5 regarding Unity '88?
6 MR. BURCHFIELD: Object; foundation.
7 THE WITNESS: Some staff person.
8 BY MR. DENHOLM:
9 Q Do you know the staff person's name?
10 A No.
11 Q Who would have been in charge of keeping records
12 for Victory '88?
13 A Victory '88 fundraising events?
14 Q Yes.
15 A The fundraising division. That's a guess.
16 Q Do you know what records would have been kept
17 regarding Unity '88?
18 A I can only guess.
19 MR. BURCHFIELD: Don't guess.
20 THE WITNESS: Then I don't know.
21 BY MR. DENHOLM:
22 Q Regarding Victory '88?

9 6 0 4 3 - 2 0 4 2 3

A Fundraising events? I don't know.

Q Did the RNC only keep records regarding bills, invoices, copies of checks regarding Victory '88 --

A I don't know.

Q -- regarding Unity '88?

A I don't know.

Q Do you know who would know?

A No, I do not.

Q Were decisions made at the Republican National Committee regarding who would pay for appearances by Mr. Bush in the summer of 1988?

MR. BURCHFIELD: Object to form and foundation.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Did you know in 1988?

A No.

Q Did you authorize payments of any bills regarding Victory '88?

A Fundraising events?

Q Yes.

A No.

Q Regarding Unity '88 events?

9 6 0 4 3 5 2 0 4 2 4

A Yes.

Q Were you in a position to make decisions to allocate disbursements regarding Unity '88?

A Yes.

Q How did you go about allocating those disbursements?

A By program.

Q Could you explain that in more detail, please.

A A program that was national in scope I would have allocated funds for.

Q How would you have allocated those funds?

MR. BURCHFIELD: Object to form.

THE WITNESS: By whatever the program cost.

BY MR. DENHOLM:

Q What would you allocate it to?

MR. BURCHFIELD: Object to form.

THE WITNESS: The vendors who provided the materials for such a program.

BY MR. DENHOLM:

Q Would you have told state parties to pay certain bills?

A No.

9 5 0 4 3 7 2 0 4 2 5

1 Q Would anybody under your supervision have told
2 state parties to pay certain bills?
3 MR. BURCHFIELD: Object to form and foundation.
4 THE WITNESS: (No verbal response.)
5 BY MR. DENHOLM:
6 Q Verbal response, please.
7 A No -- I don't know.
8 Q No?
9 A I do not know.
10 MR. DENHOLM: I'm going to show you another
11 document. I'll have the court reporter to mark it as
12 Matalin Exhibit 3. And she can show it to you. And I'll
13 have you take a look at it.
14 (Matalin Exhibit 3 identified.)
15 (Witness reviewed document.)
16 BY MR. DENHOLM:
17 Q When Mr. Bush appeared in the city during the
18 summer of 1988, were there a number of fundraisers which
19 occurred in a particular city?
20 A I don't know.
21 Q Would anybody under your supervision have known?
22 A No.

9 6 0 4 3 7 2 0 4 2 6

Q Why is that?

A Because we didn't do fundraising events.

Q Nobody under your supervision --

A No.

Q -- did fundraising events?

A No.

Q At the Unity '88 conferences, was anyone ever invited to attend a fundraiser at a different location?

A I don't know.

Q Did you attend Unity '88 conferences?

A I did.

Q Which ones did you attend?

A I believe all of them.

Q Did you ever hear of anybody being invited to a fundraiser at a different location?

A I did not. But people are not invited by word of mouth, so I wouldn't have heard it.

Q People were invited by written invitation?

A I do not know. I didn't do fundraising events.

Q Did you attend any fundraisers?

A No.

Q Did you hear of Mr. Bush attending any

9 6 0 4 3 7 8 0 4 2 7

fundraisers?

A Did I hear of him?

Q Yes.

A Of course I heard of him attending fundraising events.

Q Regarding the trips listed on Exhibit 3, what role or responsibility did you have regarding the trips on that list?

A Whose trips are these?

MR. BURCHFIELD: Is your question what role she had in the Vice President's appearance at these trips?

THE WITNESS: I don't know whose trips these are.

MR. BURCHFIELD: Object to the form of the question.

BY MR. DENHOLM:

Q Can you tell me at which trips that are listed there whether Mr. Bush appeared?

A No.

Q Do you know of him appearing at any trips listed there?

MR. BURCHFIELD: Object to form.

9 5 0 4 3 7 2 0 4 2 8

THE WITNESS: I know we had a Unity '88 conference in Cincinnati. I know we had one in Atlanta. But I don't remember the dates. And so I don't know, since this is unmarked, if this is in fact the Vice President's calendar, and if indeed he was there on those dates.

BY MR. DENHOLM:

Q But you do know he was in Atlanta and Cincinnati?

A From June to August we were in Atlanta, Cincinnati and Denver.

Q Do you know if fundraisers occurred in any of these cities --

A I do not know.

Q -- on Exhibit 3?

A I do not know.

MR. BURCHFIELD: Please wait for him to finish his question.

BY MR. DENHOLM:

Q At fundraising events, was it important to have prominent individuals appear?

A Yes.

9 6 0 4 3 7 2 0 4 2 9

Q Was it important for them to speak at fundraisers?

A Yes.

Q During the summer of '88 did you attend any fundraisers at which Mr. Bush appeared?

A No.

Q Did anybody on your staff?

A No.

Q Did any of the same people who attended Unity '88 conferences also attend Victory '88 events?

MR. BURCHFIELD: Object to foundation.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q In your position at the RNC during the summer of 1988, did you know Mr. Bush's travel itinerary?

A No.

Q You did not?

A No.

Q You did attend the Unity '88 conferences, though; is that correct?

A Yes. Yes, sir.

Q Okay. Did the RNC develop any literature for

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1 those conferences?

2 A I think we had notebooks that the -- for the

3 conferences.

4 Q Anything else?

5 A I'm sure we had -- let me think about this. No,

6 I don't remember.

7 Q Were there pamphlets?

8 A I don't remember. I only remember the notebook.

9 Q Why do you remember that?

10 A Because it was such a hassle to put it together

11 and such a hassle to ship.

12 Q How did you put it together?

13 A We made a gazillion Xerox copies. You line them

14 up on a table and you collate them and you three-whole

15 punch and you stayed there all night and put them into

16 sections.

17 Q You put them in binders?

18 A Right.

19 Q What did the binders look like?

20 A Three-ring binders.

21 Q What color were they?

22 A White? I don't remember.

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1 Q Were they white or you don't remember?

2 A I don't remember.

3 Q And this literature was prepared specifically

4 for Unity '88 events?

5 MR. BURCHFIELD: Object. Asked and answered.

6 THE WITNESS: Yes.

7 BY MR. DENHOLM:

8 Q Was this literature used at any Victory '88

9 events?

10 A I don't know.

11 Q Were the notebooks distributed to Unity '88

12 conference attendees?

13 MR. BURCHFIELD: Objection; asked and answered.

14 THE WITNESS: Yes.

15 BY MR. DENHOLM:

16 Q Were they distributed to participants?

17 A I don't understand the difference between a

18 participant and an attendee.

19 Q Was there a difference between participant and

20 attendee, to your knowledge?

21 MR. BURCHFIELD: Object to form.

22 THE WITNESS: You might call them a participant,

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1 I might call them an attendee.

2 BY MR. DENHOLM:

3 Q I want to know what you call them.

4 MR. BURCHFIELD: Call -- if I could just make a

5 suggestion and maybe this will move along a little more

6 quickly. If you can give her an example of the type of

7 person you are talking about so that she could tell you

8 whether she considers that person a participant or an

9 attendee. If you are talking about a speaker or if you're

10 talking about who that sits in the audience, whatever

11 category you are talking about.

12 But I do think the record is getting a little

13 belabored as to -- you are talking participants and

14 attendees and she's saying she doesn't understand the

15 distinction.

16 So if you could either define your term or give

17 her an example of the type of person you are talking about

18 and let her adopt a term, either way is fine, but were

19 just going around in circles right now.

20 BY MR. DENHOLM:

21 Q Were participant speakers at the conferences?

22 A If you want to call them participant speakers,

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1 then I'll call them speakers. In my mind, everybody
2 participated in the events. If you are calling them
3 participant speakers, then that's how I'll understand that
4 if you choose a distinction.
5 Q Okay.
6 A And I will call "attendees" people that came and
7 watched the participants. How's that?
8 Q But everybody received a Unity '88 conference
9 notebook?
10 A No, attendees only.
11 MR. DENHOLM: I'm going to show you another
12 document. I'll have the court reporter mark it. This is
13 Matalin Exhibit 4.
14 (Matalin Exhibit 4 identified.)
15 MR. DENHOLM: She can show it to you and you can
16 take a look at it. Review it for a moment.
17 THE WITNESS: You want to know why I remember
18 that monster?
19 MR. BURCHFIELD: Is there a question?
20 (Laughter.)
21 MR. GINSBERG: Let me note for the record the
22 same objections as yesterday, that the initial documents

that have been handed to the witness were not part of the conference notebook as turned over by the Republican National Committee.

MR. DENHOLM: I will note for the record also, as I did yesterday, that the first 15 pages were turned over by the Republican National Committee, though not in the exact form.

(Witness reviewed document.)

BY MR. DENHOLM:

Q Are you familiar with this document?

A I'm familiar with this cover. (Indicating).

Q Why are you familiar with that?

A Because it says "Unity '88 conference, Victory '88."

Q And then which portions are you familiar with?

A Well, this is a conglomeration of stuff.

Q I'm sorry, what do you mean by "stuff"?

A You know, this is --

MR. BURCHFIELD: Be happy with the term that you have.

THE WITNESS: How about this; I recognize the Unity '88 table of contents.

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BY MR. DENHOLM:

Q And that would be beginning on what page? It is marked in the lower right.

A 15. You want me to go through every page?

Q No, you don't have to go through every page.

And what was the purpose of this document?

A This is not the document I remember. These are not the contents that I remember in total of being the Unity '88 book.

Q What do you remember as being the Unity '88 book?

A I remember this (indicating). I remember this (indicating). I don't remember this (indicating). I don't remember this (indicating).

Q Wait, that would be pages 19 -- what's the last page that you --

MR. BURCHFIELD: Why don't you call out the page numbers. Let's go back again and if you wouldn't mind, just call out the page numbers of what you remember.

BY MR. DENHOLM:

Q Pages 1 through 15?

A No. I remember page 1. I don't remember -- this

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1 will take a long time -- I don't remember 2 through 12.

2 Q You do remember 2 through 12?

3 A I do not remember 2 through 12. I do remember

4 page 13, 14, 15. I don't remember really remember this,

5 (indicating), kind of neat, though. 16 I don't remember.

6 17, I don't remember. Speech I don't remember, which is

7 18 through 26.

8 Q Whose speech is that?

9 A It is titled Frank J. Fahrenkopf. I do remember

10 this. The RNC building roster, page 28. I don't really

11 remember this, 29 and 30.

12 I remember this, 31 and 32. I remember this,

13 33, 34. I remember 35, 36. I remember 37, 38. I

14 remember the ever-so-organized volunteer activities memo

15 from our counsel, 39, 40, 41 and 42. I don't remember 43,

16 44, 45, 46, 47. I don't remember 48, 49, 50, 51, 52, 53,

17 54. I can't read 55. I don't remember 56, 57, 58, 59,

18 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73,

19 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87,

20 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101,

21 102, 103, 104, -5, -6, -7; 108.

22 I recognize 109 as sort of a tab. I don't

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1 literally remember it. I don't literally remember 110,
2 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121,
3 122, 123, 124. Maybe this will be easier if I do this.
4 I don't remember 125 through 130. I do remember
5 page 131, 132, 133, 134, 135, 136, 137, 138, 139, 140,
6 141. 142 is blank. I remember that. (Indicating). This
7 looks like a repeat. 143.
8 Q You do remember page 143, though?
9 A Well, I guess it isn't -- yes, it is.
10 MR. BURCHFIELD: It looks the same.
11 THE WITNESS: Same thing. It's exactly the
12 same. So let's see, that goes through -- 143 through 144
13 are duplicates.
14 MR. BURCHFIELD: 154?
15 THE WITNESS: 154, excuse me. 154 is a title
16 page. It looks familiar. I recognize 155, 156, 157, 58,
17 59, 60, 161, 162, 163, 164. 65 is a blank.
18 I don't remember these -- actually, I do remember
19 these contributions from the Senate committee, the
20 Congressional Committee and the Republican Governors
21 Association, which are pages wherever we left off until
22 197. And I do remember pages 198 through 225.

9 6 0 4 3 - 2 0 5 0 8

BY MR. DENHOLM:

Q Okay, thank you. You may want to gather it back up and we will have to refer to it again.

Did you state that the conference notebook was bound in a three-ring binder?

A It was.

Q Are you saying that the pages that you mentioned -- that certain pages were not included in that notebook?

A I'm saying I don't remember their inclusion.

Q If you could turn to page 19 in Exhibit 4.

Can you state what that document is.

A Page 19 is entitled "Chairman Frank J. Fahrenkopf, Jr."

Q Could you review that for a moment.

A It appears to be --

MR. BURCHFIELD: Would you like for her just to look through the speech?

THE WITNESS: Is that what it is? It looks like a speech.

MR. DENHOLM: Yes.

(Witness reviewed document.)

9 6 0 4 3 7 2 0 5 0 9

1 BY MR. DENHOLM:

2 Q Do you recognize this as the speech as having

3 been given by Mr. Fahrenkopf at the Unity '88 conference?

4 A Not necessarily. It looks like it would be.

5 But I don't specifically remember it or recognize it.

6 Q Do you remember him giving a speech at the

7 Unity '88 conference?

8 A Yes.

9 Q Turn to page 49 of the document, if you could,

10 please. If you could just review pages 49 and 50.

11 (Witness reviewed document.)

12 BY MR. DENHOLM:

13 Q Can you state for the record what you are

14 looking at, please.

15 A A --

16 MR. BURCHFIELD: You want her just to read what

17 it says?

18 THE WITNESS: It is what appears to be an essay

19 by the late Lee Atwater.

20 BY MR. DENHOLM:

21 Q Did Mr. Atwater speak at the Unity '88

22 conferences?

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A I believe he did.

Q Was this a speech that he gave?

A I don't remember.

Q Do you remember any remarks that he may have made at the Unity '88 conferences?

A No. I just remember him.

Q Could you take a look at page 57, please. Could you read the heading and the subheading, please.

A "Statement of the Vice President, agriculture."

Q What's the heading at the very top of the page?

A "George Bush for President."

Q Was this a speech given by Mr. Bush at Unity '88 conference?

MR. BURCHFIELD: Object; foundation.

THE WITNESS: I don't know. I don't know.

BY MR. DENHOLM:

Q Did Mr. Bush speak at Unity '88 conferences?

A He did.

Q Do you remember what he said?

A No, I don't.

Q Do you have any record as to what he said?

A No, I don't.

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Q We're done with that, I think, for now, for the time being.

Prior to the summer of 1988, did you work for the George Bush for President Committee?

A I did.

Q And what was your job title there?

A Midwest regional political director.

Q What were your job responsibilities?

A I was the political director for the Midwest states.

Q And more specifically, what did you do in that position?

A I ran the campaign for Midwest states. I ran the state campaigns in the Midwest states for the national campaign.

Q Did you have any involvement with Mr. Bush's travel schedule in that position?

A As the Midwest regional political director?

Q Yes.

A Yes.

Q You did?

A Uh-huh.

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Q And what was that?

A It was my decision whether or not he should come into the state, and when he did, where he should go.

Q So you arranged for him to come into a state?

A I did not arrange. I made the political judgment which state and where inside the state. I made none of the arrangements.

Q And who would have made the arrangements?

A The campaign.

Q The George Bush for --

A George Bush for President campaign.

Q -- Committee?

A Committee.

Q And knowing what you knew about his travel schedule in that position, did anything about that travel schedule change just prior to or during the summer of 1988?

MR. BURCHFIELD: Object to form; foundation.

THE WITNESS: I'm sorry, I don't understand your question.

BY MR. DENHOLM:

Q Was -- did the method of planning change?

9 6 0 4 3 7 2 0 5 1 3

A I was not involved in the planning. I only cared about my states.

Q Did communications change as far as the travel schedule?

A I only cared about my states. I don't know any other communication except my own personal ones.

Q And during 1988, when did you start at the RNC?

A I think in April. Something like that. I don't remember exactly. I think it was in the spring.

Q Did you know less about Mr. Bush's travel schedule?

A I only ever knew about the President's travel schedule or the then-Vice President's travel schedule as it pertained to my states.

Q Did you have contact with the George Bush for President Committee during the summer of 1988 regarding Mr. Bush's appearances?

MR. BURCHFIELD: Could you read the question, back, please.

(The reporter read the record as requested.)

MR. BURCHFIELD: Are we focusing on the June through August time frame now?

9 6 0 4 3 7 2 0 5 1 4

MR. DENHOLM: Yes.

MR. BURCHFIELD: After she had left the George Bush for President campaign?

MR. DENHOLM: Yes, during June, July and August 1988.

THE WITNESS: Did I -- let me rephrase -- let me reask you so I know I am understanding the question.

BY MR. DENHOLM:

Q I will restate the question.

A Thank you.

Q And if you don't understand, tell me.

A Okay.

Q Did you have any contact with the George Bush for President Committee during the summer of 1988 regarding Mr. Bush's travel schedule --

A No.

Q -- regarding any appearances that he made?

A No.

Q When you worked for the George Bush for President Committee -- let me rephrase that.

Did you work for the George Bush for President Committee between January and April 1988?

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A Yes.

Q In your position, were you aware of any expenditure limitations that the George Bush for President Committee was required to follow?

A No.

Q Why not?

A Why would I? It wasn't my job. I was putting out fires.

Q Did you know of these expenditure limitations during June, July and August of 1988?

A It wasn't my job, man.

MR. DENHOLM: Would the witness like to take a five-minute break?

THE WITNESS: No, I'm all right. Thank you.

MR. BURCHFIELD: Just a minute.

(Witness conferred with counsel.)

BY MR. DENHOLM:

Q I would like to go back to the Unity '88 conferences. Were there any decorations at the Unity '88 conferences?

A I don't remember.

Q Were there decorations at the rallies?

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A All I remember at the rallies were handheld signs, that's all I remember.

Q What did those signs say?

A Whatever people wrote on them. They are handcrafted, handheld signs.

Q Could you give me some examples as to what those signs said.

A "Go GOP." Something like that. They would have a picture of an elephant.

Q Did any refer to Mr. Bush?

A I don't remember specifically. I only remember elephants because I -- there is -- they are such a hideous symbol.

Q Why do you remember GOP?

A Because it is such a good word. GOP. I just like it. I like how it looks.

Q Do you remember anything else about decorations at Unity '88 conferences?

A No. No, I don't really.

Q Did you see anybody wearing hats at the conferences?

A Elephant hats.

9 6 0 4 3 7 8 0 5 1 7

Q Okay. Was anybody wearing a hat that said "George Bush for President"?

A I don't remember that.

Q Or that referred to George Bush in any way?

A I don't remember that. I remember only those elephant hats which reappeared at the convention.

Q Were there any banners?

A I don't remember.

Q You said there were handheld signs?

A Uh-huh.

Q And who made those?

A The activists that came, or as we are now calling them, attendees.

Q Did the RNC create any of those?

A Huh-uh.

MR. BURCHFIELD: Is that a no?

THE WITNESS: No.

BY MR. DENHOLM:

Q Were there working sessions at these Unity '88 conferences?

A Yes.

Q Can you describe those for me, please.

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A Typically they would be -- I don't remember them specifically. But typically they would include presentations by a representative of the Congressional Committee, the Senatorial Committee, the Governor's Committee, myself, the state and local -- the RNC state and local director, which is the person responsible for legislative campaigns, somebody from the communications division. In essence what they did is run through the RNC programs.

Q Anything else?

A I think there was probably a section by the lawyers on the partybuilding activities.

Q Did any of the state parties pay for any costs associated with the Unity '88 conferences?

A I don't know.

Q Who would know?

A I don't know.

