



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 2994

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

21040323527

**REPORTS ANALYSIS REFERRAL**

**TO**

**OFFICE OF GENERAL COUNSEL**

**DATE:** 30 August 1989

**ANALYST:** Robyn Jameson

**I. COMMITTEE:**

Wyoming State Democratic Central  
Committee (C00001917)  
Joseph Lyman, Treasurer  
(June 7, 1989 to Present)  
Charles E. Graves, Treasurer  
(May 2, 1989 to June 6, 1989)  
Kim Reddington AKA Kim Bader, Treasurer  
(January 1, 1987 to May 1, 1989)  
P.O. Box 1964  
Casper, WY 82602

**II. RELEVANT STATUTE:** 2 U.S.C. §§441a(d)(3)(A) and 441a(f)

**III. BACKGROUND:**

**Apparent Excessive Coordinated Expenditures Made on Behalf  
of a Federal Candidate**

The Wyoming State Democratic Central Committee ("the State Committee") disclosed coordinated expenditures totalling \$21,255.80 on behalf of Senate candidate John Vinich in calendar year 1988 (see Chart and Attachments). The Democratic Senatorial Campaign Committee ("the National Committee") disclosed coordinated expenditures totalling \$88,631.41, also on behalf of Senate candidate John Vinich (see Chart and Attachments). The total coordinated expenditures spent on behalf of John Vinich, \$109,887.21, exceeds the combined limit, \$92,200, by \$17,687.21.

On June 21, 1989, the Reports Analysis Division ("RAD") analyst sent a Request for Additional Information ("RFAI") questioning whether the State Committee designated a portion or all of its coordinated expenditure limit to the National Committee. The RFAI explained that, between the two committees, they had exceeded the combined limit of \$92,200 for the 1988 general election (Attachment 3).

A Second Notice was sent on July 13, 1989 for failure to respond (Attachment 4).

21040323528

WYOMING STATE DEMOCRATIC CENTRAL  
COMMITTEE  
REPORTS ANALYSIS OGC REFERRAL  
PAGE 2

On July 18, 1989, a written response was received from Charles E. Graves, State Chairman. Mr. Graves stated that he had contacted the National Committee and would respond after investigating the problem (Attachment 5).\*/

On July 28, 1989, Mr. Graves again responded in writing. He stated there was an excessive expenditure in the amount of \$17,687.21, and the State Committee had requested a reimbursement from the candidate, John Vinich (Attachment 7).

As of this date, no further response has been received from the State Committee.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

91040823529

---

\*/ In response to an RFAI, the National Committee submitted copies of the written agreement with the State Committee. The agreement authorized the National Committee to use the State Committee's 2 U.S.C. §441a(d) limit (Attachment 6).

## COORDINATED EXPENDITURES MADE ON BEHALF OF JOHN VINICH

VENDOR	PURPOSE	DATE	AMOUNT
<b>BY: THE WYOMING STATE DEMOCRATIC CENTRAL COMMITTEE</b>			
BELOW, TOBE & ASSOCIATES	MAILING	10/24/88	\$14,820.00
POSTMASTER	BULK MAILING POSTAGE	10/31/88	\$ 5,000.00
BELOW, TOBE & ASSOCIATES	TELEPHONE LISTS	11/08/88	\$ 1,435.80
			<b>TOTAL: \$ 21,255.80</b>

**BY: THE DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE**

DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE	COMPUTER DATABASE	01/26/88	\$ 1,300.00
SQUIER-ESKEW COMMUNICATIONS	MEDIA	10/05/88	\$17,597.75
MARIN, GEOFFREY	CONSULTING FEES	10/11/88	\$ 1,250.00
T-BELL TRAVEL	TRAVEL	10/11/88	\$ 1,939.00
SQUIER-ESKEW COMMUNICATIONS	MEDIA	10/12/88	\$10,593.60
CORNWALL, TREVOR	CONSULTING	10/13/88	\$ 1,000.00
CUNNINGHAM, JIM	CONSULTING	10/13/88	\$ 3,000.00
	TRAVEL	10/13/88	143.32

## COORDINATED EXPENDITURES MADE ON BEHALF OF JOHN VINICH

VENDOR	PURPOSE	DATE	AMOUNT
LAUER, LALLEY & ASSOCIATES	POLLING	10/13/88	\$15,000.00
THE ILLUSTRATOR	MEDIA	10/14/88	\$13,000.00
WESTERN UNION	FUNDRAISING EXPENSE	10/19/88	\$ 425.70
HARRIMAN COMMUNICATIONS	MEDIA	10/19/88	\$ 2,033.35
WILHOLM, DAVID	TRAVEL	10/19/88	\$ 707.79
LUX, MICHAEL S.	TRAVEL	10/19/88	\$ 335.93
GREER & ASSOCIATES	MEDIA	10/21/88	\$12,000.00
JIM CUNINGHAM	CONSULTING	10/26/88	\$ 3,000.00
NATIONAL FUNDRAISING STRATEGIES	PROFESSIONAL FEES	10/26/88	\$ 4,017.90
ANALYSIS GROUP	POLLING	11/04/88	\$ 476.07
BELL TRAVEL	TRAVEL	12/08/88	\$ 811.00
			TOTAL: \$ 88,631.41
			GRAND TOTAL: \$109,887.21

9 1 0 4 0 8 2 3 5 3 1

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
				TYPE OF FILER		
WYOMING STATE DEMOCRATIC CENTRAL COMMITTEE				ID #C00001917	PARTY QUALIFIED	
CONNECTED ORGANIZATION:						
1987	MID-YEAR REPORT	31,987	36,047	1JAN87 - 30JUN87	17	89FEC 478 2040
	YEAR-END	45,691	41,804	1JUL87 - 31DEC87	26	89FEC 507 2437
	YEAR-END - AMENDMENT	47,377	40,481	1JUL87 - 31DEC87	10	89FEC 511 4807
1988	APRIL QUARTERLY	26,353	16,728	1JAN88 - 31MAR88	12	89FEC/520/0098
	APRIL QUARTERLY - AMENDMENT	-	-	1JAN88 - 31MAR88	7	89FEC/548 0748
	JULY QUARTERLY	36,012	38,004	1APR88 - 30JUN88	14	89FEC/507/0487
	JULY QUARTERLY - AMENDMENT	36,012	38,004	1APR88 - 30JUN88	17	89FEC 574 0700
	1ST LETTER INFORMATIONAL NOTICE			1APR88 - 30JUN88	1	89FEC/542 4501
	OCTOBER QUARTERLY	21,656	23,758	1JUL88 - 30SEP88	18	89FEC/550/0728
	OCTOBER QUARTERLY - AMENDMENT	21,656	23,758	1JUL88 - 30SEP88	14	89FEC 574 0710
	REQUEST FOR ADDITIONAL INFORMATION			1JUL88 - 30SEP88	1	89FEC 568 1100
	PRE-GENERAL	17,591	14,658	1OCT88 - 19OCT88	18	89FEC/567/0817
	PRE-GENERAL - AMENDMENT	13,645	14,658	1OCT88 - 19OCT88	14	89FEC/574 0728
	PRE-GENERAL - AMENDMENT	-	-	1OCT88 - 19OCT88	2	89FEC/578 5440
	PRE-GENERAL - AMENDMENT	-	-	1OCT88 - 19OCT88	4	89FEC 578 0188
	REQUEST FOR ADDITIONAL INFORMATION			1OCT88 - 19OCT88	7	89FEC/574/4400
	POST-GENERAL	82,041	89,678	20OCT88 - 28NOV88	10	89FEC/572 5014
	POST-GENERAL - AMENDMENT	82,041	89,678	20OCT88 - 28NOV88	10	89FEC/578/0188
	POST-GENERAL - AMENDMENT	-	-	20OCT88 - 28NOV88	2	89FEC 581 0700
	POST-GENERAL - AMENDMENT	-	-	20OCT88 - 28NOV88	2	89FEC 580 4887
	REQUEST FOR ADDITIONAL INFORMATION			20OCT88 - 28NOV88	1	89FEC 578 4010
	REQUEST FOR ADDITIONAL INFORMATION 2ND			20OCT88 - 28NOV88	2	89FEC 578 4810
	REQUEST FOR ADDITIONAL INFORMATION			20OCT88 - 28NOV88	11	89FEC 587 5278
	REQUEST FOR ADDITIONAL INFORMATION 2ND			20OCT88 - 28NOV88	12	89FEC 587 1588
1989	MISCELLANEOUS REPORT TO FED	3,278	5,988	29NOV88 - 31DEC88	10	89FEC 584 0768
				20JAN89	2	89FEC 580 5148
	TOTAL	264,708	271,347		236	TOTAL PAGES

91040323532

All reports referenced above have been reviewed

Ending cash on hand as of December 31, 1988: \$-206.97

Outstanding debts owed by the committee: \$0

Outstanding debts owed to the committee: \$0

FEDERAL ELECTION COMMISSION  
1989-1990  
COMMITTEE INDEX OF DISCLOSURE DOCUMENTS - (C)

DATE 29AUG89

PAGE 2

COMMITTEE	DOCUMENT	RECEIPTS	DISBURSEMENTS	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
				TYPE OF FILER		
WYOMING STATE DEMOCRATIC CENTRAL COMMITTEE				ID #C00001917 PARTY QUALIFIED		
CONNECTED ORGANIZATION: WYOMING DEMOCRATIC PARTY						
	1989 STATEMENT OF ORGANIZATION - AMENDMENT			30MAY89	1	89FEC/596/2678
	STATEMENT OF ORGANIZATION - AMENDMENT			18JUL89	1	89FEC/601/3956
	PRE-SPECIAL	67,264	32,516	1JAN89 - 6APR89	16	89FEC/591/3433
	PRE-SPECIAL - AMENDMENT	-	-	1JAN89 - 6APR89	3	89FEC/592/2961
	PRE-SPECIAL - AMENDMENT	67,264	33,306	1JAN89 - 6APR89	17	89FEC/596/4285
	POST-SPECIAL	99,451	120,262	7APR89 - 16MAY89	15	89FEC/596/3249
	POST-SPECIAL - AMENDMENT	89,451	120,262	7APR89 - 16MAY89	15	89FEC/596/4002
	JULY QUARTERLY	7,575	8,779	17MAY89 - 30JUN89	10	89FEC/605/0667
	TOTAL	164,290	162,347		78	TOTAL PAGES

91040823533

None of the reports above have been reviewed.  
Ending Cash-on-hand as of 6/30/89: \$1,734  
Outstanding debts owed to the Committee: \$0  
Outstanding debts owed by the Committee: \$9,724

Name of Donor	Address	Name of Recipient	Date	Amount
American Educational Services 200 E. Capitol St., S.E. Washington, D.C. 20003	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services 200 E. Capitol St., S.E. Washington, D.C. 20003	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)
American Educational Services	John Finch Spring Class	Computer Software	01/26/78	1,200.00 (10-2000)



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

31030212574

Full Name, Agency Address and ZIP Code of Donor	Name of Federal Candidate Supported, Party, District & State	Form of Contribute	Date Recd. (MM/DD)	Amount
Peter Hart Research Associates, Inc. 1724 Connecticut Ave. NW Washington, DC 20003	Bill Gray Virginia U.S. Senate	Rolling	10/19/78	10000.00
Peter Hart Research Associates, Inc. 1724 Connecticut Ave. NW Washington, DC 20003	Bill Gray Virginia U.S. Senate	Rolling	10/19/78	10000.00
Bank & Strum Associates 1200 Dean Court Washington, DC 20007	Mike Levy Washington U.S. Senate	Gifts	10/07/78	72000.00
Bank & Strum Associates 1200 Dean Court Washington, DC 20007	Mike Levy Washington U.S. Senate	Gifts	10/07/78	72000.00
T-Bell Travel 412 1st Street, SE Washington, DC 20003	Mike Levy Washington U.S. Senate	Travel	10/11/78	200.00
T-Bell Travel 412 1st Street, SE Washington, DC 20003	Mike Levy Washington U.S. Senate	Travel	10/11/78	200.00
Garin, Geoffrey 1724 Connecticut Ave. NW Washington, DC 20003	John Vitch Maryland U.S. Senate	Consulting Fee	10/11/78	1000.00
Garin, Geoffrey 1724 Connecticut Ave. NW Washington, DC 20003	John Vitch Maryland U.S. Senate	Consulting Fee	10/11/78	1000.00
TOTAL of Donations This Page (Amount)				182200.00
TOTAL (Carried Over on the reverse side)				

To be used only by Public Employees in the United States

DOMESTIC EXPENSE ACCOUNT STATEMENT

THIS STATEMENT IS TO BE USED BY PUBLIC EMPLOYEES TO REPORT EXPENSES INCURRED WHILE ON DUTY OR WHILE TRAVELING ON BUSINESS. IT IS NOT TO BE USED FOR PERSONAL EXPENSES. THE EMPLOYEE IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION REPORTED HEREON.

6  
2  
7  
6  
2  
3  
1  
3

NAME AND ADDRESS OF THE PERSON TO WHOM THE EXPENSE WAS INCURRED	NAME AND ADDRESS OF THE PERSON TO WHOM THE EXPENSE WAS PAID	CHARACTER OF EXPENSE	DATE	AMOUNT
Cunningham, Jim 734 Colonial Trace Frankfort, KY 40601	John Vinick Spending U.S. Expense	Consulting Travel	10/12/88 10/12/88	2000.00 143.32
	John Vinick Spending U.S. Expense	Travel	10/12/88	1900.00
Lauer, Lolley & Associates 220 I Street, N.E. Washington, DC 20002	John Vinick Spending U.S. Expense	Printing	10/12/88	1900.00
	John Vinick Spending U.S. Expense	Printing	10/14/88	1300.00
Western Union P.O. Box 140127 St. Louis, MO 63130	John Vinick Spending U.S. Expense	Printing	10/10/88	600.00
	John Vinick Spending U.S. Expense	Printing	10/10/88	600.00
TOTAL OF EXPENSES THIS REPORT PERIOD				7443.32
TOTAL OF EXPENSES THIS REPORT PERIOD				7443.32



GENERAL

UNITED STATES GOVERNMENT  
DEPARTMENT OF COMMERCE  
BUREAU OF ECONOMIC ANALYSIS

To be used only by Federal Contractors in the General Market

UNITED STATES GOVERNMENT CONTRACT, SPECIFICATIONS				
PROPERTY OF THE UNITED STATES GOVERNMENT - NOT TO BE REPRODUCED WITHOUT AUTHORITY				
Full Name, Being Addressed to Full Name of Contractor				
Full Name, Being Addressed to Full Name of Contractor	Name of Federal Contract Covered, Full Name of Contract	Place of Contract	Contract Number	Amount
Below, Tube, & Assoc. 7001 Norfolk Ave. - 0100 Bethesda, MD 20814	John Vinick Cor U. S. Census	Building	10-01-00	14,000.00
Full Name, Being Addressed to Full Name of Contractor	Name of Federal Contract Covered, Full Name of Contract	Place of Contract	Contract Number	Amount
Freemaster Casper Wysong 02101	John Vinick Cor U. S. Census	Mail Building Postage	10-01-00	2,000.00
Full Name, Being Addressed to Full Name of Contractor	Name of Federal Contract Covered, Full Name of Contract	Place of Contract	Contract Number	Amount
Below, Tube, & Assoc. 7001 Norfolk Ave. - 0100 Bethesda, MD 20814	John Vinick Cor U. S. Census	Telephone Lines	11-0-0-	1,435.00
Full Name, Being Addressed to Full Name of Contractor	Name of Federal Contract Covered, Full Name of Contract	Place of Contract	Contract Number	Amount
TOTAL of Contracting This Day (Contract) .....				17,435.00
TOTAL This Contract and ALL OTHER CONTRACTS .....				17,435.00

3 0 3 3-7-9 37 3 3 7

Handwritten signature or initials on the right side of the table.

To be filled out only by Federal Candidates or the General Election

**Name of Federal Candidate for U.S. SENATE: DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE**

Has your Committee been designated to make designated expenditures for a general party campaign? YES

Is this report being filed with the Federal Election Commission? YES

Full Name, Mailing Address and ZIP Code of Donor

Full Name, Mailing Address and ZIP Code of Donor	Name of Federal Candidate Supported, Sen., House & Other Office	Purpose of Expenditure	Date (Month, Day, Year)	Amount
John Frew 370 17th Street, #3540 Denver, CO 80202	Mike Leary Washington U.S. Senate	Travel	10/26/88	211.00
Jim Cunningham 754 Colonial Trace Frankfort, KY 40601	John Vitch Wyoming U.S. Senate	Consulting	10/26/88	600.00
Greer & Associates 2626 Pennsylvania Ave. NW Suite 301 Washington, DC 20037	John Vitch Wyoming U.S. Senate	Media	10/21/88	1,000.00
National Fundraising Strategies 155 New Jersey Ave. NW Washington, DC 20001	John Vitch Wyoming U.S. Senate	Professional Fees	10/26/88	687.00

TOTAL of Expenditures This Report Represents: 2,508.00

NOTE: This Form will keep the IRS informed only!

