FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3420

DATE FILMED 6/13/96 CAMERA NO. _____

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THIS IS THE **BEGINNING** OF MUR # 3420

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REPUBLICAN STATE COMMITTEE OF PENNSYLVANIA
George I. Bloom Republican Center • 112 State State • Harrisburg, Pennsylvania 17101 • Telephone (717) 234 - 4901

RECEIVED FEDERAL ELECTION COMMISSION
91 SEP 10 AM 10:47

MUR 3420

September 5, 1991

Mr. John Warren McGarry
Chairman
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

91 SEP 10 PM 3:47

Dear Mr. Chairman:

This letter constitutes a formal, sworn complaint pursuant to 2 U.S.C 441a (a) and other provisions of the Federal Election Campaign Act (the "Act") and sets forth reasons to believe that violations of federal law have been committed by the Citizens for Senator Wofford, a political committee registered with the Federal Election Commission (the "Commission") and serving as the principal campaign committee of Senator Harris Wofford.

According to its report filed with the Commission (a copy of which is attached for), Citizens for Senator Wofford recorded all of its single contributions as "Primary" contributions even though Senator Wofford received his party's nomination on June 1, 1991 at the Pennsylvania State Democrat meeting (the "Convention") and despite the fact that each of the contributions recorded occurred after the June 1 Convention date.

Furthermore, Citizens for Senator Wofford has recorded several two $1000 contributions from a single contributor listing $1000 for the "Primary" and $1000 for the "General". In each instance, the $1000 "Primary" contribution recorded also occurred after the June 1 convention date. See, for example, contributions listed on the report from Mrs. Elizabeth Bagley, Mr. Smith Bagley, Mrs. Audre Rappoport, and Mr. Ronald Rappoport, among others.

As the Commission well knows, Section 431 of the Act defines and "election" as:

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party which has authority to nominate a candidate.

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Anne B. Anstine, Chairman
Robert S. Taylor, Treasurer
Grace M. Jesberger, Secretary
William R. Sasso, Finance Chairman
Herbert Barness, National Committeeman
William H. Lamb, Vice Chairman
Jacob D. Yaros, Assistant Treasurer
Nancy L. Kimble, Assistant Secretary
Blaine A. Brown, Deputy Chairman
Elsie H. Hillman, National Committeewoman

Section 100.2(c) (1) of the Commission regulations further define an "election." Those regulations provide that "an election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election is a primary election."

The application of the above provisions of the Act to the matter at hand clearly support the position that the June 1 Convention constituted a "Primary." In fact, in Advisory Opinion 1980-60, the Commission held so in similar circumstances involving West Virginia law.

In that Advisory Opinion, the Commission treated the meeting of a congressional district executive committee as a convention and held that it constituted a primary election for the special election. In issuing that opinion, the Commission noted that all contributions with respect to the convention had to be received prior to the convention, and that any contributions received after the convention could be designated toward that election, but only to the extent that the candidate had net debts outstanding from his campaign for the convention nomination.

With respect to the current matter, the contributions on the Citizens for Senator Wofford report are in violation of federal law since they were made after the June 1 Convention date but are listed as "Primary" contributions.

There is nothing to indicate that Citizens for Senate Wofford had any net debts outstanding for which the Primary contributions could have been applied. The manner in which the contributions are reported confirms this.

Consistent with the Act, Commission regulations and Advisory Opinions, the Convention in which Senator Wofford was selected as his Party's nominee for the general election itself constituted an election under the Act.

Thus, the acceptance of any contributions received after the date of the Convention should be treated as made in connection with the Pennsylvania general election.

Because this was not done as evidenced in the report filed with the Commission, Citizens for Senator Wofford is in violation of the Act. Furthermore, it is reasonable to believe that Citizens for Senator Wofford will continue to tell potential contributors that a $2000 contribution can be made with $1000 being applied toward the "Primary" and $1000 being applied toward the "General" election. If in fact this is done (as is stated in the attached Associated Press news report), then it will constitute a continuing violation of federal law.

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Because many of the contributors listed on the report made their contributions after the June 1 Convention date, these contributors should be allowed to contribute no more than $1000 for the "General" election so as to give effect to the Act.

I ask that the Commission's Office of General Counsel expeditiously review this complaint and determine that it satisfies the criteria for opening a Matter Under Review into the alleged violations set forth above.

Sincerely,

Anne B. Anstine
Chairman

Sworn to and subscribed before me this 5th day of September, 1991.

Notary Public

My Commission expires 1-24-94

NOTARIAL SEAL
Sue W. Vincent Notary Public
Harrisburg, Dauphin County
My Commission Expires Jan. 24, 1994

Enclosure

CC: Office of General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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r p.. PM-PA--ELN--Fund-raising Bjt 08-29 0351
PM-PA--ELN--Fund-raising Feud, Bjt,500
Wofford, GOP Differ on Fund-raising Rule
By MICHAEL BLOOD
Associated Press Writer

WASHINGTON (AP) - When was Sen. Harris Wofford, D-Pa., nominated by his party to run for the Senate seat he now holds by appointment?

Republicans and Democrats have different answers to that question, and the size of Wofford's campaign fund could depend on which side prevails.

Federal law places limits on contributions during primary and general elections. An individual may contribute up to $1,000 to a candidate for each election, and political action committees generally are limited to $5,000 for each.

Because this race is a special election to fill the three years remaining on the late Sen. John Heinz's term, the party nomination serves as the division between the primary and the general elections.

Republicans say Wofford's nomination took place June 1, the day the Democratic State Committee endorsed him, and his contributions for the primary should be cut off at that date.

But Democrats say language was added to the nominating papers that delayed the effective date of Wofford's nomination until his Republican counterpart also is named. The Republican Party is expected to endorse Thornburgh Friday.

Mark Braden, an attorney for the Thornburgh campaign, said Democrats were ``flirting with criminal provisions'' in federal election law in an attempt to raise more money. He said he expected Republicans to file a complaint with federal regulators.

``It would be like watching somebody play a football game with 13 men. ... There's no way the other side wouldn't bark about it,'' Braden said. ``This is craziness. There isn't any statutory support ... to support this type of activity.''

But Paul Begala, Wofford's campaign manager, said the campaign was operating within the law.

``Pennsylvania law is very clear that the primary exists until a primary takes place for both parties,'' he said.

A review of Wofford's recent campaign report indicates he may be banking heavily on an extended primary period. He received about $325,000 in contributions as of June 30, with all but $5,100 received after June 1.

Another contribution report, covering gifts made since July 1, is not due until October.

Even if Republicans file a complaint, there's no guarantee the issue will be resolved before the Nov. 5 election. The FEC averages about eight months in reviewing cases, according to a commission spokesman.

APTV-08-29-91 0005EDT+

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CITIZENS FOR SENATOR WOFFORD

236 MASSACHUSETTS AVENUE, N.E., SUITE 401, WASHINGTON, D.C. 20002
Telephone (202) 544-1247 — Fax (202) 544-1037
P.O. BOX 11555, HARRISBURG, PENNSYLVANIA 17108

SECRETARY OF THE SENATE
91 JUL 31 PM 4:54

H.D

July 31, 1991

Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Sir or Madam:

Due to the current court case concerning the U.S. Senate race in Pennsylvania, the parameters of the primary election period have been brought into question.

On the advice of our attorneys, we have attributed all expenditures and all undesignated receipts on the attached report to the primary election period. They have advised us that until the decision of the Third Circuit Court of Appeals and a ruling by the Federal Election Commission, we should consider the campaign in the primary period.

Sincerely,

Paul Begala
Campaign Manager

cc: Pennsylvania Secretary of State
Robert Bauer, Perkins Coie

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Authorized and paid for by Citizens for Senator Wofford, John Sheridan, Treasurer
Contributions are not tax deductible. Corporate contributions are prohibited.

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)
Citizens for Senator Wofford

ADDRESS (number and street) [x] Check if different than previously reported.
3905 North Front Street

CITY, STATE and ZIP CODE — STATE/DISTRICT
Harrisburg, PA 17110 — PA

SECRETARY OF THE SENATE
91 AUG 01 PM 4:54

2. FEC IDENTIFICATION NUMBER
C00252049 (H.D)

3. IS THIS REPORT AN AMENDMENT?
[ ] YES [x] NO

4. TYPE OF REPORT

- [ ] April 15 Quarterly Report
- [ ] July 15 Quarterly Report
- [ ] October 15 Quarterly Report
- [ ] January 31 Year End Report
- [x] July 31 Mid-Year Report (Non-election Year Only)
- [ ] Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____
- [ ] Thirtieth day report following the General Election on _____ in the State of _____
- [ ] Termination Report

This report contains activity for: [x] Primary Election [x] General Election [ ] Special Election [ ] Runoff Election

SUMMARY

	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period May 23, 1991 through June 30, 1991		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11(e))	325,830.99	325,830.99
(b) Total Contribution Refunds (from Line 20(d))	None	None
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	325,830.99	325,830.99
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	45,048.78	45,048.78
(b) Total Offsets to Operating Expenditures (from Line 14)	None	None
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	45,048.78	45,048.78
8. Cash on Hand at Close of Reporting Period (from Line 27)	280,782.21	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	None	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	None	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer
John D. Sheridan, Treasurer

Signature of Treasurer: John D. Sheridan
Date: 7-25-91

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

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FEC FORM 3
(revised 4/87)

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (in full): Citizens for Senator Wofford

Report Covering the Period: From May 23, 1991 To June 30, 1991

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
11. CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees			
(i) Itemized (use Schedule A)	$ 129,240.99		11(a)(i)
(ii) Unitemized	$ 4,190.00		11(a)(ii)
(iii) Total of contributions from individuals	$ 133,430.99	$ 133,430.99	11(a)(iii)
(b) Political Party Committees	$ 17,500.00	$ 17,500.00	11(b)
(c) Other Political Committees (such as PACs)	$ 174,900.00	$ 174,900.00	11(c)
(d) The Candidate	$ 0.00	$ 0.00	11(d)
(e) TOTAL CONTRIBUTIONS (other than loans)(add 11(a)(iii), (b), (c) and (d))	$ 325,830.99	$ 325,830.99	11(e)
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES	$ 0.00	$ 0.00	12
13. LOANS:			
(a) Made or Guaranteed by the Candidate	$ 0.00	$ 0.00	13(a)
(b) All Other Loans	$ 0.00	$ 0.00	13(b)
(c) TOTAL LOANS (add 13(a) and (b))	$ 0.00	$ 0.00	13(c)
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	$ 0.00	$ 0.00	14
15. OTHER RECEIPTS (Dividends, Interest, etc.)	$ 0.00	$ 0.00	15
16. TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)	$ 325,830.99	$ 325,830.99	16
II. DISBURSEMENTS			
17. OPERATING EXPENDITURES	$ 45,048.78	$ 45,048.78	17
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES	$ 0.00	$ 0.00	18
19. LOAN REPAYMENTS:			
(a) Of Loans Made or Guaranteed by the Candidate	$ 0.00	$ 0.00	19(a)
(b) Of All Other Loans	$ 0.00	$ 0.00	19(b)
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))	$ 0.00	$ 0.00	19(c)
20. REFUNDS OF CONTRIBUTIONS TO:			
(a) Individuals/Persons Other Than Political Committees	$ 0.00	$ 0.00	20(a)
(b) Political Party Committees	$ 0.00	$ 0.00	20(b)
(c) Other Political Committees (such as PACs)	$ 0.00	$ 0.00	20(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))	$ 0.00	$ 0.00	20(d)
21. OTHER DISBURSEMENTS	$ 0.00	$ 0.00	21
22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)	$ 45,048.78	$ 45,048.78	22

III. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD	$ 0.00	23
24. TOTAL RECEIPTS THIS PERIOD (from Line 16)	$ 325,830.99	24
25. SUBTOTAL (add Line 23 and Line 24)	$ 325,830.99	25
26. TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)	$ 45,048.78	26
27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	$ 280,782.21	27

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Ms. Diana T. MacArthur 5103 Cape Cod Court Bethesda, MD 20816	Dynamac Corporation Chief Executive Officer YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Marvin Wachman 602 West Mermaid Lane Philadelphia, PA 19118	Retired YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/30/91	$ 250.00
Mrs. Elizabeth F. Bagley 1539 29th Street, N.W. Washington, DC 20007	Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/06/91 06/06/91	$ 1,000.00 $ 1,000.00
Mr. Smith Bagley 1539 29th Street, N.W. Washington, DC 20007	Arca Foundation Executive YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/06/91 06/06/91	$ 1,000.00 $ 1,000.00
Mrs. Jennifer P. Fainberg 23 Lynn Road Needham, MA 02194	Self-Employed Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00
Mr. Stephen L. Baker 2544 NE 14th Avenue Portland, OR 97212	Business Week Bureau Chief, Mexico City YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/06/91	$ 250.00
Mr. J. Stanley Yake 10 Ferry Drive Rexford, NY 12148	Kallos K'Agation, Inc. President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00

SUBTOTAL FOR PAGE 1 ..... $ 6,750.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mrs. Mary Jane Baker 2544 NE 14th Avenue Portland, OR 97212	OCCUPATION Retired YEAR-TO-DATE AGGREGATE: $ 350.00	Primary Primary	06/30/91 06/30/91	$ 100.00 $ 250.00
Mr. J. Alan Galbraith 3529 Ordway Street, N.W. Washington, DC 20010	EMPLOYER Williams & Connolly OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00
Mr. M. Scott Wallace 3300 Highland Place, N.W. Washington, DC 20008	EMPLOYER Natl. Assoc. of Criminal Defense Lawyers OCCUPATION Legislative Director YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Arnold Saltzman Shepherds Lane Sands Point, NY 11050	EMPLOYER information requested OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/21/91	$ 1,000.00
Mr. Donald C. Cameron 27060 Old Trace Road Los Altos Hills, CA 94022	EMPLOYER information requested OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mrs. Eleanor C. Cameron 27060 Old Trace Road Los Altos Hills, CA 94022	EMPLOYER information requested OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. Jacobus L. Vanzyl 200 South Broad Street Philadelphia, PA 19102	EMPLOYER FCB/Lewis, Gilman & Kynett OCCUPATION President & CEO YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/30/91	$ 500.00

SUBTOTAL FOR PAGE 2 .....$ 5,100.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Bernard Rapoport P.O. Box 2608 Waco, TX 76797	American Income Life Insurance Company OCCUPATION Chairman of the Board & CEO YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/28/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Audre Rapoport P.O. Box 2608 Waco, TX 76797	EMPLOYER OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/28/91 06/17/91	$ 1,000.00 $ 1,000.00
Mr. Ronald Rapoport P.O. Box 2608 Waco, TX 76797	EMPLOYER American Income Life Insurance Company OCCUPATION Executive YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/28/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Patricia Rapoport P.O. Box 2608 Waco, TX 76797	EMPLOYER OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/28/91 06/17/91	$ 1,000.00 $ 1,000.00
Mr. Sidney Harman 3550 Williamsburg Road, N.W. Washington, DC 20008	EMPLOYER Harman International OCCUPATION President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Robert A. Farmer 540 Chestnut Hill Avenue Brookline, MA 02146	EMPLOYER Self-Employed OCCUPATION Consultant YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/25/91	$ 1,000.00
Mr. Mark R. Warner 201 North Union Street No. 300 Alexandria, VA 22314	EMPLOYER Self-Employed OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00

SUBTOTAL FOR PAGE 3 ..... $ 11,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Paul C. Warnke 4037 Garfield Street, N.W. Washington, DC 20016	Clifford & Warnke Attorney YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/26/91 06/26/91	$ 1,000.00 $ 1,000.00
Mr. Gilbert A. Harrison 5711 North Rocking Road Scottsdale, AZ 85253	Harrison-Blaine of New Jersey, Inc. Executive YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Burke Marshall Castle Meadow Road Newtown, CT 06470	Yale Law School Attorney YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/30/91 06/30/91	$ 1,000.00 $ 1,000.00
Ms. Anne Bartley 317 Ninth Street, S.E. Washington, DC 20003	information requested YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Ms. Mary W. Lasker 870 United Nations Plaza New York, NY 10017	Self-Employed Philanthropist YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Mr. Chat Paterson 258 South Dekker Drive Golden, CO 80401	Self-Employed Real Estate Agent YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/26/91	$ 500.00
Mr. Brian A. Matthews 101 West 79th Street Apt. 21B New York, NY 10024	Shearson Lehman Brothers Investment Banker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/21/91	$ 1,000.00

SUBTOTAL FOR PAGE 4 ..... $ 8,500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Ms. Rena Baumgartner RD 3 Knuckletown, PA 18058	Pennsylvania Democratic State Committee OCCUPATION Vice-Chairperson YEAR-TO-DATE AGGREGATE: $ 490.99	Primary	06/17/91 (In-Kind)	$ 490.99
Mr. M. Larry Lawrence 1500 Orange Avenue Coronado, CA 92118	Hotel Del Coronado OCCUPATION Executive YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Sheila D. Lawrence 1500 Orange Avenue Coronado, CA 92118	information requested OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Seymour M. Lazar 336 Hermosa Place Palm Springs, CA 92262	OCCUPATION Retired YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Patrick R. McCarthy 526 Hamilton Road Merion, PA 19066	Dilworth, Paxson, Kalish & Kauffman OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/06/91 06/06/91	$ 1,000.00 $ 1,000.00
Mr. Michael B. McCaskey 250 North Washington Road Lake Forest, IL 60045	Chicago Bears OCCUPATION President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Mr. Thomas M. McDermott 622 Twickenham Road Glenside, PA 19038	Information requested OCCUPATION YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/06/91	$ 500.00

SUBTOTAL FOR PAGE 5 ..... $ 6,990.99

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Stephen I. Schlossberg 2801 New Mexico Avenue, N.W. PH-17 Washington, DC 20007	International Labor Office Director, Washington Branch YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/21/91	$ 500.00
Mr. Kenneth B. Schwartz 1080 Beacon Street Apt. 60 Brookline, MA 02148	Mintz, Levin Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/27/91	$ 250.00
Mrs. Caryl C. Beal 190 Crestvue Manor Drive Pittsburgh, PA 15228	Retired YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
Mr. Frank S. Beal 190 Crestvue Manor Drive Pittsburgh, PA 15228	Retired YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
Mr. Hugh L. Beal 190 Crestvue Manor Drive Pittsburgh, PA 15228	Integra Financial Corporation Internal Auditor YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
Dr. Harvey M. Peck 60 Armour Drive Mahwah, NJ 07430	Self-Employed Physician YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
Ms. Sarah E. Peck 158 Three Ponds Lane Malvern, PA 19355	Rouse/Chamberlain, Inc. Homebuilder YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/06/91 06/06/91	$ 1,000.00 $ 1,000.00

SUBTOTAL FOR PAGE 6 ..... $ 6,750.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Ms. Deborah Beck 3820 Club Drive Harrisburg, PA 17110	Drug & Alcohol Service Providers Organ. Executive Director YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/26/91	$ 500.00
Mr. Edmund M. Reggie P.O. Drawer D Crowley, LA 70527	Reggie, Harrington & Reggie Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Abraham Feinberg 1114 Avenue of the Americas 26th Floor New York, NY 10036	Self-Employed Private Investor YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Marjorie C. Benton 581 Ingleside Park Evanston, IL 60201	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
Mr. Meyer Berger South Sixth & Bingham Streets Pittsburgh, PA 15203	Self-Employed Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Merle Berger South Sixth & Bingham Streets Pittsburgh, PA 15203	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Henry Bernstein P.O. Box 50458 New Orleans, LA 70150	University of New Orleans Adjunct Professor YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/11/91	$ 500.00

SUBTOTAL FOR PAGE 7 ..... $ 6,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Ms. Sandra Ferry 30 Rockefeller Plaza Room 5600 New York, NY 10112	Self-Employed Investor YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Ms. Alida R. Messinger 30 Rockefeller Plaza Room 5600 New York, NY 10112	Self-Employed Philanthropist YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/26/91 06/06/91	$ 1,000.00 $ 1,000.00
Mrs. Elizabeth H. Petrie One Beekman Place New York, NY 10022	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/11/91	$ 1,000.00
Mr. Donald A. Petrie P.O. Box 200 Wainscott, NY 11975	Lazard Freres & Company Banker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/11/91	$ 1,000.00
Winn Newman 1920 N Street, N.W. No. 430 Washington, DC 20036	Newman & Newell Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mrs. Electra P. Agras 73 Lebanon Hills Drive Pittsburgh, PA 15228	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mrs. Joan R. Challinor 3117 Hawthorne Street, N.W. Washington, DC 20008	Self-Employed Historian YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00