Q Did anybody who worked for you during June, July or August request payment from state parties for the Unity '88 conferences?

A I don't know.

MR. BURCHFIELD: Object; foundation.

9 3 0 4 3 7 2 0 5 1 9

BY MR. DENHOLM:

Q I'm sorry, what was your answer?

A I don't know.

Q Did you tell anybody on your staff to contact state parties regarding payment of costs associated with the Unity '88 conferences?

A No.

Q Did you ever speak at the Unity '88 conferences?

MR. BURCHFIELD: Object. Asked and answered.

BY MR. DENHOLM:

Q You may answer.

A Yes.

Q What did you speak about at these conferences?

A I don't remember. I'm sure I gave some spiel about how important it is to have volunteers involved and how important they are to the process.

Q Did you ever speak about voter contact programs?

A In what context? The legal context or --

MR. BURCHFIELD: At the Unity '88 conferences you are referring to?

MR. DENHOLM: That's correct.

9 6 0 4 3 2 0 5 2 0

THE WITNESS: I don't remember.

BY MR. DENHOLM:

Q Did you have a written speech?

A No. That's too organized. No. I just had a schtick. You know, I just kind of talked about -- tried to inspire the volunteers and tell them how important they were to the process, you know, they were the backbone of the Republican party. That kind of inspirational, be it usually boring, if anything.

Q When did you speak?

A The working session day.

MR. DENHOLM: I'm going to show you another document and ask you to review it after the court reporter marks it as Exhibit 5.

(Matalin Exhibit 5 identified.)

(Witness reviewed document.)

THE WITNESS: Okay, I recognized it. Do you want me to read it?

BY MR. DENHOLM:

Q No, just identify it, please.

A It's the affidavit of Mary Matalin.

Q Turning to the eighth paragraph.

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1 Is it true that you state that "Broad political
2 themes of candidates were discussed"?
3 A Where? I mean, do you want me to read this?
4 MR. BURCHFIELD: Where are you reading from,
5 Mr. Denholm?
6 THE WITNESS: Oh, here's where you are getting
7 "participants" and "attendees."
8 Yes, this does read "Conference participants
9 briefed attendees on the broad political themes of the
10 upcoming elections, including education, the environment,
11 crime and the economy, as well as subjects such as the use
12 of volunteers, mechanics of partybuilding programs and the
13 plans for the upcoming Republican convention." Et cetera
14 et cetera.
15 BY MR. DENHOLM:
16 Q Have you read that paragraph before?
17 A I believe I have.
18 Q Can you tell me what is meant by "broad
19 political themes."
20 MR. BURCHFIELD: Object to the form.
21 THE WITNESS: Broad political theme is the
22 difference between the Republican party and the Democratic

9604372052 2

1 party. That is to say a party that honors the individual
2 versus the party that thinks the government should be
3 running people's lives. That would be a broad political
4 theme.
5 BY MR. DENHOLM:
6 Q Did a discussion of broad political themes
7 include discussing presidential policies?
8 A I think they include Republican policies and the
9 President as the leader of the party would naturally --
10 that his views would be included in the broader Republican
11 philosophy and discussion of Republican policies.
12 Q Did you ever use the term "rallying the troops"?
13 A Oh, Lord, I can't -- I don't know. It is such a
14 commonly used political term.
15 Q What would that term mean?
16 A Inspiring the troops. The troops being
17 grassroot activists and volunteers.
18 Q And how would you inspire the troops?
19 A By talking about, in the most emphatic of terms,
20 how important it is to keep republicans elected at all
21 levels, the future of our country and life as we know it
22 on this planet being necessarily determined by those

9604372205 3

1 elections.

2 Q Was it important to have presidential candidates

3 appear at events to rally the troops?

4 A Sure.

5 Q Was it important for Mr. Bush to appear at those

6 events in order to rally the troops?

7 A Which events are we referencing?

8 Q Unity '88 conferences.

9 A Sure. Important but not necessary.

10 Q What about at Victory '88?

11 A I don't -- if by Victory '88 you mean fundraising

12 events, it is important but not necessary.

13 Q Was it more important to have Mr. Bush appear at

14 Unity '88 conference events to rally the troops than other

15 presidential candidates?

16 MR. BURCHFIELD: Object to form.

17 THE WITNESS: Are you talking about the period

18 from June to August? There weren't any other presidential

19 candidates then.

20 BY MR. DENHOLM:

21 Q So it was important to have Mr. Bush appear to

22 rally the troops?

9 6 0 4 3 7 2 0 5 2 4

MR. BURCHFIELD: Object to form. It calls for opinion.

THE WITNESS: It was important but not necessary.

BY MR. DENHOLM:

Q Was it more important to have Mr. Bush appear than other participants?

A No, I don't -- you know, not necessarily. I mean, this -- these are grassroots activists. They want to elect Republicans, I don't know what's important to them or what's more or less important to them.

Q I would like to turn your attention to the list of trips again and specifically the July 8th, 1988 appearance in Atlanta.

A Uh-huh, as in yes.

Q Was that a Unity '88 conference?

A May I refer to the affidavit? I don't remember the dates offhand.

Q Do you remember Atlanta being a Unity '88 conference?

A Yes, I do. I do not remember the specific date.

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Q Did you have any contact with representatives of the George Bush Committee for the Atlanta Unity '88 conference?

A No.

Q Did you have any contact with the Georgia Republican party for that conference?

A I don't. I didn't.

Q Did anybody under your supervision?

A In the context that all the state parties were invited to -- all the Republican National Committee members from each of the state parties, which would obviously include Georgia, would have been contacted by Frank Fahrenkopf via letter to the Unity '88 conferences.

So one could conclude that Georgia would have been contacted by someone at the RNC, via letter.

Q So the Republican National Committee contacted the states regarding the --

A Right.

Q -- the events? Okay.

And did Mr. Bush appear at this Unity '88 conference?

A Yes.

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1 Q Did he only appear at the Unity '88 conference?

2 MR. BURCHFIELD: Object to form. While in

3 Atlanta on that trip? Is that what you are asking?

4 MR. DENHOLM: Yes.

5 THE WITNESS: He appeared -- I don't know what

6 part of the trip you are talking about. He appeared at --

7 he did not appear on the work day, he appeared the day

8 before to -- as I'm remembering it.

9 BY MR. DENHOLM:

10 Q You mean he appeared at the rally?

11 A Yes.

12 Q Do you know if he appeared at any fundraisers in

13 Atlanta?

14 A I don't know.

15 Q Do you know if he made any official appearances?

16 A I don't know. I really don't know.

17 Q Did you ever hear of the term "Victory through

18 Unity in 1988 rally" in Atlanta on July 8th, 1988?

19 A "Victory through Unity"?

20 Q "Victory through Unity in 1988 rally."

21 A I don't -- I mean, I don't remember that

22 specifically.

9 6 0 4 3 2 0 5 2 7

Q Did you ever hear of a Victory '88 Georgia Unity reception?

A No.

Q While you were in Atlanta, did you attend any dinners where Mr. Bush appeared?

A No.

Q Have you ever heard of the term "Presidential Trust"?

A Uh-huh.

Q Was that a yes?

A Yes.

Q Can you describe what Presidential Trust was.

A It is an RNC fundraising effort.

Q Were the fundraising efforts directed to the candidacy of Mr. Bush?

MR. BURCHFIELD: Object to form.

THE WITNESS: I only remember it as one of the names of one of many fundraising efforts conducted by the RNC. I don't know what -- you know, they all had names. I don't know what went to what.

BY MR. DENHOLM:

Q Did any of your job responsibilities involve the

9604372052 8

1 Presidential Trust?

2 A No.

3 Q Do you know whose job it was --

4 A No.

5 Q -- I'm sorry, was that a no?

6 A No, I'm sorry. I'm really sorry. Excuse me.

7 Q At any Unity '88 conference was a press

8 conference held?

9 A I don't remember specifically, but that would

10 have been standard operating procedure.

11 Q Why was it standard operating procedure?

12 A The communications division at the Republican

13 National Committee just also attached press conference at

14 any event they did.

15 Q Did Mr. Bush attend a press conference at

16 Unity '88 conferences?

17 A I don't remember.

18 Q Why were press conferences held?

19 MR. BURCHFIELD: Object to form and foundation.

20 THE WITNESS: For earned media.

21 BY MR. DENHOLM:

22 Q Could you describe earned media for me.

9 5 0 4 3 7 2 0 5 0 9

A It is media you don't have to pay for.

Q Did the Republican National Committee set aside press rooms for the purposes of having press conferences?

A I don't remember, but that would have been standard operating procedure.

Q RNC paid the costs associated with setting up those?

A I don't know.

Q Did you remember what the press rooms looked like?

A No.

Q How were members of the press gathered at the Unity '88 conferences?

A I don't know.

Q Do you know who would know?

A Probably someone from the communications, the 1988 communications staff of the Republican National Committee.

Q And can you remember any of their names?

A Debbie Messick.

MR. BURCHFIELD: Let me reiterate, the witness is not being asked to speculate. Please testify only from

9604372205 70

1 your personal knowledge.

2 THE WITNESS: I don't know who did them. I know

3 they were pulled together by the communications division.

4 BY MR. DENHOLM:

5 Q Okay. Did Debbie Messick head the

6 communications division?

7 A No, she's just a name that popped into my head.

8 She didn't run it.

9 Q Do you remember any questions that were asked

10 during any of the press conferences?

11 A I did not attend them.

12 Q Do you know anybody who did attend the press

13 conferences?

14 A No.

15 MR. DENHOLM: I'm going to show you another

16 document. I'll have the court reporter mark this as

17 Matalin Exhibit 6.

18 (Matalin Exhibit 6 identified.)

19 MR. BURCHFIELD: While she is looking at that,

20 let me just note that we would like the exhibits attached

21 to the transcript and to our copies of the transcript,

22 please.

9604372095 7 1

(Witness reviewed document.)

THE WITNESS: Okay.

BY MR. DENHOLM:

Q Are you ready?

A Uh-huh.

Q Are you familiar with any of the names on that list?

A Well, I know number 1. Yes, I know Mary, I know Carla, Grace, Pat, yes, I know most of these people. I don't know Karen Ellis. I don't remember Tim Thompson or Libby Hamilton, Lori Phelps. God, what a blast from the past. Charles Blackburn. I remember everybody else.

Q You remember all the other names --

A Right.

Q -- listed on Exhibit 6?

A Right.

Q Why do you know those?

A Because they all worked at the Republican National Committee.

Q Did any of them also work for the George Bush for President Committee during June, July and August of 1988?

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A I don't think so.

Q You don't think so?

A I don't know. I mean, I can't remember all these people, specifically where they worked. This looks like a lineup of the RNC. This is the field division. This is my staff. This is the advanced staff. This --

Q Wait. Wait. Who would that be?

A Going to like number 4, that was my immediate staff.

Q That would be 1 through 4?

A 1 through 4 is my immediate staff. And then I can't -- I mean, it also blends together. Represented here -- which I cannot do by number for you because I don't remember everyone -- are the field division of the Republican National Committee, some advanced guys, and the directors of the various divisions of the Republican National Committee, the chairman and the cochairman of the Republican National Committee. So one could conclude this is an RNC list.

Q Okay, thank you.

Who was Fred Bush?

A He is a -- he's a fundraiser, Republican party.

Q How do you know him?

A I know him from being in the Republican party for a long time.

Q Did you ever work with him?

A Yes, I did.

Q Where did you work with him?

A I worked with him in 1988 at George Bush for President and also at the Republican National Committee.

Q Do you know where he works now?

A I think he's in Seville.

Q I'm sorry, did you state he did fundraising for the Republican National Committee?

A Yes.

Q And how did he raise funds for the Republican National Committee?

MR. BURCHFIELD: Object to form and foundation.

THE WITNESS: I don't know. I'm not a fundraiser. I don't know how he did it.

BY MR. DENHOLM:

Q Did Pat Giardina report directly to you?

A I think so.

MR. BURCHFIELD: This is during the June through

9 6 0 4 3 7 2 0 5 7 4

1 August time frame in 1988?

2 MR. DENHOLM: That's correct.

3 THE WITNESS: Yes.

4 BY MR. DENHOLM:

5 Q Yes? Did Pat Giardina report to Steve Kinney?

6 A I don't remember. I think she might have been

7 in his region, his -- that being the western region and I

8 don't remember what were the formal lines of authority. I

9 think I might have just pulled her to help me.

10 Q Pulled her from the western region?

11 A Pulled her from other projects. I'm remembering

12 that the western region was her region. I don't remember

13 who -- if she reported to Kinney or what. It's not quite

14 as authoritarian as that; everybody pitched in.

15 Q You pulled her to do what?

16 A Help me on these Unity conferences.

17 Q What was Steve Kinney's job?

18 A He was a regional political director for the

19 western region.

20 Q What did political directors do?

21 A They ran -- well, the Republican National

22 Committee regional political directors?

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Q Yes.

A They worked with the state parties in their states and their region.

Q Doing what?

A Helping coordinate the national party and the state party activities.

Q Did Grace Moe conduct the Unity '88 conference in Denver?

MR. BURCHFIELD: Object to the form.

THE WITNESS: What do you mean by "conduct"? Did she help work on the Unity '88 conference, yes.

BY MR. DENHOLM:

Q In Denver?

A Yes.

Q Did she run the Unity '88 conference in Denver?

A I think I would have called her more precisely the logistical coordinator.

Q Did Grace Moe direct any other Unity '88 conferences?

A I don't remember. I think probably Pat ran the other ones, but I don't remember.

Q That would be Pat Giardina?

9 6 0 4 3 7 2 0 5 7 6

A Uh-huh.

MR. BURCHFIELD: Is that a yes?

THE WITNESS: Yes.

BY MR. DENHOLM:

Q Why would Grace Moe have conducted one Unity '88 conference and Pat Giardina conduct others?

A Maybe she had another project to work on.

MR. BURCHFIELD: Do you remember?

THE WITNESS: I don't remember.

BY MR. DENHOLM:

Q Did Neil Bush speak at any Unity '88 conferences?

A I don't remember.

MR. DENHOLM: I'm going to show you another document. The court reporter will mark this as Matalin Exhibit 7 and she can hand it to you and have you review it.

(Matalin Exhibit 7 identified.)

THE WITNESS: Do you want me to look at this whole thing or do you --

BY MR. DENHOLM:

Q Well, if you could review it briefly.

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(Witness reviewed document.)

MR. BURCHFIELD: Do you want another caffeine enlightened drink?

THE WITNESS: Please. Do we have to all stop to do that?

MR. BURCHFIELD: I'll do it while you are reviewing the document.

THE WITNESS: Do you have enough money?

MR. DENHOLM: Stay on the record.

Well, why don't we take a 10-minute break and we'll come back.

THE WITNESS: No. Please, I would really refer not to break, and just go forward.

MR. DENHOLM: We'll take a break and come back.

THE WITNESS: I would prefer not to break.

MS. HENNESSY: If I may so, there are other people here as well who do need a break at some point. We have no interest in prolonging this any more than we need to.

MR. BURCHFIELD: Can we compromise at five minutes?

MS. HENNESSY: Well, counsel here need to confer

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1 and, as you know, it is going to take only a few minutes.
2 And we certainly will be finishing well before we think.
3 MR. BURCHFIELD: That's great. Terrific.
4 MR. DENHOLM: We can go off the record here.
5 (Discussion off the record.)
6 (Recess.)
7 BY MR. DENHOLM:
8 Q Referring to the documents that were introduced
9 before the break, have you ever seen these documents
10 before?
11 A Do you want me to go page by page again?
12 Q Sure.
13 A I mean, this is not -- this is mish-mash here,
14 okay? So I don't know what you -- are you referring to a
15 specific thing or what?
16 Q Well, why is it a mish-mash?
17 MR. BURCHFIELD: Well, I object to the
18 question?
19 MR. DENHOLM: I'm using the witness' term.
20 THE WITNESS: It is not anything I recognize as
21 having been together and --
22 MR. BURCHFIELD: I should just note, in fairness

9 6 0 4 3 0 2 0 5 7 9

to the witness, it is a mish-mash of documents produced. These are documents that were not necessarily together in any form when they were produced from Ms. Alexander's files.

So to give this to her as a single exhibit is a little misleading, but if you want her to say which of those pages she has seen before, that's a fair question; she can answer that.

BY MR. DENHOLM:

Q Have you seen any of these documents before?

A Okay. I've seen page 1. I've seen page 2. I have not seen page 3.

Q Have you seen page 4?

A I vaguely remember this.

Q Could you go back to page 4? What is this "Victory '88 summer fundraising wish list"?

A Right.

Q Can you --

A "Victory '88 summer fundraising wish list" is the title of this document on page 4.

Q Are certain cities listed there?

A Yes, cities are listed here.

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Q Why would these cities appear on a wish list?

MR. BURCHFIELD: Object to form. Foundation.

THE WITNESS: Maybe the fundraisers wished they --

MR. BURCHFIELD: Don't speculate.

THE WITNESS: I don't know, I didn't do fundraising.

BY MR. DENHOLM:

Q Is this -- is page 4 representative of your stationery?

A Yes.

Q Does your name appear on the right-hand corner?

A Yes, but everybody used my stationery, which is actually -- I answered that question too early because I recognize this stationery as being mine. I do not specifically remember this specific document.

Q If you could look at the third line of type on that page, I believe it says -- does it say "Harrisburg/Pittsburgh/Philadelphia, Pennsylvania, July 14th (request in)"?

A Uh-huh.

Q Is that a yes?

A Yes, sir.

Q Why would there be a "request in"?

A I don't know; I did not write this.

Q Do you know who wrote it?

A I do not; it's not signed.

Q Where your name appears on the right-hand corner --

A So does Frank Fahrenkopf's and Maureen Reagan's in the left-hand corner.

Q Is there a word below your name?

A "Director."

Q Below that.

A "Victory '88."

Q Is there a handwritten word below that?

A I can't read it.

Q Okay. Have you seen page 5?

A No. No on 6. No on 7. No on 8.

Q You have not seen page 8?

A No. I --

Q Could you go back to page 8, please. Do you know Paul Coverdell?

A I do.

9 6 0 4 3 2 0 5 7 2

Q How do you know him?

A He's a friend of mine from Georgia.

Q Did you work with him at the Republican National Committee?

A No, I did not.

Q Where did Mr. Coverdell work during --

A I don't know.

Q -- June, July and August of 1988?

A I don't know.

Q Did he work for the Georgia Republican party?

A I don't remember.

Q Do you remember page 9?

A No, I don't remember this.

Q You do not remember this?

A No.

Q Can you tell me next to the cc at the bottom of the page the two names that appear there?

A Margaret Alexander and Mary Matlin. Maybe a relation of mine, but not how I spell my name.

Q Have you ever seen page 10?

A No.

Q Is this a Victory '88 briefing report for the

9 6 0 4 3 0 2 0 5 1 3

1 Vice President?

2 A It is so entitled.

3 Q Did you ever see Victory '88 briefing reports for

4 the Vice President during June, July or August 1988?

5 A I did not.

6 Q Did you ever see them when you worked at the

7 Republican National Committee?

8 A I did not.

9 Q Did you hear of Victory '88 briefing reports?

10 A It is customary for the then-Vice President to

11 receive briefing reports on all of his events. I only

12 recognize this because I would have had to -- I did submit,

13 during the primary season, briefing reports when he was in

14 my state. So I recognize this as something that would

15 have been standard operating procedure, but I did not see

16 this.

17 Q And that's when you were at the George Bush for

18 President Committee?

19 A Yes.

20 Q Were those briefing reports on Republican

21 National Committee stationery?

22 A When I was at the George Bush for President

9 6 0 4 3 0 2 0 5 1 4

1 Committee?

2 Q Yes.

3 A No.

4 Q Were they on George Bush for President Committee

5 stationery?

6 A When I was at the George Bush for President

7 Committee?

8 Q Yes.

9 A Yes.

10 Q Do you recognize page 12?

11 A No. Excellent comment, though. No, I don't

12 remember 13. I don't remember 14. I don't remember 15.