3120597523  
0452

SECRET

U.S. SENATE  
OFFICE OF THE CLERK  
WASHINGTON, D.C. 20540

To be used only by Federal Government on the General Account

71040323541  
33733  
043

Full Name, Mailing Address and ZIP Code of Each Party	Name of Federal Candidate Supported (Sen., House & Other Office)	Purpose of Contribution	Date Recd. (M, Y, YR)	Amount
Analysis Group 500 East Street New Haven, CT 06511	John Vinick Wyoming U.S. Senate	Polling	11/05/88	274.00
	Approved General Election Contribution by the Senator - 8 87820.11			
Florida U.S. Senate	Florida U.S. Senate	Service Charge	11/03/88	10.11
	Approved General Election Contribution by the Senator - 8 87820.11			
Reid Wilson 623 C Street, N.E. Washington, DC 20002	Robert H. Humphrey, III Minnesota U.S. Senate	Travel	10/28/88	31.00
	Approved General Election Contribution by the Senator - 8 87820.11			
Anita Dunn 3514 Taylor Street Chevy Chase, MD	Richard Bryan Nevada U.S. Senate	Travel	11/02/88	200.00
	Approved General Election Contribution by the Senator - 8 87820.11			
SIGNATURE of Contributor (The Full Name)				
DATE (To be filled in by donor and signed only)				

GENERAL

U.S. HOUSE OF REPRESENTATIVES  
OFFICE OF THE CLERK  
WASHINGTON, D.C. 20541

To be completed by Federal Committees on the General Account

Name of House of Committee on Page 1 of 1				
LEGISLATIVE SECRETARIAL COMPENSATION COMMITTEE				
This year Committee has the right to make a budgetary expenditure in excess of \$100,000 and is required to file a report with the Committee on the General Account.				
Full Name, Mailing Address and ZIP Code of Each Party				
Full Name, Mailing Address and ZIP Code of Each Party	Name of Federal Committee Supported, Full Name & Other Party	Purpose of Expenditure	Date Invoiced	Amount
T-Bell Travel 412 First Street, SE Washington, DC 20003	Mike Leary Washington U.S. Senate	Travel	12/08/88	495.50
			12/08/88	1237.50
Approved General Budget Expenditure for the Committee - \$ 19282.17				
Reid Wilson 623 C Street, NE Washington, DC 20002	Mike Leary Washington U.S. Senate	Travel	12/05/88	273.11
Approved General Budget Expenditure for the Committee - \$ 19282.17				
T-Bell Travel 412 First Street, SE Washington, DC 20003	John Vinich Spring U.S. Senate	Travel	12/08/88	424.00
Approved General Budget Expenditure for the Committee - \$ 19282.17				
T-Bell Travel 412 First Street, SE Washington, DC 20003	Richard Licht Shade Island U.S. Senate	Travel	12/08/88	225.50
Approved General Budget Expenditure for the Committee - \$ 19282.17				
TOTAL of Expenditures This Year				3462.61

Handwritten initials or signature on the right margin.



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20541

BQ-2

Charles E. Graves, Treasurer  
Wyoming State Democratic Central  
Committee  
P.O. Box 1964  
Casper, WY 82601

JAN 21 1989

Identification Number: C00001917

Reference: 30 Day Post-General Report (10/20/88-11/28/88)

Dear Mr. Graves:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-The limitation on making coordinated expenditures on behalf of candidates running in Wyoming for the 1988 general election was \$92,200 for each candidate (\$46,100 for the National and State Committees). Your reports, and those filed by the Democratic Senatorial Campaign Committee disclose coordinated expenditures made on behalf of John Vinich totalling \$109,887.21. These expenditures appear to exceed the limitations under 2 U.S.C. §441a(d) (pertinent portions attached). If you have made an excessive coordinated expenditure, the Commission recommends that you notify the candidate and request a refund of the amount in excess of the limitation. Any refund should appear on a supporting Schedule A for Line 16 of your next report.

If the coordinated expenditures in question were incorrectly reported and/or you have additional information, you may wish to submit documentation for the public record.

Although the Commission may take further legal steps concerning the excessive coordinated expenditures, prompt action by you to obtain a refund will be taken into consideration.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to

757





FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20461

EQ-3

July 13, 1989

Charles E. Graves, Treasurer  
Wyoming State Democratic Central  
Committee  
P.O. Box 1964  
Casper, WY 82601

Identification Number: C00001917

Reference: 30 Day Post-General Report (10/20/88-11/28/88)

Dear Mr. Graves:

This letter is to inform you that as of July 12, 1989, the Commission has not received your response to our request for additional information, dated June 21, 1989. That notice requested information essential to full public disclosure of your Federal election financial activity and to ensure compliance with provisions of the Federal Election Campaign Act (the Act). A copy of our original request is enclosed.

If no response is received within fifteen (15) days from the date of this notice, the Commission may choose to initiate audit or legal enforcement action.

If you should have any questions related to this matter, please contact Robyn Jameson on our toll-free number (800) 424-9530 or our local number (202) 376-2480.

Sincerely,

John D. Gibson *for*  
Assistant Staff Director  
Reports Analysis Division

Enclosure

210403033

1000  
1000  
1000  
1000

Attachment 5

July 14, 1989

Babyn Jimson  
Reports Analyst  
Reports Analyst Division  
Federal Election Commission  
Washington, D.C. 20463

Identification No. 00001217  
Reference: 90-Day Post-General Report (10/20/88-11/20/88)

Dear Ms. Jimson:

This letter is in response to your letter of June 21, 1989, concerning your questions raised about the Wyoming Democratic State Central Committee Uncoordinated campaign with the Democratic Senatorial Campaign Committee for the John Vinich for U.S. Senate campaign.

I have been in contact with Tom Lehner of the Democratic Senate Campaign Committee and am working with him in investigating your concerns. It is my understanding that they have responded and I would join in that response. I will be working closely with the DSCC in this matter to resolve the concerns and will be back in touch with you in the very near future.

Please be advised that we have elected Joseph Lyman, 376 West Heald Street, Sheridan, Wyoming, as the party treasurer. The position was vacant due to a resignation between May 2nd and June 6th, 1989, and during that interim period I, as the elected official and acting treasurer, signed the FEC reports.

I would appreciate it if you would forward copies of any correspondence to my office in the future.

Very truly yours,

*Charles E. Gray*  
Charles E. Gray  
Democratic State Chairman

CEG:ms  
cc: Tom Lehner  
Comptroller  
Democratic Senate Campaign  
Committee  
430 S. Capitol Street, S.E.  
Washington, D.C. 20003

Joseph Lyman  
376 West Heald Street  
Sheridan, WY 82801

1000  
1000  
1000  
1000

71040323010322

*Whitney*



**Democratic Senatorial Campaign Committee**

430 South Capitol Street, S.E., Washington, D.C. 20003 • (202) 224-2447

August 4, 1988

**Chairman:**

John Kerry, MA

**Co-Chairman:**

Alan Cranston, CA

**Regional Chairmen:**

John Bronus, LA

Thomas A. Daschio, SD

**Ex Officio:**

Robert C. Byrd, WV

Daniel K. Inouye, HI

**Full Committee:**

Max Baucus, MT

Lloyd Benson, TX

Bill Bradley, NJ

Lawton Chiles, FL

Christopher J. Dodd, CT

Wyche Fowler, GA

Albert Gore, Jr., TN

Bob Graham, FL

J. Bennett Johnston, LA

Frank Lautenberg, NJ

Carl Levin, MI

Barbara Mikulski, MD

John D. Rockefeller IV, WV

Terry Sanford, NC

James Sasser, TN

Paul Simon, IL

**National Finance Council:**

Jerome C. Berlin

Chairman

Wesley E. Finch

National Coordinating Chairman

Steven D. Wilson

Vice Chairman

Lynn A. Schenk

G. Wayne Smith

**Staff:**

Robert A. Chlopak

Executive Director

Page S. Gardner

Political Director

Noel Gould

Finance Director

Robert F. Bauer

General Counsel

Ms. Muffy Moore

Chairman

Wyoming Democratic Party

8907 Cowpoke Road

Cheyenne, WY 82009

Re: Proposed Agreement with respect to 2 U.S.C. 441a(d) Spending Authority in the 1988 United States Senate Election in Wyoming.

Dear Ms. Moore,

This letter sets forth in full the proposed agreement between the Democratic Senatorial Campaign Committee (DSCC) and the Wyoming Democratic Party concerning 441a(d) spending authority in connection with the Wyoming 1988 United States Senate election.

Please review this agreement and, if it is acceptable, initial your agreement on behalf of the Wyoming party.

1. The Wyoming Democratic Party hereby designates the DSCC as the agent of the Wyoming Democratic Party for the exclusive purpose of making expenditures pursuant to 2 U.S.C. 441a(d) on behalf of the Democratic nominee in the 1988 United States Senate general election in Wyoming up to the full amount allowed by law. The DSCC hereby accepts such agency.

2. In exercising its authority pursuant to this agreement, the DSCC will comply with the applicable dollar limitation of \$46,100, reporting the other requirements of the Federal Election Campaign Act, as amended, and the regulation promulgated thereunder.

3. Notwithstanding Paragraph 1, in the event that the Wyoming Democratic Party wishes to make any 441a(d) expenditures on behalf of its United States Senate nominee in the general election, the Wyoming Democratic Party may, by written notice to the DSCC, reassume portions of the

210403547

Ms. Muffy Moore  
August 4, 1988  
Page 2

authority delegated to the DSCC under this agreement,  
to the extent that the DSCC shall not then have made,  
or planned in coordination with any candidate to  
make, such expenditures itself.

Very truly yours,

*Robert A. Chlopak*  
Robert A. Chlopak  
Executive Director

Agreed by WYOMING DEMOCRATIC PARTY:

By: *Muffy Moore*  
Title: *Chairman*  
Date: *8-10-88*

cc: Robert F. Bauer

21040323548

Attachment 7  
(1 of 2)

RECEIVED  
FEDERAL ELECTION COMMISSION  
JUL 28 AM 9 31

Federal Election Commission  
Washington D.C. 20463

Attn: Robyn Jimison

Identification Number: 000001917

Reference: 30 New York National Report  
(10/20/88-11/20/88)

Dear Ms. Jimison:

Pursuant to your inquiry, I have investigated our files and consulted with the Controller of the Democratic Senate Campaign Committee with regard to the sum and report and the expenditures on the sum which our Senate Campaign under a coordinated campaign with the Democratic Senate Campaign Committee.

It appears that at the direction of the employees of the DSCC, there was an over expenditure in the sum indicated by your letter of June 21, 1989 and your subsequent letter of July 13, 1989. As you know I have previously responded to your request and indicated that we were consulting with the DSCC with regard to this matter and would respond to you. Although the Wyoming Democratic Party does not feel responsible for the overpayment, we have requested the candidate, John Vinich, to reimburse the Party for the over expenditure in the sum of \$17,007.21, and I enclose a copy of the letter I have forwarded to him making that request.

It is my understanding that he is in debt on his campaign and therefore I have no tangible idea as to how soon he may be able to refund the overpayment.

4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0

8190360311

U.S. AIR FORCE  
JACKSON, WY 83001-2000

89 OCT 19 PM 4:01

FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, D.C. 20463

**SENSITIVE**

**FIRST GENERAL COUNSEL'S REPORT**

RAD Referral #89L-33  
STAFF MEMBER: Elizabeth Campbell

**SOURCE: I N T E R N A L L Y G E N E R A T E D**

**RESPONDENTS:** Wyoming State Democratic  
Central Committee, and Joseph  
Lyman, as treasurer

**RELEVANT STATUTES:** 2 U.S.C. § 441a(a)(2)(A)  
2 U.S.C. § 441a(c)  
2 U.S.C. § 441a(d)(3)(A)  
2 U.S.C. § 441a(f)  
11 C.F.R. § 110.7(b)  
11 C.F.R. § 110.9(c)

**INTERNAL REPORTS CHECKED:** Disclosure reports for the  
Wyoming State Democratic  
Central Committee and the  
Democratic Senatorial Campaign  
Committee

**FEDERAL AGENCIES CHECKED:** None

**I. GENERATION OF MATTER**

This matter was referred to the Office of General Counsel on  
September 1, 1989, by the Reports Analysis Division. RAD has  
discovered excessive coordinated expenditures made on behalf of  
John Vinich, 1988 candidate for the U.S. Senate in Wyoming.

**II. FACTUAL AND LEGAL ANALYSIS**

The Federal Election Campaign Act of 1971, as amended ("the  
Act"), sets limitations on expenditures by the national party  
committee and state party committees on behalf of candidates for  
federal office in the general election. 2 U.S.C.

21040323551

21040323552

§ 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increase in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of \$5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The Act further provides that no political committee, or officer or employee of a political committee, shall knowingly make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

The 1988 coordinated expenditure limit set for the national committee and the state party committee in Wyoming was \$46,100.00 each, for expenditures made in the general election, or a combined total of \$92,200.00. FEC Record, Vol. 14, No. 3, March 1988. Reports filed with the FEC disclose that the Wyoming State Democratic Central Committee ("Wyoming Democrats") spent \$21,255.80 and the Democratic Senatorial Campaign Committee ("DSCC") spent \$88,631.41 in coordinated expenditures on behalf of Vinich<sup>1</sup> for a total of \$109,887.21. Accordingly, there was an excess of \$17,687.21 in coordinated expenditures.

On August 10, 1988, the Wyoming Democrats and the DSCC entered into an agreement, signed by representatives of both

---

1. The DSCC made contributions to Vinich's Senate campaign totaling \$16,795.00. See 2 U.S.C. § 441a(h).

parties, whereby the Wyoming Democrats designated the DSCC as the agent of the Wyoming Democratic Party for the purpose of making coordinated expenditures pursuant to 2 U.S.C. § 441a(d).<sup>2</sup> The agreement gave the DSCC authority to spend the entire \$46,100.00 allocated to the Wyoming Democrats for coordinated expenditures on behalf of Senate candidates in Wyoming. The agreement provides that if at any time the Wyoming Democrats wish to make any 2 U.S.C. § 441a(d) expenditures on behalf of any Senate candidate, they must give written notice to the DSCC that they want to reassume portions of their expenditure authority delegated to the DSCC. The agreement states the Wyoming Democrats may do this only if the DSCC has not already made, or planned in coordination with the candidate to make, such expenditures itself.

In response to RAD's Request for Additional Information, the Wyoming Democrats admitted that there were excessive coordinated expenditures on behalf of Vinich. Although they said they do not feel responsible for these excessive expenditures, they have instructed Vinich to reimburse the party. However, they acknowledge that Vinich is in debt and have no idea when and if he will be able to return any money to the Wyoming Democrats.

Wyoming Democrats have already made a \$5,000.00 general election contribution to Vinich, so none of their expenditures can be allocated as in-kind contributions.

---

2. The Court held that 2 U.S.C. § 441a(d)(3) does not foreclose the use of agency agreements among national, state, and local committees of the same party, for the purpose of making coordinated expenditures. FEC v. DSCC, 454 U.S. 27 (1981).

91040323553

Accordingly, this Office recommends that the Commission find reason to believe the Respondents have violated 2 U.S.C. § 441a(f).

**III. RECOMMENDATIONS**

1. Open a MUR.
2. Find reason to believe that the Wyoming State Democratic Central Committee violated 2 U.S.C. § 441a(f).
3. Approve the attached letter, factual and legal analysis, and interrogatories and request for documents.

Lawrence M. Noble  
General Counsel

10-18-89  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

**Attachments:**

1. Referral Materials
2. Proposed Letter and Factual and Legal Analysis
3. Interrogatories and Request for Documents

21040323554

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) RAD Referral 89L-33  
Committee, and Joseph Lyman, as )  
treasurer )

(MUR 2994)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 24, 1989, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral 89L-33:

1. Open a MUR.
2. Find reason to believe that the Wyoming State Democratic Central Committee violated 2 U.S.C. § 441a(f).
3. Approve the letter, factual and legal analysis, and interrogatories and request for documents, as recommended in the General Counsel's Report dated October 18, 1989.