SUBTOTAL FOR PAGE 8 ..... $ 8,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. David Challinor 3117 Hawthorne Street, N.W. Washington, DC 20008	Smithsonian Institution OCCUPATION Biologist YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Patricia A. Chambers Van Beuren Road Morristown, NJ 07960	EMPLOYER OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/28/91 06/28/91	$ 1,000.00 $ 1,000.00
Mr. Raymond G. Chambers Van Beuren Road Morristown, NJ 07960	EMPLOYER Amelior Foundation OCCUPATION Executive YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/28/91 06/28/91	$ 1,000.00 $ 1,000.00
Mr. Jerome J. Shestack 1600 Market Street No. 3600 Philadelphia, PA 19103	EMPLOYER Schnader, Harrison, Segal & Lewis OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. Clyde E. Shorey Jr. 3033 West Lane Keys, N.W. Washington, DC 20007	EMPLOYER OCCUPATION Retired YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Marie W. Ridder 1219 Crest Lane McLean, VA 22101	EMPLOYER OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/18/91	$ 1,000.00
Mr. Thomas L. Siebert 229 Wardour Drive Annapolis, MD 21401	EMPLOYER Besozzi & Gavin OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 2,000.00	General Primary	06/26/91 06/26/91	$ 1,000.00 $ 1,000.00

SUBTOTAL FOR PAGE 9 .....$ 10,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mrs. Susie Field 608 Mountain Drive Beverly Hills, CA 91210	OCCUPATION: Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mr. Terry Lierman 1614 Manchester Lane, N.W. Washington, DC 20011	EMPLOYER: Capitol Associates OCCUPATION: President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Ms. Joan Bingham 1321 31st Street, N.W. Washington, DC 20007	EMPLOYER: International Human Rights Law Group OCCUPATION: Executive YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Mr. David Ginsburg N-619 South Lee Street Alexandria, VA 22314	EMPLOYER: Ginsburg, Feldman & Bress OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Ms. Celia M. Fischer 3 Colonial Village Court Apt. D St. Louis, MO 63119	EMPLOYER: Carnahan for Governor OCCUPATION: Campaign Manager YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/21/91	$ 250.00
Mrs. Ethel B. Wister 2175 Buttonwood Road Berwyn, PA 19312	EMPLOYER OCCUPATION: Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/30/91 06/30/91	$ 1,000.00 $ 1,000.00
Ms. Sabina F. Wister Middlebury College Box 3695 Middlebury, VT 05753	EMPLOYER OCCUPATION: Student YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/30/91 06/30/91	$ 1,000.00 $ 1,000.00

SUBTOTAL FOR PAGE 10 ..... $ 9,250.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mrs. Bonnie D. Titus 566 Brier Cliff Road Pittsburgh, PA 15221	Magee Women's Hospital OCCUPATION Nurse-Administrator YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Paul H. Titus 566 Brier Cliff Road Pittsburgh, PA 15221	Manemann, Cindrich & Titus OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Dr. Madeleine Albright 1318 34th Street, N.W. Washington, DC 20007	Georgetown University OCCUPATION Professor YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/30/91	$ 500.00
Mrs. Frances B. Elston Dodge Lane Bronx, NY 10471	OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Ms. Louise S. Ansberry 505 North School Lane Lancaster, PA 17603	OCCUPATION Retired YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Anne Sobel 101 Executive Center Drive No. 1-600 West Palm Beach, FL 33401	OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mr. Daniel B. Wofford 158 Three Ponds Lane Malvern, PA 29355	EMPLOYER Citizens for Senator Wofford OCCUPATION Senior Advisor YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/06/91 06/06/91	$ 1,000.00 $ 1,000.00

SUBTOTAL FOR PAGE 11 ..... $ 9,500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mrs. Clare Wofford 407 Old Gulph Road Bryn Mawr, PA 19010	OCCUPATION: Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/30/91 06/30/91	$ 1,000.00 $ 1,000.00
Mr. Edward J. Logue Scotchman's Lane West Tisbury, MA 02575	EMPLOYER: Self-Employed OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/30/91	$ 250.00
Mr. Stephen Cohen La Tierra Nueva Box 1057 Santa Fe, NM 87501	EMPLOYER: Georgetown University OCCUPATION: Professor YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Daniel L. Goldy 2225 SW Scenic Drive Portland, OR 97225	EMPLOYER: Daniel L. Goldy, Inc. OCCUPATION: Consulting Economist YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Stephen J. Pollack 3314 Newark Street, N.W. Washington, DC 20008	EMPLOYER: Shea & Gardner OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Ms. Lisa D. Collis 108 North West Street Alexandria, VA 22314	EMPLOYER: information requested OCCUPATION: YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. John B. Jones Jr. 800 25th Street, N.W. Apt. 905 Washington, DC 20037	EMPLOYER: Covington & Burling OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 300.00	Primary	06/26/91	$ 300.00

SUBTOTAL FOR PAGE 12 .....$ 6,550.00

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SCHEDULE A — ITEMIZED RECEIPTS — LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. John E. Connelly 361 Saxonburg Road Pittsburgh, PA 15238	Self-Employed Developer YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/30/91 06/30/91	$ 1,000.00 $ 1,000.00
Mr. Kenneth F. Montgomery 500 West Madison Street No. 3700 Chicago, IL 60606	Burke, Wilson & McIlvaine Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mrs. Marie G. Montgomery 500 West Madison Street No. 3700 Chicago, IL 60606	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Dr. Gene Gordon 4035 Connecticut Avenue, N.W. Washington, DC 20008	Self-Employed Physician YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/06/91	$ 500.00
Ms. Anita R. Gordon 7500 Exeter Road Bethesda, MD 20814	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Henry Rosenberg 723 Seventh Avenue New York, NY 10019	Self-Employed Attorney YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/17/91	$ 500.00
Mr. John W. Douglas 5700 Kirkside Drive Chevy Chase, MD 20815	Self-Employed Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00

SUBTOTAL FOR PAGE 13 ..... $ 6,250.00

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SCHEDULE A — ITEMIZED RECEIPTS — LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Barnett for Council 161 Brown Street Philadelphia, PA 19123	OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00 NOTE: composed of funds permissible under Act
Mr. John Brademas 70 Washington Square South New York, NY 10012	EMPLOYER: New York University OCCUPATION: President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. Gregory B. Craig 3155 Highland Place, N.W. Washington, DC 20008	EMPLOYER: Williams & Connolly OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 1,100.00	Primary General Primary	06/17/91 06/17/91 05/12/91	$ 900.00 $ 100.00 $ 100.00
Mr. Robert M. Krasne 3245 Ellicott Street, N.W. Washington, DC 20008	EMPLOYER: Williams & Connolly OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Hale A. Krasne 3245 Ellicott Street, N.W. Washington, DC 20008	EMPLOYER OCCUPATION: Homemaker YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Patricia A. Green 4875 Loughboro Road, N.W. Washington, DC 20016	EMPLOYER OCCUPATION: Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. Andrew S. Price 333 West Baltimore Pike Media, PA 19063	EMPLOYER: Alternative Dispute Resolution Services OCCUPATION: Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00

SUBTOTAL FOR PAGE 14 ..... $ 9,100.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Ms. Cynthia Friedman 2555 Pennsylvania Avenue, N.W. Apt. 902 Washington, DC 20037	Cynthia Friedman Associates OCCUPATION President YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. John A. Briscoe RD 2 Box 304 Newport, PA 17074	PennServe OCCUPATION Director YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/17/91	$ 500.00
Mr. Robert R. Bruce 3243 Klingle Road, N.W. Washington, DC 20008	Self-Employed OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/17/91	$ 500.00
Mr. Edmund A. Stanley Jr. P.O. Box 75 Oxford, MD 21654	OCCUPATION Retired YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. David A. Starr 3717-B Madison Lane Falls Church, VA 22041	Williams & Jensen OCCUPATION Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/21/91	$ 1,000.00
Mr. Robert J. Stein 4111 Argyle Terrace, N.W. Washington, DC 20011	Self-Employed OCCUPATION Consultant YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00
Mrs. Mary Ann Stein 4111 Argyle Terrace, N.W. Washington, DC 20011	OCCUPATION Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00

SUBTOTAL FOR PAGE 15 .....$ 7,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Philip M. Stern 2000 P Street, N.W. Ste. 406 Washington, DC 20036	Self-Employed Consultant YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mr. James W. Strader 586 Audubon Avenue Mt. Lebanon, PA 15228	Dickie, McCamey & Chilcote Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/29/91	$ 1,000.00
Mrs. Ann W. Strader 586 Audubon Avenue Mt. Lebanon, PA 15228	Homemaker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/29/91	$ 1,000.00
Ms. Betty Ann Ottinger 4014 Linnean Avenue, N.W. Washington, DC 20008	Washington-Baltimore Center ARRI Social Worker YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Mr. Miles L. Rubin 58 West 40th Street Ninth Floor New York, NY 10018	information requested YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/11/91	$ 500.00
Mr. Thomas M. Quinn 1919 Pennsylvania Avenue, N.W. Suite 800 Washington, DC 20006	O'Connor & Hannan Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 500.00
Mr. William M. Ewing 510 East Mount Pleasant Avenue Philadelphia, PA 19119	Hangley, Connolly, Epstein Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00

SUBTOTAL FOR PAGE 16 ..... $ 6,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Joel Z. Hyatt 1215 Superior Avenue Cleveland, OH 44114	Hyatt Legal Services Senior Partner YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Mrs. Susan M. Hyatt 1215 Superior Avenue Cleveland, OH 44114	Hyatt Legal Services Attorney of Counsel YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Ms. Sondra G. Myers 660 Boas Street Apt. 1517 Harrisburg, PA 17102	State of Pennsylvania Cultural Advisor YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
O'Connor & Hannan 1919 Pennsylvania Avenue, N.W. Suite 800 Washington, DC 20006 (PARTNERSHIP BREAKDOWN ATTACHED)	OCCUPATION YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/30/91	$ 500.00
Dilworth Paxson Kalish & Kauffman 123 South Broad Street Suite 2600 Philadelphia, PA 19109 (PARTNERSHIP BREAKDOWN ATTACHED)	OCCUPATION YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Sagalyn Associates 2000 M Street, N.W. Suite 400 Washington, DC 20036 (PARTNERSHIP BREAKDOWN ATTACHED)	OCCUPATION YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary General	06/17/91 06/17/91	$ 1,000.00 $ 1,000.00

SUBTOTAL FOR PAGE 17 .....$ 6,500.00

*** TOTAL THIS PERIOD *** .....$ 129,240.99

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SCHEDULE A — ITEMIZED RECEIPTS — LINE 11(a)

PARTNERSHIP BREAKDOWN FOR O'CONNOR & HANNAN
CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Thomas M. Quinn 1919 Pennsylvania Avenue, N.W. Suite 800 Washington, DC 20006	O'Connor & Hannan Attorney YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 500.00 (Memo)