13 These are all briefing reports.

14 Q And you never saw briefing reports for

15 Victory '88?

16 A No.

17 Q Do you know who would have created briefing

18 reports at the Republican National Committee for

19 Victory '88?

20 A No, they are not signed.

21 Q Would someone on your staff have created those?

22 A Not my staff. It is fundraising.

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1 Q Did someone on fundraising create these briefing
2 reports?
3 A I don't -- I can't answer that.
4 Q Why can't you answer that?
5 A I don't know who did this. It's not -- now, this
6 one isn't even on my stationery. It is an unsigned
7 document on the Victory '88 logo stationery. I have no
8 idea who prepared this.
9 Q Are you recognizing these pages, 19, 20, 21?
10 A No, I'm sorry.
11 Q Page 22 do you recognize?
12 A I recognize my name. I don't recognize this
13 particular document.
14 Q Is this a memorandum to Frank Donatelli?
15 A Yes, it is.
16 Q And can you state who it is from?
17 A From Mary Matalin.
18 Q Are those your initials that appear there?
19 A Or somebody using my initials.
20 Q Did people use your initials?
21 A Yes.
22 Q Who had authority to use your initials?

9 6 0 4 3 7 2 0 5 1 6

A Carla, Pat -- Carla Phillips, Pat Giardina.

Q Were those the only people?

A Grace Moe.

Q Anybody else?

A (No verbal response.)

Q Is that a no?

A No. I'm sorry.

Q Thank you.

Do you recognize page 23?

A No, I'm sorry. I don't recognize 25, I don't recognize 24. I don't recognize 25, 26, 27, 28, 29, 30 or 31.

Q Okay. Going back to page 25, is this a memo from the Office of the Vice President?

A It is.

Q Did you ever see similar memoranda?

MR. BURCHFIELD: I object to the preceding question on the grounds of foundation. If you are asking the witness just to review the document and characterize it as it is today, that's one thing. But if you are asking her to authenticate the document, then I don't think you have laid sufficient foundation for that.

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MR. DENHOLM: I believe there is still a question pending.

BY MR. DENHOLM:

Q Have you ever seen similar memoranda?

MR. BURCHFIELD: Object to the form.

THE WITNESS: Yes.

BY MR. DENHOLM:

Q And who is this memorandum to?

A Craig Fuller, Lee Atwater, Bob Teeter.

Q Do you know or did you know Craig Fuller?

A Yes.

Q How did you know him?

A I don't know. I don't know how I -- because I've been in the party for a long time. He's been in the party for a long time.

Q Did you work with him at the Republican National Committee during the summer of 1988?

A No.

Q Where did Mr. Fuller work during the summer of 1988?

A I don't remember. I think he was at the OVP, but I don't remember exactly.

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Q Again directing your attention to page 25 of Exhibit 7, who is this memorandum from?

A It states "OVP/GBFP scheduling."

Q Are there initials next to that?

A Yes.

Q Do you recognize those initials?

A No.

Q When you saw similar memoranda, were they initialed?

A It's customary for people to initial their memoranda.

Q When you saw similar memoranda, were there ever names there on the "from" line?

A I don't remember.

Q Did you ever have any contact during the summer of 1988 with the Office of the Vice President?

A Did I personally?

Q Yes.

A No.

Q Did members of your staff?

A Yes.

Q And who would they contact?

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A Members of the OVP staff.

Q Would those be members of the OVP staff who would make the travel arrangements for Mr. Bush?

A Yes.

Q Do you know who those people would be?

A I don't remember.

Q At any of the trips on the list on Exhibit -- on Matalin Exhibit 3, did you have any role in preparing any remarks regarding Mr. Bush?

A No.

Q Did you prepare any remarks for Mr. Bush at any of those --

A No.

Q -- listed events on Exhibit 3?

A No.

Q Who at the Republican National Committee knew Mr. Bush's travel itinerary for the summer of 1988?

MR. BURCHFIELD: Objection; foundation.

BY MR. DENHOLM:

Q You may answer.

A No one.

Q No one?

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A You mean his whole itinerary for the whole summer? No one.

Q Would anyone know any part of the travel itinerary?

MR. BURCHFIELD: Objection. That's an unanswerable question, if you are asking what other people knew.

BY MR. DENHOLM:

Q Can you answer the question?

A I don't know.

Q Whose job would it have been to --

A Nobody's.

Q -- know Mr. Bush's travel schedule?

A At the Republican National Committee?

Q Yes.

A No one's.

Q Now, directing your attention back to I believe what has been marked Exhibit 4, Matalin Exhibit 4, besides what you have already testified to regarding this document -- and this is the Unity '88 conference notebook --

A Uh-huh. Well, I don't remember every section being in the notebook.

Q Okay. Describe what you do remember as being in the Unity '88 notebook.

MR. BURCHFIELD: Objection asked and answered. I thought she did that sometime ago.

BY MR. DENHOLM:

Q Was there anything else in the Unity '88 notebook besides what you identified earlier?

A I don't remember.

Q If you saw it, would you remember?

A I can't answer that until I see it. I can't answer that until I see it. I don't know what I would remember.

Q You were in charge of assembling the notebook?

A My staff was in charge of assembling the notebook.

Q Were you in charge of telling your staff what to put in the notebook?

A Indirectly.

Q What do you mean "indirectly"?

A I mean my staff knew what had to be in the notebook. So I didn't really have to tell them what to do.

9 6 0 4 3 7 2 0 5 5 2

Q How did they know what had to be in the notebook?

A Because they know what's involved in a -- they knew what was involved and who the -- what's -- they just know. I mean, that's why you have a staff. They knew what the activists and the volunteers needed to coordinate their plans in the fall.

Q And that would include telling them how to raise funds?

A If it was in there. The state parties had to raise money to implement the plans. So it is likely that that would have been included. But I did not specifically say that it should be, nor did I specifically say any of this stuff should be in here.

Q But to implement the plan?

A Uh-huh.

Q Is that a yes?

A Yes.

Q I guess we're about set here.

A Excellent.

MR. DENHOLM: Ms. Hennessy, do you have anything to add?

1 MS. HENNESSY: No.

2 MR. DENHOLM: She has nothing to add. We'll now

3 adjourn the deposition. Thank you.

4 MR. BURCHFIELD: Thank you very much.

5 (Whereupon, at 8:15 p.m., the deposition was

6 concluded.)

7

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9

10 MARY MATALIN

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I, MARLENE KNOWLES, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Marlene Knowles
Notary Public in and for the
District of Columbia

My Commission Expires FEBRUARY 28, 1997

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OGC 6159

TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

IN RE: GEORGE BUSH FOR PRESIDENT, INC. and J. STANLEY HUCKABY, as Treasurer.	MUR 2667

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DEPOSITION OF MARGARET C. ALEXANDER

Washington, D. C.

Tuesday, August 4, 1992

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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

- -x
:
IN RE: : MUR 2667
:
GEORGE BUSH FOR PRESIDENT, INC. :
and J. STANLEY HUCKABY, AS :
TREASURER. :
:
- -x

DEPOSITION OF MARGARET C. ALEXANDER

Washington, D. C.

Tuesday, August 4, 1992

Deposition of MARGARET C. ALEXANDER, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Room 657, at 9:18 a.m. before DIANA S. KIEREIN, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

-- continued --

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APPEARANCES:

RICHARD M. DENHOLM II, ESQ.
THERESA HENNESSY, ESQ.
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D. C. 20463
On behalf of Federal Election
Commission.

BOBBY R. BURCHFIELD, ESQ.
General Counsel
Bush Quayle '92
1030 Fifteenth Street, N.W.
Washington, D. C. 20005
On behalf of the Deponent.

BENJAMIN L. GINSBERG, ESQ.
General Counsel
Republican National Committee
310 First Street, S.E.
Washington, D. C. 20003
On behalf of the Deponent.

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1 P R O C E E D I N G S

2 Whereupon,

3 MARGARET CHAROLOTTE ALEXANDER

4 was called as a witness and, having first been duly sworn,

5 was examined and testified as follows:

6 EXAMINATION

7 BY MR. DENHOLM:

8 Q My name is Richard Denholm. I am representing

9 the commission here today along with assistant general

10 counsel, Theresa Hennessy. This deposition is being taken

11 pursuant to a subpoena issued on June 25, 1992 in

12 connection with an investigation designated as MUR 2667.

13 I want to remind you that according to section

14 437-G under Title II of the United States Code, the

15 confidentiality of this investigation must be maintained

16 until the Commission closes this matter.

17 I will be asking questions to obtain information

18 involved in the Commission's investigation of alleged

19 violations of the Federal Election Campaign Act of 1971 as

20 amended.

21 The questions will not necessarily be limited to

22 your involvement, but will include requests for

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1 information regarding other persons.

2 Please treat this proceeding as if you were in a

3 court of law and remember that you are under oath.

4 If you do not hear or understand a question,

5 will you please tell me in order that I may repeat or

6 rephrase it?

7 A Un-huh.

8 Q Verbal response, please?

9 A Yes.

10 Q If you realize that you made an incomplete or

11 inaccurate answer, let me know and I will let you modify

12 your response.

13 The court reporter can only take down words, so

14 it is necessary that all of your responses be verbal. If

15 you need to take a break, let me know and we will take a

16 break after I finish my line of questioning.

17 I will instruct the court reporter to go off the

18 record, and only Miss Hennessy or I may instruct the court

19 reporter to go on or off the record.

20 Will you state your full name and address,

21 please?

22 A Margaret Charlotte Alexander. 1016-1/2 Oronoco

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1 Street, Alexandria, Virginia.

2 MR. BURCHFIELD: As we discussed yesterday, I

3 will be making deposition objections in the format that we

4 previously discussed. I assume, Mr. Denholm, that you're

5 going to be the examiner today.

6 MR. DENHOLM: Yes. Your understanding is

7 correct.

8 MR. GINSBERG: Let me also at the outset note an

9 objection to the Federal Election Commission's refusal on

10 the record to turn over all the documents that they have

11 cited in their findings of fact and conclusions of law in

12 finding reason to believe against the Republican National

13 Committee.

14 The Commission's refused to give us documents

15 cited in their findings against the Republican National

16 Committee and we note a continuing objection to that.

17 BY MR. DENHOLM:

18 Q Are you represented by counsel here today?

19 A I am.

20 Q Will you state your counsel's name, please?

21 A Bobby Burchfield.

22 MR. DENHOLM: Thank you.

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MR. GINSBERG: And Ben Ginsberg.

BY MR. DENHOLM:

Q I'm going to have the court reporter mark this as Alexander Exhibit 1 and I will have her show it to you and you can review it

(Alexander Exhibit 1 identified.)

MR. BURCHFIELD: Will the exhibits be attached to the transcript? We have not received copies of the exhibits, so I believe we need them to be attached to the transcript.

I should also note on this subpoena that Miss Alexander is appearing in her personal capacity, not as a representative of any institution; and therefore, any documents requested by this subpoena are those within her personal control and not within the control of any institution or organization.

BY MR. DENHOLM:

Q Did you bring any documents with you today pursuant to this subpoena?

A Yes.

MR. BURCHFIELD: Let the record note that Miss Alexander has just tendered to Mr. Denholm a stack of

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1 documents that appears to be 35 to 50 pages or so.

2 BY MR. DENHOLM:

3 Q Are these my copies of the documents?

4 A Un-huh.

5 Q Okay. Can you identify the subpoena that you

6 just examined?

7 MR. BURCHFIELD: Objection to form and

8 foundation.

9 THE WITNESS: Identify that it exists?

10 BY MR. DENHOLM:

11 Q Can you state the date?

12 A June 25, 1992.

13 Q And who is it issued to?

14 A To Margaret Alexander.

15 Q Thank you. Okay.

16 Where are you currently employed?

17 A I'm currently employed at the Republican

18 National Committee.

19 Q And what is your job title there?

20 A Executive direction to the Republican National

21 Finance Committee.

22 Q Where were you employed just prior to that job,

9 5 0 4 3 7 2 0 5 5 4

A I was employed at Bush/Quayle '92.

Q And just prior to that?

A Republican National Committee.

Q Where were you employed during June, July and August of 1988?

A Republican National Committee.

Q And what was your job title there?

A I was the finance director of Victory '88 and the presidential trust.

Q And what were your job responsibilities in those jobs?

A To oversee the fund raising for the presidential trust and to assist the state parties in raising their Victory '88 dollars.

Q Anything else?

A No.

Q In those positions, who was your immediate supervisor?

A Well, Fred Bush was my immediate supervisor on a daily basis.

Q And who was Mr. Bush's supervisor?

A Chairman Fahrenkopf.

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Q Did you supervise anyone?

A Yes.

Q Who did you supervise?

A Numbers or names? I don't know if I can remember all the names, but the number of employees, there were one, two, three, four, five, six, seven -- I think there were eight employees.

Q Can you tell me their names?

A I'll try. Jeff Vogt, Chris Kidder, Tom LeBreque, and Herb Berger, Pat Thompson, Kelly Shaben. I forget the names -- oh, Theresa Beaker, and there's one more and I cannot remember it. I'm sorry.

Q Okay. If you can't remember it, you can just tell me.

Q And what were their jobs?

A Jeff Vogt was the direct mail coordinator, Pat Thompson was the executive assistant, Kelly Shaben was a staff assistant, Theresa Beaker was a staff assistant and the balance were region folks, divided out in different regions of the country and were in charge of different areas of the country, different states.

Q What did staff assistants do?

9 6 0 4 3 7 2 0 5 5 6

A They interfaced with the finance leadership in the states to assist them in raising their money. They also helped coordinate with me presidential trust events if they were in their regions -- if the events were in their regions.

Q More specifically, how did they assist states in the fundraising?

A They worked with finance leadership in the states to -- and with the state parties.

Basically we were plugging in finance people with the state parties to help them augment into the state parties, fundraising activities for Victory '88, asking them to assist and help.

Q To help with what?

A To help with fund raising.

Q Okay and more specifically, what did the regional directors do?

A That's what they did. That's what I'm describing, was regional people.

Q Okay.

A Yes.

Q Is that the same thing that the staff assistants

9 6 0 4 3 7 2 0 5 5 7

1 did?

2 A No, I'm sorry. I thought your were asking me

3 about the regional people. That's what the regional

4 people did.

5 Staff assistants were just basically, were just

6 that. They helped me, they helped Fred, they helped the

7 regional people.

8 Q When you say helped, what do you mean? Can you

9 be more specific?

10 A Generally what any staff assistant does. Helps

11 them get materials out, helps them copy, returns some of

12 their phone calls for them if they're out on the road,

13 keeps them in touch with the finance people, that sort of

14 thing.

15 Q And materials would be going to the state

16 parties.

17 A Both state parties and finance people, finance

18 leadership in the field.

19 Q What kind of materials would be going out?

20 A Information on dates of events, invitation copy,

21 things of that nature.

22 Q Okay. Are you familiar with Victory '88?

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A Oh, yes.

Q Did you attend any Victory '88 conferences, receptions, seminars or fund raisers during the summer of 1988?

MR. BURCHFIELD: Objection, compound. You may answer the question.

THE WITNESS: I may?

MR. BURCHFIELD: You may.

THE WITNESS: I'm trying to remember. Yes, I did. The number, I cannot recall.

I didn't generally travel to these Victory '88 events myself.

BY MR. DENHOLM:

Q Did you coordinate those events?

A I coordinated them with my staff, through my staff.

Q Okay. Could you describe Victory '88 for me?

A Victory '88 is the effort of the state parties to raise funds for the entire ticket. That will help assist the entire ticket, both raising money in the federal accounts and the state accounts.

Q Who did you consider to be the entire ticket?

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A From the gubernatorial candidate to the Senate candidates to the congressional candidates to the presidential, all the way down, to state legislative candidates, everything.

Q And what were your job responsibilities specifically regarding Victory'88?

A As I stated before, it was to help coordinate the staff and work with the finance leadership throughout the country and in each of the states to help them raise these monies.

Q Okay. Are you familiar with Unity '88?

A I am.

Q Did you attend Unity '88 conference?

A One.

Q Which one?

A Atlanta.

Q Did you attend Unity '88 seminar?

A One, Atlanta.

Q Okay.

MR. BURCHFIELD: Is there a difference?

THE WITNESS: No, not in my mind. I was asked to come down and help talk about how these folks could

9 5 0 4 3 7 2 0 5 7 0

1 raise money in these states for Victory'88.

2 Q Could you describe Unity '88 for me?

3 A Specific to Atlanta because I did not really

4 have a great deal to do with Unity '88, specific to my

5 function, it was to get into the room with people, finance

6 leaders in that area of the Southeast and to talk to them

7 about how to raise money; coaching them and helping them

8 and giving them tips, that sort of thing, on how to raise

9 money.

10 Q What kind of tips would you give them on how to

11 raise money?

12 A Getting surrogates into their states to hold

13 events, then Vice President Bush getting into their

14 states, holding events, mail programs, that sort of thing.

15 Q Anything else?

16 A Just general fund raising, using surrogates and

17 doing direct mail and those things, and some

18 telemarketing.

19 Q What were surrogates?

20 A Surrogates are people who, including the then

21 vice president, come in and serve as a draw for people to

22 come in and purchase tickets to help raise money for the

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1 states.

2 Q For the Victory '88 events, was there a great

3 deal of planning that occurred to set these up?

4 A What do you mean? I mean, I don't understand

5 your question.

6 Q Okay. Was there one person in particular who

7 decided where events should be held?

8 A Not necessarily. I think there was a lot of

9 people -- there was a lot of give and take, a lot of

10 communication back and forth with us and the finance

11 leaders in the state, I think with the finance people and

12 political people in the state, that sort of thing, back to

13 Washington.

14 Q Back to the Republican National Committee?

15 A Yes.

16 Q So would you consider it that RNC organized

17 these events?

18 A Yes.

19 Q How did you happen to be serving in the position

20 that you were serving in at the RNC?

21 A I had started at the RNC and been there for

22 several years. I had, prior to that, been the finance

9 6 0 4 3 7 2 0 5 7 2

1 director at the Bush campaign in '88.

2 Q I see. Who hired you for your position at the

3 RNC?

4 A Frank Fahrenkopf.

5 Q Okay. Let me just step back for the Victory '88

6 conferences again. Was there any planning that occurred

7 for these events?

8 A Not by my end, not by my shop, not by finance.

9 Q Do you know who --

10 A It was Mary Matalin.

11 MR. BURCHFIELD: Please allow him to finish his

12 question before you answer.

13 THE WITNESS: Okay.

14 BY MR. DENHOLM:

15 Q Do you know anything about the planning process

16 that occurred?

17 A I do not.

18 Q Did you ever hear anything about planning for

19 the events?

20 A Well, of course. In an office you hear things,

21 but I don't remember anything specific.

22 Q Do you remember who you heard things from?

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A We were very physically closely located to Miss Matalin's shop so through osmosis you hear things but, I don't remember any specifics.

Q What was Miss Matalin's shop?

A She was in charge of Victory '88 at the RNC.

Q So she planned the events?

A Yes.

Q Did you meet with anybody in your office regarding strategy for the various events?

A Which events?

Q For any of the events.

A Fund raising events?

Q For anything that you would consider to be Victory '88?

A I only dealt with fund raising so in terms of my end of things, fund raising, yes, I did.

Q That's fine. If you dealt with fund raising and that's what you know, that's fine.

Who did you meet with, regarding strategy for fund raising?

A Mary Matalin.

Q So Mary Matalin was also involved with the fund

9604372057 4

1 raising aspect?

2 MR. BURCHFIELD: Object to form and foundation.

3 BY MR. DENHOLM:

4 Q You may answer.

5 A I'm not sure where you're going. I'm not really

6 sure what you mean. I mean we worked together on this.

7 Q Did you report to her about fund raising?

8 A It was it never necessarily such that I reported

9 to her. I worked with her.

10 Q Okay. In your position of fund raising for

11 Victory '88, was there a goal in mind for fund raising?

12 A It was -- pardon me.

13 MR. BURCHFIELD: Objection to form. Go ahead

14 and answer.

15 THE WITNESS: It was fluid. Different states

16 had different budgets.

17 BY MR. DENHOLM:

18 Q That's what you mean by fluid?

19 A Basically, you know, gauging their ability to

20 raise money; and if they were not able to raise as much

21 money as they hoped, then they had to scale back on some

22 plans. That's what I mean by fluid.