Commissioners Aikens, Elliott, Josefiak, McGarry and Thomas voted affirmatively for the decision. Commissioner McDonald did not cast a vote.

Attest:

Oct. 25, 1989  
Date

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

Received in the Secretariat:	Thursday, October 19, 1989	4:01
Circulated to the Commission:	Friday, October 20, 1989	12:00
Deadline for vote:	Tuesday, October 24, 1989	4:00

2104033555



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 31, 1989

Joseph Lyman, Treasurer  
Wyoming State Democratic Central Committee  
P.O. Box 1964  
Casper, Wyoming 82601

RE: MUR 2994  
Wyoming State Democratic  
Central Committee, and  
Joseph Lyman, as treasurer

Dear Mr. Lyman:

On October 24, 1989, the Federal Election Commission found that there is reason to believe the Wyoming State Democratic Central Committee and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Wyoming State Democratic Central Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Wyoming State Democratic Central Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

91040323556

Joseph Lyman  
Page 2

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

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Elizabeth Campbell, the staff member assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald  
Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation of Counsel Form  
Questions

91040323557

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Wyoming State Democratic  
Central Committee, and  
Joseph Lyman, as treasurer

MUR 2994

**GENERATION OF MATTER**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2).

**FACTUAL AND LEGAL ANALYSIS**

A. **The Law**

The Federal Election Campaign Act of 1971, as amended ("the Act"), sets limitations on expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election. 2 U.S.C. § 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increase in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of \$5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The Act further provides that no political committee, or officer or employee of a political committee, shall knowingly make any expenditure on behalf of a

91040323558

candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

B. Analysis

The 1988 coordinated expenditure limit set for the national committee and the state party committee in Wyoming was \$46,100.00 each, for expenditures made in the general election, or a combined total of \$92,200.00. FEC Record, Vol. 14, No. 3, March 1988. Reports filed with the FEC disclose that the Wyoming State Democratic Central Committee ("Wyoming Democrats") spent \$21,255.80 and the Democratic Senatorial Campaign Committee ("DSCC") spent \$88,631.41 in coordinated expenditures on behalf of Vinich for a total of \$109,887.21. Accordingly, there was an excess of \$17,687.21 in coordinated expenditures.

On August 10, 1988, the Wyoming Democrats and the DSCC entered into an agreement, signed by representatives of both parties, whereby the Wyoming Democrats designated the DSCC as the agent of the Wyoming Democratic Party for the purpose of making coordinated expenditures pursuant to 2 U.S.C. § 441a(d). The agreement gave the DSCC authority to spend the entire \$46,100.00 allocated to the Wyoming Democrats for coordinated expenditures on behalf of Senate candidates in Wyoming. The agreement provides that if at any time the Wyoming Democrats wish to make any 2 U.S.C. § 441a(d) expenditures on behalf of any Senate candidate, they must give written notice to the DSCC that they want to reassume portions of their expenditure authority delegated to the DSCC. The agreement states the Wyoming

91040323559

Democrats may do this only if the DSCC has not already made, or planned in coordination with the candidate to make, such expenditures itself.

The Wyoming Democrats have already made a \$5,000.00 general election contribution to Vinich, so none of their expenditures can be allocated as in-kind contributions.

Therefore, there is reason to believe the Wyoming State Democratic Central Committee, and Joseph Lyman, as treasurer, made excessive coordinated party expenditures in violation of 2 U.S.C. § 441a(f).

91040323560

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)  
)  
) MUR 2994  
)

**INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

TO: Joseph Lyman, Treasurer  
Wyoming State Democratic Central Committee  
P.O. Box 1964  
Casper, Wyoming 82601

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within fifteen (15) days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

21040323561

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from August 1, 1988 through the end of December 1988.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

91040323562

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

91040323563

**INTERROGATORIES AND REQUEST  
FOR PRODUCTION OF DOCUMENTS**

The 1988 coordinated expenditure limit set for Wyoming Senate candidates was \$46,100.00 each for the national party committee and the state party committee for a combined coordinated expenditure limit of \$92,200.00. According to reports filed with the Federal Election Commission, excessive coordinated expenditures were made on behalf of John Vinich, candidate for the U.S. Senate. The following information is requested concerning the coordinated expenditures made by you:

1. You are requested to submit documentation for all contributions and expenditures made by the Wyoming State Democratic Central Committee on behalf of John Vinich, candidate for the U.S. Senate in 1988, including, but not limited to, cancelled checks, bills, and receipts.
2. Identify any exempt activities by the Wyoming State Democratic Central Committee for the 1988 general election cycle. Include the nature of the exempt activity, the amount spent, and the date of the exempt activity.
3. Submit all documentation concerning the agency agreement between the Wyoming State Democratic Central Committee and the Democratic Senatorial Campaign Committee, dated August 4, 1988, including, but not limited to:
  - a) Correspondence between the Wyoming State Democratic Central Committee and the Democratic Senatorial Campaign Committee leading up to the agreement dated August 4, 1988.
  - b) Memoranda and/or notes concerning the agency agreement.
4. According to paragraph three (3.) of the agency agreement dated August 4, 1988, the Wyoming State Democratic Central Committee agreed that it must notify the Democratic Senatorial Campaign Committee by written notice if it wished to make coordinated expenditures. State whether the Wyoming State Democratic Central Committee ever provided the DSCC with written notice that it wanted to make coordinated expenditures on behalf of Vinich? If yes, submit copies of such written notice.

21040323564

5. Indicate whether anyone from the Wyoming State Democratic Central Committee contacted the Democratic Senatorial Campaign Committee, either verbally or by written notice, before making expenditures on behalf of Vinich. If yes, identify the person(s) contacted at the Democratic Senatorial Campaign Committee, the person initiating the intercourse, the date, and the details of the communication. Submit copies of any written notice and/or memoranda concerning any telephone calls or other verbal communication.

21040323565

06C 4705  
2994  
Campbell

# WYOMING DEMOCRATIC PARTY

P.O. Box 1964  
826 East "A" Street  
Casper, Wyoming 82602  
(307) 234-8862

Charles E. Graves, Chair  
408 West 23rd Street  
Suite One  
Cheyenne, Wyoming 82001  
(307) 638-8885

FEDERAL EXPRESS

November 29, 1989

Danny L. McDonald  
Chairman of the  
Federal Election  
Commission  
Washington, D.C. 20463

89 NOV 30 PM 12:24

RECEIVED  
FEDERAL ELECTION COMMISSION

Dear Mr. McDonald:

9  
5  
5  
5  
2  
5  
0  
4  
0  
1  
2

On behalf of the Wyoming Democratic State Central Committee and the Wyoming Democratic Party, I respectfully request an extension of 20 days within which to respond to the your Notice of October 31, 1989, that the Federal Election Commission has found that there is reason to believe that the Wyoming State Central Committee and it's treasurer violated 2 U.S.C. s 441A (f).

The Notice did not arrive at the office of the party in Cheyenne, Wyoming, until November 17, 1989. At that time, I was at a National Meeting of Democratic State Chairs in Puerto Rico and did not return to Wyoming until November 22, 1989, at that time, I attempted to contact counsel for the Democratic National Committee but everyone was gone due to the Thanksgiving weekend. On November 27th I was in contact with Christine Varney, General Counsel for the DNC and forwarded to her the materials that had been sent.

In the meantime, we have been locally seeking information to comply with the Request for Interrogatories and Production of Documents which you forwarded to us but, due to a change of administration in the Wyoming Democratic State Central Committee and a recent move of the office from Casper to Cheyenne and the recent appointment of local party attorney, we are having difficulties meeting the deadline for response of 15 days from the date of receipt, which expires December 4, 1989.

As an additional basis for the extension, all of the individuals who are involved in the decision making process during the campaign are no longer with the Party in any capacity and the records must be researched in depth to attempt to comply with the discovery request.

We are proceeding as rapidly as possible with these matters,

working with a situation where the party has two part time employees and little experience with the specifics of the issue.

I do hope that the Commission will grant the extension.

Very truly yours,

*Charles E. Graves*  
Charles E. Graves  
State Chairman

CEG:jc  
cc: Bill Cross, Democratic National Committee

91040323567

DGC 4754

# WYOMING DEMOCRATIC PARTY

P.O. Box 2036  
Cheyenne WY 82003  
(307) 637-8940

MAR 29 1994

Charles E. Graves, Chair  
408 West 23rd Street  
Suite One  
Cheyenne, Wyoming 82001  
(307) 638-8885

November 29, 1989

Danny L. McDonald  
Chairman  
Federal Election Commission  
Washington D.C. 20463

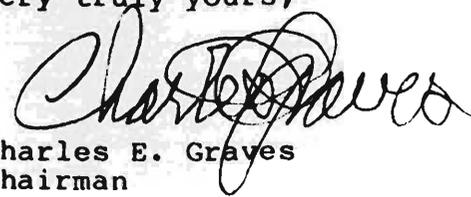
Attn: Elizabeth Campbell

Dear Ms. Campbell

The Wyoming Democratic State Central Committee received the letter finding there is reason to believe that the Wyoming Democratic Central Committee violated 2 U.S.C. §441a(f), on November 17, 1989. We will respond within the period of fifteen days after receipt of the letter unless an extension is requested and granted.

It is my understanding that my office has communicated with you by telephone with regard to this matter, but I just wish to verify by mail.

Very truly yours,



Charles E. Graves  
Chairman

CEG/lt

89 DEC -4 PM 12:44

RECEIVED  
FEDERAL ELECTION COMMISSION

8  
6  
5  
3  
2  
3  
0  
4  
0  
3  
1  
0

06 C443

# WYOMING DEMOCRATIC PARTY

P.O. Box 2036  
419 Randall Ave.  
Cheyenne, WY 82003  
(307) 637-8940

Charles E. Graves, Chair  
408 West 23rd Street  
Suite One  
Cheyenne, Wyoming 82001  
(307) 638-8885

November 27, 1989

Elizabeth Campbell  
Federal Elections Commission  
999 'E' Street, N.W.  
Washington, D.C. 20463

Dear Ms. Campbell,

This letter is to confirm our receipt of MJR 2994, Factual and Legal Analysis in regard to questions about campaign spending in the 1988 U.S. Senate race in Wyoming.

Although the letter was originally mailed from your office on October 31, 1989, because it was sent to an old address, we did not receive it at state headquarters until November 17, 1989. Therefore, we will respond with all necessary materials by the 2nd of December, the end of the 15 day dateline upon our receipt of your letter.

Sincerely Yours,



John Thomas  
State Coordinator

RECEIVED  
FEDERAL ELECTIONS COMMISSION  
OFFICE OF THE CLERK  
89 DEC -4 PM 12:37

RECEIVED  
FEDERAL ELECTIONS COMMISSION  
OFFICE OF THE CLERK  
89 DEC -4 AM 9:46

6  
9  
C  
C  
2  
0  
4  
C  
1  
6



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 7, 1989

Mr. Jack Sherman, Treasurer  
Wyoming State Democratic Central Committee  
P.O. Box 2036  
Cheyenne, Wyoming 82003

RE: MUR 2994  
Wyoming State Democratic  
Central Committee, and  
Jack Sherman, as treasurer

Dear Mr. Sherman:

This is in response to the letter from Charles Graves dated November 29, 1989, which we received on November 30th, requesting an extension of twenty (20) days to respond to the Commission's interrogatories and request for production of documents. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 22, 1989.

If you have any questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

cc: Charles Graves

91040323570

06c 4956

# PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF THE CLERK  
99 DEC 22 PM 1:33

December 22, 1989

Elizabeth Campbell  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 2994 - Wyoming State Democratic Central  
Committee, and Joseph Lyman, as Treasurer

Dear Ms. Campbell:

Pursuant to our telephone conversation, this letter is written to request an additional period of time to respond to the Commission's letter of October 31, 1989, and subsequent interrogatories and request for production of documents.

Due to the Wyoming State Party's change of leadership this year and the special Congressional election which demanded a tremendous effort, the Party has been unable to collect the necessary information in order to respond to these communications. Despite the diligent efforts of Mr. Graves, he has not been able to compile the records and factual data required to provide a complete and accurate response to the Commission's inquiries.

The Party, therefore, sought advice of counsel this week in order to adequately address these issues. Please find attached a Statement of Designation of Counsel. We have conducted some preliminary research and believe that certain amounts, which were reported as section 441a(d) expenditures, were spent by the Party with the understanding that they qualified under an exemption from the limits on contributions and expenditures. Therefore, we request an extension of time until January 15, 1990 to respond to the Commission in order to complete the necessary research and provide a thorough and complete response.

Sincerely,



Robert F. Bauer

1432E

21040323571

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 2994

**NAME OF COUNSEL:** Robert F. Bauer, Esq.  
B. Holly Schadler, Esq.  
**ADDRESS:** Berkins COIE  
110 Vermont Avenue N.W.  
Washington, D.C. 20005

**TELEPHONE:** 202-887-9030

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.

12/21/89  
**Date**

**Signature**

**RESPONDENT'S NAME:** Wyoming State Democratic Central Committee  
and Jack Sherman as Treasurer

**ADDRESS:** P.O. Box 2036  
Cheyenne, WY 82003

**RESPONDENT:**  
**HOME PHONE:** 307-637-8940  
**CHAIR:**  
**BUSINESS PHONE:** 307-638-8885

21040323572

OGC 1971

# WYOMING DEMOCRATIC PARTY

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

P.O. Box 2036  
Cheyenne WY 82003  
(307) 637-8940

Charles E. Graves, Chair  
Suite One  
Cheyenne, Wyoming 82001  
(307) 638-8885

89 DEC 26 PM 4: 19

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

FEDERAL EXPRESS

December 21, 1989

Elizabeth Campbell  
Federal Election Commission  
Washington, D.C., 20463

RE: MUR 2994  
Wyoming State Democratic Central Committee  
and Jack Sherman, as treasurer

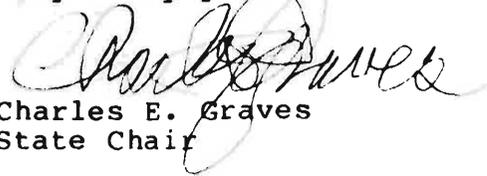
Dear Ms. Campbell:

I enclose a Statement of Designation of Counsel in the above entitled matter.

It is my understanding that Bob Bauer has been in touch with you with regard to a further extension. We hope you will honor his request and are cooperating with him fully.

If further information is necessary, please advise.

Very truly yours,



Charles E. Graves  
State Chair

CEG:jc  
cc : B. Holly Schadler  
Enc.

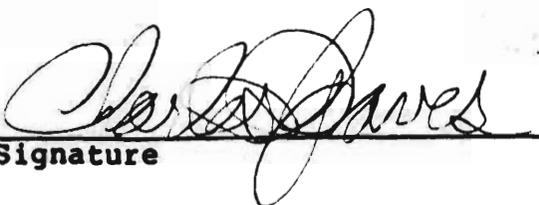
3  
7  
5  
5  
2  
6  
0  
0  
4  
0  
0  
1  
3

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 2994  
**NAME OF COUNSEL:** Robert F. Bauer, Esq.  
B. Holly Schadler, Esq.  
**ADDRESS:** Berkins COIE  
1110 Vermont Avenue N.W.  
Washington, D.C. 20005  
**TELEPHONE:** 202-887-9030

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.

12/21/89  
**Date**

  
**Signature**

**RESPONDENT'S NAME:** Wyoming State Democratic Central Committee  
and Jack Sherman as Treasurer  
**ADDRESS:** P.O. Box 2036  
Cheyenne, WY 82003  
**RESPONDENT:** 307-637-8940  
**HOME PHONE:** 307-638-8885  
**CHAIR:**  
**BUSINESS PHONE:**

21040323574



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 27, 1989

Robert F. Bauer, Esq.  
Perkins Coie  
1110 Vermont Ave., N.W.  
Washington, D.C. 20005

RE: MUR 2994  
Wyoming State Democratic  
Central Committee, and  
Jack Sherman, as treasurer

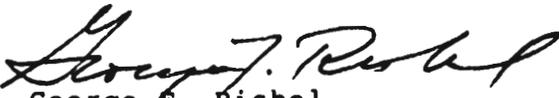
Dear Mr. Bauer:

This is in response to your letter of December 22, 1989, requesting an extension of twenty-four days, in addition to the extension of twenty days previously granted to the Wyoming State Democratic Central Committee, to respond to the Commission's interrogatories and request for production of documents. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on January 15, 1990.