SUBTOTAL FOR PAGE 1 ..... $ 500.00

*** TOTAL THIS PERIOD *** ..... $ 500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

PARTNERSHIP BREAKDOWN FOR DILWORTH PAXSON KALISH & KAUFFMAN
CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Ralph Kelly 123 South Broad Street Suite 2600 Philadelphia, PA 19109	Dilworth Paxson Kalish & Kauffman Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00 (Memo)
Mr. William Leonard 123 South Broad Street Suite 2600 Philadelphia, PA 19109	Dilworth Paxson Kalish & Kauffman Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00 (Memo)
Mr. James Smith 123 South Broad Street Suite 2600 Philadelphia, PA 19109	Dilworth Paxson Kalish & Kauffman Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00 (Memo)
Mr. Oliver Johnson 123 South Broad Street Suite 2600 Philadelphia, PA 19109	Dilworth Paxson Kalish & Kauffman Attorney YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/17/91	$ 250.00 (Memo)

SUBTOTAL FOR PAGE 1 .....$ 1,000.00

*** TOTAL THIS PERIOD *** .....$ 1,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(a)

PARTNERSHIP BREAKDOWN FOR SAGALYN ASSOCIATES
CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Mr. Arnold Sagalyn 2000 M Street, N.W. Suite 400 Washington, DC 20036	Sagalyn Associates Management Consultant YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary General (Memo)	06/17/91 06/17/91	$ 500.00 $ 500.00
Mrs. Louise Sagalyn 2000 M Street, N.W. Suite 400 Washington, DC 20036	Sagalyn Associates Executive YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary General (Memo)	06/17/91 06/17/91	$ 500.00 $ 500.00

SUBTOTAL FOR PAGE 1 ..... $ 2,000.00

*** TOTAL THIS PERIOD *** ..... $ 2,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(b)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	EMPLOYER / OCCUPATION	ELECTION	DATE	CONTRIBUTION
Democratic Senatorial Campaign Committee 430 South Capitol Street Washington, DC 20003	YEAR-TO-DATE AGGREGATE: $ 17,500.00	Primary	6/30/91	$17,500

SUBTOTAL FOR PAGE 1 .....$ 17,500.00

*** TOTAL THIS PERIOD *** .....$ 17,500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
A Lot of People Supporting Tom Daschle 1992 P.O. Box 1656 Sioux Falls, SD 57101	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
AFL-CIO Committee On Political Education 815 16th Street, N.W. Room 408 Washington, DC 20006	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Amalgamated Clothing & Textile Workers Union Philadelphia Joint Board PAC 22 South 22nd Street Philadelphia, PA 19103	YEAR-TO-DATE AGGREGATE: $ 2,500.00	Primary	06/17/91	$ 2,500.00
Amalgamated Clothing and Textile Workers Union PAC 15 Union Square New York, NY 10003	YEAR-TO-DATE AGGREGATE: $ 2,500.00	Primary	06/06/91	$ 2,500.00
Amalgamated Transit Union - COPE 5025 Wisconsin Avenue, N.W. Washington, DC 20016	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
American Federation of Government Employees PAC 80 F Street, N.W. Washington, DC 20001	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/06/91	$ 1,000.00
American Federation of State, County & Municipal Employees PEOPLE 1625 L Street, N.W. Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 8,500.00	General Primary	06/26/91 06/06/91	$ 3,500.00 $ 5,000.00

SUBTOTAL FOR PAGE 1 ..... $ 25,500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
American Federation of Teachers Committee of Political Education 555 New Jersey Avenue, N.W. Washington, DC 20001	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
American Telephone & Telegraph Company PAC 550 Madison Avenue New York, NY 10022	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/30/91	$ 5,000.00
Arnold & Porter Partners PAC 1200 New Hampshire Avenue, N.W. Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Association of Trial Lawyers of America PAC 1050 31st Street, N.W. 5th Floor Washington, DC 20007	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/17/91	$ 5,000.00
Bakery, Confectionery And Tobacco Workers International Union PAC 10401 Connecticut Avenue Kensington, MD 20895	YEAR-TO-DATE AGGREGATE: $ 2,500.00	Primary	06/06/91	$ 2,500.00
Boilermakers-Blacksmiths Legislative Education-Action Program CAF 753 State Avenue Suite 570 Kansas City, KS 66101	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/11/91	$ 5,000.00
Borski for Congress Committee P.O. Box 26846 Philadelphia, PA 19134	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00

SUBTOTAL FOR PAGE 2 .....$ 24,500.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
Bricklayers and Allied Craftsmen PAC 815 15th Street, N.W. 2nd Floor Washington, DC 20005	YEAR-TO-DATE AGGREGATE: $ 1,000.00	General	06/11/91	$ 1,000.00
Carpenters' Legislative Improvement Committee 101 Constitution Avenue, N.W. Washington, DC 20001	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Committee for Democratic Action P.O. Box 991-261 Cleveland, OH 44199	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Committee on Letter Carriers Political Education 100 Indiana Avenue, N.W. Washington, DC 20001	YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary	06/10/91	$ 2,000.00
Committee on Political Action of the American Postal Workers Union 1300 L Street, N.W. Washington, DC 20005	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Democrats for the 90's P.O. Box 3797 Washington, DC 20007	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Engineers Political Education Committee 1125 17th Street, N.W. Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/21/91	$ 5,000.00

SUBTOTAL FOR PAGE 3 .....$ 20,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
Foglietta 90 Committee P.O. Box 40027 Philadelphia, PA 19106	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
Fund for A Democratic Majority 420 C Street, N.E. Washington, DC 20002	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Hudson Valley PAC 100 Red Schoolhouse Road Spring Valley, NY 10977	YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary	06/17/91	$ 2,000.00
Industrial Union Department Voluntary Fund 815 16th Street, N.W. Washington, DC 20006	YEAR-TO-DATE AGGREGATE: $ 250.00	General	06/18/91	$ 250.00
International Brotherhood of Electrical Workers Committee On Political Education 1125 15th Street, N.W. Washington, DC 20005	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
International Chemical Workers Union Labor's Investment in Voter Education 1655 West Market Street Akron, OH 44313	YEAR-TO-DATE AGGREGATE: $ 400.00	Primary	06/30/91	$ 400.00
International Ladies Garment Workers Union Campaign Committee 1710 Broadway New York, NY 10019	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary Primary	06/11/91 06/11/91	$ 3,000.00 $ 2,000.00

SUBTOTAL FOR PAGE 4 ..... $ 18,650.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
IUE Committee On Political Education 1126 16th Street, N.W. Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
JCPenney Company, Inc. Political Action Committee P.O. Box 227481 Dallas, TX 75222	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
KidsPac, Inc. 80 Trowbridge Street Cambridge, MA 02138	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Kostmayer 1990 Campaign P.O. Box 1351 Doylestown, PA 18901	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Laborers' Political League 905 16th Street, N.W. Washington, DC 20006	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/26/91	$ 5,000.00
Machinists Non-Partisan Political League 1300 Connecticut Ave., N. W. Suite 404 Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $10,000.00	General Primary	06/19/91 06/06/91	$ 5,000.00 $ 5,000.00
Murtha for Re-Election Committee 403 Fisher Building P.O. Box 1091 Johnstown, PA 15901	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/21/91	$ 1,000.00

SUBTOTAL FOR PAGE 5 .....$ 28,000.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
National Committee for an Effective Congress 10 East 39th Street New York, NY 10016	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	05/30/91 (In-Kind)	$ 5,000.00
National Council of Senior Citizens PAC 925 15th Street, N.W. Washington, DC 20005	YEAR-TO-DATE AGGREGATE: $ 2,000.00	Primary	06/17/91	$ 2,000.00
National Education Association PAC 1201 16th Street, N.W. Room 627 Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
National Federation of Federal Employees Public Affairs Council 1016 16th Street, N.W. Suite 400 Washington, DC 20036	YEAR-TO-DATE AGGREGATE: $ 250.00	Primary	06/26/91	$ 250.00
Non-Partisan Political Support Committee for General Electric Company Employees 1331 Pennsylvania Avenue, N.W. Suite 1005 Washington, DC 20004	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00
Pennsylvania Power & Light People for Good Government Two North Ninth Street Allentown, PA 18101	YEAR-TO-DATE AGGREGATE: $ 500.00	Primary	06/21/91	$ 500.00
Principal Financial Group PAC, The 711 High Street Des Moines, IA 50309	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/26/91	$ 1,000.00

SUBTOTAL FOR PAGE 6 ..... $ 10,750.00

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SCHEDULE A ITEMIZED RECEIPTS LINE 11(c)

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS		ELECTION	DATE	CONTRIBUTION
Responsible Citizens Political League, Project of the Transportation Communications Union 3 Research Place Rockville, MD 20850	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/13/91	$ 1,000.00
Seafarers Political Activity Donation 5201 Auth Way Camp Springs, MD 20746	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/30/91	$ 5,000.00
Service Employees International Union Committee On Political Education Political Campaign 1313 L Street, N.W. Washington, DC 20005	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00
Simon for Senate P.O. Box 5626 Springfield, IL 62701	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Suidler & Berlin PAC 3000 K Street, N.W. Suite 300 Washington, DC 20007	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/17/91	$ 1,000.00
Treasury Employees Political Action Committee 1730 K Street, N.W. Suite 1101 Washington, DC 20006	YEAR-TO-DATE AGGREGATE: $ 1,000.00	Primary	06/30/91	$ 1,000.00
UAW Voluntary Community Action Program 8000 East Jefferson Avenue Detroit, MI 48214	YEAR-TO-DATE AGGREGATE: $ 5,000.00	Primary	06/06/91	$ 5,000.00

SUBTOTAL FOR PAGE 7 .....$ 19,000.00

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SCHEDULE B — ITEMIZED DISBURSEMENTS — LINE 17

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	PURPOSE	DATE	AMOUNT
Airborne Express P.O. Box 91001 Seattle, WA 98111	Overnight Service Primary Election	06/25/91	$ 27.00
Aristotle Industries 205 Pennsylvania Ave. SE Washington, DC 20003	Computer Services Primary Election	06/17/91	$ 3,000.00
Automatic Data Processing P.O. Box C-32113 Richmond, VA 23261	Payroll Services Primary Election	06/20/91	$ 50.00
Baumgartner, Rena RD 3 Knuckletown, PA 18058	Printing *(In-Kind)* Primary Election	06/17/91	$ 490.99
C & P Telephone 1325 G Street, N.W. #500 Washington, DC 20016	Telephone Service Primary Election	06/07/91	$ 2,000.00
Carville & Begala 329 Maryland Avenue, N.E. Washington, DC 20002	Consulting Services Primary Election	06/21/91	$ 8,000.00
Congressional House Associates 419 East Capitol Street Washington, DC 20003	Rent Primary Election	06/07/91	$ 3,000.00

SUBTOTAL FOR PAGE 1 ..... $ 16,567.99

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SCHEDULE B ITEMIZED DISBURSEMENTS LINE 17