9 6 0 4 3 7 2 0 5 7 5

Q So your goal at the RNC was to assist the states in raising funds?

A Precisely.

Q And you would help some states more than others?

A No, we would try to help all states.

Q And how did you know which states needed assistance?

A All states needed assistance.

Q Did they contact you and tell you they needed assistance.

A We contacted them.

Q Okay. And what did your contact say?

A We want to help you raise money. How can we do this? Talking with them about getting surrogates in, that sort of thing.

Q And why did you want to help them raise money?

A To keep the state parties healthy and to help the entire ticket.

Q So it was important that the state parties be healthy to help the entire Republican ticket?

A Absolutely.

Q Do you know of a separate goal that was in mind

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1 for the Unity '88 conferences?

2 A I do not.

3 Q So there was fund raising at Victory '88 events?

4 MR. BURCHFIELD: Object. Asked and answered.

5 You may answer again.

6 THE WITNESS: Yes.

7 BY MR. DENHOLM:

8 Q Could you describe the fund raising that

9 occurred at these events?

10 MR. BURCHFIELD: Object to form.

11 THE WITNESS: It was a -- generally a surrogate,

12 and I am including the vice president in this surrogate

13 reference, who would come in. And we would generally get

14 a host or hostess or group of sponsors or hosts to raise

15 money in conjunction with that visit.

16 BY MR. DENHOLM:

17 Q Okay. And do you know the names of any of the

18 hosts?

19 A Specific recollection, no. There were so many.

20 Q Could you describe the fund raisers a little bit

21 more?

22 MR. BURCHFIELD: Object to the question. Can

9 6 0 4 3 2 0 5 7 7

1 you be more specific in your questioning and that may help
2 her give a more specific answer.
3 BY MR. DENHOLM:
4 Q Well, at the fund raiser, was there a table set
5 up where checks, money orders or pledges were accepted?
6 A In some cases yes, in other cases, no.
7 Q Okay, which cases?
8 A It depended on the fund raising. Some events,
9 they were able to get the money in before the event, and
10 some people paid at the door. Just depended on the
11 people.
12 Q How many people usually attended these fund
13 raisers?
14 A Anywhere from five couples to several hundred.
15 Q Was there one person that was in charge of
16 collecting funds?
17 A Generally the host.
18 Q And how was it established as to who would be
19 the host for various events?
20 MR. BURCHFIELD: Object to form and foundation.
21 THE WITNESS: Any number of things. Usually
22 someone who was a proven fund raiser in their city in the

9 6 0 4 3 7 2 0 5 7 8

1 past.

2 BY MR. DENHOLM:

3 Q Do you know how much individual contributions

4 would be at various fund raisers?

5 A It varied at every one. There was no set price

6 at any one.

7 Q So was there an admission charge for people to

8 attend these fund raisers?

9 A Yes.

10 Q And that occurred at all Victory '88 events?

11 A Yes.

12 MR. BURCHFIELD: Could you reread the previous

13 question, please.

14 (The reporter read the record as requested.)

15 BY MR. DENHOLM:

16 Q Who generally were people who attended the

17 various fund raisers?

18 MR. BURCHFIELD: Object to form.

19 BY MR. DENHOLM:

20 Q If you don't understand the question, say you

21 don't understand the question. I'll just rephrase the

22 question?

9 6 0 4 3 7 2 0 5 7 9

A I don't understand the question.

Q Okay, that's fine.

Were there local business leaders who attended the various fund raisers?

A Yes.

Q Were there prominent politicians who attended the fund raisers?

MR. BURCHFIELD: Object to the question in the sense that he attempts to draw generalizations about the program that may have been quite diverse.

MS. HENNESSY: I think we've had testimony from the witness to support that point.

MR. BURCHFIELD: Just noting my objections, counselor.

BY MR. DENHOLM:

Q Miss Alexander, you may answer the question.

A In some cases, yes. If they were used as a draw, quite frankly.

Q Okay. And who generally were the draws for the fund raisers?

A Cabinet officers, senators, the vice president, then Vice President Bush is who I'm referring to,

1 governors.

2 Q Okay. Would these people be considered

3 participants in the fund raisers?

4 A In what way?

5 Q Did they give speeches at the fund raisers?

6 MR. BURCHFIELD: Object to the over

7 generalization.

8 THE WITNESS: In some cases, yes; in some cases,

9 no. It just depend on the format.

10 BY MR. DENHOLM:

11 Q Could you remember some cases where speeches

12 were given?

13 A No, because I didn't attend that many.

14 Q How many did you attend?

15 A I have no recollection.

16 Q Could you estimate?

17 MR. BURCHFIELD: Don't guess. If you have a

18 good faith estimate, you may give it.

19 THE WITNESS: Three or four.

20 BY MR. DENHOLM:

21 Q Okay. Would anything help you remember if

22 speeches were given?

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A What do you mean would anything help me? Specifically, what? I don't understand the question.

Q If you saw a document, would that help you remember?

A About what a speech was?

MR. BURCHFIELD: Objection to form.

BY MR. DENHOLM:

Q Yes.

A No.

Q I'd like to ask you a little bit about invitations to the various events?

A Un-huh.

Q How were either participants on attendees invited to the Victory '88 fund raisers?

A The invitation lists were drawn up by the state parties and they sent the invitations.

Q Was there any coordination with the Republican National Committee?

A In what way?

Q As to who to invite?

A As relates to the regional people that worked for me, working with these state parties, yes. They would

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1 make suggestions.

2 Q And what kind of suggestions would they make?

3 A Of top donors.

4 Q Okay. Were these written invitations that were

5 sent out?

6 A Most cases, yes.

7 Q And what did the invitations usually say?

8 MR. BURCHFIELD: Object to the over

9 generalizations.

10 THE WITNESS: Please join us for Victory '88

11 North Carolina fund raiser.

12 BY MR. DENHOLM:

13 Q Did they list who would be appearing?

14 A There again, in some cases, yes -- I don't know,

15 I didn't see all of the copies of the invitations so I

16 can't say.

17 Q Did you ever see an invitation that mentioned

18 Mr. Bush appearing?

19 A I do not recall seeing an invitation that

20 mentioned him, no, for Victory '88.

21 Q For Unity '88?

22 A I was really not involved with that, so I don't

9604372059 3

1 recall.

2 Q You don't recall seeing an invitation to

3 Unity '88?

4 A No, I do not.

5 Q Did you ever hear the invitations discussed?

6 A Invitation specifically? No, I do not.

7 Q Invitations generally?

8 A As you mentioned or asked me earlier, did I

9 overhear any preparations for Victory '88 or Unity

10 conferences, yes; but anything specific, I do not recall.

11 Q Didn't Mr. Bush speak at Victory '88 events?

12 A Yes, he did.

13 Q Did he appear at all Victory '88 events?

14 A No, he didn't.

15 Q Did any other presidential candidates appear at

16 Victory '88 events?

17 A I can't recall specifically. I think so, but I

18 can't remember specifically.

19 Q Did Mr. DuPont appear in any Victory '88 events?

20 A I don't recall.

21 Q Can you recall well -- strike that.

22 At the Victory '88 appearances where Mr. Bush

9 5 0 4 3 7 2 0 5 9 4

appeared, how was his appearance planned.

MR. BURCHFIELD: Object to the form.

THE WITNESS: I don't understand what you mean.

BY MR. DENHOLM:

Q Well, how did it happen that Mr. Bush would show up at a fund raiser?

MR. BURCHFIELD: Objection to the form.

THE WITNESS: I still don't understand what you're getting at.

BY MR. DENHOLM:

Q Did Mr. Bush just show up at various fund raisers?

A No.

Q Did somebody call him?

MR. BURCHFIELD: Objection, foundation.

THE WITNESS: They would call us, or my staff, and ask if they could have the vice president come in and do a Victory '88 fund raiser.

MR. BURCHFIELD: Who was "they"?

THE WITNESS: The state party and the finance leaders in the state, who my staff was interfacing with.

BY MR. DENHOLM:

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1 Q So they would call you and request that the vice
2 president appear?
3 A Un-huh. Yes.
4 Q And then what would you do?
5 MR. BURCHFIELD: "They," still being the state
6 parties?
7 THE WITNESS: Right. We would make the request
8 to Mary Matalin.
9 BY MR. DENHOLM:
10 Q And then what would she do with that?
11 A She would make the request for an appearance.
12 Q And who did she make the request to?
13 A I have no idea.
14 Q Did you ever call the office of vice president
15 to arrange an appearance for Mr. Bush?
16 A No, I did not.
17 Q Did any member of your staff?
18 A No.
19 Q Do you know anything else about how Mr. Bush's
20 appearances would have been arranged or were arranged?
21 MR. BURCHFIELD: Object to the question. It's
22 hopelessly overbroad.

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1 BY MR. DENHOLM:

2 Q You may answer if you like?

3 A Could you repeat the question? I'm sorry.

4 Q Can you think of anything else relating to how

5 Mr. Bush's appearances were arranged?

6 MR. BURCHFIELD: I object to the question. It's

7 just not capable of being answered.

8 MS. HENNESSEY: The witness can tell us that.

9 MR. BURCHFIELD: Counselor, I'm here to protect

10 the record and to make sure this witness, who doesn't have

11 as much experience in this mode of examination as I do, is

12 not led into answering questions that can be read later

13 with implications and inferences that cannot be,

14 reasonably be expected by her as she sits here.

15 So I object to the question on the grounds that

16 it's a hopelessly broad question, just as sitting down in

17 the first question of the deposition being, tell us

18 everything you know about Victory '88 would be an

19 objectionable question.

20 If you have specific questions about what

21 Miss Alexander knows, heard, said or did, please answer

22 them; but asking a question like tell us anything else you

9 6 0 4 3 7 2 0 5 8 7

1 know about this topic, I think is just an unfair and
2 misleading question.
3 And if Miss Alexander thinks she can get through
4 it she can answer it, but I think it's an objectionable
5 question; and if ever used in the context of any
6 proceeding, I would move that it be stricken.
7 My objection is stated. Answer it if you can.
8 THE WITNESS: Would you ask the question again,
9 please?
10 BY MR. DENHOLM:
11 Q Do you know anything else about the planning
12 behind Mr. Bush's appearances at Victory '88 events?
13 MR. BURCHFIELD: Can you answer that question?
14 MR. DENHOLM: If you do not know anything else,
15 you can say no.
16 MR. BURCHFIELD: It's an unfair question. Can
17 you answer the question?
18 THE WITNESS: Specifically, no.
19 BY MR. DENHOLM:
20 Q Okay. Did you ever telephone a state Republican
21 party committee to arrange an appearance by Mr. Bush in a
22 particular state during the summer of 1988?

9 6 0 4 3 7 2 0 5 9 8

A A state party official? Is that what the question was?

Q Or a state Republican party, anyone involved in the state Republican party.

A Yes.

Q Which states?

A I have no recollection.

Q Do you remember who you talked to?

A Specific to what?

Q Specific to appearances by Mr. Bush?

A I talked to many people. I'm not -- you want me to list every single person I talked to. I don't think I can remember all of them.

Q Can you tell me who you remember?

A Do you want to go through each 50 states.

Q The appearances in which Mr. Bush participated for Victory '88?

MR. BURCHFIELD: Let me just make sure I understand the question. The question is, does she remember talking to specific people in specific states about Victory '88 appearances in which the vice president appeared during the 1988 campaign. Is that the question?

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1 It has two components to it.

2 BY MR. DENHOLM:

3 Q During June, July and August of 1988.

4 MR. BURCHFIELD: Okay. You may answer that

5 question.

6 THE WITNESS: I cannot recall offhand, no.

7 BY MR. DENHOLM:

8 Q You can not recall any names?

9 A I can't remember exactly where he was. During

10 those three months.

11 Q Okay. If you saw a list, would that be helpful?

12 A Yes.

13 Q I will have the court reporter mark this as

14 Alexander Exhibit 2. And I will have it her hand it to

15 you, and you can reviewed it.

16 (Alexander Exhibit 2 identified.)

17 THE WITNESS: So I'm supposed to go down each

18 location?

19 BY MR. DENHOLM:

20 Q Maybe I can help here and maybe we can change

21 this a little bit to refresh your recollection. In which

22 cities listed here did Mr. Bush appear?

A My best recollection?

Q Yes, and don't guess. What you remember.

A What I remember, specifically?

Q Yes.

A New York, Charlotte, that's specific memory.

General memory is, I think he attended most of these, but I don't remember, specifically.

Q Why do you remember the two that you stated. Why do you remember those, specifically?

A Because the New York event was a presidential trust event. That was one of their larger events, that's why I remember it; and Charlotte, because that's my home state.

Q Did the Charlotte, North Carolina appearance, was that a Victory '88 event?

A Un-huh. Yes.

Q Was it a Unity '88 event?

A No.

Q Do you remember state parties from any -- related to any of these states listed? Do you remember state parties calling you regarding any of these

1 appearances?

2 MR. BURCHFIELD: Objection, asked and answered.

3 Are we referring to the list that's on Exhibit 2

4 or are we referring to the two events she said that she

5 remembered the vice president attended or are we referring

6 to some other list of events.

7 MR. DENHOLM: No, we're discussing all the

8 events listed on Exhibit 2.

9 THE WITNESS: I must tell you that on a lot of

10 these, my staff interfaced with these states on these

11 events.

12 So in terms of my specific conversations with

13 these states, I don't recall specific conversations. No,

14 I don't.

15 BY MR. DENHOLM:

16 Q Okay. Your staff would know?

17 A From four years ago, I don't know, I couldn't

18 answer that.

19 Q But your staff did speak to various state

20 parties relating to these trips?

21 A Yes.

22 Q I'm going to change the line of questioning a

9 6 0 4 3 2 0 5 2 2

1 little bit again. Did you coordinate mail campaigns in
2 your job?
3 A Yes.
4 Q Was the RNC mentioned in any of the mail
5 campaigns?
6 A No. I don't recall specifically.
7 Q In looking at number 8 on the list again --
8 A Un-huh.
9 Q -- did you attend the Atlanta conference?
10 A Yes.
11 MR. BURCHFIELD: Objection. Asked and answered.
12 BY MR. DENHOLM:
13 Q Okay. Was this a Victory '88 event?
14 MR. BURCHFIELD: Objection. Asked and answered.
15 THE WITNESS: Yes.
16 BY MR. DENHOLM:
17 Q Was it a Unity '88 event?
18 A Yes.
19 Q Did Mr. Bush appear at this event?
20 MR. BURCHFIELD: Which of the two events?
21 THE WITNESS: I know he appeared at the
22 Victory '88 fund raiser. I cannot recall about the

Unity '88 event.

BY MR. DENHOLM:

Q Okay. Did you say at the the Unity -- did you say the Victory '88 fund raiser?

MR. GINSBERG: Could you just clarify that for the record so you don't mix up the Victory '88 and Unity '88 again.

BY MR. DENHOLM:

Q Did Mr. Bush appear at the Victory '88 fund raiser?

A Yes.

(Discussion off the record.)

BY MR. DENHOLM:

Q Was there only one fund raiser in Atlanta?

MR. BURCHFIELD: Objection to form. At that time on July 7, 1988 or are you encompassing the entire three-month period in that question?

BY MR. DENHOLM:

Q It was July 8, I believe, Atlanta.

MR. BURCHFIELD: July 8.

BY MR. DENHOLM:

Q Yeah, when Mr. Bush was in Atlanta?

9 5 0 4 3 - 2 0 5 2 4

A To the best of my recollection, yes.

Q There was one fund raiser?

A Yes.

Q Could you describe that fund raiser for me?

A I did not attend that fund raiser. I do recall it was in private residence.

Q Do you recall whose residence?

A I think it was Paul Coverdale.

Q Don't guess. If that's what you think, it's fine. Okay.

Do you know who Mr. Coverdale was?

A He was the -- I can't specifically remember his title. He was on the finance committee for Victory '88 in Georgia.

Q Was that the -- did he work for the Georgia Republican party?

A Yes. Now worked for -- he was not an employee of, if that's what you're saying.

Q What was he?

A He was a volunteer.

Q I see. Did the Georgia Republican party pay any costs associated with this appearance?

9 5 0 4 3 7 2 0 5 2 5

A I have no idea.

Q Do you know who would know?

A The Georgia Republican party.

Q Did the Republican National Committee pay any costs associated with that fund raiser?

MR. BURCHFIELD: Object, foundation.

THE WITNESS: I do not know.

BY MR. DENHOLM:

Q So you wouldn't know what costs the state party paid either?

A No.

Q Do you know if Mr. Bush gave a speech at the Victory '88 fund raiser?

MR. BURCHFIELD: Which one? The one in Atlanta,

BY MR. DENHOLM:

Q Yeah, I believe we're still on Atlanta?

A I was not there, so I can't state specifically if he gave a speech or just gave brief remarks. I don't know.

Q Did you ever hear of him making any remarks in Atlanta at the Victory '88 fund raiser?

MR. BURCHFIELD: Objection to the form.

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THE WITNESS: Specifically, no.

BY MR. DENHOLM:

Q Do you know if he made any remarks at the Unity '88 conference?

A I can't answer that yes or no. I assume. That's not an answer, so I don't know.

Q Un-huh. Why don't we at this point take a break for 15 minutes. Get up and stretch your legs.

(Recess.)

MR. DENHOLM: We'll stay for five minutes.

(Discussion off the record.)

MR. GINSBERG: We'd like to note for the record an objection to the slow down in these proceedings by the Federal Election Commission.

We've only been at it for roughly 50 minutes. The witness has not requested a break. The Commission has requested a break.

MS HENNESSY: Off the record.

(Discussion off the record.)

(Recess.)

MR. DENHOLM: Let's go back on the record.

BY MR. DENHOLM:

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1 Q Okay. Turning again to the Atlanta event,
2 number 8 on the list in the exhibit you have in front of
3 you, are you familiar with an event entitled Victory
4 through Unity in 1988 rally?
5 A No.
6 Q Are you familiar with Victory '88 Georgia Unity
7 reception?
8 A Specifically, I can't recall.
9 Q Was there a reception?
10 A Yes.
11 Q Could you describe the reception for me?
12 A Participants from all the Southeast states were
13 in the reception.
14 Q Where was the reception held?
15 A At a hotel.
16 Q Do you remember which hotel?
17 A No, I don't.
18 Q Okay.
19 Q How many people attended the reception?
20 A Vague recollection, 200. I can't recall
21 specifically.
22 Q Could you describe the room for me at the

9604372058

1 reception, how was it set up?

2 A Just a big room. Nothing spectacular. That's

3 why it doesn't stand out in memory.

4 Q Were there any signs posted?

5 A No.

6 Q Was anybody ever carrying any signs?

7 A Not that I recall, no.

8 Q Was anybody wearing buttons?

9 A Not that I recall.

10 Q Was there a Victory '88 fund raiser reception?

11 A The one referenced earlier at Paul Coverdale's

12 home.

13 Q And that is a Victory '88 fund raising

14 reception?

15 A Yes.

16 Q Now, just jumping back to the reception at the

17 hotel you described. Did Mr. Bush appear at that?

18 A I cannot recall.

19 Q You can't remember?

20 A I can't remember.

21 Q Did that particular reception precede any other

22 events?

9 6 0 4 3 2 0 5 2 9

A I cannot recall.

Q Did you att i the Atlanta Unity '88 conference?

A I attended a seminar on fund raising earlier that day.

Q And that was before the reception?

A Yes.

Q And that was part of Unity '88?

A Yes.

Q It was. Okay. Were there any materials distributed that you know of at that conference?

A I do not know.

Q At that time, did you see anybody with materials?

A No.

Q That related to the conference --

A No.

MR. BURCHFIELD: Please wait until he finishes his question.

THE WITNESS: Sorry.

BY MR. DENHOLM:

Q I'm going to introduce a document. I will have the court reporter mark as Exhibit 3, and she can hand it

9 6 0 4 3 7 2 0 6 0 0

1 to the witness and have her review it.

2 (Alexander Exhibit 3 identified.)