If you have any questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: George F. Rishel  
Assistant General Counsel

21040323575

Ogc 5132

# PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

January 16, 1990

90 JAN 16 PM 5:39

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF LEGAL COUNSEL

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

Attention: Ms. Elizabeth Campbell

Re: MUR 2994, Wyoming State Democratic Central  
Committee, and Joseph Lyman, as Treasurer

Dear Mr. Noble:

Enclosed you will find the Response of the Wyoming State Democratic Central Committee ("Wyoming Committee") and Joseph Lyman, as Treasurer ("Wyoming Respondents") to the Commission's Reason to Believe notification dated October 31, 1989. The Commission has found "reason to believe" that the Wyoming Respondents may have violated 2 U.S.C. § 441a(f) of the Act, in connection with two party mailings endorsing the Senate candidacy of Mr. John Vinich.

The Wyoming Committee's ability to collect necessary and accurate information regarding the Committee's contributions and expenditures during the 1988 United States Senate race has been affected by a change in state party leadership and the special Congressional election which commanded the Committee's attention and resources. The Committee has now completed a thorough review of the factual circumstances surrounding the Commission's finding in this matter.

This Response is divided into two parts: (1) a response to "Interrogatories and Request for Production of Documents"; and (2) a narrative discussing the Wyoming Committee's response in this matter.

### Questions and Requests for Production of Documents

1. Attached please find four cancelled checks which represent contributions to or expenditures made on behalf of John Vinich, candidate for the United States Senate.

91040823576

Check #1263: Contribution to Vinich for Senate Campaign of \$5000.00 (Date: October 20, 1988).

Check # 1266: Payment to Below, Tobe & Associates, Inc. in the amount of \$14,820.00 for two postcard mailings (Date: October 24, 1988).

Check # 1278: Payment to Casper Post Office in the amount of \$5000.00 for postage related to the two postcard mailings (Date: October 31, 1988).

Check # 1290: Payment to Below, Tobe & Associates, Inc. in the amount of \$1,435.80 for phone list production (Date: November 8, 1988).

Three invoices from Below, Tobe & Associates are also attached which request payment for the preparation of the above-mentioned phone lists and postcard mailings.

2. The records do not establish whether the Wyoming Committee conducted any exempt activities during the 1988 general election cycle.

3. Attached is a copy of the August 4, 1988 letter between the Democratic Senatorial Campaign Committee ("DSCC") and the Wyoming Committee in which the Committee delegated its section 441a(d) spending authority to the DSCC for the 1988 United States Senate election. No records of correspondence, memoranda or notes related to this agreement were found in the review of files.

4. The Wyoming Committee did not provide the DSCC with written notice that it sought to reassume authority to make coordinated expenditures on behalf of John Vinich.

#### Narrative Discussion

The Wyoming Committee is a small party committee with scarce resources. It relies almost exclusively on volunteer assistance to oversee and conduct its party activities and efforts on behalf of candidates running for public office. During the 1988 election, the Wyoming Committee had only one full-time staff person who served as Executive Director and secretary for the party. A clerk also assisted with party activities.

The 1988 United States Senate race presented a tremendous challenge for the Wyoming Committee. Despite limited staff and

21540323577

Mr. Lawrence M. Noble  
January 16, 1990  
Page 3

organizational resources, the Committee made a concerted effort to assist its U.S. Senate candidate - John Vinich.

The expenditures by the Wyoming Party listed on its Schedule F were for two postcard mailings on behalf of Mr. Vinich. There was also one smaller expenditure of \$1,435.80 for a telephone list. The postcards were conceived as volunteer campaign materials as provided in 11 C.F.R. § 100.7(b)(15) and § 100.8(b)(16), intended for distribution to state party members. The Committee made the decision to prepare these materials to benefit Mr. Vinich and paid for the production and distribution of these mailings. The list used by the party for the mailing was its standard list. The mailings were effected by direct delivery from the production house to the Casper, Wyoming public post office, and not distributed by a commercial vendor.

The regulations state that expenditures made pursuant to 11 C.F.R. § 100.7(15) should be reported in accordance with 11 C.F.R. § 104.3 and need not be allocated to a specific candidate. 11 C.F.R. § 100.7(15)(v). The amount expended on the preparation and distribution of these mailings was \$19,820. The Commission's analysis states that the Wyoming Committee spent an excess of \$17,687.21 in coordinated expenditures. Therefore, the inclusion of these mailings as section 441a(d) expenditures accounts for the entire amount cited as an excess expenditure.

Sincerely,



Robert F. Bauer  
Counsel  
Wyoming Respondents

Enclosures

1464E

21040323573

**WYOMING STATE  
DEMOCRATIC PARTY**

P. O. BOX 1984 254-0882  
CASPER, WY 82502

1263

88-344/1023

Oct. 20, 88

PAY  
TO THE  
ORDER OF

Vinich

1-822-581  
82412 2147 1787  
211 111111 13  
1-822-581  
82412 2147 1787  
82412 2147 1787  
1-822-581

Five thousand dollars 5000.00 DOLLARS

FIRST  
WYOMING  
BANK - CASPER 257-677-6889  
P.O. BOX 248, CASPER, WYOMING 82502

Jim Reddington

FOR #001263# #102303443# 010 500 7# #000050000#

21040;23579

8842014E100260

1023-8033-6  
PAY ANY BANK, BANKER  
OR TRUST CO. P.E.R.  
OCT 24 88  
FIRST WYOMING BANK  
LANDER, WYOMING  
1023-8033-6

PAY TO THE ORDER OF  
FIRST WYOMING BANK  
Lander, Wyoming  
FOR DEPOSIT ONLY  
JOHN P. VINICH for U. S. SENATE  
50 072 6  
1 7 5 7 4 6 4 8

WYOMING STATE  
DEMOCRATIC PARTY  
P. O. BOX 1884 824-8882  
CASPER, WY 82402

1266

Oct. 24 1988

BP-344/1023

PAY  
TO THE  
ORDER OF

Below, Tobe & Associates

\$ 14,820.00

Fourteen thousand eight hundred twenty and 00/100 DOLLARS  
018203328 08 110198 015100115008

FIRST  
WYOMING  
BANK - CASPER 337-671-6222  
P.O. BOX 2848 CASPER, WYOMING 82402

FOR VINCING MAILING

Kim Reddington

⑆00⑆266⑆+⑆⑆02303443⑆0⑆0 500 7⑆ ⑆000⑆482000⑆

23-19 OT 88 31  
FRB DENVER  
1020-0019-9  
PAY ANY BANK 23-19

21040  
0620  
00168  
1070-0015-2  
OT 88 28  
018203328 110198

⑆42006⑆167  
⑆885⑆7819

Oct 29 1988

Branch, hwy 78  
23100115008

1578 29436

FOR DEPOSIT ONLY  
BELOW, TOBE & ASSOCIATES, INC.  
518-01-423-8

WYOMING STATE  
DEMOCRATIC PARTY

P. O. BOX 1064 224-2002  
CASPER, WY 82602

1278

Oct. 31, 1988

99-344/1023

PAY  
TO THE  
ORDER OF

Postmaster 9301540 05 110388 01500 5205.80

- Five thousand dollars and <sup>xx</sup>/<sub>100</sub> DOLLARS

FIRST  
WYOMING  
BANK - CASPER 227-571-2229  
P.O. BOX 2242 CASPER, WYOMING 82602

FOR Bulk Armt #292  
(Vinch Mailing)

Kim Reddington

⑆001278⑆ ⑆⑆102303443⑆ 010 500 7⑆ ⑆0000500000⑆



1070-0015-2  
4 019301540 110388  
U.S. Postal Service  
Acct. # 05-2442-5  
57-1558  
DL  
Other



FRANK JONES & ASSOCIATES, INC.  
 1001 MONTGOMERY AVE., SUITE 100  
 BETHESDA, MD 20814

# INVOICE

500 R(1 1/2)

CUSTOMER NO. WY0000

TELEPHONE 301/650-4506

**BILL TO:**

**SHIP TO:**

Wyoming Democratic Party  
 8927 Lowboke Rd.  
 Cheyenne, WY 82009

DATE		SHIP VIA		F.O.B.		TERMS		
12/24/88		POST OFFICE		DC		C. O. D. /ATL		
PURCHASE ORDER NUMBER			ORDER DATE		SALESPERSON		OUR ORDER NUMBER	
MSE			12/23/88		M.J.		8710	
QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT		
REQUIRED	SHIPPED	60						
5	40,000		246	5-1/2 X 8-1/2 3/8 lasered 5/MS	174.00	8700.00		
			110	Freight/delivery costs	400.00	400.00		
			500	Art & design	150.00	150.00		
			5 1/2 X 8 1/2 LABEL "COMPARISON" POSTCARD					
=====								

*Thank You*

Below, Type & Dates, Inc.  
 7601 Norfolk Ave., Suite 102  
 Bethesda, MD 20814

# INVOICE

3300R(1)

CUSTOMER NO. WY0000

Telephone 301/656-4966

BILL TO:

SHIP TO:

Wyoming Democratic Party  
 8907 Cowpoke Rd.  
 Cheyenne, WY 82009

DATE		SHIP VIA		F.O.B.		TERMS	
10/24/88		POST OFFICE		DC		C. O. D. / RT.	
PURCHASE ORDER NUMBER			ORDER DATE		SALESPERSON		OUR ORDER NUM
CE			10/21/88		MD		6725
REQUIRED	QUANTITY		ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT	
	SHIPPED	BO					
	40.000		046	5-1/2 X 8-1/2 2/3 Lasered 5/12	174.00	696	
	1		112	Freight/delivery costs	400.00	40	
	1.000		500	Art & design	150.00	15	
5 1/2 X 8 1/2 LASER "OSTRICH" POSTCARDS =====							
						TOTAL	750
						TOTAL	750

21040323534

*Thank You*

# INVOICE

5832

Below, Tobe & Associates, Inc.  
7801 Norfolk Ave., Suite 102  
Bethesda, MD 20814

CUSTOMER NO. WYODEM

Telephone 301/656-4966

BILL TO:

SHIP TO:

Wyoming Democratic Party  
8907 Cowpoke Rd.  
Cheyenne, WY 82009

DATE		SHIP VIA		F.O.B.	TERMS	
10/15/88		Federal Expr		BTA-LA	C. O. D. /TRADE	
PURCHASE ORDER NUMBER			ORDER DATE	SALESPERSON		OUR ORDER NUMBER
MD			10/12/88	MD		G650
QUANTITY			ITEM NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
REQUIRED	SHIPPED	B.O.				
31040335	61.551		023	Phone list	8.31	511.49
	61.551		024	2nd/add'l copy of phone lists	5.07	312.06
	1.000		072	Sort and/or ID encoding	106.25	106.25
	1		110	Freight/delivery costs	256.00	256.00
	1.000		500	Translate Precincts	250.00	250.00
				VINICH FOR SENATE PHONELISTS =====		
					NonTaxable Subtotal	1435.80
					Taxable Subtotal	.00
					Tax	.00
					Total	1435.80

*Thank You*



**Democratic Senatorial Campaign Committee**  
 430 South Capitol Street, S.E., Washington, D.C. 20003 • (202) 224-2447

August 4, 1988

**Chairman**

John Kerry, MA

**Co-Chairman**

Alan Cranston, CA

**Regional Chairmen**

John Brown, LA

Thomas A. Daschle, SD

**Ex Officio**

Robert C. Byrd, WV

Daniel K. Inouye, HI

**Full Committee**

Max Baucus, MT

Lloyd Bentsen, TX

Bill Bradley, NJ

Lawton Chiles, FL

Christopher J. Dodd, CT

Wyche Fowler, GA

Albert Gore, Jr., TN

John Graham, FL

J. Bennett Johnston, LA

Frank Lautenberg, NJ

Carl Levin, MI

Barbara Mikulski, MD

John D. Rockefeller IV, WV

Terry Sanford, NC

James Sasser, TN

Paul Simon, IL

**National Finance Council**

Jerome C. Bellin

Chairman

Wesley E. Fitch

National Coordinating Chairman

Steven D. Wilson

Vice Chairman

Lynn A. Schenk

G. Wayne Smith

**Staff**

Robert A. Chlopak

Executive Director

Faye S. Goshier

Political Director

Neal Gould

Finance Director

Robert F. Beyer

General Counsel

Ms. Muffy Moore

Chairman

Wyoming Democratic Party

8907 Cowpoke Road

Cheyenne, WY 82009

Re: Proposed Agreement with respect to 2  
 U.S.C. 441a(d) Spending Authority in the  
 1988 United States Senate Election in  
 Wyoming.

Dear Ms. Moore,

This letter sets forth in full the proposed agreement between the Democratic Senatorial Campaign Committee (DSCC) and the Wyoming Democratic Party concerning 441a(d) spending authority in connection with the Wyoming 1988 United States Senate election.

Please review this agreement and, if it is acceptable, initial your agreement on behalf of the Wyoming party.

1. The Wyoming Democratic Party hereby designates the DSCC as the agent of the Wyoming Democratic Party for the exclusive purpose of making expenditures pursuant to 2 U.S.C. 441a(d) on behalf of the Democratic nominee in the 1988 United States Senate general election in Wyoming up to the full amount allowed by law. The DSCC hereby accepts such agency.

2. In exercising its authority pursuant to this agreement, the DSCC will comply with the applicable dollar limitation of \$46,100, reporting the other requirements of the Federal Election Campaign Act, as amended, and the regulation promulgated thereunder.

3. Notwithstanding Paragraph 1, in the event that the Wyoming Democratic Party wishes to make any 441a(d) expenditures on behalf of its United States Senate nominee in the general election, the Wyoming Democratic Party may, by written notice to the DSCC, reassume portions of the

Ms. Muffy Moore  
August 4, 1988  
Page 2

authority delegated to the DSCC under this agreement,  
to the extent that the DSCC shall not then have made,  
or planned in coordination with any candidate to  
make, such expenditures itself.

Very truly yours,

*Robert A. Chlopak*  
Robert A. Chlopak  
Executive Director

Agreed by WYOMING DEMOCRATIC PARTY:

By: *Muffy Moore*  
Title: *Chairman*  
Date: *8-10-88*

cc: Robert F. Bauer

91040323587

90 FEB 27 AM 10:21

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of	)	
	)	MUR 2994
Wyoming State Democratic Central	)	
Committee, and John D. Sherman,	)	
as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD"). On October 24, 1989, the Commission found reason to believe that the Wyoming State Democratic Central Committee and its treasurer<sup>1</sup>, violated 2 U.S.C. § 441a(f) by making excessive coordinated party expenditures on behalf of John Vinich, a 1988 candidate for the U.S. Senate from Wyoming.

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), sets limitations on expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election. 2 U.S.C. § 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the percentage of increase in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R.

1. The treasurer at the time the events in this matter took place was Kim Reddington AKA Kim Bader. The treasurer at the time the Commission found reason to believe was Joseph Lyman, and he was named along with the Wyoming Committee as respondents. After the reason to believe finding, the Commission was notified of a change in treasurer. The new treasurer is John D. Sherman; therefore, his name has been substituted in this report.

21040323588

§ 110.9(c). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of \$5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The Act further provides that no political committee, or officer or employee of a political committee, shall knowingly make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

2 1 0 4 0 3 2 3 5 8 9  
Certain payments made by a state political party committee in connection with volunteer activities are exempt from the definitions of "contribution" and "expenditure." See 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii); 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). A state political party committee may pay for the costs of campaign materials used by the committee in connection with volunteer activities on behalf of nominees of such party, provided that:

- (1) such payment is not for cost incurred in connection with any "direct mail" or similar type of general public communication or political advertising;<sup>2</sup>
- (2) such payments are made from contributions subject to the limitations and prohibitions of the Act; and
- (3) such payments are not made from contributions

---

2. The term "direct mail" as used here means any mailings by a commercial vendor or any mailings made from "commercial lists." 11 C.F.R. §§ 100.7(b)(15)(i) and 100.8(b)(16)(i). The term "commercial lists" refers to lists that were not developed by the state or local party committee, and not obtained by the committee from a public office, e.g., a list of registered voters obtained from a state office. Explanation & Justification for 11 C.F.R. § 100.7(b)(15).

designated for a particular candidate. 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii).

Commission regulations require that campaign materials paid for by state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 C.F.R. §§ 100.7(b)(15)(iv) and 100.8(b)(16)(iv). If all of the above conditions are met, such payments must be reported by the state political party committee as disbursements but need not be allocated to specific candidates in committee reports. 11 C.F.R. §§ 100.7(b)(15)(v) and 100.8(b)(16)(v). Campaign materials purchased with funds donated by the national committee to the state committee do not qualify for this exemption. 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii).