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	PURPOSE	DATE	AMOUNT
Cynthia Friedman Associates 322 Massachusetts Ave. NE Washington, DC 20002	Consulting Services Primary Election	06/12/91 06/07/91	$ 261.00 $ 3,000.00
Dale Denton Real Estate 605 Pennsylvania Ave. SE Washington, DC 20003	Primary Election	06/07/91	$ 3,000.00
Entre Computer Center 2300 East Market Street York, PA 17402	Office Equipment Primary Election	06/12/91 06/07/91	$ 149.00 $ 1,645.00
Erie Airways, Inc. 1603 Asbury Road Erie, PA 16505	Travel Primary Election	06/12/91	$ 1,713.04
Fundraising Management Group 501 Capitol Court, N.E. Washington, DC 20002	Consulting Services Primary Election	06/17/91 06/17/91	$ 2,000.00 $ 4,000.00
Gleiser, Dawn 3905 North Front Street Harrisburg, PA 17110	Reimburse - Postage Primary Election	06/11/91	$ 25.00
Gold Office Products 9725-B Gaither Road Gaithersburg, PA 20877	Office Equipment Primary Election	06/12/91	$ 949.00

SUBTOTAL FOR PAGE 2 ..... $ 16,742.04

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SCHEDULE B — ITEMIZED DISBURSEMENTS — LINE 17

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	PURPOSE	DATE	AMOUNT
Harrisburg Patriot News P.O. Box 2265 Harrisburg, PA 17105	Subscription Primary Election	06/17/91	$ 12.96
Item, Inc. 5909 Vine Street Alexandria, VA 22310	Office Equipment Primary Election	06/17/91	$ 612.00
Maryland Airlines, Inc. 9 Airport Circle Easton, MD 21601	Travel Primary Election	06/12/91	$ 471.00
McGrath, Timothy 219 State Street Harrisburg, PA 17101	Reimburse-Travel Primary Election	06/12/91	$ 281.06
National Wire Group, Inc. 136 Greentree Road #110 Oaks, PA 19456	Office Equipment Primary Election	06/12/91 06/07/91	$ 415.67 $ 2,687.80
Natl Committee for an Effective Congress 10 East 39th Street New York, NY 10016	Electoral Targeting (In-Kind) Primary Election	05/30/91	$ 5,000.00
Pennsylvania National Bank 2151 Linglestown Road Harrisburg, PA 17110	Check Printing Primary Election	06/25/91 06/25/91	$ 33.77 $ 126.73

SUBTOTAL FOR PAGE 3 ..... $ 9,640.99

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SCHEDULE B ITEMIZED DISBURSEMENTS LINE 17

CITIZENS FOR SENATOR WOFFORD

NAME AND ADDRESS	PURPOSE	DATE	AMOUNT
Philadelphia Daily News P.O. Box 8500-6880 Philadelphia, PA 19178	Subscription Primary Election	06/17/91	$ 35.50
Pittsburgh Post-Gazette P.O. Box 1675 Pittsburgh, PA 15230	Subscription Primary Election	06/17/91	$ 35.00
Pittsburgh Press P.O. Box 1675 Pittsburgh, PA 15230	Subscription Primary Election	06/17/91	$ 35.00
Postmaster Harrisburg, PA	Postage Primary Election	06/25/91	$ 52.00
Schutt, Stephen 15 East Willow Grove Philadelphia, PA 19118	Reimburse-Travel Primary Election	06/12/91	$ 547.30
Staples 1133 20th Street, N.W. Washington, DC 20036	Office Supplies Primary Election	06/12/91	$ 532.96
U.S. Air Harrisburg, PA	Travel Primary Election	06/25/91 06/25/91	$ 430.00 $ 430.00

SUBTOTAL FOR PAGE 4 ..... $ 2,097.76

*** TOTAL THIS PERIOD *** ..... $ 45,048.78

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Anne B. Anstine, Chairman
Republican State Committee of Pennsylvania
George I. Bloom Republican Center
112 State Street
Harrisburg, PA 17101

RE: MUR 3420

Dear Ms. Anstine:

This letter acknowledges receipt on September 10, 1991, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Citizens for Senator Wofford. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 219-3410.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

9604374130 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

John D. Sheridan, Treasurer
Citizens for Senator Wofford
3905 North Front Street
Harrisburg, PA 17110

RE: MUR 3420

Dear Mr. Sheridan:

The Federal Election Commission received a complaint which alleges that Citizens for Senator Wofford ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374130 4

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

cc: Senator Harris L. Wofford

96043741305

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Arnold Sagalyn
Sagalyn Associates
2000 M Street, N.W.
Washington, D.C. 20036

RE: MUR 3420

Dear Mr. Sagalyn:

The Federal Election Commission received a complaint which alleges that Sagalyn Associates may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against Sagalyn Associates in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374130 6

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741307

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Tom Ducy, Treasurer
Machinists Non-Partisan Political League
1300 Connecticut Avenue, N.W.
Washington, D.C. 20036

RE: MUR 3420

Dear Mr. Ducy:

The Federal Election Commission received a complaint which alleges that the Machinists Non-Partisan Political League and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Machinists Non-Partisan Political League and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374130 8

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741309

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

William Lucy, Treasurer
American Federation of State, County & Municipal
Employees- P E O P L E
1625 L Street, N.W.
Washington, D.C. 20036

RE: MUR 3420

Dear Mr. Lucy:

The Federal Election Commission received a complaint which alleges that the American Federation of State, County & Municipal Employees-P E O P L E and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against American Federation of State, County & Municipal Employees-P E O P L E and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374310

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741311

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Clare Wofford
407 Old Gulph Road
Bryn Mawr, PA 19010

RE: MUR 3420

Dear Mrs. Wofford:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374312

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741313

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Patricia Rapoport
P.O. Box 2608
Waco, TX 76797

RE: MUR 3420

Dear Mrs. Rapoport:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374314

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741315

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Robert J. Stein
4111 Argyle Terrace, N.W.
Washington, D.C. 20011

RE: MUR 3420

Dear Mr. Stein:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374316

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741317

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Hale A. Krasne
3245 Ellicott Street, N.W.
Washington, D.C. 20008

RE: MUR 3420

Dear Mrs. Krasne:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374318

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741319

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Robert M. Krasne
3245 Ellicott Street, N.W.
Washington, D.C. 20008

RE: MUR 3420

Dear Mr. Krasne:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741321

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Gregory B. Craig
3155 Highland Place, N.W.
Washington, D.C. 20008

RE: MUR 3420

Dear Mr. Craig:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

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If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741323

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. John E. Connelly
361 Saxonburg Road
Pittsburgh, PA 15238

RE: MUR 3420

Dear Mr. Connelly:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374132 4

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741325

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Daniel B. Wofford
158 Three Ponds Lane
Malvern, PA 29355

RE: MUR 3420

Dear Mr. Wofford:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374132 6

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741327

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Anne Sobel
101 Executive Center Drive
No. 1-600
West Palm Beach, FL 33401

RE: MUR 3420

Dear Mrs. Sobel:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374132 8

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741329

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Ms. Louise S. Ansberry
505 North School Lane
Lancaster, PA 17603

RE: MUR 3420

Dear Ms. Ansberry:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374130

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741331

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Ms. Sabrina F. Wister
Middlebury College
Box 3695
Middlebury, VT 05753

RE: MUR 3420

Dear Ms. Wister:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374132

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741333

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Ethel B. Wister
2175 Buttonwood Road
Berwyn, PA 19312

RE: MUR 3420

Dear Mrs. Wister:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741335

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Susie Field
608 Mountain Drive
Beverly Hills, CA 91210

RE: MUR 3420

Dear Mrs. Field:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374133 6

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741337

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Thomas L. Siebert
229 Wardour Drive
Annapolis, MD 21401

RE: MUR 3420

Dear Mr. Siebert:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374138

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741339

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Raymond G. Chambers
Van Beuren Road
Morristown, NJ 07960

RE: MUR 3420

Dear Mr. Chambers:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134 0

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741341

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Patricia A. Chambers
Van Beuren Road
Morristown, NJ 07960

RE: MUR 3420

Dear Mrs. Chambers:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741343

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Ms. Alida R. Messinger
30 Rockefeller Plaza
Room 5600
New York, NY 10112

RE: MUR 3420

Dear Ms. Messinger:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134 4

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741345

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Ms. Sarah E. Peck
158 Three Ponds Lane
Malvern, PA 19355

RE: MUR 3420

Dear Ms. Peck:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134 6

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741347

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Patrick H. McCarthy
526 Hamilton Road
Merion, PA 19066

RE: MUR 3420

Dear Mr. McCarthy:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374134 8

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741349

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Burke Marshall
Castle Meadow Road
Newtown, CT 06470

RE: MUR 3420

Dear Mr. Marshall:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374135 0

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741351

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Paul C. Warnke
4037 Garfield Street, N.W.
Washington, D.C. 20016

RE: MUR 3420

Dear Mr. Warnke:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374135 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741353

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Ronald Rapoport
P.O. Box 2608
Waco, TX 76797

RE: MUR 3420

Dear Mr. Rapoport:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374354

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741355

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Audre Rapoport
P.O. Box 2608
Waco, TX 76797

RE: MUR 3420

Dear Mrs. Rapoport:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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9604374135 6

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741357

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Bernard Rapoport
P.O. Box 2608
Waco, TX 76797

RE: MUR 3420

Dear Mr. Rapoport:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

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9604374158

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741359

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mr. Smith Bagley
1539 29th Street, N.W.
Washington, D.C. 20007

RE: MUR 3420

Dear Mr. Bagley:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374136 0

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741361

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1991

Mrs. Elizabeth F. Bagley
1539 29th Street, N.W.
Washington, D.C. 20007

RE: MUR 3420

Dear Mrs. Bagley:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3420. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

9604374136 2

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3400. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

96043741363

SMITH BAGLEY

September 18, 1991

Ms. Lois G. Lerner
Associate General Counsel
Federal Election Commission
Washington, DC 20463

RE: MUR 3420

Dear Ms. Lerner:

Thank you for sending me a copy of the Republican State Committee of Pennsylvania's complaint and its reference to me.

As you can see from the attached check to "Citizens for Senator Harris Wofford", which is for the primary and general election, it is dated May 20, 1991, not June 6, 1991. It is possible that the Wofford campaign did not deposit this campaign contribution until June 7, when a bank account was opened.

I hope this information will suffice and that the Republican party of Pennsylvania will begin to spend their time on meaningful issues that face this country.

Best wishes.

I am,

cc: Anne B. Anstine
Chairman
George I. Bloom Republican Center
112 State Street
Harrisburg, PA 17101

9604374136 4

24769

[redacted]

May 20 1991

PAY TO THE ORDER OF Citizens for Senator Wofford $2,000.00

Two thousand & no/100 DOLLARS

THE NATIONAL BANK OF WASHINGTON

LINGLESTOWN

FOR

[redacted]

ENDORSE CREDITED TO THE ACCOUNT OF

PENNSYLVANIA NAT'L BANK & TRUST COMPANY
LINGLESTOWN, PA.