3 MR. BURCHFIELD: Let's just note, it appears

4 that this document is subject to the same objection that

5 Mr. Ginsberg made yesterday, so I'll let him explain what

6 that is.

7 MR. GINSBERG: First, I believe it's 15 pages of

8 the document are not part of the notebook that is produced

9 in response to the subpoena for the Republican National

10 Committee. They are a separate document, and I believe

11 were not turned over as part of this book.

12 MR. DENHOLM: I'd also like to state for the

13 record that the Republican National Committee did turn

14 over the book to us and it did contain the first 15 pages

15 although not specifically as bound in that book.

16 MR. BURCHFIELD: Regardless, sometimes documents

17 do get shuffled in the duplicating process. The witness

18 yesterday who expressed some familiarity with this

19 notebook, but I don't want to be characterizing her

20 testimony, indicated that those pages were not in the book

21 as she recalled it.

22 So maybe Miss Alexander will have something to

9604372060 1

1 say, but our objection is noted.

2 MR. DENHOLM: It is noted. I was just

3 clarifying that the RNC did give this information.

4 BY MR. DENHOLM:

5 Q Are you familiar with this material?

6 A Not really.

7 A One section, I am.

8 Q Okay. Can you tell me which section?

9 A I'll get to it. This section.

10 Q What page does that begin with?

11 A 38 through 46.

12 Q Okay. Could you describe what that information

13 is?

14 A First page is corporate contributions to state

15 party committees actually, excuse me, 37. Since that's

16 the cover. Wait a minute, I'm sorry, I looked over

17 something.

18 Just breezing through this, pages 33 through 46

19 are familiar to me.

20 Q And why are they familiar to you?

21 A Because we provided this information to our

22 finance leaders in the states.

9 6 0 4 3 0 2 0 6 0 2

1 Q Did you develop this information yourself?

2 A We developed the presidential trust material in

3 conjunction with staff at the RNC.

4 Q Is that, the we, the staff at the RNC?

5 A The Victory '88 finance staff in conjunction

6 with the legal and finance staff of the RNC, working

7 together --

8 A Developed this information --

9 A -- on the trust.

10 Q -- and provided that to the states?

11 A Yes. And we, yes. That's right.

12 Q And why did you provide that information to the

13 states?

14 A Because we were trying to raise money for the

15 presidential trust, and that's an explanation of the

16 program.

17 Q Okay. Did the RNC keep this information in its

18 files, do you know?

19 A What information?

20 Q The information that you developed that you just

21 mentioned?

22 A I do not know.

9 6 0 4 3 2 0 6 0 3

1 Q Did you develop it and just send it on to the
2 states?
3 A Yes.
4 Q Or were copies made?
5 A For distribution, yes.
6 Q Were copies made to keep for future reference
7 for the RNC?
8 A I do not know.
9 Q Did you keep copies of the information
10 developed?
11 A I don't recall about this specifically.
12 Q Did you keep other information related to
13 Victory '88 fund raisers?
14 A Yes.
15 Q Do you still have that information?
16 A Yes.
17 Q You have those materials?
18 A Yes.
19 Q And where do you have those materials?
20 A At home.
21 Q Okay. Could you describe the information that
22 you developed in a little bit more detail?

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A Well, the first is a legal opinion on what the trust is and what it can do.

The second is -- discusses the sources of revenue for presidential campaigns.

And the third is -- third is, quite frankly, a marketing technique.

Q And what marketing technique was that?

A It's to show the donor the importance of the presidential trust, the seriousness with which we view this. It's like a -- it's marketing.

Q Okay.

A It's an involvement device, if you will, in fund raising jargon.

Q Okay. That's fine. Turning back to Exhibit 2, the list of trips?

A Un-huh.

Q Was this a presidential trust event?

A Where?

Q In New York on June 30, 1988?

A Yes.

Q Okay. Did you arrange that presidential trust event?

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A Yes.

Q How did you arrange it?

A I contacted the individuals in New York to serve as the chairman, and they, in turn, put a committee together to raise funds.

Q How else did you organize this event?

A What do you mean?

Q Did you call a hotel to set up a location for the event?

A No.

Q Did your staff?

A No. That was done in New York.

Q By whom?

A The event host.

Q And who was that?

A Jim Robinson was the chairman. Best recollection.

Q Did Mr. Bush appear at this presidential trust event?

A Yes, he did.

Q Did he make any speeches?

A He made remarks.

1 Q What do you mean by remarks?

2 A Informal.

3 Q Okay. Do you remember what he said?

4 A No.

5 Q You can't remember specifically what he said?

6 A No, I can't.

7 Q Who paid for the presidential trust event in

8 New York?

9 A The RNC.

10 MR. BURCHFIELD: Objection to form.

11 BY MR. DENHOLM:

12 Q Did the RNC pay all costs associated with that

13 event?

14 MR. BURCHFIELD: Object, foundation. You may

15 answer.

16 THE WITNESS: To the best of my recollection.

17 BY MR. DENHOLM:

18 Q Did the New York State Republican party have any

19 involvement in that event?

20 A I do not know.

21 Q Did the George Bush for President Committee have

22 any involvement?

9 6 0 4 3 7 2 0 6 0 7

A No.

Q Did you ever contact the George Bush for President Committee about this event in New York?

A About what? About -- I don't understand do you mean.

Q About fund raising?

MR. BURCHFIELD: About the New York event. We are still on the New York event?

BY MR. DENHOLM:

Q Yes.

A No.

Q No. Okay. Did you ever have any contact with the George Bush for President Committee for any of the trips listed on Exhibit 2 regarding fund raising?

A To the best of my recollection, no.

Q So that would mean you never called them regarding --

A Regarding what?

Q Regarding the New York event. Regarding any of the events.

MR. GINSBERG: Wait a minute. Please clarify the question. Are you talking about fund raising here?

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1 Are you talking about any broad call anytime about
2 anything.
3 BY MR. DENHOLM:
4 Q Related to Mr. Bush's appearances in any of the
5 listed cities?
6 MR. BURCHFIELD: Maybe you'd better state your
7 question fully because with the qualifications, I'm not
8 sure that we have -- I don't want her to answer a question
9 that is disjointed as between you and Mr. Ginsberg. So if
10 you could just restate the question.
11 BY MR. DENHOLM:
12 Q Does the witness understand the question?
13 Miss Alexander, do you understand the question that I
14 asked?
15 A I can't answer it given -- I can't recall.
16 Q Would anything refresh your recollection
17 regarding whether you had any contacts with the Bush
18 Committee for any of the appearances listed on Exhibit 2?
19 A Perhaps, I don't --
20 Q Could you think of anything that would?
21 A No.
22 Q When you made telephone calls, did you keep

9 5 0 4 3 7 2 0 6 0 9

1 phone records?

2 A No.

3 Q Did anybody under your supervision keep records

4 of telephone calls?

5 A To the best of my recollection, no.

6 Q Do you know of other people at the Republican

7 National Committee who kept records of telephone calls?

8 A Specifically, I do not know.

9 Q Did you ever remember seeing any telephone

10 records when you worked at the RNC?

11 MR. BURCHFIELD: Object, irrelevant and over

12 broad. Answer if you can.

13 THE WITNESS: I recall books that have the

14 sheets underneath, but those were thrown out when used

15 specifically in my office.

16 BY MR. DENHOLM:

17 Q Okay. Turning to the July 6, Dallas, Texas

18 destination, was this a presidential trust event?

19 A I do not recall.

20 Q And you were in charge of the presidential

21 trust?

22 A Yes.

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Q Were any other events listed at presidential trust events?

A I cannot recall.

Q At any of the listed Victory '88 appearances, was the press invited?

A I have no recollection.

Q Was the press at any of the Victory '88 appearances?

A I don't remember.

Q Do you remember any involvement of the press in any of these conferences?

A No, I do not remember at all, one way or the other.

Q Do you know who would have been in charge of contacting the press?

A For Victory '88 events?

Q Yes.

A I don't know, specifically.

Q For presidential trust events?

A That would be RNC press, as I recall. Specifically, I do not recall who.

Q And by RNC press, you mean there was a separate

office in the RNC that handled the press?

A Communications office.

Q And who headed that office, do you know?

A In '88, it was -- I can't remember.

Q I'm going to have the court reporter mark it as Alexander Exhibit 4, and she can mark it and hand it to you for your review.

(Alexander Exhibit 4 identified.)

BY MR. DENHOLM:

Q I've handed you a list of names is that correct?

A Un-huh.

Q Are you familiar with any of the names on that list?

A Yes.

Q Going through that list, could you tell me whether any of those individuals worked for both the Republican National Committee and the George Bush for President Committee?

A Separately, simultaneously what do you mean? I don't understand the question.

Q During June, July and August of 1988, did any of those individuals work for both of those parties?

9 6 0 4 3 7 2 0 6 1 2

1 MR. BURCHFIELD: Simultaneously?

2 THE WITNESS: Is that your question?

3 BY MR. DENHOLM:

4 Q Let's say simultaneously.

5 MR. BURCHFIELD: Object. Foundation.

6 THE WITNESS: First of all, I don't know all of

7 these people.

8 BY MR. DENHOLM:

9 Q I understand.

10 A And I don't know specifically where they were.

11 Some of them, I might recall, if you want to go down

12 however you want me to do it?

13 Q Just if you go down the list, if you see a

14 person who worked for both?

15 MR. BURCHFIELD: Please don't speculate. If you

16 know, answer the question.

17 THE WITNESS: None that I see here, that I know,

18 worked for both.

19 BY MR. DENHOLM:

20 Q Simultaneously?

21 A Correct.

22 Q Did any work for the Republican National

9 6 0 4 3 7 2 0 6 1 3

1 Committee and the George Bush for President Committee
2 before the summer of 1988?
3 MR. GINSBERG: Simultaneously?
4 BY MR. DENHOLM:
5 Q Yes.
6 A Simultaneously is the question?
7 Q Yes.
8 A No.
9 Q What about at different times?
10 MR. BURCHFIELD: You mean the individuals worked
11 for the RNC at one time and the George Bush for President
12 Committee at another time?
13 BY MR. DENHOLM:
14 Q That's correct.
15 MR. GINSBERG: In the period of time of June,
16 July and August?
17 BY MR. DENHOLM:
18 Q Yes.
19 A I can't be answer that question if it's posed
20 that way 'cause I don't know when some people worked one
21 place and stopped working there and started working in
22 another. I don't know the dates.

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Q What if we said at any time?

A At any time?

Q Yes.

A Not simultaneously?

Q That's correct.

A Okay. Mary Matalin, Carla Phillips Jones Perry Liles, L-i-l-e-s, and those are the only ones I know specifically.

Q Did those people have contact with the Bush Committee during the summer of 1988?

A I have no idea.

Q Did they go to work for the George Bush Presidential Committee after they worked for the RNC?

A Of those ones I mentioned?

Q Yes.

A No.

Q They worked for the Bush Committee before they worked at the RNC?

A Yes. And I mentioned Matalin, Jones and Liles, I think is correct.

MR. DENHOLM: Would you read back what she mentioned.

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(The reporter read the record as requested.)

THE WITNESS: I know that Mary and Carla did not. Perry, I do not recall what, specifically, she did that fall, in the fall of '88.

BY MR. DENHOLM:

Q I'm sorry. You mean that those other people, they left the RNC in the fall of '88 and went for work for the Bush --

A No, I did not say that. I said, first of all, the only people I knew specifically who had worked at the RNC were Mary Matalin, Carla Phillips Jones and Perry Liles.

Mary and Carla stayed at the RNC through the election. Perry, I'm not sure what she did in the fall.

Q Okay. When did they work for the Bush Committee?

MR. BURCHFIELD: Object. Foundation.

THE WITNESS: I don't specifically recall when Mary and Carla and Perry came on to the campaign. I do not know their start dates. I don't recall that.

BY MR. DENHOLM:

Q When they came on to which campaign?

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A To the George Bush for President campaign.

Q But they worked for the Bush Committee before they worked at the RNC?

A Yes.

Q And do you know what they did there?

MR. BURCHFIELD: Object, foundation.

THE WITNESS: Perry Liles was a staff assistant, as I recall. I do not know specifically, recollection was a staff assistant, Mary Matalin was a regional, political director and Carla Phillips was a staff assistant.

BY MR. DENHOLM:

Q Do you know why they left the Bush Committee and went to work for the RNC?

A I do not.

Q Was it close in time to the summer of 1988.

MR. BURCHFIELD: Close in time to what?

BY MR. DENHOLM:

Q Can you answer the question?

A Close in time to what?

Q You don't understand the question?

A No.

Q Did they come on board to the Republican

9604372061 7

1 National Committee close in time to June, July and August
2 of 1988?
3 A Yes.
4 Q Do you know of any of the people listed there
5 that had contact with the office of the vice president?
6 A No.
7 Q So none of those people had contact with the
8 office of the vice president?
9 MR. BURCHFIELD: Object. Foundation.
10 THE WITNESS: I can't assume that, I don't know.
11 BY MR. DENHOLM:
12 Q Okay. Well I think we can wrap this up if we
13 take a short break and I have a discussion with
14 Miss Hennessy, then we can come back and wrap it up.
15 So if we can go off the record, we will come
16 back in 10 minutes.
17 (Discussion off the record.)
18 (Recess.)
19 BY MR. DENHOLM:
20 Q Just a few more questions. I think we can wrap
21 this up.
22 A Okay.

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Q Referring your attention back to Exhibit 1, can you take a look at page 3? Is this a copy of a subpoena that you received from the Commission?

A Yes.

Q And it was for you to appear here for deposition and to produce documents?

A Yes.

Q And that's Exhibit 1. Thank you.

Now, is it true that the goal of Victory '88 or one of the goals was to assist the states in raising funds.

MR. BURCHFIELD: Object, asked and answered.

BY MR. DENHOLM:

Q You may answer.

A That is true.

Q That's true?

A Raising funds for their own state party accounts.

Q Was a goal also of Victory '88 to raise funds for the entire ticket?

MR. BURCHFIELD: Objection, asked and answered and ambiguous.

9 6 0 4 3 7 2 0 6 1 9

1 BY MR. DENHOLM:

2 Q You may answer.

3 A Specific to helping the entire Republican

4 ticket, yes.

5 Q And was it the state parties -- did the state

6 parties want to raise funds also to represent the entire

7 Republican ticket?

8 A Yes.

9 Q Do you know why the state parties would be

10 raising money to help the ticket which included the

11 president?

12 MR. BURCHFIELD: Objection. Foundation.

13 THE WITNESS: When the party is healthy, then

14 all Republican candidates benefit.

15 BY MR. DENHOLM:

16 Q And that would include Mr. Bush's campaign?

17 A Yes.

18 Q Okay. Could you define for me what the

19 presidential trust was?

20 A Presidential trust is a marketing technique used

21 at the Republican National Committee to help raise the

22 funds the FEC allows the RNC to spend on its party's

9 5 0 4 3 7 2 0 6 2 0

1 presidential nominee.

2 Q And what was its goal?

3 A Whatever the limit was. As I recall in 1988, it

4 was 8.6 million.

5 Q Now, as far as the documents that you gave us

6 today pursuant to the subpoena, yeah, I'd like to have

7 these marked as Alexander Exhibit 5.

8 (Alexander Exhibit 5 identified.)

9 BY MR. DENHOLM:

10 Q How did you have those documents in your

11 possession?

12 MR. BURCHFIELD: Object to the form of question

13 question.

14 THE WITNESS: They were documents that I had

15 from the Victory '88 program, not necessarily read by me.

16 BY MR. DENHOLM:

17 Q Okay. And where did you keep those documents?

18 A In files at the office.

19 Q At which office?

20 A In the Victory '88 office, in the trust office.

21 It's one and the same.

22 Q At the Republican National Committee?

9 6 0 4 3 7 2 0 6 0 1

A Yes.

Q Are those documents still at the Republican National Committee?

A When?

Q Today.

A Today, specifically, they are.

Q Okay. I believe you stated earlier that you had other documents in your possession at home?

A Yes.

Q Why did you not turn those documents over pursuant to the subpoena?

A Because I was asked specific states, as I recall, and that's what I produced.

Q So the documents you have in your possession at home do not relate to any events or appearances in those states?

A No, sir.

Q Okay. Did you attend the Denver conference?

A No.

Q Did you attend any fund raisers in Denver, Colorado?

A No.

9 4 0 4 3 7 2 0 6 2 2

Q Now, relating to the New York presidential trust event, did you state earlier that the vice president appeared at that event?

A Yes.

Q Did any other presidential candidates appear at that event?

A I do not recall.

Q Did any other candidates for political office appear at that event?

A I do not recall.

MR. DENHOLM: Well, I guess we're about set here. Would you like to read and sign the deposition.

MR. BURCHFIELD: Yes. The witness will read and sign.

MR. DENHOLM: We will now adjourn the deposition.

MR. BURCHFIELD: Thank you.

(Whereupon, at 10:30 a.m., the deposition was adjourned.)

MARGARET CHARLOTTE ALEXANDER

9604370663

CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, DIANA S. KIEREIN, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Diana S. Kierein
Notary Public in and for the
District of Columbia

My Commission Expires JULY 31, 1995

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TRANSCRIPT OF PROCEEDINGS

OGC 4129

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

92 AUG 17 PM 4:00

IN RE:	
GEORGE BUSH FOR PRESIDENT, INC. and J. STANLEY HUCKABY, TREASURER.	MUR 2667

DEPOSITION OF PATRICIA SUSAN GIARDINA

Washington, D. C.

Monday, August 3, 1992

ACE - FEDERAL REPORTERS, INC.
Stenotype Reporters
1120 G Street, NW
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UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

IN RE:	
GEORGE BUSH FOR PRESIDENT, INC. and J. STANLEY HUCKABY, TREASURER.	MUR 2667

DEPOSITION OF PATRICIA SUSAN GIARDINA

Washington, D. C.

Monday, August 3, 1992

Deposition of PATRICIA SUSAN GIARDINA, called for examination pursuant to notice of deposition, at the Federal Election Commission, 999 E Street, N.W., Room 657, at 9:10 a.m. before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

-- continued --

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APPEARANCES:

THERESA HENNESSY, ESQ.
RICHARD M. DENHOLM II, ESQ.
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D. C. 20463
On behalf of Federal Election
Commission.

BOBBY R. BURCHFIELD, ESQ.
General Counsel
1030 Fifteenth Street, N.W.
Washington, D. C. 20005
On behalf of the Deponent.

BENJAMIN L. GINSBERG, ESQ.
General Counsel
Republican National Committee
310 First Street, S.E.
Washington, D. C. 20003
On behalf of the Deponent.

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1 P R O C E E D I N G S

2 Whereupon,

3 PATRICIA SUSAN GIARDINA

4 was called as a witness and, having first been duly sworn,

5 was examined and testified as follows:

6 EXAMINATION

7 BY MR. DENHOLM:

8 Q My name is Richard Denholm. I am representing

9 the Commission here today, along with assistant general

10 counsel, Teresa Hennessy.

11 This deposition is being taken pursuant to a

12 subpoena issued by the Commission on June 25, 1992 in

13 connection with an investigation designated as MUR 2667.

14 According to Section 437(g) of the Title 3 of the United

15 States Code, the confidentiality of this investigation

16 must be maintained until the Commission closes this

17 matter.

18 I will be asking questions to obtain information

19 involving the Comission's investgation of alleged

20 violations of the Federal Election Campaign Act of 1971 as

21 amended. The questions will not necessarily be limited to

22 your involvement but will include requests for information

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1 regarding other persons.

2 Please treat this proceeding as if you were in a

3 court of law and remember you are under oath.

4 If you do not hear or understand a question,

5 please tell me so that I may repeat it or rephrase.

6 A Yes.

7 Q If you realize you made an incomplete or

8 inadequate answer, let me know and I will let you modify

9 your response.

10 The court reporter can only take words, so it is

11 necessary that responses are verbal.

12 If you need to take a break, let me know and we

13 will take a break after I finish my line of questioning.

14 I will instruct the court reporter to go off the record.

15 Only Ms. Hennessy and I may instruct the reporter to go on

16 or off the record.