The 1988 coordinated expenditure limit set for the national committee and the state party committee in Wyoming was \$46,100.00 each, for expenditures made in the general election, or a combined total of \$92,200.00. FEC Record, Vol. 14, No. 3, March 1988. Reports filed with the FEC disclose that the Wyoming State Democratic Central Committee ("Wyoming Committee" or "Committee") spent \$21,255.80 and the Democratic Senatorial Campaign Committee ("DSCC") spent \$88,631.41 in coordinated expenditures on behalf of Vinich for a total of \$109,887.21<sup>3</sup>. Accordingly, there was an

3. The DSCC made contributions to Vinich's Senate campaign totaling \$16,795.00. See 2 U.S.C. § 441a(h) (the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may make contributions of not more than a combined total of \$17,500 to a candidate for nomination or election to the Senate). The Wyoming Committee made a general election contribution of \$5,000.00 to Vinich. See

21040823590

excess of \$17,687.21 in coordinated expenditures.

On August 10, 1988, the Wyoming Committee and the DSCC entered into an agency agreement, signed by representatives of both parties, whereby the Wyoming Committee granted authority to the DSCC to spend its share of coordinated expenditures pursuant to 2 U.S.C. § 441a(d).<sup>4</sup> The agreement authorized the DSCC to spend the entire \$46,100.00 allocated to the Wyoming Committee for coordinated expenditures on behalf of Senate candidates in Wyoming. The agreement provided that the Wyoming Committee may reassume authority to make expenditures under 2 U.S.C. § 441a(d) on behalf of any Senate candidate, by giving written notice to the DSCC. The agreement further stated that the Wyoming Committee may do this only if the DSCC has not already made, or planned in coordination with the candidate to make, such expenditures itself.

After finding reason to believe that the Wyoming Committee and its treasurer violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures, the Commission sent out interrogatories and request for production of documents addressed primarily to the issues of whether the Wyoming Committee had given notice to the DSCC that it wanted to reassume authority to make 2 U.S.C. § 441a(d) expenditures on behalf of Vinich, and whether any of

---

(Footnote 3 continued from previous page)  
2 U.S.C. § 441a(a)(2)(A).

4. The Court held that 2 U.S.C. § 441a(d)(3) does not foreclose the use of agency agreements among national, state, and local committees of the same party, for the purpose of making coordinated expenditures. FEC v. DSCC, 454 U.S. 27 (1981).

21040323521

91040323522

the expenditures made by the Committee on behalf of Vinich were for exempt party activity. On January 16, 1990, the Office of the General Counsel received the Wyoming Committee's response to the Commission's interrogatories and request for production of documents.<sup>5</sup> The Wyoming Committee acknowledges that it made three payments, totaling \$21,255.80, on behalf of Vinich. The Committee made one payment of \$14,820.00 on October 24, 1988, to Below, Tobe & Associates, for two postcard mailings endorsing John Vinich for Senate, and a payment of \$5,000.00 on October 31, 1988, for postage of the two postcard mailings. The total cost for the two postcard mailings was \$19,820.00. The third payment was on November 8, 1988, in the amount of \$1,435.80 for the production of a phone list.

The Committee asserts that the payments for the two postcard mailings, totaling \$19,820.00, qualify as campaign materials in connection with volunteer activities exempt from the definition of a contribution or expenditure under 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). The Wyoming Committee did not assert that the payment of \$1,435.80 for a phone list is exempt, so it appears that the Committee admits this is a coordinated expenditure. However, if the \$19,820.00 in costs for the two postcard mailings can be considered exempt under 11 C.F.R. §§ 100.7(b)(15) and

---

5. The Wyoming Committee was granted extensions of time to respond to the Commission's interrogatories because the Committee's ability to collect accurate information regarding the Committee's contributions and expenditures during the 1988 Senate race was affected by a change in state party leadership and the special Congressional election which commanded the Committee's attention and resources.

100.8(b)(16), that accounts for the entire amount cited by the Commission as excessive coordinated expenditures, and the \$1,435.80 expenditure for phone lists falls within the Act's limit for coordinated expenditures in Wyoming.

Based on the information provided by the Wyoming Committee, it is not clear whether the payments for the postcard mailings satisfy the conditions for exempt volunteer activity. See 2 U.S.C. §§ 100.7(b)(15) and 100.8(b)(16). The Wyoming Committee stated that the list used for the two postcard mailings was its "standard list," and that the postcards were not distributed by a commercial vendor. But the Committee did not explain how the standard list was created, nor did it explain how volunteers were used in connection with the postcard mailings. According to counsel for the respondents, the postcards went directly from the production house to the post office for mailing, so it is not evident that volunteers had any part at all in effectuating the two postcard mailings endorsing Vinich for Senate. Further questioning is necessary in order to ascertain whether the list was created by the Wyoming Committee or by a commercial vendor, and also to determine the role played by volunteers in the two postcard mailings.

In addition, it appears that the Wyoming Committee may have used funds from the national committees to make the payments on behalf of Vinich. See 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii). In 1988, the Wyoming Committee received more than \$90,000.00 from the the Democratic Senatorial Campaign Committee ("DSCC"), the Democratic National Committee("DNC"), the

91040323593

Association of State Democratic Chairs/Dollars for Democrats ("ASDC/Dollars"), and the Association of State Democratic Chairs Victory Fund ("ASDC Victory Fund")<sup>6</sup>. A breakdown of the funds received by the Wyoming Committee from the national committees is as follows:

<u>Source</u>	<u>Date</u>	<u>Amount</u>
ASDC/Dollars	2-3-88	\$3,500.00
ASDC/Dollars	3-30-88	9,083.08
ASDC Victory Fund	1-14-88	686.00
ASDC Victory Fund	3-15-88	1,148.02
ASDC/Dollars	6-6-88	3,600.00
ASDC Victory Fund	6-6-88	927.34
ASDC/Dollars	8-8-88	4,800.00
ASDC/Dollars	9-13-88	2,442.00
ASDC Victory Fund	9-15-88	987.88
DNC	10-12-88	635.00
DNC	10-18-88	3,000.00
ASDC	10-26-88	6,400.00
DNC	10-31-88	20,000.00
DNC	11-3-88	14,000.00
DSCC	11-2-88	20,000.00

---

TOTAL \$ 91,209.32

The two payments for the postcard mailings were made during the post-general election reporting period, on October 24, 1989 (\$14,820.00) and on October 31, 1988 (\$5,000.00). A review of the Wyoming Committee's disclosure reports shows that the Committee began the post-general reporting period<sup>7</sup> with

7. The dates covered by this report are October 20, through November 28, 1988.

91040323594

\$10,180.07 cash on hand. During that reporting period the Committee received a total of \$60,400.00 from party committees, and a total of \$21,641.68 in receipts from sources other than party committees.

As a result of the large amount of funds the Wyoming Committee received from the national committees, it is not clear whether the Wyoming Committee used those funds to make the payments of \$14,820.00 and \$5,000.00 on behalf of Vinich for the postcard mailings. Because the use of national party funds is important to the consideration of whether the volunteer exemption is applicable in the circumstances of this matter, this Office requests the assistance of the Audit Division in determining whether such a conclusion is founded in a reasonable accounting method. Precedent for the assistance of the Audit Division during the investigation of an enforcement matter is found in MUR and MUR 2461, where the Commission determined that an analysis of a committee's records was necessary to ascertain whether national party funds were used in connection with alleged volunteer activity.

MUR 2461 - General Counsel's Report, signed September 2, 1988.

Accordingly, this Office recommends that the Commission approve the attached letter and interrogatories and authorize the Audit Division to perform an analysis of the financial activity of the Wyoming Committee for the period of January 1, 1988, through November 8, 1988.

91040323595

**III. RECOMMENDATIONS**

1. Approve the attached letter and interrogatories.
2. Authorize the Audit Division to perform an analysis of the financial activity of the Wyoming State Democratic Central Committee for the period of January 1, 1988, through November 9, 1988 to determine whether national party funds were used in connection with the alleged volunteer mailing activity at issue in this matter.

Lawrence M. Noble  
General Counsel

Date 2/26/90

BY:   
Lois G. Lerner  
Associate General Counsel

**Attachments:**

1. Response from Committee
2. Letter
3. Interrogatories

Staff person: Elizabeth Campbell

91040323596

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) MUR 2994  
Committee, and John D. Sherman, )  
as treasurer )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 1, 1990, the Commission decided by a vote of 6-0 to take the following actions in MUR 2994:

1. Approve the letter and interrogatories, as recommended in the General Counsel's report dated February 26, 1990.
2. Authorize the Audit Division to perform an analysis of the financial activity of the Wyoming State Democratic Central Committee for the period January 1, 1988, through November 9, 1988 to determine whether national party funds were used in connection with the alleged volunteer mailing activity at issue in this matter, as recommended in the General Counsel's report dated February 26, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

2-1-90

Date

Marjorie W. Emmons

Marjorie W. Emmons  
Secretary of the Commission

Received in the Commission: Tuesday, Feb. 27, 1990 10:21 p.m.  
Circulated to the Commission: Tuesday, Feb. 27, 1990 4:00 p.m.  
Deadline for vote: Thursday, March 1, 1990 4:00 p.m.

91040323597



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 5, 1990

Robert F. Bauer, Esquire  
Perkins Coie  
1110 Vermont Ave., N.W.  
Washington, D.C. 20008

RE: MUR 2994  
Wyoming State Democratic  
Central Committee and John D.  
Sherman, as treasurer

Dear Mr. Bauer:

On October 31, 1989, your clients, the Wyoming State Democratic Central Committee and its treasurer<sup>1</sup>, were notified that the Federal Election Commission had found reason to believe your clients violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission is requesting that you provide answers to the enclosed interrogatories, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code. Please submit all answers to questions under oath within fifteen (15) days of your receipt of this request.

If you have any questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure - Interrogatories

1. The treasurer at the time the Commission found reason to believe was Joseph Lyman, and he was named along with the Wyoming Committee as respondents. After the reason to believe finding, the Commission was notified of a change in treasurer. The new treasurer is John D. Sherman; therefore, his name has been substituted for Joseph Lyman's in this matter.

21040323528

# PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

March 23, 1990

Ms. Elizabeth Campbell  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 2994, Wyoming State Democratic Central  
Committee, and John D. Sherman, as Treasurer

Dear Ms. Campbell:

Pursuant to our telephone call, the Wyoming Committee will be submitting its response to the Commission's March 5, 1990, Interrogatories and Request for Production of Documents, on March 30. Because of my client's travel schedule, we have been unable to schedule a time to finalize the response. Therefore, we will be sending the response by Friday, March 30.

Sincerely,

  
B. Holly Schadler

1655E

91040323599

OGC 5801

# PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

March 29, 1990

Ms. Elizabeth Campbell  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

90 MAR 29 PM 4:06

RECEIVED  
FEDERAL ELECTION COMMISSION

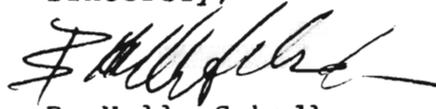
Re: MUR 2994, Wyoming State Democratic Central  
Committee, and John D. Sherman, as Treasurer

Dear Ms. Campbell:

This letter is to confirm our telephone call regarding an extension of time for the Wyoming Committee to submit its response to the Commission's March 5, 1990, Interrogatories and Request for Production of Documents.

As I stated, the Wyoming Committee is currently in the process of retaining alternative counsel in this matter and, as a consequence, will not have its response prepared by tomorrow. Therefore, I am requesting, on behalf of the Committee, an extension of time until Friday, April 13 to submit this response.

Sincerely,



B. Holly Schadler

1655E

21040323500



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 30, 1990

B. Holly Schadler, Esquire  
Perkins Coie  
1110 Vermont Avenue, N.W.  
Washington, D.C. 20008

RE: MUR 2994  
Wyoming State Democratic  
Central Committee and John  
D. Sherman, as treasurer

Dear Ms. Schadler:

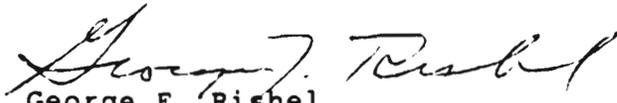
This is in response to your letter dated March 29, 1990, requesting an extension of two weeks, until April 13, 1990 to respond to the Commission's interrogatories and request for production of documents. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your client's response is due by the close of business on April 13, 1990.

Enclosed is a designation of counsel form. Please inform your client that a designation of counsel form must be filled out and sent to the Commission as soon as they have obtained new counsel.

If you have any questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

  
BY: George F. Rishel  
Assistant General Counsel

Enclosure  
Designation of Counsel form

91040323601

OGC 5927

LAW OFFICES  
**SONOSKY, CHAMBERS & SACHSE**

SUITE 1000

1850 EYE STREET, N.W.

WASHINGTON, D.C. 20005

(202) 682-0240

TELECOPIER (202) 682-0240

MARVIN J. SONOSKY  
HARRY R. SACHSE  
REID PEYTON CHAMBERS  
WILLIAM R. PERRY  
LLOYD BENTON MILLER  
DONALD J. SIMON  
DOUGLAS B. L. ENDRESON\*  
MARY V. BARNEY  
ANNE D. NOTO  
SAMUEL L. WINDER\*\*

\*ADMITTED IN WISCONSIN  
\*\*ADMITTED IN NEW MEXICO

ANCHORAGE OFFICE  
SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 258-6377  
TELECOPIER (907) 272-8332

LLOYD BENTON MILLER  
JILL A. DE LA HUNT  
OF COUNSEL  
ROGER W. DUBROCK

April 13, 1990

HAND DELIVERED

Elizabeth Campbell, Esquire  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 2994

Dear Ms. Campbell:

I am enclosing the Responses of the Wyoming Democratic Party to the Commission's second set of interrogatories in the above-captioned MUR. Because of the logistics of finalizing these responses, I am enclosing a copy of the signature page signed by Charles E. Graves, the Chairman of the Wyoming Party, and sent by fax to me this morning. Mr. Graves is forwarding the original of the signature page to me by Federal Express, and I will transmit it to you on Monday for substitution with this filing. I trust this procedure is acceptable to you.

I am also enclosing a Statement of Designation of Counsel in this matter, entering my appearance on behalf of the Wyoming Party.

Sincerely,

  
Donald J. Simon

DJS/cmt  
Enclosures  
Copy to:  
Charles E. Graves, Chairman

90 APR 13 PM 4:08

FEDERAL ELECTION COMMISSION

21040323502

BEFORE THE FEDERAL ELECTION COMMISSION

In re: MUR 2994 )  
                          )  
                          )

RESPONSES OF WYOMING DEMOCRATIC PARTY  
TO SECOND SET OF INTERROGATORIES

The Wyoming Democratic Party hereby makes the following responses to the Interrogatories of the Federal Election Commission set forth in its request of March 5, 1990:

As a preface to these interrogatory responses, the Wyoming Committee makes the following general observations. The expenditures at issue in this investigation were principally for two postcard mailings made on behalf of the 1988 Vinich Senate campaign. As set forth in the responses below, the mailings were made to a list created substantially by the volunteer efforts of the Wyoming Committee. As further set forth below, reasonable accounting methods demonstrate that sufficient funds raised by the Wyoming Committee were available at the time the mailing was made to meet the standards for exempt volunteer activity. See 11 C.F.R. 110.8(b)(16)(vii).

Due to the small size of the Wyoming Committee, the limitations on its resources, and the largely volunteer nature of its activities, it is difficult to reconstruct the exact events of the closing days of a closely contested Senate campaign. It was, however, always the firm intention of the Wyoming Committee to

21040323503

comply with the federal election laws to its best understanding of the limitations and requirements of the law.

Interrogatory 1: Identify how the Wyoming Committee's "standard list," used for two postcard mailings on behalf of John Vinich's 1988 Senate campaign, was created. Identify who put the list together and where the names on the list were obtained from.

Response: The list was created by the Wyoming Committee after Muffy Moore, the former chairman of the Committee, serving in a volunteer capacity, acquired the state voter list from the Secretary of State. Ms. Moore also acquired the state driver license list. These two lists were sent to a vendor, Below Tobe, for computer processing and matching with a telephone list. The resulting list was reviewed and verified through extensive efforts on the part of volunteers for the Wyoming Committee, who verified, corrected and inserted telephone numbers, and who also listed county names for the residences.

Interrogatory 2: Describe how the two postcard mailings on behalf of Vinich were prepared. Provide copies of the two mailings. Identify the specific tasks performed by volunteers in connection with the two postcard mailings.

Response: The two postcard mailings were developed on behalf of Vinich through the paid and volunteer efforts of individuals working with both the Wyoming Committee and the Vinich campaign. The Committee currently has no specific information about the tasks performed by volunteers in connection with the two mailings.