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

0011 26039

PENNSYLVANIA
NATIONAL BANK
ST. CLAIR, PA.
⑆011307361⑆

JUN - 7 '91

RICES NAT. BANK
PROCESSED
6/10/91
51131965

JE '91' 10

[redacted]

9604374136 5

Thomas L. Siebert

Suite 200
1901 L Street, N.W.
Washington, D.C. 20036
(202) 293-7405

September 23, 1991

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

Re: MUR 3420

Dear Mr. Noble:

Please note that the $2,000 check written June 26, 1991 by me to the campaign of Harris Wofford (PA) was in the nature of a replacement contribution for two separate $1,000 checks written in May 1991 to Mr. Wofford's campaign by me and my wife, Deborah Simpson Siebert. In late May 1991, we each executed $1,000 checks for Mr. Wofford's primary campaign and had them hand-delivered to the offices of Mr. Smith Bagley for delivery to Mr. Wofford's campaign. Apparently, the two checks came to be lost in transit and were never delivered to the campaign. Alerted to this fact in mid-June 1991, I simply wrote one $2,000 check directly to Mr. Wofford's campaign.

If the campaign would return $1,000 to me, my wife fully intends to contribute a like amount to Mr. Wofford's campaign.

Please advise.

Very truly yours,

Thomas L. Siebert

Thomas L. Siebert

TLS:cld
/u/20/MUR3420.ltr

9604374136 6

06C 5871

LAW OFFICES

DILWORTH, PAXSON, KALISH & KAUFFMAN

2600 THE FIDELITY BUILDING
PHILADELPHIA, PENNSYLVANIA 19109-1094

(215) 875-7000

FAX (215) 875-8540

WASHINGTON, D. C.
LOS ANGELES, CALIFORNIA
SCRANTON, PENNSYLVANIA
HARRISBURG, PENNSYLVANIA
BOCA RATON, FLORIDA
WEST ATLANTIC CITY, NEW JERSEY
CAMDEN, NEW JERSEY

DIRECT DIAL (215) 875-

BRUCE W. KAUFFMAN[ii]
STEPHEN J. KORN
STEPHEN J. HARMELIN
DAVID H. PITTINSKY*
EDWIN M. GOLDSMITH, III
JOHN F. SMITH, III
THEODORE A. YOUNG
STEVEN L. FRIEDMAN
RICHARD B. CUTLER*
MICHAEL I. SMITH*
ROBB J. REEBE
JOHN PHILIP CRAMPTON
RICHARD M. SEGAL
ROGER F. WOOD
CARL G. ROBERTS
ALAN J. HOFFMAN[ii]
MARC A. FELLER
NOPE A. COWSKY[i]
LAWRENCE G. McMICHAEL
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DANIEL B. EVANS
PATRICK N. McCARTHY[ii]
ALAN S. GROONITZKY[ii]
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DAVID J. LEVENSON*
EDWARD N. BARCL
PAUL R. SALERNO*
ERIC HEYWOOD POOKRUM*
BARBARA ANISKO
DOUGLAS M. LURIO**
VICTORIA M. KOMARNICKI

JULES I. WHITMAN**
WILLIAM J. HERRICK, JR.
JOSEPH H. JACOVINI
JOHN M. FITZPATRICK
CARL H. HAWKELUK
RICHARD B. MEYER
STEPHEN J. MATHES**
THOMAS A. LEONARD
FELICE R. CUTLER*
ROBERT R. BEDELL*
PETER J. PICOTTE, III*
LAWRENCE D. BERGER
JOHN R. LATOURETTE, JR.*
THOMAS E. SLINEY*
JAMES F. HONTEITH
SHERYL L. AUERBACH
JUSTIN P. KLEIN*
MARK J. LEVIN
THOMAS I. VANASKIE
JOHN W. SCHMENL
PAUL W. BASKOWSKY
CARL W. HITTINGER*
STEPHEN G. BURNS*
CHARLES E. CANIFF, JR.
RAYMOND PAUL PEPE
STEPHEN L. PARKER*
JOHN F. COONEY*
NANCY L. DASSOFF*
ROBERT A. PHILIPSON*
ELIZABETH L. BENNETT
JOSEPH F. KESSLER[i]
THOMAS J. FOLEY, III
JAMES J. GREENFIELD***

SCOTT N. SILVER*
DAVID K. FRIEDMAN*
MICHAEL L. KRANCER
MICHAEL P. GALLAGHER
DOMINIC S. LIBERI***
SUSAN B. BUDNICK
VIRGINIA H. MILLER
LAWRENCE A. HUSICK
LAURENCE S. SHTASEL
ROBERT L. FIELD*
MARY T. TOMICH***
RICHARD J. BORTNICK*
BART DeLONE
GREGORY F. CIRILLO*
PATRICK L. HEEHAN
HARRIET J. KOREN
VICTOR P. STABILE
DANIEL S. OJSERRIS*
JANIS ABRAMS*
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LYNN S. BESANCON*
JOHN N. ELLISON
VIRGINIA L. FLICK
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GERALD J. GUARCINI
LISA A. O'DONNELL*
MARIA R. McGARRY
RICHARD E. STABINSKI
MARTIN J. WEIS
JAMES J. McHUGH, JR.
MARJORIE L. McMAHON
JOHN P. McLAUGHLIN
MARGARET M. CALLAHAN*
AMY A. FOX
STEVEN A. HABER[ii]
HEATHER H. MOYER
KEVIN C. QUINN
STEVEN ROTH
SUSAN J. COSTELLO*
DANIEL LEMISCH
JAYNI L. MYERS
LYNNE A. SITARSKI[i]

STEVEN E. COMBS
RALPH J. KELLY
JAMES T. SMITH*
WILLIAM J. LEONARD
LAWRENCE F. SHAY
J. ERIC RATHBURN
BARBARA ALDEN BROWN*
EDMUND J. BROKANS
DONNA FOSSUM*
TIMOTHY S. BRODDERICK***
NINA M. CHASE*
SAM S. NAZZARO[i]
KATHLEEN M. BENDER[i]
JOEL L. FRANK
CAMILLE J. WOLF[i]
JONATHAN J. BART**
CHRISTINE S. DUTTON
STEVEN L. DANIELS*
M. MILLER BAKER*
J. BRADFORD McILVAINE*
PATRICK T. DAVISH
MAURA E. FAY
RICHARD L. FOX**
THOMAS E. GROSHENS
BRUCE E. HARTMAN
OLIVER M. JOHNSON, II
BARBRA SMOTELA
SCOTT R. SHEPHERD*
CARON P. GRAFF[ii]
ROBERT F. ZIELINSKI[ii]
NEIL R. E. CARR*
ALICE M. OPPENHEIMER
THOMAS J. FACER
DANIEL H. GOLUB*
DEBORAH FINKLE MITCHELL[i]
DANIEL A. PERRY
LYNN A. ROSNER
ANN E. SWEENEY
PENNY M. CONLY[ii]
CHRISTOPHER R. MOMJIAN
JOHN V. O'HARA[i]
STEPHEN J. SMITH[i]

COUNSEL TO THE FIRM
WILLIAM M. MARUTANI
ALBERT P. BLAUSTEIN

COUNSEL
JAMES A. SUTTON
MARTIN MENDELSOHN*
HARRY J. CARR*
STEPHEN SCHACHMAN[i]
MARCUS MANOFF[ii]
ARNOLD S. KURZINGER*
ROBERT D. TYLANDER*

JAY S. BLUMENKOPF*
JAMES W. ARTZ*
STEVEN A. TAUBE*
BARBARA SARDELLARO
LAWRENCE J. MILLER*
NATHANIEL GUDIN
STANLEY S. MENDELL*

* NOT ADMITTED TO PA BAR
** ALSO MEMBER OF FL BAR
*** ALSO MEMBER OF MT BAR
[i] ALSO MEMBER OF CA BAR
[ii] ALSO MEMBER OF NY BAR
[iii] ALSO MEMBER OF DC BAR
[iv] ALSO MEMBER OF DE BAR
[v] ALSO MEMBER OF MA BAR
[vi] ALSO MEMBER OF NJ BAR

9604374136 7

Dear Veronica,

Re: MUR 3420, my checkbook shows I wrote the check on May 21, 1991. If this information answers your questions, please let me know. If you need other information, please feel free to contact me.

Sincerely,

Pat M. Carty

91 SEP 23 PM 3:33

OBC 2921

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

Machinists Building
1300 Connecticut Avenue
Washington, D.C. 20036

Area Code 202
857-5200

OFFICE OF THE INTERNATIONAL PRESIDENT

GL 2 Legal Department

September 24, 1991

Subj: MUR 3420

91 SEP 26 PM 3:08

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble:

We would like to take this opportunity to respond to the above-referenced complaint. We understand the complaint to allege that all contributions to "Pennsylvanians for Senator Wofford" made after June 1, 1991, should be considered contributions to the Senator's general election campaign.

We take no position on the merits of such a claim, for even if such a claim has merit, the Machinists Non-Partisan Political League ("MNPL") has in no way violated the Act. As the accompanying Declaration of Tom Ducy ("Ducy Decl.") and its attachments makes clear, MNPL made two contributions to Pennsylvanians for Senator Wofford, one for his primary campaign, sent before the June 1 date, and one for his general election campaign sent after the June 1 date. See Ducy Decl. ¶¶ 2-3 & Attachments A (check dated May 22) & E (check dated June 19). Both contributions were properly recorded with the FEC. See id. & Attachments C, D & F.

The check for the primary campaign is dated May 22, 1991, and was mailed on May 23rd. Ducy Decl. ¶ 2. Both the accompanying cover letter (Attachment B), and the check itself (Attachment A), clearly indicate that the check was designated for use in the primary campaign. Accordingly, under 11 C.F.R. § 110.2(b)(4)(i) and (ii), the contribution "shall be considered to be designated in writing for" the primary campaign.

9604374136 8

Apparently the check was not cashed until June 7. Even if, arguendo, contributions "made" after June 1 should be considered contributions to the general election campaign, the controlling date is the date the contribution was mailed, not the date the check was cashed by the recipient. Thus, under 11 C.F.R. § 110.2(b)(6):

> [A] contribution shall be considered to be made when the contributor relinquishes control over the contribution. . . . A contribution that is mailed to the . . . political committee . . . shall be considered to be made on the date of the postmark.

As ¶ 2 of the Declaration of Tom Ducy establishes, the contribution was mailed on May 23, 1991, the day after the check was cut. Thus the contribution was made prior to June 1.