17 State your full name and address, please.

18 A Patricia Susan Giardina. 445 Argyle Drive,

19 Alexandria, Virginia.

20 MR. BURCHFIELD: There is a bit of ambiguity in

21 the Federal Election Commission rules as to the procedures

22 that govern this deposition. The only reference with

9 5 0 4 3 7 2 0 6 7 0

1 regard to the Federal Rules of Civil Procedure is that the
2 rule allowing the witness to review and sign the
3 deposition transcript is effective, and of course
4 Ms. Giardina would avail herself of that rule.
5 The question that is raised by the rules -- and
6 you may have some institutional wisdom on this -- is
7 whether we as we do under the Federal Rules preserve our
8 objections except as to form and privilege. Obviously, if
9 there is no provision for us to reserve our objections,
10 then we will need to object on the grounds of relevance,
11 on the grounds of misleading questions, on the grounds of
12 foundation and many other topics that would ordinarily be
13 reserved in a federal court deposition.
14 Do you have a view on that or should we just
15 stipulate that all objections need to be made on the
16 record?
17 MS. HENNESSY: All objections need to be made on
18 the record. The Federal Rules do not apply as to the
19 matters you have just raised.
20 MR. GINSBERG: Let me also note an ongoing
21 objection to the fact that the Federal Election Commission
22 has refused to turn over all documents in this case on --

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1 all materials cited in their findings of fact and
2 conclusions of law on the grounds that they were
3 privileged and confidential so that the Republican
4 National Committee is in the position of not being able to
5 have reviewed all the documents that the Federal Election
6 Commission's General Counsel's Office has used to reach
7 its preliminary findings in this matter.
8 BY MR. DENHOLM:
9 Q Are you represented by counsel here today?
10 A Yes.
11 Q Will you state your counsel's name, please.
12 A Bobby Burchfield and Ben Ginsberg.
13 MR. DENHOLM: I am going to have the court
14 reporter mark this as Giardina Exhibit 1. She will mark
15 it and hand it to you and counsel for review.
16 (Giardina Exhibit 1 identified.)
17 BY MR. DENHOLM:
18 Q Are you familiar with this document?
19 MR. BURCHFIELD: Hold on while we are reviewing
20 it.
21 (Witness reviewed the document.)
22 THE WITNESS: Yes.

9 6 0 4 3 7 2 0 6 7 2

BY MR. DENHOLM:

Q Did you bring documents today pursuant to the subpoena?

A No.

Q Do you have documents relevant to the subpoena?

MR. BURCHFIELD: You may answer that.

THE WITNESS: About the only thing I have is my affidavit that I filed and a copy of the affidavit I filed in December, I think it was.

BY MR. DENHOLM:

Q Do you have any other documents relevant to the request?

A No.

MR. BURCHFIELD: I should note also, by the way, that this subpoena has been modified by our agreement. As indicated here, the date scheduled for the deposition was August 10. This is obviously not August 10. And further, that Ms. Giardina is appearing in her personal capacity, not as a respondent in the matter as a witness. Therefore, her obligation with regard to documents under the subpoena extends only to documents in her personal possession, not in the possession of any institution.

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BY MR. DENHOLM:

Q Where are you currently employed?

A The Bush-Quayle '92 campaign.

Q What is your job title?

A Deputy for political operations.

Q What are your job responsibilities?

A Its not easy to explain. I work for the campaign manager, the deputy campaign manager for political operations. So my responsibilities include everything that relates to the political operation of the campaign, the field, the political operations.

Q What do you mean by "political operations"?

A It is just hard to explain. It is everything political that happens in the campaign. It is the field division, the people that work out in the state and I don't know how better to explain that to you.

Q Where were you employed before that?

A The Republican National Committee.

Q Where were you employed during June, July and August of 1988?

A The Republican National Committee.

Q What was your job title then?

9 6 0 4 3 7 2 0 6 7 4

A I was a regional finance director.

Q What were your job responsibilities at that time?

A I assisted candidates, state parties, county parties in raising money and consulted with them on ways to raise campaign money, state party money and did a little instruction and seminars about raising money.

Q Anything else in that job?

A I worked on the Unity conferences that were held that summer.

Q Anything else at all that you did?

MR. BURCHFIELD: Object to form.

BY MR. DENHOLM:

Q Anything else? You can answer the question.

A No.

Q Are you familiar with Victory '88?

A Yes.

Q Can you describe Victory '88 for me.

MR. BURCHFIELD: Object to form and foundation.

BY MR. DENHOLM:

Q You may answer.

A Victory '88 was a program of the Republican

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National Committee geared toward the election in November of '88. It was a program that involved all the campaigns in 1988, the Republican.

Q At all levels?

A Yes.

Q Are you familiar with Unity '88?

A Yes.

Q Can you describe Unity '88?

A Unity '88 was three conferences that were done in 1988 that were put on by the Republican National Committee. Does that answer your question? They were conferences, meetings.

Q Were these events organized?

MR. BURCHFIELD: Object to form.

THE WITNESS: What do you mean, "organized"?

MR. BURCHFIELD: If you don't understand the question, let him rephrase it.

THE WITNESS: What do you mean, "organized"?

BY MR. DENHOLM:

Q Were there people that planned the events?

A Were there people that planned them?

Q Yes.

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A Yes.

Q Who did you report to when you worked at the RNC?

A When I worked at the RNC, my immediate supervisor was Steve Kinney, who was the regional political director for my region.

MR. BURCHFIELD: We are still focusing, I assume, now and throughout this deposition during the July '88 time frame. Mr. Denholm, as you may know from reading the affidavit, Ms. Giardina was at the RNC for approximately four years.

MR. DENHOLM: That's understood.

MR. BURCHFIELD: The time frame of your questions was still focusing on July '88 when asking her who she reported to at that time?

MR. DENHOLM: That is right.

THE WITNESS: During that time I reported to Mary Matalin.

BY MR. DENHOLM:

Q Who did she report to?

MR. BURCHFIELD: Object to foundation.

THE WITNESS: She would have reported to the

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1 chairman of the Republican National Committee, Frank
2 Fahrenkopf.
3 BY MR. DENHOLM:
4 Q Were you in charge of the budget for Unity '88
5 conferences?
6 A I worked with the budget in that I was given
7 guidelines that I kept the budget within. I did not
8 formulate the budget.
9 Q You administered the budget?
10 MR. BURCHFIELD: What do you mean by
11 "administered"?
12 THE WITNESS: What do you mean by
13 "administered"?
14 BY MR. DENHOLM:
15 Q Are you saying you don't understand the
16 question?
17 A Yes.
18 Q Did you make decisions as to which bills should
19 be paid?
20 A No, not decisions.
21 Q Did you pay bills?
22 A No.

9 6 0 4 3 7 2 0 6 7 8

Q Do you know who did?

A The Republican National Committee administration handles all the bills. The division of administration handles the bills.

Q In your work with the budget for Unity '88 conferences, which conferences were you involved in in that capacity?

A The conference in Cincinnati and the conference in Atlanta.

Q Did you ever receive bills from the Office of the Vice President?

A No.

Q Did anybody ever receive bills from the Office of the Vice President?

MR. BURCHFIELD: Object to foundation. She can't possibly answer that question.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Do you know who would know that?

MR. BURCHFIELD: Object to foundation. I don't know how she would answer that question, either.

THE WITNESS: I don't know.

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1 MS. HENNESSY: I think it is the witness' right
2 to so state. It is also conceivable the witness may know
3 of somebody else who indeed filled those roles.
4 MR. BURCHFIELD: I am trying to make the
5 objections, as you said at the outset of the deposition,
6 that I have to make. In a deposition under the Federal
7 Rules, I can simply object to the question and say object
8 to form, object to foundation. In this forum, if she
9 answers the question, then it has to be subject to an
10 objection that is specifically stated, I take it, rather
11 than the type of objection that I would make in a Federal
12 Rules of Civil Procedure deposition.
13 MS. HENNESSY: You have every right to note your
14 objections for the record. I am noting as well that I
15 think it is up to the witness to decide what she knows and
16 does not know. She may know of somebody else who
17 performed the duties Mr. Denholm referred to.
18 MR. BURCHFIELD: She will answer as to what she
19 knows. I am making objections. The witness will answer
20 unless I instruct her not to answer. But I am just making
21 objections, as you told me at the outset of the
22 deposition, that I had the right and obligation to do.

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BY MR. DENHOLM:

Q Did you ever receive bills from state Republican party committees?

A No.

Q Did the Republican National Committee bill state parties for any costs associated with the Unity '88 conferences?

MR. BURCHFIELD: Object to foundation. You can answer, if you know.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Do you know who would know?

MR. BURCHFIELD: Same objection.

THE WITNESS: No.

BY MR. DENHOLM:

Q Did you have contact with state party committees?

A My only contact was with the people that were involved in the conference, had a role in the conference.

Q Did state party committees have a role in the conference or conferences?

A Yes.

9 3 0 4 3 7 2 0 6 1 1

Q What role was that?

A They participated in the rally the first night and in the seminar the next day.

Q How did they participate?

A Their leadership, their chairman, the chairman of the state party. Well, the chairman of the state party I know participated, had a speaking role.

Q Did they have any other participation?

MR. BURCHFIELD: Object to foundation.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q You are saying you do not know?

A I don't know for sure.

Q Did you organize materials for the conferences?

A What I did as far as the material was I assisted with putting a book together. The pieces of the book were already decided, the content of the book was decided. I assisted in assembling.

Q Who decided the content of the book?

A I don't know.

Q Were those materials called "the book"?

A I think they were referred to in that way. It

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1 was a notebook.

2 Q Did you make travel arrangements for conference

3 participants?

4 MR. BURCHFIELD: Some or all?

5 MR. DENHOLM: Let the record reflect that

6 counsel has interrupted the witness.

7 BY MR. DENHOLM:

8 Q Answer the question, please.

9 MR. BURCHFIELD: The witness should wait a

10 minute.

11 I am making objections and making sure the

12 record is clear, Mr. Denholm. That is the reason that I

13 am here. You need not resort to the sorts of petty

14 commentary that you just made. All I am asking is was

15 your question directed to whether Ms. Giardina made some

16 reservations for the people attending the conference or

17 was it her responsibility to make all the reservations.

18 It is a simple question to clarify your question.

19 BY MR. DENHOLM:

20 Q Did you make travel arrangements for any

21 conference participants?

22 A I made no reservations. I guess I am a little

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bit confused. I didn't make airplane reservations. I did assist with ground transportation for some of the participants.

Q For which participants?

A Well, there were a variety. We arranged to have them met, picked up at the airport and brought to the hotel. Some were senators. It was a variety of the speakers that participated.

Q Can you tell me who those people would be?

A You want names of each one?

Q Yes.

A I probably will not remember all of them. At the Cincinnati conference -- similar people attended the Cincinnati and the Atlanta conference. I remember making ground transportation arrangements for Kemp, Alexander Haig, Strom Thurmond, Thad Cochran, Kit Bond, Bill Brock. I just can't recall who else.

BY MR. DENHOLM:

Q Would that include Mr. Bush?

A No.

Q Do you know who would have made his travel arrangements?

A No.

Q For the various individuals that you named, how did you know their travel schedules?

A Someone that worked for me ascertained their travel schedule from their scheduler.

Q Who would that be?

A The person that worked for me?

Q Yes.

A I had what we called VIP schedulers and handlers. They handled the arrangements for the VIPs that were participating.

Q Do you remember any of their names?

A Yes.

Q Could you tell me their names.

A One was Perry Liles. Libby Hamilton. I can't remember the others' names.

Q Those are the only names you can remember?

A That actually handled scheduling, yes.

Q Were these conferences advanced by any personnel from the RNC?

A Explain what you mean "advanced."

Q You don't understand the term "advanced"?

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MR. BURCHFIELD: Objection. Argumentative.

THE WITNESS: Do you mean did someone go ahead and set it up?

BY MR. DENHOLM:

Q Yes.

A Yes, by RNC, yes.

Q Were these conferences advanced by any personnel from the George Bush for President Committee?

MR. BURCHFIELD: Object to foundation.

THE WITNESS: The conference was not. There were -- obviously they advanced his trip. They didn't advance the conference, so to speak, if you know what I mean.

BY MR. DENHOLM:

Q Did anyone working at the RNC at this time also work for the Bush for President Committee?

A No. At the same time you mean?

Q Yes.

A No.

Q Did you have meetings with anyone at the RNC regarding strategy for the various conferences?

A No.

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Q Do you know Margaret Alexander?

A Yes.

Q Did you know her in 1988?

A That's when I met her.

Q Where did you meet her?

A I don't recall.

Q Did she work at the Republican National Committee?

A I don't remember who she worked for in 1988.

Q Did Ms. Alexander work on Unity '88 conferences?

A I don't know. Not with me.

Q Did she work with state parties at all?

A I don't know.

Q Was there a formal plan behind Victory '88?

MR. BURCHFIELD: Object. Foundation.

THE WITNESS: A written plan, you mean, a formal plan?

BY MR. DENHOLM:

Q Was there a written plan?

A For Victory '88?

Q Yes.

A I don't know.

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Q Was there a written plan for Unity '88?

A I don't know.

Q Were there any other types of plans for Unity '88?

A I don't recall any.

Q Was there any fundraising at Victory '88 events?

A Not that I know of.

Q Did anyone collect checks, money orders, pledges or any other form of contribution?

A No.

Q Did anyone collect checks, money orders, or any form of contribution for Unity '88 conferences?

A I thought that's what you were asking about. Take.

MR. BURCHFIELD: I detected some confusion. Would you like to correct your earlier answer?

THE WITNESS: Yes. When you asked me were any checks -- can you restate that question just prior to this one.

BY MR. DENHOLM:

Q Regarding Victory '88?

A Yes. I was thinking Unity '88. Victory '88, I

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1 don't know. I did not deal with that. But Unity '88, I
2 know there were no checks. There was no fee. There were
3 no checks, pledges, anything like that.
4 Q At any of the Unity '88 conferences?
5 A That is right. That's what I meant to say.
6 Q During Unity '88, were there any other
7 fundraisers?
8 A During Unity '88?
9 Q Yes.
10 MR. BURCHFIELD: Object to form.
11 THE WITNESS: Not to my knowledge.
12 BY MR. DENHOLM:
13 Q There were no other fundraisers outside of the
14 Unity '88 conferences?
15 A The Unity '88 conferences were not fundraisers.
16 MR. BURCHFIELD: I don't understand the
17 question.
18 THE WITNESS: You say "other."
19 BY MR. DENHOLM:
20 Q You do not understand the question,
21 Ms. Giardina?
22 A No.

9 6 0 4 3 7 2 0 6 1 9

Q Did you state that there was no fundraising activity at the Unity '88 conferences?

A I said not to my knowledge. I don't know of any.

Q Were there any fundraisers close in time to the Unity '88 conferences?

A I don't know.

Q Do you know who would know?

MR. BURCHFIELD: Object. Foundation.

THE WITNESS: No.

BY MR. DENHOLM:

Q What was the difference between Victory '88 and Unity '88?

A Victory '88 is an overall program of the Republican National Committee that involves all campaigns.

Unity '88 were three conferences that were called Unity '88 conferences. So Unity '88 was the name attached to these conferences. Victory '88 is a bigger program.

Q Was Unity '88 part of Victory '88?

MR. BURCHFIELD: Object. Foundation.

9 6 0 4 3 7 2 0 6 5 0

THE WITNESS: Unity '88, the conferences, were a part of the RNC. I don't know that I would say they were a part of it. It could again go either way on that. Victory '88 is the RNC.

BY MR. DENHOLM:

Q Unity '88 was the RNC also?

A Yes.

Q Do you know who attended Victory '88 events?

A Yes. As attendees?

MR. BURCHFIELD: Victory '88 or Unity '88?

MR. DENHOLM: Victory '88.

THE WITNESS: Victory '88 events?

MR. DENHOLM: Yes.

THE WITNESS: No.

BY MR. DENHOLM:

Q You do not know who attended Victory '88 events?

A No.

Q Do you know who participated in Victory '88 events?

A No.

MR. GINSBERG: Are you asking about individuals or generically?

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MR. DENHOLM: Individuals.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Who attended Unity '88 events?

A Those were -- the attendees at those events were party activists from a variety of organizations. There were state party people, grassroots volunteer-type people, college Republicans, young Republicans, just a variety of Republican women, a variety of Republican groups attended.

Q Describe for me generically who participants would have been in the Unity '88 conferences.

A By "participants" do you mean speaker types or attendees?

Q I would mean speaker types.

A The chairman and the cochairman of the Republican National Committee. These conferences were done regionally. U.S. senators and congressmen from the appropriate region and the candidates who were running for president.

Q So, presidential candidates were participants in these conferences?

9 6 0 4 3 7 2 0 6 5 2

A Yes.

Q Was General Haig a participant?

A I don't know if he was a participant in all of them. I know one that he was. I recall one that he was.

Q Which one was that?

A I believe he was at the one in Cincinnati, I think.

Q Was Mr. DuPont a participant?

A I can't remember which one. He was invited to participate.

Q Can you remember any other presidential candidates who were participants in the Unity '88 conferences?

A Pat Robertson was at the Atlanta conference. Bob Dole was and Jack Kemp were at both Cincinnati and Atlanta. The vice president was at both. I am trying to think who else. I think that is all.

Q That's all you can remember?

A Yes.

Q Did attendees or participants pay to attend these Unity '88 conferences?

A Do you mean pay a conference fee?

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Q Yes.

A No.

Q Did they pay for their travel to these conferences?

A The attendees paid for their own travel to get there, yes.

Q How were participants invited to participate in the Unity '88 conferences?

A I'm not sure, because I was not involved in the inviting process. I didn't come into this until later.

Q Do you know who was involved in the invitation process?

A My predecessor as conference manager, Grace Moe.

Q How were attendees invited?

A I don't know.

Q Would Grace Moe know that as well?

A I don't know.

Q Did you ever see any of the invitations to the Unity '88 conferences?

A Yes. I received one in the mail.

Q Did the invitation mention any presidential candidates?

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A I don't recall.

Q Did the invitation mention Mr. Bush?

A I don't remember.

Q Did Mr. Bush appear at any Unity '88 conference?

MR. BURCHFIELD: Objection. Asked and answered.

THE WITNESS: Yes.

BY MR. DENHOLM:

Q Do you know why he appeared?

A No. That is kind of a broad question, why he appeared.

Q You don't know why he appeared?

A He was obviously invited to appear.

Q Did Mr. Bush appear at all of the Unity '88 conferences?

A Yes.

Q Do you know who coordinated his appearance at the conferences?

A No.

Q Do you know if Mr. Bush appeared at Victory '88 events?

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A I don't know.

Q Did you ever talk to the Office of the Vice President regarding Mr. Bush's appearances?

A No.

Q Do you know if anybody did?

A I don't know.

Q Did you keep records of telephone calls?

A No.

Q So you don't have any records of telephone calls from that period?

A No.

Q Does anybody have records of telephone calls regarding that period?

MR. BURCHFIELD: Object. Foundation.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Was it RNC policy to keep telephone records?

A No.

Q Did the RNC keep records regarding Victory '88?

A What type of records?

Q Any type of records.

MR. BURCHFIELD: Object. Is this Victory '88?

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1 MR. DENHOLM: Yes.

2 THE WITNESS: I don't know.

3 BY MR. DENHOLM:

4 Q Did the RNC keep records regarding Unity '88?

5 A I don't know that, either.

6 Q Did they save receipts?

7 A I imagine they did.

8 MR. BURCHFIELD: Do you know?

9 THE WITNESS: No, I don't know.

10 MR. BURCHFIELD: Don't speculate, Ms. Giardina.

11 BY MR. DENHOLM:

12 Q Do you know who would be in charge of

13 recordkeeping at the Republican National Committee?

14 A The administration division.

15 Q Do you know who headed that division?

16 A In 1988?

17 Q Yes.

18 A Jay Banning, the director of administration.

19 Q Could you describe for me the Unity '88 budget

20 process.