Copies of the two postcard mailings are attached.

21040823604

Interrogatory 3: On November 8, 1988, the Wyoming Committee made an expenditure of \$1,435.80 on behalf of Vinich for a telephone list. Explain why this list was created and identify how this list was used in connection with the two postcard mailings on behalf of Vinich.

Response: To the best knowledge of the Wyoming Committee, the expenditure for a telephone list was used for volunteer phone banks conducting "get out the vote" efforts and precinct targeting on behalf of all Democratic candidates, including the Vinich campaign. The Committee, to its best knowledge, does not believe the list was used specifically in connection with the two postcard mailings.

Interrogatory 4: Identify the source of the funds used by the Wyoming Committee to make \$21,255.80 in expenditures on behalf of John Vinich. Demonstrate whether any of the funds for these expenditures came from the Democratic Senatorial Campaign Committee, the Democratic National Committee, or the Association of State Democratic Chairs.

Response: The funds used by the Wyoming Democratic Party to make the \$21,255.80 in expenditures came from the general funds of the Wyoming Committee desposited in the Committee's federal account. These funds included contributions by individuals and political action committees, donations from the Dollars for Democrats program of the Association of State Democratic Chairs, contributions from traditional party fundraising activities such as the Nellie Tayloe Ross and Jefferson-Jackson Day Banquets, and transfers from the Democratic Senatorial Campaign Committee and the Democratic National Committee, all as reported on the Wyoming Committee's public disclosure reports filed with the FEC.

21040323605

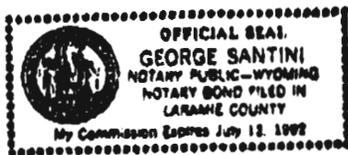
21040323606

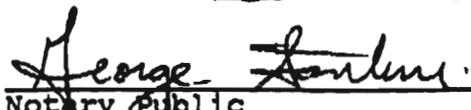
The Committee's FEC reports demonstrate that the Committee had almost \$30,000 in contributions from individuals and non-party political committees during the period in which the questioned expenditures were made. This figure is derived by taking the cash-on-hand on the Committee's pre-general election report (\$10,180.07), less transfers from national party committees (\$3,635.00) for a net of \$6,545.07 in funds from sources other than national party committees at the beginning of the election period. This is compared with total receipts of \$82,041.68 from the Committee's post-election report, less transfers of \$60,400.00 from affiliated national party committees, for a net of \$21,641.68 in funds raised during the election period from sources other than national party committees. The total of the net funds at the beginning of the election period (\$6,545.07) plus the net funds raised during the election period (\$21,641.68) is \$28,186.75. Thus, the Committee had, during the relevant period, sufficient funds from both individual and non-party political committee sources from which to make the three expenditures at issue here.

I declare to the best of my information and belief that the foregoing is true and correct.

  
Charles E. Graves  
Chairman  
Wyoming Democratic Party

Subscribed to and sworn before me this 13 day of April, 1990.



  
Notary Public

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 2994

**NAME OF COUNSEL:** Donald J. Simon, Esquire

**ADDRESS:** Sonosky, Chambers & Sachse

1250 Eye Street, N.W.

Suite 1000

Washington, D.C. 20005

**TELEPHONE:** (202) 682-0240

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.

4/3/90  
Date

*Charles J. DeWas*  
Signature *State Chair*

**RESPONDENT'S NAME:** Wyoming State Democratic Central Committee  
and Jack Sherman as Treasurer

**ADDRESS:** Post Office Box 2036

Cheyenne, Wyoming 82003

**HOME PHONE:** (307) 637-8940 (Respondent)

**BUSINESS PHONE:** (307) 638-8885 (Chair)

91040323607

---

**WYOMING'S  
JOHN VINICH  
for U.S. SENATE**

---



- ***John Vinich*** will make building Wyoming's economy his first priority.
- ***John Vinich*** made sure that Wyoming public works jobs went to Wyoming workers.
- ***John Vinich*** will fight for a national energy policy to help Wyoming's oil and mining industries.
- ***John Vinich*** helped create loan programs to keep our struggling farmers and ranchers in business.

Malcomb Wallop has lost touch with Wyoming...  
John Vinich knows that we need a stronger economy  
and he's willing to fight for it.

---

***VOTE FOR JOHN VINICH FOR U.S. SENATE  
ON TUESDAY, NOVEMBER 8TH.***

---

**WYOMING'S  
JOHN VINICH  
for U.S. SENATE**

---



- ***John Vinich*** will make building Wyoming's economy his first priority.
- ***John Vinich*** made sure that Wyoming public works jobs went to Wyoming workers.
- ***John Vinich*** will fight for a national energy policy to help Wyoming's oil and mining industries.
- ***John Vinich*** helped create loan programs to keep our struggling farmers and ranchers in business.

Malcomb Wallop has lost touch with Wyoming...  
John Vinich knows that we need a stronger economy  
and he's willing to fight for it.

---

***VOTE FOR JOHN VINICH FOR U.S. SENATE  
ON TUESDAY, NOVEMBER 8TH.***

Wyoming Democratic Party  
150 E. B St.  
Casper, WY 82620

9 1 Non-Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

3 2 Wyoming Democratic Party  
150 E. B St.  
Casper, WY 82620

Non-Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

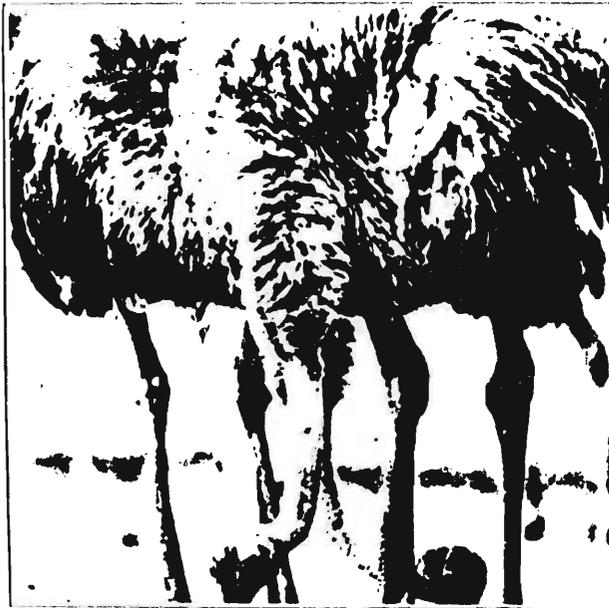
CAR-RT SORT \*\* CR 01

Mrs. Zella E. Rogers  
3409 Bevans  
Cheyenne, Wyoming 82001

CAR-RT SORT \*\* CR 02

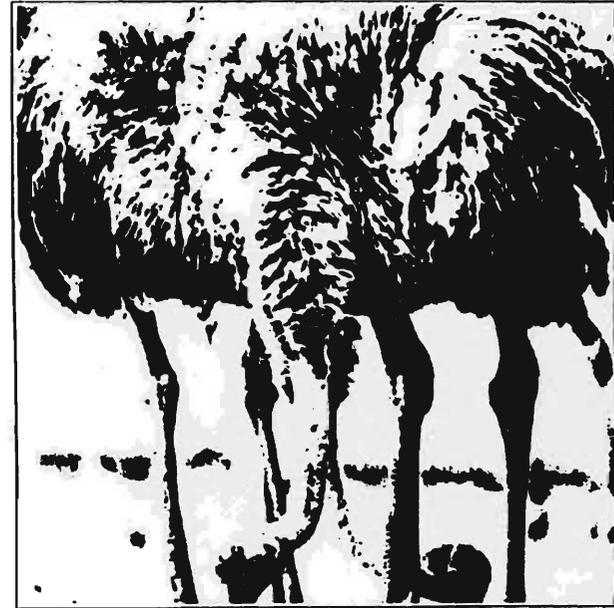
Ms. Cathy White  
714 S. 3rd  
Laramie, Wyoming 82070

Wyoming has lost 30,000 jobs  
and Malcomb Wallop says "the  
economic news is profoundly good."



**WE NEED A SENATOR WHO  
DOESN'T HAVE HIS HEAD  
IN THE SAND.**

Wyoming has lost 30,000 jobs  
and Malcomb Wallop says "the  
economic news is profoundly good."



**WE NEED A SENATOR WHO  
DOESN'T HAVE HIS HEAD  
IN THE SAND.**

Wyoming Democratic Party  
160 E. B St.  
Casper, WY 82620

Non Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

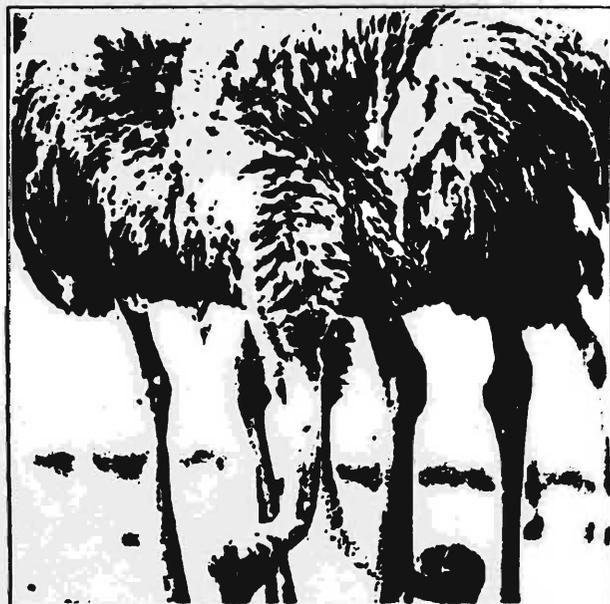
Wyoming Democratic Party  
160 E. B St.  
Casper, WY 82620

Non Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

CAR-RT SORT \*\* CR 01  
Mrs. Zella E. Rogers  
3409 Bevans  
Cheyenne, Wyoming 82001

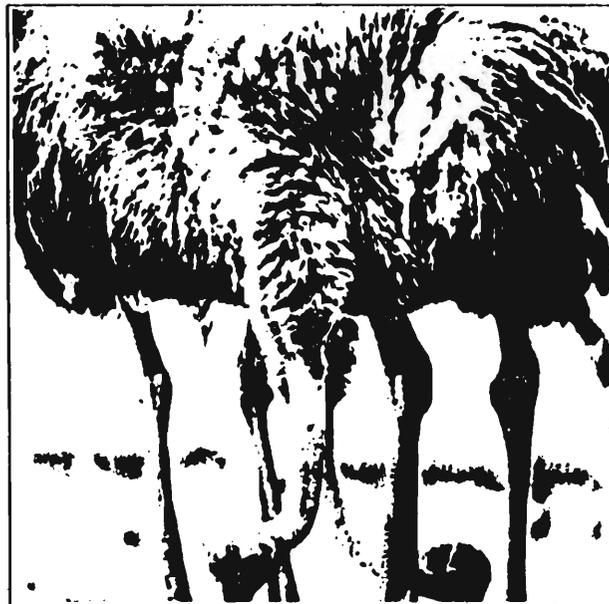
CAR-RT SORT \*\* CR 02  
Ms. Cathy White  
714 S. 3rd  
Laramie, Wyoming 82070

Wyoming has lost 30,000 jobs  
and Malcomb Wallop says "the  
economic news is profoundly good."



WE NEED A SENATOR WHO  
DOESN'T HAVE HIS HEAD  
IN THE SAND.

Wyoming has lost 30,000 jobs  
and Malcomb Wallop says "the  
economic news is profoundly good."



WE NEED A SENATOR WHO  
DOESN'T HAVE HIS HEAD  
IN THE SAND.

0 1 9 5 2 5 0 4

Wyoming Democratic Party  
150 E. B St.  
Casper, WY 82620

Non Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

Wyoming Democratic Party  
150 E. B St.  
Casper, WY 82620

Non Profit Org.  
U.S. Postage  
PAID  
Permit No. 292  
Casper, WY

CAR-RT SORT \*\* CR 01  
Mr. and Mrs. Zimmie B. Houser  
3529 Bevans  
Cheyenne, Wyoming 82001

CAR-RT SORT \*\* CR 02  
Mr. and Mrs. Charles B. Kennell  
715 S. 3rd  
Laramie, Wyoming 82070



**Malcomb Wallop  
is out of touch.**

**John Vinich  
fights for Wyoming.**

**ON JOBS:**

Wallop has lost touch—He says the economic news is profoundly good.

Vinich knows our oil and mining industries are on their backs—and that our next Senator will have to fight to create a national energy policy that helps build Wyoming's economy.

**ON CLEAN WATER:**

Wallop has lost touch again—he was one of only 14 Senators to vote against the Clean Water Act. He has consistently voted against Wyoming's interests.

Vinich supports the clean water act. He believes that we must protect Wyoming's heritage of clean air and water.

**ON SOCIAL SECURITY AND VETERANS' BENEFITS:**

Wallop was never in touch on these issues. Time and time again he has voted to cut Social Security and Veterans' cost-of-living allowances.

**Wallop is out of touch.**

Vinich has a strong record of supporting veterans and the elderly, including passing bills to give state tax refunds to Senior citizens and veterans over 65.

**Vinich fights for Wyoming.**



**Malcomb Wallop  
is out of touch.**

**John Vinich  
fights for Wyoming.**

**ON JOBS:**

Wallop has lost touch—He says the economic news is profoundly good.

Vinich knows our oil and mining industries are on their backs—and that our next Senator will have to fight to create a national energy policy that helps build Wyoming's economy.

**ON CLEAN WATER:**

Wallop has lost touch again—he was one of only 14 Senators to vote against the Clean Water Act. He has consistently voted against Wyoming's interests.

Vinich supports the clean water act. He believes that we must protect Wyoming's heritage of clean air and water.

**ON SOCIAL SECURITY AND VETERANS' BENEFITS:**

Wallop was never in touch on these issues. Time and time again he has voted to cut Social Security and Veterans' cost-of-living allowances.

**Wallop is out of touch.**

Vinich has a strong record of supporting veterans and the elderly, including passing bills to give state tax refunds to Senior citizens and veterans over 65.

**Vinich fights for Wyoming.**

Dear Friend,

Wherever I go in Wyoming, it seems like all our young people are leaving—looking for jobs and hope in places like Los Angeles, or Miami. I want Wyoming families to find jobs in Wyoming.

And that's why I need your support in November.

I don't think Malcomb Wallop even knows what we're going through—he says the economic news is profoundly good. Wyoming has lost 30,000 jobs in the past five years. That is profoundly bad.

We need a Senator who will fight to build Wyoming's economy. I want to forge a new national energy policy that will help Wyoming's oil and mining industries.

It's time we had a Senator who worried more about Wyoming and spent less time traveling in Europe and Asia.

Please help me with your vote on Tuesday November 8th.

Thank you,



John Vinich

**VOTE FOR JOHN VINICH  
FOR U.S. SENATE  
ON TUESDAY,  
NOVEMBER 8TH.**



Dear Friend,

Wherever I go in Wyoming, it seems like all our young people are leaving—looking for jobs and hope in places like Los Angeles, or Miami. I want Wyoming families to find jobs in Wyoming.

And that's why I need your support in November.

I don't think Malcomb Wallop even knows what we're going through—he says the economic news is profoundly good. Wyoming has lost 30,000 jobs in the past five years. That is profoundly bad.

We need a Senator who will fight to build Wyoming's economy. I want to forge a new national energy policy that will help Wyoming's oil and mining industries.

It's time we had a Senator who worried more about Wyoming and spent less time traveling in Europe and Asia.

Please help me with your vote on Tuesday November 8th.

Thank you,



John Vinich

**VOTE FOR JOHN VINICH  
FOR U.S. SENATE  
ON TUESDAY,  
NOVEMBER 8TH.**



**Dear Friend,**

Wherever I go in Wyoming, it seems like all our young people are leaving—looking for jobs and hope in places like Los Angeles, or Miami. I want Wyoming families to find jobs in Wyoming.

And that's why I need your support in November.

I don't think Malcomb Wallop even knows what we're going through—he says the economic news is profoundly good. Wyoming has lost 30,000 jobs in the past five years. That is profoundly bad.

We need a Senator who will fight to build Wyoming's economy. I want to forge a new national energy policy that will help Wyoming's oil and mining industries.

It's time we had a Senator who worried more about Wyoming and spent less time traveling in Europe and Asia.

Please help me with your vote on Tuesday November 8th.

Thank you,



John Vinich

**VOTE FOR JOHN VINICH  
FOR U.S. SENATE  
ON TUESDAY,  
NOVEMBER 8TH.**



**Dear Friend,**

Wherever I go in Wyoming, it seems like all our young people are leaving—looking for jobs and hope in places like Los Angeles, or Miami. I want Wyoming families to find jobs in Wyoming.