In sum, even if contributions to the Senator's primary campaign made after June 1 should be considered contributions to his general election campaign, MNPL is innocent of any wrongdoing. For the foregoing reasons, the complaint against MNPL should be dismissed. If we can be of further assistance, please do not hesitate to contact us.

Respectfully submitted,

Allison Beck

Allison Beck
Counsel for MNPL

AB/bk

Enclosures

9604374136 9

DECLARATION OF TOM DUCY

1. My name is Tom Ducy. I am treasurer of the Machinists Non-Partisan Political League ("MNPL") and have been named along with the MNPL in Complaint number MUR 3420.

2. MNPL made two contributions to "Pennsylvanians for Senator Wofford." The first contribution was for his primary campaign, and was a check numbered 9738 for $5000. That check was dated May 22, 1991, and was mailed to "Pennsylvanians for Senator Wofford" on the following day, May 23rd. A true copy of that check is attached hereto as Attachment A. A true copy of the cover letter accompanying that check is attached hereto as Attachment B. That contribution was reported to the FEC in a report submitted to the FEC on June 18, 1991, a copy of which is attached hereto as Attachment C. It was further reported in an amended report submitted to the FEC on June 28, 1991, which is attached hereto as Attachment D.

3. The second contribution was for the Senator's general election campaign, and was a check numbered 9801 for $5000. That check was dated June 19, 1991. A true copy of that check is attached hereto as Attachment E. That contribution was reported to the FEC in a report submitted to the FEC on July 18, 1991, a copy of which is attached hereto as Attachment F.

9604374130

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 24, 1991

Tom Ducy

Tom Ducy

9604374137 1

9604374137 2

MACHINISTS NON-PARTISAN
POLITICAL LEAGUE
GENERAL FUND
1300 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036

9738

JUN 07

May 22, 1991

PAY TO THE ORDER OF Pennsylvanians for Senator Wofford

$ 5,000.00

FIVE THOUSAND DOLLARS

1st AMERICAN BANK
FIRST AMERICAN BANK, N.A., WASHINGTON, D.C. 20005

FOR 1992 primary

⑈009738⑈ ⑆054000043⑆ 3 607 248⑈ ⑈0000500000⑈

A

Executive Committee

GEORGE J. KOURPIAS
President

TO[illegible]Y
Secretary-Treasurer

EDGAR M. HOUSE
Vice President

PA-Senate

MACHINISTS

NON-PARTISAN POLITICAL LEAGUE

MACHINISTS BUILDING, 1300 CONNECTICUT AVE., WASHINGTON, D.C. 20036-1703

R. THOMAS BUFFENBARGER, Deputy to Executive Committee
WILLIAM J. HOLAYTER, Director

Area Code 202
857-5295

May 23, 1991

Pennsylvanians for Senator Wofford
P. O. Box 11555
Harrisburg, Pennsylvania 17108

Dear *Pennsylvanians for Senator Wofford* Committee,

Enclosed is our check in the amount of $5,000.00 made payable to the *Pennsylvanians for Senator Wofford* for his 1992 primary election.

The decision to make this contribution was made by the MNPL and was not in any way due to the action of any third person. Therefore, this contribution is forwarded on the understanding that the total amount will be used by the *Pennsylvanians for Senator Wofford* for campaign purposes and that none of these monies will be paid over to any third person because of any alleged services by that person in arranging for this contribution.

Please be assured that this check represents voluntary contributions from the members of the Machinists Union.

With best wishes, I am

Sincerely yours,

William J. Holayter
Director, Legislative & Political
Action Department

WJH/pal

Enclosure

cc: GVP George J. Poulin
DBR Norman Loudenslager
Pres, PA SCM Ken Black

9604374137 3

B

REPORT OF RECEIPTS AND DISBURSEMENTS

For Other Than An Authorized Committee

(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)

Machinists Non-Partisan Political League

ADDRESS (number and street) — Check if different than previously reported

1300 Connecticut Avenue, N.W.

CITY, STATE and ZIP CODE

Washington, DC 20036

2. FEC IDENTIFICATION NUMBER

C00002469

3. ___ This committee qualified as a multicandidate committee DURING THIS Reporting Period on _____ (date).

4. TYPE OF REPORT

(a) ☐ April 15 Quarterly Report

☐ July 15 Quarterly Report

☐ October 15 Quarterly Report

☐ January 31 Year End Report

☐ July 31 Mid Year Report (Non-election Year Only)

☐ Termination Report

Monthly Report Due On:

☐ February 20 ☒ June 20 ☐ October 20
☐ March 20 ☐ July 20 ☐ November 20
☐ April 20 ☐ August 20 ☐ December 20
☐ May 20 ☐ September 20 ☐ January 31

☐ Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____

☐ Thirtieth day report following the General Election on _____ in the State of _____.

(b) Is this Report an Amendment? ☐ YES ☒ NO

SUMMARY

		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5.	Covering Period May 1, 1991 through May 31, 1991		
6. (a)	Cash on Hand January 1, 19 91		$ 353,017.20
(b)	Cash on Hand at Beginning of Reporting Period	$ 561,830.34	
(c)	Total Receipts (from Line 19)	$ 186,884.40	$ 682,311.21
(d)	Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$ 748,714.74	$ 1,035,328.41
7.	Total Disbursements (from Line 30)	$ 54,299.09	$ 340,912.76
8.	Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 694,415.65	$ 694,415.65
9.	Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	$ .00	
10.	Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	$ .00	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer
Tom Ducy

Signature of Treasurer
Tom Ducy

Date
6-18-91

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

FEC FORM 3X
(revised 1/88)

C

9604374137 4

DETAILED SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS
PAGE 2, FEC FORM 3X

(revised 1/1/91)

NAME OF COMMITTEE
Machinists Non-Partisan Political League

REPORT COVERING PERIOD
FROM TO

I. Receipts	COLUMN A Total This Period	COLUMN B Calendar Year
11. Contributions (other than loans) From:		
a. Individual/Persons Other Than Political Committees		
i. Itemized (use Schedule A)	$ 79,910.57	$ 213,794.09
ii. Unitemized	105,527.55	459,962.33
iii. Total (add i and ii) ➤	185,438.12	673,756.42
b. Political Party Committees	.00	.00
c. Other Political Committees (such as PACs)	.00	.00
d. Total Contributions (add a iii, b and c) ➤	185,438.12	673,756.42
12. Transfers From Affiliated/Other Party Committees	.00	.00
13. All Loans Received	.00	.00
14. Loan Repayments Received	.00	.00
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.)	.00	.00
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees	.00	.00
17. Other Federal Receipts (Dividends, Interest, etc.)	1,446.28	8,554.79
18. Transfers from Nonfederal Account for Joint Activity	.00	.00
19. Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) ➤	$ 186,884.40	$ 682,311.21
20. Total Federal Receipts (subtract line 18 from line 19) ➤	$ 186,884.40	$ 682,311.21
II. Disbursements		
21. Operating Expenditures:		
a. Shared Federal/Non-Federal Activity (from Schedule H4)		
i. Federal Share	.00	.00
ii. Non-Federal Share	.00	.00
b. Other Federal Operating Expenditures	$ 2,236.28	$ 12,342.61
c. Total Operating Expenditures (Add a i, a ii, and b)) ➤	2,236.28	12,342.61
22. Transfers to Affiliated/Other Party Committees	12,094.88	38,212.87
23. Contributions to Federal Candidates/Committees and Other Political Committees	38,400.00	248,097.75
24. Independent Expenditures (use Schedule E)	.00	.00
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) (use Schedule F)	.00	.00
26. Loan Repayments Made	.00	.00
27. Loans Made	.00	.00
28. Refunds of Contributions To:		
a. Individuals/Persons Other Than Political Committees	.00	748.80
b. Political Party Committees	.00	.00
c. Other Political Committees (such as PACs)	.00	.00
d. Total Contribution Refunds (Add a, b and c) ➤	.00	748.80
29. Other Disbursements	1,567.93	41,510.73
30. Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) ➤	$ 54,299.09	$ 340,912.76
31. Total Federal Disbursements (subtract line 21 a ii from line 30) ➤	$ 54,299.09	$ 340,912.76
III. Net Contributions/Operating Expenditures		
32. Total Contributions (other than loans)(from line 11d)	$ 185,438.12	$ 673,756.42
33. Total Contribution Refunds (from line 28d)	.00	748.80
34. Net Contributions (other than loans)(subtract line 33 from 32)	185,438.12	673,007.62
35. Total Federal Operating Expenditures (add 21 a i and 21 b) ➤	2,236.28	12,342.61
36. Offsets to Operating Expenditures (from line 15)	.00	.00
37. Net Operating Expenditures (subtract line 36 from 35) ➤	2,236.28	12,342.61

06043741375

SCHEDULE B **ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 3

FOR LINE NUMBER 23

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

Machinists Non-Partisan Political League

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Pennsylvanians for Sen. (Harris) Wofford Post Office Box 11555 Harrisburg, PA 17108	campaign contribution - Senate Pennsylvania - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-22-91	$ 5,000.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
(Richard) Shelby for U.S. Senate Post Office Box 1091 Tuscaloosa, AL 35403	campaign contribution - Senate Alabama - $5,000 Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	5-31-91	$ 5,000.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of Bud Cramer 115 - 8th Street, S.E. Washington, DC 20003	reception tickets - 5th C.D. Alabama - $350 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 350.00
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of George Miller Post Office Box 5864 Concord, CA 94524	reception tickets - 7th C.D. California - $1,300 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 300.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Pete Stark Re-Election Committee 810 G Street, S.E. Washington, DC 20003	reception tickets - 9th C.D. California - $2,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 1,000.00
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Tom Lantos for Congress Committee 499 South Capitol Street, S.W. Washington, DC 20003	reception tickets - 11th C.D. California - $500 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 500.00
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
(Ben) Campbell Victory Fund 3219 Cathedral Avenue, N.W. Washington, DC 20008	reception tickets - 3rd C.D. Colorado - $300 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 300.00
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of Rosa DeLauro 49 Huntington Street New Haven, CT 06511	campaign contribution - 3rd C.D. Connecticut - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 4,650.00
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
John Lewis for Congress Committee Post Office Box 2884 Washington, DC 20013	reception tickets - 5th C.D. Georgia - $350 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 350.00

SUBTOTAL of Disbursements This Page (optional) .....

TOTAL This Period (last page this line number only) .....

9604374137 6

Executive Committee

G[illegible] J. KOURPIAS
President

TOM[illegible]
Secretary-Treasurer

EDGAR M. HOUSE
Vice President

MACHINISTS

NON-PARTISAN POLITICAL LEAGUE

MACHINISTS BUILDING, 1300 CONNECTICUT AVE., WASHINGTON, D.C. 20036-1703

R. THOMAS BUFFENBARGER, Deputy to Executive Committee
WILLIAM J. HOLAYTER, Director

Area Code 202
857-5295

June 28, 1991

Public Records Office
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

To Whom It May Concern:

Attached is a revised Schedule B Itemized Disbursements, Line 23, Page 2 of 3. Please note the change in the contribution to Pennsylvanians for Senator Wofford from the 1992 primary to the 1991 special primary. This amends our report for the period May 1 through May 31, 1991.