21 MR. BURCHFIELD: Object. Foundation.

22 THE WITNESS: I don't know what the process was,

1 no. So I can't describe it. I can describe my
2 involvement in it, but I can't describe the process.
3 BY MR. DENHOLM:
4 Q Were you in a position to make decisions
5 regarding the budget in Unity '88?
6 A No. I was only given guidelines.
7 MR. BURCHFIELD: Asked and answered before,
8 twice.
9 BY MR. DENHOLM:
10 Q Did you keep any records regarding
11 correspondence regarding Unity '88?
12 A No. You mean do I still have? Did I keep
13 them?
14 Q Did you keep them at the time?
15 A Regarding correspondence, did you say?
16 Q Yes.
17 A No.
18 Q Do you remember seeing any memoranda regarding
19 Unity '88 conferences?
20 A I'm sure I did. When you say "correspondence,"
21 I didn't keep or participate in correspondence that
22 related to the Unity conferences. I was logistics.

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Q So you received correspondence from other people associated with Unity '88?

A Some.

Q Do you remember what any of those would say?

A They would have pertained to hotel accommodations, meals arrangements, AV. The logistical kind of information is what I kept.

Q In your position at the RNC, did you know Mr. Bush's travel itinerary during the summer of '88?

A No.

MR. DENHOLM: I will have the court reporter mark this as Giardina Exhibit 2. I will have her hand it to you and you can take a moment to review it.

(Giardina Exhibit 2 identified.)

(Witness reviewed the document.)

BY MR. DENHOLM:

Q Can you tell me which trips listed were Unity '88 events.

A Number 2, 6/24, Cincinnati; number 8, 7/8, Atlanta and 21, 6/10, Denver, Colorado.

Q Do you know which of the trips listed were Victory '88 events?

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A Victory '88?

Q Yes.

A No.

Q Did you ever attend any Victory '88 events?

A I'm not sure. I can't remember.

Q You cannot remember?

A No.

Q Did could you state earlier that Mr. Bush appeared at the Cincinnati event?

A The Cincinnati Unity conference?

Q Unity '88 conference.

A Yes.

Q Did the Republican National Committee pay Mr. Bush's travel costs associated with that conference?

A I don't know.

Q Do you know who would know?

A No.

Q Did you know in 1988?

A No.

Q Do you not know?

A Who paid it? I don't know.

Q Could you describe for me the involvement that

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1 the state party would have had in this Unity '88
2 conference.
3 MR. BURCHFIELD: Which Unity '88 conference?
4 MR. DENHOLM: Cincinnati.
5 THE WITNESS: We talked about that earlier. The
6 state chairman was involved as a participant on the stage
7 at the rally the night before. They were involved -- the
8 state party itself would have been involved because
9 members attended, members of the state committee
10 attended.
11 BY MR. DENHOLM:
12 Q Did you have any contact with the members of the
13 state party committees?
14 A With the leadership, the state chairman,
15 national committeewoman.
16 Q Do you remember their names?
17 A State chairman was Bob Bennett in Ohio and
18 national committeewoman, Martha Moore.
19 Q Did the state party pay any costs associated
20 with the conference?
21 A I don't know.
22 MR. BURCHFIELD: Asked and answered before.

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BY MR. DENHOLM:

Q Did Mr. Bush give a speech at the Unity '88 conference in Cincinnati?

MR. GINSBERG: Also asked and answered.

THE WITNESS: Yes.

BY MR. DENHOLM:

Q Do you remember any of his remarks?

A No.

Q Did the RNC develop any literature for the Cincinnati event?

MR. BURCHFIELD: Specifically for the Cincinnati event?

MR. DENHOLM: Yes.

THE WITNESS: The only literature would have been that I am aware of would have been the book we discussed earlier.

BY MR. DENHOLM:

Q Was that book distributed to conference participants?

A Yes.

Q Was it distributed to conference attendees?

A I'm getting confused. I don't know if it went

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1 to conference participants. It did go to attendees.

2 Q Do you not know whether the book was distributed

3 to participants?

4 MR. GINSBERG: Would you define the difference

5 between a participant and an attendee?

6 MR. DENHOLM: I think Ms. Giardina described the

7 difference between participant and attendee earlier.

8 MR. GINSBERG: I think you have now mixed the

9 term up in the question, however.

10 THE WITNESS: As far as in my mind, participants

11 were speakers or stage participants. I don't know if they

12 received any literature. Attendees in the audience did.

13 BY MR. DENHOLM:

14 Q In your current job, are you required to have a

15 knowledge of political campaigns?

16 MR. BURCHFIELD: Her current job?

17 THE WITNESS: My current job?

18 BY MR. DENHOLM:

19 Q Yes.

20 A Of political campaigns in general, do you mean?

21 Q Yes.

22 MR. BURCHFIELD: Hang on a second. What is the

9 6 0 4 3 7 2 0 6 5 3

1 relevance of anything to do with her present job to this
2 investigation?
3 MS. HENNESSY: Can Ms. Giardina answer the
4 question?
5 MR. BURCHFIELD: If I am supposed to preserve my
6 objections and we are getting well beyond the relevance of
7 the subpoena which deals with items in 1988 and the entire
8 scope of the investigation which was filed on August 8,
9 1988, it eludes me as to what relationship anything she is
10 doing today has to that investigation.
11 MS. HENNESSY: Well, indeed what she is doing
12 today could in fact be related to what she did in 1988.
13 If what you want is a more focused question after 1988, we
14 can ask that. At the same time, there may in fact be
15 relevance between now and then.
16 MR. BURCHFIELD: How?
17 MS. HENNESSY: That's for the witness to
18 establish, not for us.
19 MR. BURCHFIELD: You have to establish the
20 relevance of the question.
21 MS. HENNESSY: Relevance is not an objection
22 that will cancel all the questioning in this deposition.

9 6 0 4 3 7 2 0 6 4

1 MR. BURCHFIELD: Do you have a rule you can
2 refer me to?
3 MS. HENNESSY: I have Commission practice.
4 MR. BURCHFIELD: If you can refer me to some
5 precedent on that, I will be persuaded. I know that
6 relevance is not a reason for instructing a witness not to
7 answer under the Federal Rules, but they are not
8 applicable here.
9 MS. HENNESSY: Relevance is not an objection
10 that can cancel out a question in FEC depositions.
11 MR. BURCHFIELD: I am not aware of any precedent
12 and your rules don't communicate it.
13 MS. HENNESSY: I am communicating it to you.
14 MR. BURCHFIELD: You may be right. Is there
15 anything in writing?
16 MS. HENNESSY: Not that I'm aware of.
17 MR. BURCHFIELD: Can you enlighten us as to how
18 this question can possibly be relevant?
19 MS. HENNESSY: That is for the witness to
20 establish.
21 MR. BURCHFIELD: It is not the witness'
22 obligation to establish relevance in any tribunal in the

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1 English-speaking world.

2 MS. HENNESSY: Not in a deposition before the

3 FEC, it is not. The witness is either able to answer a

4 question or unable to answer a question.

5 MR. BURCHFIELD: Are you insisting that she tell

6 you whether in her present position she needs to have

7 knowledge of presidential campaigns?

8 MS. HENNESSY: I am not insisting. I am trying

9 to clarify the record.

10 MR. BURCHFIELD: Either the question is an

11 important one or it is not. I will let her answer the

12 question if you will tell me why it is relevant. I don't

13 see any possible way that it is relevant to an

14 investigation of what happened in 1988, more than four

15 years ago.

16 MS. HENNESSY: It is not our obligation to

17 respond to a question like that.

18 Do you want it rephrased to 1988?

19 MR. DENHOLM: I think your objection has been

20 noted for the record.

21 BY MR. DENHOLM:

22 Q Will you answer that last question?

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MR. BURCHFIELD: Instruct the witness not to answer. Beyond the scope of the subpoena, beyond the scope of the investigation, no relevance even facially tendered.

BY MR. DENHOLM:

Q Are you refusing to answer the question based on advice of counsel?

MR. BURCHFIELD: I have so instructed her.

BY MR. DENHOLM:

Q You may answer my question.

MR. BURCHFIELD: Are you accepting my instruction not to answer the question?

THE WITNESS: Yes, I am accepting counsel's instruction.

BY MR. DENHOLM:

Q Did your job in 1988 require knowledge of political campaigns?

A Which job? The regional finance director or the Unity conference manager?

Q Either.

A Regional finance director does require that you know a little bit about political campaigns. Conference

9 6 0 4 3 7 2 0 6 6 7

1 manager was a logistics job.

2 Q Do you know what campaign material would usually

3 consist of in 1988?

4 A Campaign material?

5 Q Yes.

6 MR. BURCHFIELD: Object to form.

7 BY MR. DENHOLM:

8 Q Do you understand the question?

9 A No.

10 Q Could you tell me what campaign material would

11 consist of.

12 MR. BURCHFIELD: Object to form.

13 THE WITNESS: I am not clear on what you are

14 asking.

15 BY MR. DENHOLM:

16 Q If you don't understand, tell me and I will --

17 A I don't understand.

18 Q If you worked on political campaigns, what type

19 of material would you consider necessary to run a

20 political campaign?

21 MR. BURCHFIELD: Object to form. That is an

22 awfully broad question, Mr. Denholm.

9 6 0 4 3 1 2 0 6 4 8

THE WITNESS: It is.

It would depend on the campaign. Campaign material can cover a wide variety of forms, everything from a bumper sticker on.

BY MR. DENHOLM:

Q Would that include material promoting a candidate?

A Campaign material, yes, promotes candidates.

Q Does a candidate usually discuss his opponent?

MR. BURCHFIELD: Object to form, particularly the use of the word "usually."

THE WITNESS: That would depend on the campaign. It is a choice in the campaign.

BY MR. DENHOLM:

Q Would that be the case in a presidential campaign?

MR. BURCHFIELD: Object to form.

THE WITNESS: It is a choice for any campaign.

MR. DENHOLM: I will have the court reporter mark this as Giardina Exhibit 3 and I will instruct the court reporter to so mark it and hand it to you and counsel for review.

9 5 0 4 3 7 0 0 6 6 9

(Giardina Exhibit 3 identified.)

(Witness examined document.)

BY MR. DENHOLM:

Q Have you reviewed the document?

A Yes.

Q Is this a copy of your affidavit?

A Yes, it appears to be.

Q Turning to the eighth paragraph, you see the eighth paragraph?

A Yes.

Q Is it true that you state that "Broad themes of candidates were discussed"?

A Yes.

Q Could you tell me what you mean by "broad themes"?

A It is hard to describe. By "broad theme," I meant each candidate in various levels have themes to their campaigns. So by "broad themes," I meant it encompassed all themes, all campaign themes is about the best way to describe it, just how-to-win kind of things.

Q Would that involve a discussion of policy objectives?

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A I don't recall what it did.

Q In that same paragraph, does your affidavit discuss rallying the troops?

A Yes.

Q Can could you tell me what that means.

A That means bringing together the grassroots people who become involved in campaigns and bringing them together to discuss the general election campaign and kind of kicking off the campaigns in general, rallying them together to get them excited about the November election.

Q How would you get them excited about the November election?

A We had a rally the first night. The conference opened with a rally.

Q Can you describe the rally for me.

A The rally consisted of a large group of people in a hotel ballroom, a stage where the speakers, speaking participants entered and spoke, music, typical political rally.

Q Were there signs at the rally?

A Yes.

Q Could you tell me what those signs said?

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A No. They were handmade signs. They all said a different thing.

Q Do you remember what some of those signs would have said?

A Not specifically.

Q Did any of the signs mention Mr. Bush?

A I don't remember.

Q If you saw a sign, would you remember?

A I don't know.

Q So, there were only informal signs?

A That's what I remember, handmade signs.

Q Could you describe the room for me a little bit at the rally.

A In Cincinnati, the backdrop for the stage was a large American flag. There was a stage. Directly across was a press platform, people in between.

Q Were there any formal printed signs that said "Unity '88 conference"?

A I don't believe -- not in Cincinnati. In Atlanta, the backdrop was a map of the states that that conference included, the south. The Atlanta conference was for the south. It was a map of the United States of

9 6 0 4 3 7 2 0 6 7 2

only the southern states. I'm not sure whether it said "Unity '88" or what it said; I can't remember.

Q There was a press platform, though?

A Yes.

Q Who set that up, do you know?

A The person in charge of the logistics in the room, the actual setup person. The hotel actually set it up.

Q Did the RNC tell the hotel how to set up this room?

A Yes. We directed them, yes.

Q Who directed them?

A Myself and the people that were working for me.

Q Were there any balloons at the conference?

A I don't remember. There may have been. I don't remember.

Q Did you see anybody wearing hats at the Atlanta or Cincinnati conference?

A I don't think so.

Q So, nobody was wearing a hat that said "George Bush"?

A Not that I remember.

9 6 0 4 3 7 2 0 6 7 3

Q Or mentioned George Bush in any way?

A A hat? I don't think so.

Q Is there anything else you can think of as far as how the troops were rallied?

A No. Just as I previously described.

Q Did you state that there was a band playing at the conference rallies?

A Yes.

Q Do you know who paid for that band?

A I don't remember. I assume the RNC.

MR. DENHOLM: I will have the court reporter mark this as Giardina Exhibit 4. I will instruct her to mark it and hand it to you for a brief review.

(Giardina Exhibit 4 identified.)

(Witness reviewed the document.)

BY MR. DENHOLM:

Q Are you familiar with this document?

A Yes.

Q Can you tell me what this document is.

A It is the notebook that we discussed earlier, the contents of the notebook.

Q This notebook was distributed to Unity '88

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1 conference attendees; is that correct?

2 A Yes.

3 Q Was it distributed at all the conferences?

4 A Yes.

5 Q Do you know if it was ever distributed at

6 Victory '88 events?

7 A No. I don't know.

8 Q Was this literature developed by the RNC?

9 A I don't know.

10 Q Did you ever see similar literature prior to the

11 Unity '88 conferences?

12 A Some of it, perhaps.

13 Q Do you remember where?

14 A The list of -- I believe there was a list of

15 governors, a section there that had pictures of governors

16 and their bios, that kind of thing I remember seeing in my

17 work at the RNC.

18 Q What was the purpose of distributing this

19 document?

20 A I really don't know. I was not a participant in

21 the discussion of the notebook or why we would do it.

22 Q Do you know who would have been?

9 5 0 4 3 7 2 0 6 7 5

A No.

Q When did you first see this conference notebook?

A When I was an attendee at the Denver conference.

Q Who gave you the notebook?

A It was given to me at the registration table when I checked in.

Q Were there stacks of copies of the notebook?

A Yes.

Q Do you know where copies of these documents would have been kept after the Unity '88 conference?

A When it was all over, you mean?

Q Yes.

A When the conferences were over?

Q Yes.

A No.

Q Do you know where they would have been kept between conferences?

A At the RNC.

Q Was there a special file for the conference notebook?

A I don't know.

Q Turning to page 5 of the notebook --

9 6 0 4 3 7 2 0 6 7 6

MR. GINSBERG: Let me note for the record that the document talked about included in "Facts about the fiction" were not, I believe, turned over as part of the conference notebook. So, the first 14 pages of the document were not turned over by the Republican National Committee as part of the notebook in the order in which they appear here.

MS. HENNESSY: So the record is clear, what do you mean by "in the order in which they appear here"? Are you addressing only the order of the pages?

MR. GINSBERG: No. I don't believe they were turned over at all by the Republican National Committee as part of the conference notebook.

MS. HENNESSY: Do you recall what they were turned over as?

MR. GINSBERG: I don't recall us turning them over. They are not part of the records I have that I have been able to find in anything we turned over to you.

THE WITNESS: This is the notebook.

MR. GINSBERG: That's the notebook.

MR. BURCHFIELD: Ms. Giardina, what in your recollection was in the notebook as it was distributed

9 5 0 4 3 2 0 6 7 7

1 during the Unity '88 conferences?

2 THE WITNESS: This was like the cover.

3 MR. BURCHFIELD: The first page that says "Unity

4 '88 conference."

5 THE WITNESS: Page 1 was the cover. Page 15 was

6 the first sheet of the notebook.

7 MR. BURCHFIELD: Which is a table of contents.

8 THE WITNESS: Then it appears to be -- this is a

9 separate -- I don't remember. It was not included like it

10 is right here.

11 MR. BURCHFIELD: What you are holding is a

12 document entitled "Facts about the fiction," which is

13 numbered at the bottom in handwriting pages 2 through 14;

14 is that right?

15 THE WITNESS: Right. It is "Facts about the

16 fiction" and there is a separate piece called "The network

17 voices for Victory '88" that were not a part of the

18 notebook.

19 BY MR. DENHOLM:

20 Q Was the notebook distributed in binders?

21 A Yes, three-hole binders.

22 Q What color were those binders?

9 6 0 4 3 7 2 0 6 7 8

A They were white.

Q Turning to page 16, can you tell me who is pictured there?

A George Bush.

Q Can you tell me what the caption at the bottom of the page says?

MR. BURCHFIELD: You are asking her to read it?

THE WITNESS: Do you want me to read it?

BY MR. DENHOLM:

Q Yes.

A "A presidency can shape an era -- and it can change our lives. A successful presidency can give meaning to an age." George Bush, October 12, 1987.

Q This page was include was included in the notebook?

A Yes.

Q Turning to pages 19 through 27. Take a moment and review those pages.

(Witness examined document.)

BY MR. DENHOLM:

Q Was this a speech given by Mr. Frank Fahrenkopf at any Unity '88 conference?

9 6 0 4 3 7 2 0 6 7 9

A It appears to be a speech. I didn't hear his speech. But it is written like a speech.

Q Was it given at any conference that you know of?

A I don't know because I was in the background. I didn't listen to the speeches. I was not paying any attention.

Q But this was included in the notebook?

A Yes, I believe so.

Q Turn to page 26, if you could. Take a look at the second paragraph and describe for me what it says there.

A Do what?

Q Can you describe what the second paragraph says.

A Do you want me to read it or just describe what it says?

Q You can describe what it says. You don't have to read it.

MR. BURCHFIELD: The document, as they say, speaks for itself. If you would like her to read it into the record, she can do that. It is not fair to ask this witness to interpret something she didn't write.

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BY MR. DENHOLM:

Q Can you read that into the record, please.

A "Michael Dukakis and Jesse Jackson are running around the country promising to end Reaganomics and to put America to work again. These statements are becoming more and more absurd as this growing economy breaks records almost every day."

Q Could you turn to page 49, please.

Was this a speech by Mr. Lee Atwater?

A I don't know.

Q Do you recall hearing Mr. Atwater speak at any Unity '88 conference?

A I heard in Cincinnati -- I saw him at the podium. I did not listen to his speech.

Q At any conference?

A No. The only time I actually saw it at the podium was Cincinnati.

Q Was this included in the notebook?

A I believe it was.

Q Do you remember seeing it when you were at the conference?

A No. When I was at the conference? No.

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Q At any conference?

A No.

Q At page 49, could you read the second paragraph, please.

A "We must take ground, not merely hold it. As history teaches us, our best defense will be a strong offense. Not only must we challenge Dukakis and the liberal Democrats with the truth about their views and record, but we must win votes for our candidate with the positive George Bush message."

Q Towards the bottom of the page, the third paragraph from the bottom, beginning with "George Bush has." Could you just read that paragraph, please.

A "George Bush has a winning message if we can successfully communicate it to the voters. That's where campaign leaders like you make such a difference. "

Q Turning to page 57, if you could, please. Can you please state what the heading is at the top of page 57.

A "George Bush for President."

Q Can could you state what the subheading is just below that.

9 6 0 4 3 0 2 0 6 8 2

A "Statement of Vice President George Bush."

Q Is this a statement by Mr. Bush?

A I don't know.

Q Do you remember hearing a statement by Mr. Bush at any Unity '88 conference?

MR. BURCHFIELD: Object. Asked and answered.

BY MR. DENHOLM:

Q You may answer.

A He spoke at the Unity '88 conferences.

Q Could you take a moment to go through the next few pages, the next 10 pages, just review them.

(Witness reviewed the document.)

THE WITNESS: How far do you want me to go?

MR. DENHOLM: You can stop there.

BY MR. DENHOLM:

Q Do you recognize any of this information as a statement given by Mr. Bush at any Unity '88 conference?

A No.

Q From your review, would you say this is an accurate statement of Mr. Bush's campaign agenda?