And that's why I need your support in November.

I don't think Malcomb Wallop even knows what we're going through—he says the economic news is profoundly good. Wyoming has lost 30,000 jobs in the past five years. That is profoundly bad.

We need a Senator who will fight to build Wyoming's economy. I want to forge a new national energy policy that will help Wyoming's oil and mining industries.

It's time we had a Senator who worried more about Wyoming and spent less time traveling in Europe and Asia.

Please help me with your vote on Tuesday November 8th.

Thank you,



John Vinich

**VOTE FOR JOHN VINICH  
FOR U.S. SENATE  
ON TUESDAY,  
NOVEMBER 8TH.**



060 3928

LAW OFFICES  
**SONOSKY, CHAMBERS & SACHSE**

SUITE 1000

1860 EYE STREET, N.W.

WASHINGTON, D.C. 20005

(202) 682-0240

TELECOPIER (202) 682-0240

MARVIN J. SONOSKY  
HARRY R. SACHSE  
REID PEYTON CHAMBERS  
WILLIAM R. PERRY  
LLOYD BENTON MILLER  
DONALD J. SIMON  
DOUGLAS B. L. ENDRESON\*  
MARY V. BARNEY  
ANNE D. NOTO  
SAMUEL L. WINDER\*\*

\*ADMITTED IN WISCONSIN  
\*\*ADMITTED IN NEW MEXICO

ANCHORAGE OFFICE  
SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 258-6377  
TELECOPIER (907) 272-8332

LLOYD BENTON MILLER  
JILL A. DE LA HUNT

OF COUNSEL  
ROGER W. DUBROCK

April 16, 1990

HAND DELIVERED

Elizabeth Campbell, Esquire  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 2994

Dear Ms. Campbell:

As promised, enclosed is the original signature page signed by Charles E. Graves on behalf of the Wyoming Democratic Party in response to the Commission's second set of Interrogatories in the above-captioned matter. Please substitute this original page for the fax copy transmitted to you on Friday.

Sincerely,



Donald J. Simon

DJS/cmt  
Enclosure  
Copy to:

Charles E. Graves, Esq.

21040323514

90 APR 16 AM 11:56

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

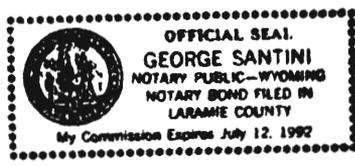
91040323515

The Committee's FEC reports demonstrate that the Committee had almost \$30,000 in contributions from individuals and non-party political committees during the period in which the questioned expenditures were made. This figure is derived by taking the cash-on-hand on the Committee's pre-general election report (\$10,180.07), less transfers from national party committees (\$3,635.00) for a net of \$6,545.07 in funds from sources other than national party committees at the beginning of the election period. This is compared with total receipts of \$82,041.68 from the Committee's post-election report, less transfers of \$60,400.00 from affiliated national party committees, for a net of \$21,641.68 in funds raised during the election period from sources other than national party committees. The total of the net funds at the beginning of the election period (\$6,545.07) plus the net funds raised during the election period (\$21,641.68) is \$28,186.75. Thus, the Committee had, during the relevant period, sufficient funds from both individual and non-party political committee sources from which to make the three expenditures at issue here.

I declare to the best of my information and belief that the foregoing is true and correct.

  
Charles E. Graves  
Chairman  
Wyoming Democratic Party

Subscribed to and sworn before me this 13 day of April, 1990.



  
Notary Public

OGC 6168

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

90 MAY -9 AM 9:43

LAW OFFICES  
**SONOSKY, CHAMBERS & SACHSE**  
SUITE 1000

1250 EYE STREET, N.W.  
WASHINGTON, D.C. 20005  
(202) 682-0240  
TELECOPIER (202) 682-0240

MARVIN J. SONOSKY  
HARRY R. SACHSE  
REID PEYTON CHAMBERS  
WILLIAM R. PERRY  
LLOYD BENTON MILLER  
DONALD J. SIMON  
DOUGLAS B. L. ENDRESON\*  
MARY V. BARNEY  
ANNE D. NOTO  
SAMUEL L. WINDER\*\*

\*ADMITTED IN WISCONSIN  
\*\*ADMITTED IN NEW MEXICO

ANCHORAGE OFFICE  
SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 258-6377  
TELECOPIER (907) 272-8332

LLOYD BENTON MILLER  
JILL A. DE LA HUNT

OF COUNSEL  
ROGER W. DUBROCK

May 4, 1990

Elizabeth Campbell, Esquire  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

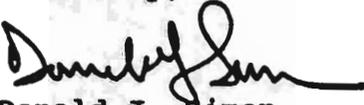
Re: MUR 2994

Dear Ms. Campbell:

As we discussed by telephone, I am writing on behalf of the Wyoming Democratic Party to request, pursuant to 11 C.F.R. 111.18(d), that the Commission agree to pre-probable cause conciliation of MUR 2994.

Please contact me if such negotiations are acceptable to the Commission.

Sincerely,

  
Donald J. Simon

DJS/cmt  
Copy to:

Charles E. Graves, Esquire

91040323616

90 MAY -9 PM 3:33

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL

90 OCT 23 PM 4:12

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) MUR 2994  
Committee, and John D. Sherman, )  
as treasurer )

**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD"). On October 24, 1989, the Commission found reason to believe that the Wyoming State Democratic Central Committee and its treasurer<sup>1</sup>, violated 2 U.S.C. § 441a(f) by making excessive coordinated party expenditures on behalf of John Vinich, a 1988 candidate for the U.S. Senate from Wyoming. The respondents requested Pre-Probable Cause conciliation on May 4, 1990.

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), sets limitations on expenditures by the national party committee and state party committees on behalf of candidates for federal office in the general election. 2 U.S.C. § 441a(d)(3)(A); 11 C.F.R. § 110.7(b). Annual increases in 2 U.S.C. § 441a(d) expenditure limitations are based on the

1. The treasurer at the time the events in this matter took place was Kim Reddington AKA Kim Bader. The treasurer at the time the Commission found reason to believe was Joseph Lyman, and he was named along with the Wyoming Committee as a respondent. After the reason to believe finding, the Commission was notified of a change in treasurer. The new treasurer is John D. Sherman; therefore, his name has been substituted in this report.

91040323617

percentage of increase in the consumer price index, as certified by the Secretary of Labor. 2 U.S.C. § 441a(c); 11 C.F.R. § 110.9(c). Additionally, no multicandidate political committee, including a state party committee, may make contributions in excess of \$5,000.00 per election to a candidate for federal office. 2 U.S.C. § 441a(a)(2)(A). The Act further provides that no political committee, or officer or employee of a political committee, shall knowingly make any expenditure on behalf of a candidate, in violation of any limitations imposed on contributions and expenditures under this section. 2 U.S.C. § 441a(f).

Certain payments made by a state political party committee in connection with volunteer activities are exempt from the definitions of "contribution" and "expenditure." See 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii); 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). A state political party committee may pay for the costs of campaign materials used by the committee in connection with volunteer activities on behalf of nominees of such party, provided that:

- (1) such payment is not for costs incurred in connection with any "direct mail" or similar type of general public communication or political advertising;<sup>2</sup>
- (2) such payments are made from contributions subject

---

2. The term "direct mail" as used here means any mailings by a commercial vendor or any mailings made from "commercial lists". 11 C.F.R. §§ 100.7(b)(15)(i) and 100.8(b)(16)(i). The term "commercial lists" refers to lists that were not developed by the state or local party committee, and not obtained by the committee from a public office, e.g., a list of registered voters obtained from a state office. Explanation & Justification for 11 C.F.R. § 100.7(b)(15).

91040323518

to the limitations and prohibitions of the Act;  
and

- (3) such payments are not made from contributions designated for a particular candidate. 2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii).

Commission regulations require that campaign materials paid for by state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 C.F.R. §§ 100.7(b)(15)(iv) and 100.8(b)(16)(iv). If all of the above conditions are met, such payments must be reported by the state political party committee as disbursements but need not be allocated to specific candidates in committee reports. 11 C.F.R. §§ 100.7(b)(15)(v) and 100.8(b)(16)(v). Campaign materials purchased with funds donated by the national committee to the state committee do not qualify for this exemption. 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii).

The Wyoming Committee made a direct cash contribution of \$5,000 to the Vinich campaign for the general election on October 20, 1988. The 1988 coordinated expenditure limit set for the national committee and the state party committee in Wyoming was \$46,100.00 each, for expenditures made in the general election, or a combined total of \$92,200.00. FEC Record, Vol. 14, No. 3, March 1988. Reports filed with the FEC disclose that the Wyoming State Democratic Central Committee ("Wyoming Committee" or "Committee") spent \$21,255.80 and the Democratic Senatorial Campaign Committee ("DSCC") spent \$88,631.41 in coordinated expenditures on behalf of Vinich for a total of

21040823619

\$109,887.21<sup>3</sup>. Accordingly, there was an excess of \$17,687.21 in coordinated expenditures.

On August 10, 1988, the Wyoming Committee and the DSCC entered into an agency agreement, signed by representatives of both parties, whereby the Wyoming Committee granted authority to the DSCC to spend its share of coordinated expenditures pursuant to 2 U.S.C. § 441a(d).<sup>4</sup> The agreement authorized the DSCC to spend the entire \$46,100.00 allocated to the Wyoming Committee for coordinated expenditures on behalf of Senate candidates in Wyoming. The agreement provided that the Wyoming Committee may reassume authority to make expenditures under 2 U.S.C. § 441a(d) on behalf of any Senate candidate, by giving written notice to the DSCC. The agreement further stated that the Wyoming Committee may do this only if the DSCC has not already made, or planned in coordination with the candidate to make, such expenditures itself.

On October 24, 1989, the Commission found reason to believe that the Wyoming Committee and its treasurer violated 2 U.S.C. § 441a(f) by making excessive coordinated expenditures on behalf

3. The DSCC made contributions to Vinich's Senate campaign totaling \$16,795.00. See 2 U.S.C. § 441a(h) (the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may make contributions of not more than a combined total of \$17,500 to a candidate for nomination or election to the Senate). The Wyoming Committee made a general election contribution of \$5,000.00 to Vinich. See 2 U.S.C. § 441a(a)(2)(A).

4. The Court held that 2 U.S.C. § 441a(d)(3) does not foreclose the use of agency agreements among national, state, and local committees of the same party, for the purpose of making coordinated expenditures. FEC v. DSCC, 454 U.S. 27 (1981).

91040323620

of the Vinich campaign. The Commission sent out interrogatories and a request for production of documents addressed primarily to the issues of whether the Wyoming Committee had given notice to the DSCC that it wanted to reassume authority to make 2 U.S.C. § 441a(d) expenditures on behalf of Vinich, and whether any of the expenditures made by the Committee on behalf of Vinich were for exempt party activity. On January 16, 1990, the Office of the General Counsel received the Wyoming Committee's response to the Commission's interrogatories and request for production of documents.<sup>5</sup> See Attachment 1. The Wyoming Committee acknowledges that it made three payments, totaling \$21,255.80, on behalf of Vinich. The Committee made one payment of \$14,820.00 on October 24, 1988, to Below, Tobe & Associates ("Below, Tobe"), for two postcard mailings endorsing John Vinich for Senate, and a payment of \$5,000.00 on October 31, 1988, for postage of the two postcard mailings. The total cost for the two postcard mailings was \$19,820.00. The third payment was on November 8, 1988, in the amount of \$1,435.80 for the production of a phone list. The Wyoming Committee also acknowledged in its response that it did not provide the DSCC with any written notice to resume its authority to make coordinated expenditures on behalf of the Vinich campaign.

---

5. The Wyoming Committee was granted extensions of time to respond to the Commission's interrogatories because the Committee's ability to collect accurate information regarding the Committee's contributions and expenditures during the 1988 Senate race was affected by a change in state party leadership and the special Congressional election which commanded the Committee's attention and resources.

21040323621

The Committee asserts that the payments for the two postcard mailings, totaling \$19,820.00, qualify as campaign materials in connection with volunteer activities exempt from the definition of a contribution or expenditure under 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). The Wyoming Committee did not assert that the payment of \$1,435.80 for a phone list is exempt, so it appears that the Committee admits this is a coordinated expenditure.

Based on the information provided by the Wyoming Committee, it was not clear whether the \$19,820.00 spent on postcard mailings satisfied the conditions for exempt volunteer activity. See 2 U.S.C. §§ 100.7(b)(15) and 100.8(b)(16). The Wyoming Committee stated that the list used for the two postcard mailings was its "standard list", and that the postcards were distributed directly from the production house and not by a commercial vendor. But the Committee did not explain how the standard list was created, nor did it explain how volunteers were used in connection with the postcard mailings. According to counsel for the respondents, the postcards went directly from the production house to the post office for mailing, so it was not evident that volunteers had any part at all in effectuating the two postcard mailings endorsing Vinich for Senate. Accordingly, the Commission authorized a second set of interrogatories concerning this activity in order to ascertain whether the list was created by the Wyoming Committee or by a commercial vendor, and also to determine the role played by volunteers in the two postcard mailings.

In addition, it appeared that the Wyoming Committee may have

91040323622

used funds from national party committees to make the payments on behalf of Vinich. See 11 C.F.R. §§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii). In 1988, the Wyoming Committee received more than \$90,000.00 from the the Democratic Senatorial Campaign Committee ("DSCC"), the Democratic National Committee ("DNC"), the Association of State Democratic Chairs/Dollars for Democrats ("ASDC/Dollars"), and the Association of State Democratic Chairs Victory Fund ("ASDC Victory Fund")<sup>6</sup>. A breakdown of the funds received by the Wyoming Committee from the national committees is as follows:

21040323623

<u>Source</u>	<u>Date</u>	<u>Amount</u>
ASDC/Dollars	2-3-88	\$3,500.00
ASDC/Dollars	3-30-88	9,083.08
ASDC Victory Fund	1-14-88	686.00
ASDC Victory Fund	3-15-88	1,148.02
ASDC/Dollars	6-6-88	3,600.00
ASDC Victory Fund	6-6-88	927.34
ASDC/Dollars	8-8-88	4,800.00
ASDC/Dollars	9-13-88	2,442.00
ASDC Victory Fund	9-15-88	987.88
DNC	10-12-88	635.00
DNC	10-18-88	3,000.00
ASDC	10-26-88	6,400.00
DNC	10-31-88	20,000.00
DNC	11-3-88	14,000.00
DSCC	11-2-88	20,000.00

TOTAL \$ 91,209.32

The two payments for the postcard mailings were made during

the post-general election reporting period, on October 24, 1989 (\$14,820.00) and on October 31, 1988 (\$5,000.00). A review of the Wyoming Committee's disclosure reports shows that the Committee began the post-general reporting period<sup>7</sup> with \$10,180.07 cash on hand. During that reporting period the Committee received a total of \$60,400.00 from party committees, and a total of \$21,641.68 in receipts from sources other than party committees.

As a result of the large amount of funds the Wyoming Committee received from the national committees, it was not clear whether the Wyoming Committee used those funds to make the payments of \$14,820.00 and \$5,000.00 on behalf of Vinich for the postcard mailings. Because the use of national party funds is important to the consideration of whether the volunteer exemption is applicable in the circumstances of this matter, the Commission requested the assistance of the Audit Division in determining whether such a conclusion was founded in a reasonable accounting method.

The Committee argues that the \$21,255.80 spent on behalf of Vinich came from the general funds of the Wyoming Committee's federal account. These funds included contributions from individuals, political action committees, state party fundraising activities such as the Jefferson-Jackson Day and Nellie Taylor Ross banquets, ASDC's Dollars for Democrats, and transfers from the DNC and the DSCC. The committee argues that it had enough

---

7. The dates covered by this report are October 20, through November 28, 1988.

21040323524

funds on hand from private and non-party sources to account for the expenditures made on behalf of the Vinich campaign so as not to involve national party funds. The Committee derives its figures by taking the cash on hand listed in the pre-general election report less transfers from the national party committees (\$6,545.07), added to the total receipts from the post-general election report less transfers from the national party committees (\$21,641.68), for a total of \$28,186.75 in private or non-party funds raised during the time period in question. The Wyoming Committee thus asserts that national party funds were not used in the expenditures for the mailings, keeping alive their claim for the volunteer exemption for these costs.

However, this method propounded by the Committee is inadequate when compared with the methods used by the Commission's Audit Division in determining whether national party funds were used. The Wyoming Committee's method merely compares total receipts at the beginning of one reporting period with the receipts at the end of another reporting period. It does not take into account the amount of private versus national party funds on hand at any given point in time. The more accurate methods utilized by the Audit Division clearly demonstrate that national party funds were likely utilized for at least a portion of the mailings, based on the contributions and balances as reported during the time period in question. As a result of using national party funds for these mailing on behalf of Vinich, the Wyoming Committee cannot utilize the volunteer exemption to justify its expenditures.

91040323625

The Audit Division returned its first report to the Office of the General Counsel on April 4, 1990. The report analyzed committee activity between October 20, 1988 and November 28, 1988, and analyzed the cash-on-hand

Additionally, it should be noted that this analysis considered funds from the DNC, the DSCC and the ASDC (both Dollars for Democrats and Victory Fund) as included in the category of "national party funds".

At the request of the Office of the General Counsel, the Audit Division submitted a second analysis report on July 16, 1990.

This report made the same analyses as stated above, but this time excluded ASDC funds from the calculations and only considered DNC and DSCC funds as being national party funds.

21040323626

21040823627

the analysis

determined that \$3,000 of the \$14,820 disbursement to Below, Tobe for the postcard mailings came from national party funds, representing fifteen percent (15%) of the \$19,820 spent by the Wyoming Committee for postcards and postage on behalf of Vinich. The report also states that this result remains the same whether or not funds from ASDC are considered to be national party funds or not.

Thus, the analysis from the audit division shows that national party funds were used, in part, by the Wyoming Committee for the mailings on behalf of the Vinich campaign.

In addition to this use of national party funds, there are other factors in this situation which exclude these mailings from the volunteer exemption.

The Wyoming Committee's response to the second set of interrogatories was received on April 13, 1990.

The Committee explained that the mailing list was prepared for the Committee by its vendor, Below, Tobe, after the committee submitted to the vendor a state voter list which it acquired from the Secretary of State and a state driver license list. The vendor then matched these names with a telephone list. The resulting list was reviewed by volunteers who also inserted county names for each of the listed residences.

With regard to the volunteer involvement in the postcard mailings on behalf of Vinich, the Committee responded that the mailings were "developed" through "the paid and volunteer efforts of individuals working with both the Wyoming Committee and the Vinich campaign." The Committee went on to state that it has no specific information concerning the actual tasks performed by volunteers in connection with the two mailings.

The evidence submitted by the Wyoming Committee fails to establish sufficient volunteer involvement in the Vinich mailings to entitle it to the volunteer exemption from reporting and spending limits. The Committee's own answers to interrogatories clearly established that the mailings were produced by a commercial vendor, Below, Tobe. The Committee also acknowledges that the mailings went directly from the production house to the post office. No proof of any volunteer involvement in this

91040323628

process was submitted by the Committee. Commission regulations require that campaign materials paid for by state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 C.F.R. § 100.7(b)(15)(iv) and § 100.8(b)(16)(iv).

91040323629

Furthermore, the Act clearly holds that state party committees are not entitled to the volunteer exemption for costs incurred in connection with "any 'direct mail' or similar type of general public communication or political advertising". 2 U.S.C. § 431(8)(B)(x) and § 431(9)(B)(vii). The term "direct mail" as used here means any mailings by a commercial vendor or any mailings from commercial lists. 11 C.F.R. § 100.7(b)(15)(i) and § 100.8(b)(16)(i). In this case, the postcard mailings were prepared by Below, Tobe and were sent directly from the production house to the post office. The Wyoming Committee admits that it has no other information concerning volunteer involvement with this mailing. Thus, the postcard mailings prepared and mailed by Below, Tobe fall within this category, and as such are not entitled to the volunteer exemption, regardless of how the mailing list itself may have been prepared.<sup>9</sup>

Additionally, the Wyoming Committee admits in its responses that it made these expenditures on behalf of Vinich after granting the DSCC the authority to spend its share of coordinated expenditures for the Senate campaign, pursuant to 2 U.S.C.

---

9. The post card mailings in this matter meet the definition of "direct mail" based on the fact that they came from a commercial vendor, not necessarily based on how the mailing list itself was compiled.

§ 441a(d). The Committee never provided the DSCC with written notice, as required by the agency agreement, that it intended to reassume its spending authority in the Senate race.

For all of the foregoing reasons, the Wyoming Committee has failed to establish that it is entitled to the volunteer exemption for the expenditures it made for the Vinich postcard mailings. Therefore, the Wyoming Committee made excess coordinated expenditures in the amount of \$17,687.21, in violation of 2 U.S.C. § 441a(f).

**III. DISCUSSION OF CONCILIATION AGREEMENT AND CIVIL PENALTY**

9  
1  
0  
4  
0  
3  
2  
3  
6  
3  
0

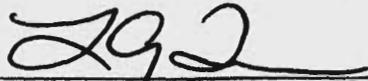
**III. RECOMMENDATIONS**

1. Enter into conciliation with the Wyoming State Democratic Central Committee and John D. Sherman, as treasurer, prior to a finding of probable cause to believe.

2. Approve the attached proposed conciliation agreement and the appropriate letter.

Lawrence M. Noble  
General Counsel

10/22/90  
Date

BY:   
Lois G. Werner  
Associate General Counsel

Attachments:

1. 1st Answers to Interrogatories
2. Audit Division Report (April 4, 1990)
3. Audit Division Report (July 16, 1990)
4. Audit Division Report (September 28, 1990)
5. 2nd Answers to Interrogatories
6. Proposed Conciliation Agreement

Staff person: John Canfield

21040323631



FEDERAL ELECTION COMMISSION  
WASHINGTON DC 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *DX*  
COMMISSION SECRETARY

DATE: OCTOBER 26, 1990

SUBJECT: MUR 2994 - GENERAL COUNSEL'S REPORT  
DATED OCTOBER 22, 1990

The above-captioned document was circulated to the Commission on WEDNESDAY, OCTOBER 24, 1990 at 11:00 a.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	<u>XXX</u>
Commissioner Elliott	<u>                    </u>
Commissioner Josefiak	<u>                    </u>
Commissioner McDonald	<u>                    </u>
Commissioner McGarry	<u>XXX</u>
Commissioner Thomas	<u>                    </u>

This matter will be placed on the meeting agenda for TUESDAY, OCTOBER 30, 1990.

Please notify us who will represent your Division before the Commission on this matter.

21040323632

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) MUR 2994  
Committee, and John D. Sherman, as )  
treasurer )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session for October 30, 1990, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2994:

1. Enter into conciliation with the Wyoming State Democratic Central Committee and John D. Sherman, as treasurer, prior to a finding of probable cause to believe.
2. Approve the proposed conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated October 22, 1990.

Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented.

Attest:

10-31-90  
Date

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

210403233633



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

November 5, 1990

Donald J. Simon, Esquire  
Sonosky, Chambers and Sachse  
1250 Eye Street, N.W., Suite 1000  
Washington, D.C. 20005

RE: MUR 2994  
Wyoming State Democratic  
Central Committee and  
John D. Sherman,  
as treasurer

Dear Mr. Simon:

On October 24, 1989, the Federal Election Commission found reason to believe that the Wyoming State Democratic Central Committee and John D. Sherman, as treasurer, violated 2 U.S.C. § 441a(f). At your request, on October 30, 1990, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact John Canfield, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Conciliation Agreement

21040323634

06-8992

RECEIVED  
FEDERAL ELECTION COMMISSION

90 DEC 14 PM 12: 08

LAW OFFICES  
**SONOSKY, CHAMBERS & SACHSE**

SUITE 1000  
1850 EYE STREET, N.W.  
WASHINGTON, D.C. 20005  
(202) 682-0240  
TELECOPIER (202) 682-0240

MARVIN J. SONOSKY  
HARRY R. SACHSE  
REID PEYTON CHAMBERS  
WILLIAM R. PERRY  
LLOYD BENTON MILLER  
DONALD J. SIMON  
DOUGLAS B. L. ENDRESON\*  
MARY V. BARNEY  
ANNE D. NOTO  
SAMUEL L. WINDER\*\*

ANCHORAGE OFFICE  
SUITE 700  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 258-6377  
TELECOPIER (907) 272-8332

LLOYD BENTON MILLER  
JILL A. DE LA HUNT  
OF COUNSEL  
ROGER W. DUBROCK

December 12, 1990

\*ADMITTED IN WISCONSIN  
\*\*ADMITTED IN NEW MEXICO

HAND DELIVERED

John Canfield, Esq.  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20465

Re: MUR 2994

Dear Mr. Canfield:

Pursuant to our telephone conversation, I am enclosing a proposed conciliation agreement in the above-captioned matter, signed by the respondent, along with a check in the amount of \$3,000.00, payable to the U.S. Treasury, as a civil fine in this matter.

I request that our proposal be submitted to the Commission for its review and acceptance.

Please call me if you have any questions about this proposal.

Sincerely,

  
Donald J. Simon

DJS/cmt  
Enclosures  
Copy to:  
Charles E. Graves, Esq.

90 DEC 17 PM 3: 00

FEDERAL ELECTION COMMISSION  
OFFICE OF LEGAL COUNSEL

21040823635

WYOMING STATE DEMOCRATIC PARTY  
FEDERAL

10-88

1653

P. O. BOX 2036 637-8940  
CHEYENNE, WY 82003

12-05 1990

99-554/1070

Pay to the order of United States Treasury \$ 3,000.00  
three thousand and 00/100 Dollars

**FRONTIER BANK**  
OF LARAMIE COUNTY

MEMBER FDIC

For FEC file

⑆001653⑆ ⑆909005942⑆ ⑆0008329⑆

SI JUN-8 11:15

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter Of

Wyoming State Democratic  
Central Committee and  
John D. Sherman, as  
treasurer

)  
)  
)  
)  
)  
)  
)

MUR 2994

**SENSITIVE**

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Charles E. Graves, Chairman of the Wyoming State Democratic Central Committee.

21040823637

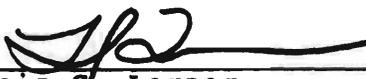
910403236638

**II. RECOMMENDATIONS**

- 1. Accept the attached conciliation agreement with the Wyoming State Democratic Central Committee and John D. Sherman, as treasurer.
- 2. Close the file.
- 3. Approve the appropriate letter.

Lawrence M. Noble  
General Counsel

1/3/91  
Date

BY:   
Lois G. Lerner  
Associate General Counsel

**Attachments**

- 1. Conciliation agreement

**Staff assigned: John Canfield**

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) MUR 2994  
Committee and John D. Sherman, )  
as treasurer. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 9, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 2994:

1. Accept the conciliation agreement with the Wyoming State Democratic Central Committee and John D. Sherman, as treasurer, as recommended in the General Counsel's Report dated January 3, 1991.
2. Close the file.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated January 3, 1991.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Jan. 10, 1991  
Date

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

Received in the Secretariat: Thurs., Jan. 3, 1991 4:51 p.m.  
Circulated to the Commission: Fri., Jan. 4, 1991 12:00 p.m.  
Deadline for vote: Wed., Jan. 9, 1991 4:00 p.m.

dr

21040323639



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 15, 1991

Donald J. Simon, Esquire  
Sonosky, Chambers & Sachse  
1250 Eye Street, N.W.; Suite 1000  
Washington, D.C. 20005

RE: MUR 2994  
Wyoming State Democratic  
Committee and John D.  
Sherman, as treasurer

Dear Mr. Simon:

On January 9, 1991, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact John Canfield, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
Conciliation Agreement

21040323640

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Wyoming State Democratic Central ) MUR 2994  
Committee, and John D. Sherman, )  
as treasurer )

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal courses of carrying out its supervisory responsibilities. The Commission found reason to believe that the Wyoming State Democratic Committee and its treasurer ("Respondents") violated 2 U.S.C. §441a(f).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

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

21040323541

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

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

1. The Wyoming State Democratic Central Committee is a political committee within the meaning of 2 U.S.C. §431(4), and is a state committee within the meaning of 2 U.S.C. §431(15).

2. John D. Sherman is the current treasurer of the Wyoming State Democratic Central Committee but was not treasurer at the time of the events in question in this matter. Kim Reddington, AKA Kim Bader, was the treasurer at the time of the events in question in this matter.

3. The Federal Election Campaign Act of 1971, as amended ("the Act"), permits national party and state party committees to make "coordinated party expenditures" on behalf of candidates for federal office in the general election, but sets limitations on such expenditures. 2 U.S.C. §441a(d)(3)(A); 11 CFR §110.7(b). Pursuant to 11 CFR §110.7(b)(3), coordinated party expenditures may be made in addition to contributions permissible under 2 U.S.C. §441a(a)(2)(A). A multicandidate political committee, including state party committees, may make contributions not in excess of \$5,000.00 per election to a candidate for federal office. 2 U.S.C. §441a(a)(2)(A).

21040323642

4. No political committee, or officer or employee of a political committee, shall knowingly make any expenditure on behalf of a candidate in violation of any limitations imposed on contributions and expenditures under the Act. 2 U.S.C. §441a(f).

5. Certain payments made by a state political party committee in connection with volunteer activities are exempt from the definitions of "contributions" and "expenditure." 2 U.S.C. §431(8)(B)(x) and §431(9)(B)(viii); 11 CFR §100.7(b)(15) and §100.8(b)(16). Campaign materials purchased with funds donated by the national committee to the state committee do not qualify for this volunteer exemption. 11 CFR §100.7(b)(15)(vii) and §100.8(b)(16)(vii). Commission regulations require that campaign materials paid for by state political parties be distributed by volunteers and not by commercial or for-profit operations in order to qualify for the volunteer exemption. 11 CFR §100.7(b)(15)(iv) and §100.8(b)(16)(iv). A state political party committee may pay for the costs of campaign materials used by the committee in connection with volunteer activities on behalf of nominees of such party, provided that: (1) such payment is not for cost incurred in connection with any "direct mail" or similar type of general public communication or political advertising; (2) such payments are made from contributions subject to the limitations and prohibitions of the Act; and (3)

21040323643

such payments are not made from contributions designated for a particular candidate. 2 U.S.C. §431(8)(B)(x) and §431(9)(B)(viii).

6. The Wyoming Committee made a direct cash contribution of \$5,000 to the Vinich campaign for the general election on October 20, 1988.

7. The 1988 coordinated expenditure limit set for the national committee and the state party committee in Wyoming was \$46,000 each, for a combined total of \$92,000.

8. On August 10, 1988, the Wyoming Committee and the Democratic Senatorial Campaign Committee entered into an agency agreement, whereby the Wyoming Committee granted authority to the Democratic Senatorial Campaign Committee to spend its entire share of coordinated expenditures on behalf of Senate candidates in Wyoming, pursuant to 2 U.S.C. §441a(d). The Wyoming Committee did not provide the Democratic Senatorial Campaign Committee with any written notice that it wished to reassume its authority to make coordinated expenditures on behalf of the Vinich campaign, as required by the agency agreement.

9. The Democratic Senatorial Campaign Committee spent \$88,631.41 in coordinated expenditures on behalf of the John Vinich Senatorial campaign, and the Wyoming State Democratic

91040323644

Central Committee spent \$21,255.80 in coordinated expenditures on behalf of Vinich, for a total of \$109,887.21

10. The Wyoming Committee spent a total of \$19,820.00 for two postcard mailings on behalf of the Vinich campaign. Each mailing was produced by the firm of Below, Tobe, and the cards were sent directly from the production house to the U.S. Post Office. The mailings on behalf of Vinich campaign by the Wyoming Committee fail to qualify for the volunteer exemption from reporting and spending limits. The Wyoming Committee also spent \$1,435.80 for a telephone list produced by Below, Tobe, bringing the total spent by the Wyoming Committee to \$21,255.80.

11. The expenditures by the Wyoming Committee on behalf of the Vinich campaign resulted in excess coordinated expenditures in the amount of \$17,687.21.

V. Respondents spent \$17,687.21 in excess coordinated expenditures on behalf of the John Vinich Senatorial campaign, in violation of 2 U.S.C. §441a(f).

VI. The Wyoming Committee contends that it was operating in a good faith belief that the money it spent for the postcard mailings and telephone list met the legal standards for exempt volunteer spending, and thus did not violate the spending

91040523345

limit. The Committee accordingly contends that the violation was not knowing and willful.

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Three Thousand dollars (\$3,000), pursuant to 2 U.S.C. §437g(a)(5)(A).

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

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

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

XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and

91040323646

no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

1/14/91  
Date

FOR THE RESPONDENTS:

  
Charles E. Graves  
Chairman

DEC 5, 1990  
Date

91040823547



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2994

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

9  
1  
0  
4  
0  
3  
2  
3  
6  
4  
8