MR. BURCHFIELD: Objection. Foundation.

THE WITNESS: I don't know.

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BY MR. DENHOLM:

Q In your position with the Republican National Committee, were you in a position to know Mr. Bush's campaign agenda?

A Not really. I was a fundraiser.

Q Did you know his campaign agenda?

MR. BURCHFIELD: Object to the terminology "campaign agenda."

THE WITNESS: No.

BY MR. DENHOLM:

Q Did you know any part of Mr. Bush's campaign agenda?

A No.

Q Did you know anything about Mr. Bush's campaign policies?

MR. BURCHFIELD: Object to the terminology "campaign policies."

THE WITNESS: I guess I would have to answer that no.

BY MR. DENHOLM:

Q Did you know Mr. Bush's views on education?

A No.

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Q Did this information appear in the notebook?

A I'm not sure.

Q Do you know?

A I don't know for certain. I am assuming it did.

Q In 1988, did you know Mary Matalin?

A Yes.

Q How did you know her?

A She is the person I reported to on the Unity conferences.

Q Do you remember her speaking at any Unity '88 events?

A Yes. I believe she spoke at the seminar the day following the rallies.

Q Do you remember any remarks that she made?

A No. I wasn't in the room.

Q Were you involved in helping her plan any of her remarks for the conferences?

A No.

MR. DENHOLM: I think at this point we can take a break for 10 minutes.

MS. HENNESSY: Let's reconvene at 20 of 11:00.

MR. BURCHFIELD: Why don't we say quarter of.

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(Recess.)

BY MR. DENHOLM:

Q At the Unity '88 conferences, was a voter contact program ever discussed?

A I don't know specifically.

Q Generally was a theme voter contact, do you know?

A Part of the Victory '88 program would be voter contact. I don't know if it was specifically discussed, because I wasn't in the room.

Q Do you know what voter contact would mean?

A Yes.

Q Can you tell me what that would consist of.

A It would be a variety of ways to contact voters, telephone, direct mail, door to door, that type of thing.

Q Do you know what types of things would be said to voters when they were contacted?

A That would depend on the situation, the campaign or the situation.

Q Would it involve discussions of, say, presidential policies if it was a presidential candidate?

MR. BURCHFIELD: Object to form and foundation.

2 5 0 4 3 7 2 0 6 8 6

THE WITNESS: I don't know. It would be an individual decision made depending on the campaign or the candidate.

BY MR. DENHOLM:

Q Do you know who would make that decision?

MR. BURCHFIELD: Form, foundation.

THE WITNESS: No.

BY MR. DENHOLM:

Q At the Atlanta Unity '88 conference, did Mr. Bush attend?

A Yes.

Q Was he a participant?

A In the rally.

Q Did he speak to the working sessions?

A No. I don't think so.

Q Do you know if he did?

A No.

Q Who would speak at the working sessions?

A Frank Fahrenkopf and Maureen Reagan both spoke and acted as emcees for them and then a variety of speakers. If there was a senator or a high-ranking official there, they would participate as a speaker. Also

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1 someone from the Congressional Committee, senatorial
2 Committee, Governors Association, other people from the
3 RNC.
4 Q Anybody else?
5 A Not that I can think of specifically.
6 Q Could you describe for me a little bit more the
7 working sessions.
8 A They were like a seminar, people seated theater
9 style with a stage and a table up front. It was just a
10 series of subjects that were discussed.
11 For instance, Frank Fahrenkopf was the emcee.
12 He would introduce Maureen Reagan. She would speak
13 briefly about the programs that she was involved in. This
14 is not in the correct order. But then perhaps somebody
15 from the Congressional Committee would talk about
16 congressional raises, somebody from the senatorial
17 committee would talk about senatorial raises. That sort
18 of thing. It was an informational session.
19 Q Were there fewer people at the working sessions
20 than, say, at the rallies?
21 A Yes.
22 Q About how many people?

9 6 0 4 3 2 0 6 8 8

A I think the rallies were usually about 1000. At the working sessions, probably between 400 and 500 people, with Denver being the largest attendance at the sessions.

Q Was there like one room for each working session?

A No. There was one room for the seminar, for the all-day session.

Q But just like one session was going on at one time?

A Right. They didn't go on simultaneously.

Q People weren't broken up into little groups?

A No. It was one big ballroom where the speaker changed and the audience stayed.

Q Do you remember if there were any signs or balloons or posters at the working sessions?

A There was a Victory '88 banner as the backdrop. But I don't recall any other signs.

Q It said "Victory '88"?

A Yes. Like this.

Q Were attendees at the working sessions encouraged to generate support for Mr. Bush in his campaign?

9 5 0 4 3 2 0 6 2 9

A I don't know. I wasn't in the room.

Q So, you were never an attendee at any of the working sessions?

A No. Let me just clarify that. Even though I was more of an attendee at the Denver conference, I was shadowing the conference manager so that I could do the next two conferences. I didn't actually sit in on the session.

Q Did you ever hear anybody discussing the working sessions?

A No.

Q So, you never heard anybody discuss what was said during the working sessions?

A Not that I can remember.

Q Did Mr. Bush make any other appearances at Unity '88 conference sites? Did he make any appearances that were not connected with Unity '88?

A I don't know.

MR. BURCHFIELD: Object to the foundation.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Do you know if he made any official appearances?

A I don't know.

Q Have you ever heard of the Victory through Unity in 1988 rally?

A Say that again.

Q Have you ever heard of the term "Victory through Unity in 1988" rally?

A Not that I recall.

Q Would that term have been used at the Atlanta conference?

A I don't recall.

Q You don't remember?

A No.

Q Did you ever hear in Atlanta, again, of the Victory '88 Georgia Unity reception?

A No.

Q You never heard that term used?

A No, I didn't.

Q So that would not be part of the Unity '88 conferences?

A No. The reason I hesitate is we had a reception before the rally each time, but it was never called that.

Q Did the receptions have a name?

9 6 0 4 3 2 0 6 2 1

A They didn't have a name.

Q What were the receptions like?

A It was just mix and mingle before the rally began.

Q What time did the rallies usually begin?

A I don't remember.

Q How long would the rallies usually last?

A I don't remember.

Q But the receptions would occur before the rallies?

A Right. It was just called a reception. It was a gathering of the people together prior to.

Q That was at each conference?

A Yes.

Q Were those at the same location as the conferences?

A Yes. Same room.

Q That was like a big conference room?

A It was like a big ballroom.

Q How many people would attend the reception?

A The same amount that attended the rally. It was just a piece of the rally, really. You walked in the room

9 5 0 4 3 2 0 6 2 2

1 and mixed and mingled and then the rally began.

2 Q There was like an open bar and food, things like

3 that?

4 A It was a no-host bar, but there was not food.

5 Q Were there any signs that were put up for the

6 receptions?

7 A No.

8 Q In Atlanta, was a Victory '88 fundraising dinner

9 held, do you know?

10 A I don't know.

11 Q Turning back to the reception again, were those

12 considered a formal part of the Unity '88 conference?

13 A I am not sure what you mean by "formal part."

14 Just a part of?

15 Q Well, were they planned, say, at the same time

16 as the Unity '88 conferences were planned?

17 A Yes. It was like from this time to this time,

18 mix and mingle, reception, from this time to this time,

19 rally begins. It was that kind of thing. That was part

20 of it.

21 Q Did any fundraising occur at the receptions?

22 A No.

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1 Q So, nobody collected checks, money orders,
2 pledges, anything like that?
3 A No.
4 Q You never saw anybody do any of that activity?
5 A No.
6 Q You never heard of anybody doing that?
7 A No.
8 Q Did the participants in the Unity '88
9 conferences attend the reception as well?
10 A Some of them did. I don't know that all of them
11 did.
12 Q Do you remember who?
13 A The participants?
14 Q Yes.
15 A I'm sorry. I was thinking attendees again. I
16 have to back up. I can't remember if they attended.
17 Q Of any of the participants, do you remember any
18 who attended the receptions and made remarks?
19 A No. There were no remarks at the receptions.
20 Q People just mingled?
21 A It was just a gathering place.
22 Q Did Mr. Bush attend the receptions?

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A No.

Q You never saw him there?

A No.

Q Did you ever hear of anybody at the Unity '88 conferences being invited to any fundraisers?

A No.

Q Did you know of anybody who may have been invited to a fundraiser at any of the Unity '88 conferences?

A No.

Q Were there ever any printed invitations handed out at Unity '88 events which would be inviting people to attend fundraisers?

A No.

Q At the Denver conference, was there a Victory '88 fundraising reception held?

MR. BURCHFIELD: Objection. Asked and answered several times.

THE WITNESS: Not that I know of.

BY MR. DENHOLM:

Q Are you familiar with the Presidential Trust?

A Yes.

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Q When did you first hear of the Presidential Trust?

A In 1988.

Q Do you describe the Presidential Trust for me, please.

MR. BURCHFIELD: Objection. Foundation.

THE WITNESS: It is the name that the RNC gives to the fundraising that they do that they are allowed to do by law on behalf of the presidential candidate.

BY MR. DENHOLM:

Q Were there ever any Presidential Trust events occurring during the Unity '88 conferences?

A No, I don't believe so.

Q Do you know if Mr. Bush appeared in New York on June 30, 1988?

A I don't know.

Q Did you know in 1988?

A No.

Q Are you familiar with an appearance by Mr. Bush in Dallas, Texas on July 6, 1988?

A No.

Q Would you have been familiar with that

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appearance in 1988?

A No.

Q At any of the Unity '88 conferences, could you describe for me the involvement of the press.

A The rally was open press and there was a press platform and so the press attended. So, they were in attendance.

At every RNC meeting, as a matter of procedure, there is always a communications room set up with a little press avail area. So, that room was set up. That is really my only involvement with seeing the press.

Q Do you know who set up the press rooms?

A That would have been set up by RNC communications.

Q At any Unity '88 conference, do you know who the person was who would have handled those aspects?

A Barry Tron and Debbie Messick were dealing with communications at these.

Q How were the press rooms used?

A I really didn't see how they were used. I just knew that they were set up.

Q Did you ever attend any press conferences held

1 in those rooms?

2 A No.

3 Q Did you ever hear of anybody attending press

4 conferences in those rooms?

5 A I was aware of press conferences -- a couple of

6 press conferences that were arranged at the Cincinnati, I

7 believe, conference.

8 Q So, it was a formal press conference at the

9 Cincinnati?

10 A I'm not sure what you mean by "formal." It was

11 more of a spontaneous press conference.

12 Q Who participated in that press conference?

13 A What principal, you mean? Who held the press

14 conference? What is your question?

15 Q Who was being asked the questions at the press

16 conference?

17 A I know that at one of them, Bob Dole, and I

18 believe George Bush was at one of them.

19 Q Do you remember any remarks that Mr. Bush made

20 to the press at the press conference?

21 A No. I wasn't there.

22 Q Or Mr. Dole?

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A No.

Q So you never heard any remarks made by any participants to the press?

A No.

Q Were there formal press releases that were distributed to the press?

A I don't remember.

Q Do you know if anybody from the RNC spoke to the press before, let's say, the press conference in Cincinnati?

A I don't know.

Q How large were the press rooms at the conferences?

A I can't remember.

Q Would you say they are about this size? A little bit bigger?

A Maybe a little larger would be my hunch.

Q Were there any signs or posters or balloons or anything like that in the press rooms?

A No.

Q Was there a backdrop behind, say, a podium at any of the press conferences?

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A I remember blue pipe and drape behind the podium.

Q But you don't remember any signs being there behind or anywhere?

A No, I don't recollect.

MR. BURCHFIELD: That is asked and answered.

BY MR. DENHOLM:

Q How did the press gather in the press rooms?

A I don't know.

Q Did somebody from the RNC tell the press that the press conference was going to be held?

A I don't know.

Q Do you know if anybody from the George Bush for President Committee would have told the press that a press conference was going to be held?

A I don't know.

MR. DENHOLM: I will have the court reporter mark this as Giardina Exhibit 5 and I will have her mark it and hand it to the Ms. Giardina for her review.

(Giardina Exhibit 5 identified.)

(Witness reviewed the document.)

BY MR. DENHOLM:

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Q Are you familiar with any of the names on this list?

A Yes.

Q Could you just go down the list and tell me whether you know each person and if you can remember what their job was in 1988.

A What their job was in this time period we are talking about?

Q Yes.

MR. BURCHFIELD: Objection. This information has been provided to you. Is there a purpose for wasting Ms. Giardina's time testing her memory as to whether she can agree with the job descriptions that have already been provided?

MS. HENNESSY: I don't think job descriptions have been provided. I think there has been some indication submitted in writing as to whether or not some of these individuals did work, for example, at the RNC at some point in 1988.

It is not always clear from the information that has been provided to us in writing exactly where some of those people did in fact work, which is why I suspect

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1 Mr. Denholm is asking the question.

2 BY MR. DENHOLM:

3 Q You may proceed.

4 A You want me to tell you who they worked for in

5 June and July of '88?

6 Q June, July and August of 1988.

7 MR. BURCHFIELD: To the extent you remember, and

8 don't guess. If you know, say. But if you don't know,

9 say that you don't know.

10 THE WITNESS: Mary Matalin, the RNC. Carla

11 Philips Jones worked for the RNC. Grace Moe, RNC. Pat

12 Giardina, RNC. I can go through and tell you that 1

13 through 11 all worked for the RNC. Maybe that is

14 quicker.

15 12, 13 and 14 all worked for the RNC. 15 I

16 don't know.

17 16, 17, 18 and 19 were all RNC. 20, 21 and 22

18 and 23 I don't know.

19 24, 25, 26 and 27 were all RNC. I don't know

20 about Phil Smith.

21 The rest through 35 all worked for the RNC and

22 through 39, all worked for the RNC.

9 6 0 4 3 7 2 0 7 0 2

BY MR. DENHOLM:

Q Now, did any of those individuals also work for George Bush for President Committee?

MR. GINSBERG: During what time period?

MR. DENHOLM: During June, July and August.

MR. BURCHFIELD: Of '88.

THE WITNESS: I don't know.

BY MR. DENHOLM:

Q Did any of them have contact with the George Bush for President Committee during June, July and August of 1988?

MR. BURCHFIELD: Objection. Foundation.

THE WITNESS: I wouldn't know that. I mean, only what I know about myself. I don't know who else, whether or not anyone else had contact.

BY MR. DENHOLM:

Q Did you know the individuals that are listed here?

A I know most of them, yes. I know who they are.

Q Did you know some of them better than others?

A Yes.

Q But you don't know if any of those people that

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1 you knew there also worked for George Bush for President?

2 MR. BURCHFIELD: Objection. Argumentative.

3 THE WITNESS: I don't know.

4 MR. BURCHFIELD: Asked and answered.

5 BY MR. DENHOLM:

6 Q Turning back to the Unity '88 conferences now,

7 were there any videotapes shown?

8 A Not that I can remember.

9 Q Do you have anything else that you would like to

10 add?

11 MR. BURCHFIELD: Object to the question.

12 THE WITNESS: No.

13 MS. HENNESSY: I have questions. I think this

14 will be brief.

15 MR. BURCHFIELD: You are both representing the

16 Federal Election Commission; right?

17 MS. HENNESSY: That's correct. That's why I am

18 here.

19 MR. BURCHFIELD: I would prefer one person do

20 the questioning. I don't think it is a recognized

21 practice having people two-teaming a witness who are

22 representing the same client. I am not aware of any judge

9 6 0 4 3 2 0 7 0 4

1 or magistrate who allows that to happen.

2 MS. HENNESSY: In my government experience, it

3 has been routine. In addition, I am Mr. Denholm's

4 supervisor.

5 MR. BURCHFIELD: Is there in more written

6 precedent at the Federal Election Commission that you can

7 point me to to point that out?

8 MS. HENNESSY: Not offhand. It is standard

9 government practice.

10 MR. BURCHFIELD: How long is your questioning?

11 MS. HENNESSY: Very brief.

12 MR. BURCHFIELD: Let's go forward with it.

13 Please stand on notice that it is our position that one

14 person per client should serve as the lead attorney in the

15 deposition and do the questioning as necessary. I don't

16 want to fight about something that will only take a few

17 minutes.

18 EXAMINATION

19 BY MS. HENNESSY:

20 Q You referred earlier to observing budget

21 guidelines in your work as the manager of the two

22 conferences; is that right?

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A Yes.

Q What exactly did you do as you observed these budget guidelines?

A I was given a guideline as to what the parameters were. I observed hotel bills, those types of things, to make sure that they were not going outside the parameter.

Q You indicated also, I believe, that you were not the person responsible for the Denver Unity '88 conference; is that right?

A That is right.

Q And the person who was responsible was whom?

A Grace Moe.

Q How did that happen, that somebody else was responsible for the Denver conference whereas you were responsible for the other two conferences?

MR. BURCHFIELD: Object to foundation.

THE WITNESS: Grace Moe started out -- started the process for doing the conference and managed the first one then was, because of her workload at the RNC, was not able to continue to do the other two conferences. That's why I was asked to come in and do them.

9 6 0 4 3 2 0 7 0 6

BY MS. HENNESSY:

Q Who asked you to do them?

A My boss, Steve Kinney.

Q Mr. Kinney was your boss in the summer of '88?

A Yes.

Q Referring now, please, to what I believe has been marked as Exhibit Number 2, if you could.

Aside from what you have already told us this morning, did you have any role or responsibility with regard to any of the other trips that appear on that list?

A No.

Q You mentioned earlier this morning that campaign themes were addressed or discussed at the Unity '88 conferences?

A Yes.

Q Can you give us an example of such a campaign theme?

A What I meant by that was campaign themes and programs, meaning the -- I guess "program" is a better word than "theme" because it was more the programs or tactics that were going to be used in the general election, the programs of the RNC, than actual themes.

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Q Can you give us an example of such a program.

A Door to door, get out and vote.

Q You referred earlier to handmade signs at some of the Unity '88 conferences. Do you recall that?

A Yes.

Q What did the signs refer to, if anything?

A They were rally signs, victory in November, rah, rah kind of signs.

Q Did any of the signs refer to any individual candidates or campaigns?

A I don't remember.

Q Who gave you the notebook that you just testified about earlier this morning and asked you or requested that you use the notebook at the Unity '88 conferences?

A Who? When I was briefed about my responsibilities by Grace Moe, when she was handing over to me what needed to be done on the next two conferences. That was one of the pieces of the conference.

Q I believe you testified earlier that at the Denver conference where you were an attendee, you yourself received a copy of the notebook at the registration table;

9 6 0 4 3 7 2 0 7 0 8

1 is that right?

2 A Yes.

3 Q Was that the same practice that occurred at the

4 Atlanta and Cincinnati conferences?

5 A Yes.

6 Q Did you have any occasion at either the rally or

7 the reception prior to the rally at any of the Unity '88

8 conferences to overhear people talking about money or

9 contributions?

10 A No.

11 Q Were you actually present at any of the

12 receptions or rallies?

13 A I was behind the scenes. I was not actually,

14 with the exception of Denver -- the two conferences I did,

15 I was behind the scenes. I wasn't out in the rally room.

16 Q You referred earlier to a "no-host bar," at the

17 Unity '88 conference rally or reception. What do you mean

18 by "no-host bar"?

19 A Meaning there were bars in the room where you

20 could buy a drink or buy a soda, meaning it was not a

21 hosted. You paid for your own drink is what I meant.

22 Q Were the three Unity '88 conferences conducted

9 6 0 4 3 7 2 0 7 0 9

in substantially the same way?

A Yes.

Q You told us earlier that your position at the RNC in the summer of '88 was as regional finance director; is that right?

A That is right.

Q And then time subsequently you became conference manager for two of the Unity '88 conferences?

A Right. I was still regional finance director during that time. I was just doing a special project.

MR. DENHOLM: We are done here. Would you like to read and sign the deposition?

THE WITNESS: Yes.

MR. DENHOLM: We will now adjourn the deposition.

(Whereupon, at 1:20 p.m., the deposition was concluded.)

PATRICIA SUSAN GIARDINA

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Brenda Smonskey
Notary Public in and for the
District of Columbia

My Commission Expires APRIL 14, 1996

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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