Thank you very much.

Sincerely,

Tom Ducy
Treasurer

9 6 0 4 3 7 4 1 3 7 7

SCHEDULE B

ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 2 OF 3

FOR LINE NUMBER 23

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

Machinists Non-Partisan Political League

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Pennsylvanians for Sen. (Harris) Wofford Post Office Box 11555 Harrisburg, PA 17108	campaign contribution - Senate Pennsylvania - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify) special	5-22-91	$ 5,000.00
B. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
(Richard) Shelby for U.S. Senate Post Office Box 1091 Tuscaloosa, AL 35403	campaign contribution - Senate Alabama - $5,000 Disbursement for: [ ] Primary [ ] General [ ] Other (specify)	5-31-91	$ 5,000.00
C. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of Bud Cramer 115 - 8th Street, S.E. Washington, DC 20003	reception tickets - 5th C.D. Alabama - $350 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 350.00
D. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of George Miller Post Office Box 5864 Concord, CA 94524	reception tickets - 7th C.D. California - $1,300 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 300.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Pete Stark Re-Election Committee 810 G Street, S.E. Washington, DC 20003	reception tickets - 9th C.D. California - $2,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 1,000.00
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Tom Lantos for Congress Committee 499 South Capitol Street, S.W. Washington, DC 20003	reception tickets - 11th C.D. California - $500 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 500.00
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
(Ben) Campbell Victory Fund 3219 Cathedral Avenue, N.W. Washington, DC 20008	reception tickets - 3rd C.D. Colorado - $300 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 300.00
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
Friends of Rosa DeLauro 49 Huntington Street New Haven, CT 06511	campaign contribution - 3rd C.D. Connecticut - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 4,650.00
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
John Lewis for Congress Committee Post Office Box 2884 Washington, DC 20013	reception tickets - 5th C.D. Georgia - $350 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	5-31-91	$ 350.00

SUBTOTAL of Disbursements This Page (optional) .....

TOTAL This Period (last page this line number only) .....

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MACHINISTS NON-PARTISAN
POLITICAL LEAGUE
GENERAL FUND
1300 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036

9801

15-4
540 9

June 19, 1991

PAY TO THE ORDER OF Pennsylvanians for Senator Wofford $ 5,000.00

THE SUM OF 5000 00 DOLLARS

1st AMERICAN BANK
FIRST AMERICAN BANK, N.A., WASHINGTON, D.C. 20005

LINGLESTOWN

FOR '92 general

⑈009801⑈ ⑆054000043⑆ 3 107 248⑈ ⑈0000500000⑈

REPORT OF RECEIPTS AND DISBURSEMENTS

For Other Than An Authorized Committee

(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full)

Machinists Non-Partisan Political League

ADDRESS (number and street) — Check if different than previously reported

1300 Connecticut Avenue, N.W.

CITY, STATE and ZIP CODE

Washington, DC 20036

2. FEC IDENTIFICATION NUMBER

C00002469

3. This committee qualified as a multicandidate committee DURING THIS Reporting Period on _____ (date).

4. TYPE OF REPORT

(a) [ ] April 15 Quarterly Report

[ ] July 15 Quarterly Report

[ ] October 15 Quarterly Report

[ ] January 31 Year End Report

[ ] July 31 Mid Year Report (Non-election Year Only)

[ ] Termination Report

Monthly Report Due On:

[ ] February 20	[ ] June 20	[ ] October 20
[ ] March 20	[X] July 20	[ ] November 20
[ ] April 20	[ ] August 20	[ ] December 20
[ ] May 20	[ ] September 20	[ ] January 31

[ ] Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____

[ ] Thirtieth day report following the General Election on _____ in the State of _____.

(b) Is this Report an Amendment? [ ] YES [X] NO

SUMMARY	COLUMN A This Period	COLUMN B Calendar Year-to-Date
5. Covering Period 6-1-91 through 6-30-91		
6. (a) Cash on Hand January 1, 19 91		$ 353,017.20
(b) Cash on Hand at Beginning of Reporting Period	$ 694,415.65	
(c) Total Receipts (from Line 19)	$ 152,901.56	$ 835,212.77
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and Lines 6(a) and 6(c) for Column B)	$ 847,317.21	$ 1,188,229.97
7. Total Disbursements (from Line 30)	$ 130,339.65	$ 471,252.41
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line 6(d))	$ 716,977.56	$ 716,977.56
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	$ .00	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	$ .00	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800-424-9530
Local 202-376-3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer: Tom Ducy

Signature of Treasurer: Tom Ducy

Date: 7-18-91

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

F

FEC FORM 3X

(revised 1.1.91)

9604374138 0

DETAILED SUMMARY PAGE
OF RECEIPTS AND DISBURSEMENTS
PAGE 2, FEC FORM 3X

(revised 1/1/91)

NAME OF COMMITTEE: Machinists Non-Partisan Political League

REPORT COVERING PERIOD FROM 6-1-91 TO: 6-30-91

	COLUMN A Total This Period	COLUMN B Calendar Year
I. Receipts		
11. Contributions (other than loans) From:		
a. Individual/Persons Other Than Political Committees		
i. Itemized (use Schedule A)	$ 37,775.30	$ 251,569.39
ii. Unitemized	113,020.93	572,983.26
iii. Total (add i and ii) ➤	150,796.23	824,552.65
b. Political Party Committees	.00	.00
c. Other Political Committees (such as PACs)	.00	.00
d. Total Contributions (add a iii, b and c) ➤	150,796.23	824,552.65
12. Transfers From Affiliated/Other Party Committees	.00	.00
13. All Loans Received	.00	.00
14. Loan Repayments Received	.00	.00
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.)	.00	.00
16. Refunds of Contributions Made to Federal Candidates and Other Political Committees	.00	.00
17. Other Federal Receipts (Dividends, Interest, etc.)	2,105.33	10,660.12
18. Transfers from Nonfederal Account for Joint Activity	.00	.00
19. Total Receipts (add 11d, 12, 13, 14, 15, 16, 17, and 18) ➤	$ 152,901.56	$ 835,212.77
20. Total Federal Receipts (subtract line 18 from line 19) ➤	$ 152,901.56	$ 835,212.77
II. Disbursements		
21. Operating Expenditures:		
a. Shared Federal/Non-Federal Activity (from Schedule H4)		
i. Federal Share	.00	.00
ii. Non-Federal Share	.00	.00
b. Other Federal Operating Expenditures	$ 2,217.09	$ 14,559.70
c. Total Operating Expenditures (Add a i, a ii, and b) ➤	2,217.09	14,559.70
22. Transfers to Affiliated/Other Party Committees	1,603.88	39,816.75
23. Contributions to Federal Candidates/Committees and Other Political Committees	118,875.00	366,972.75
24. Independent Expenditures (use Schedule E)	.00	.00
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) (use Schedule F)	.00	.00
26. Loan Repayments Made	.00	.00
27. Loans Made	.00	.00
28. Refunds of Contributions To:		
a. Individuals/Persons Other Than Political Committees	.00	748.80
b. Political Party Committees	.00	.00
c. Other Political Committees (such as PACs)	.00	.00
d. Total Contribution Refunds (Add a, b and c) ➤	.00	748.80
29. Other Disbursements	7,643.68	49,154.41
30. Total Disbursements (add 21c, 22, 23, 24, 25, 26, 27, 28d, and 29) ➤	$ 130,339.65	$ 471,252.41
31. Total Federal Disbursements (subtract line 21 a ii from line 30) ➤	$ 130,339.65	$ 471,252.41
III. Net Contributions/Operating Expenditures		
32. Total Contributions (other than loans)(from line 11d)	150,796.23	824,552.65
33. Total Contribution Refunds (from line 28d)	.00	748.80
34. Net Contributions (other than loans)(subtract line 33 from 32)	150,796.23	823,803.85
35. Total Federal Operating Expenditures (add 21 a i and 21 b) ➤	2,217.09	14,559.70
36. Offsets to Operating Expenditures (from line 15)	.00	.00
37. Net Operating Expenditures (subtract line 36 from 35) ➤	2,217.09	14,559.70

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SCHEDULE B **ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 5 OF 5

FOR LINE NUMBER 23

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

Machinists Non-Partisan Political League

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
John Glenn for Senate Committee 37 West Broad Street Columbus, OH 43215	campaign contribution - Senate Ohio - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-19-91	$ 4,000.00
B. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
John Glenn for Senate Committee 37 West Broad Street Columbus, OH 43215	campaign contribution - Senate Ohio - $5,000 Disbursement for: [ ] Primary [X] General [ ] Other (specify)	6-19-91	$ 5,000.00
C. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Les AuCoin for Senate Committee Post Office Box 641 Beaverton, OR 97075	campaign contribution - Senate Oregon - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-19-91	$ 5,000.00
D. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Les AuCoin for Senate Committee Post Office Box 641 Beaverton, OR 97075	campaign contribution - Senate Oregon - $5,000 Disbursement for: [ ] Primary [X] General [ ] Other (specify)	6-19-91	$ 5,000.00
E. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Pennsylvanians for Sen. (Harris) Wofford Post Office Box 11555 Harrisburg, PA 17108	campaign contribution - Senate Pennsylvania - $5,000 Disbursement for: [ ] Primary [X] General [ ] Other (specify) special	6-19-91	$ 5,000.00
F. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
(Joseph) Gaydos Re-Election Committee 2726 Wahsington Boulevard McKeesport, PA 15133	reception tickets - 20th C.D. Pennsylvania - $500 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-19-91	$ 500.00
G. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Jolene Unsoeld Congressional Campaign Post Office Box 10231 Olympia, WA 98502	campaign contribution - 3rd C.D. Washington - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-19-91	$ 4,500.00
H. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Friends of Jim Moody 907 G Street, S.E. Washington, DC 20003	campaign contribution - 5th C.D. Wisconsin - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-19-91	$ 4,000.00
I. Full Name, Mailing Address and ZIP Code	**Purpose of Disbursement**	**Date (month, day, year)**	**Amount of Each Disbursement This Period**
Ted Weiss for Congress Committee 825 West End Avenue New York, NY 10025	campaign contribution - 17th C.D. New York - $5,000 Disbursement for: [X] Primary [ ] General [ ] Other (specify)	6-25-91	$ 4,500.00

SUBTOTAL of Disbursements This Page (optional) .....

TOTAL This Period (last page this line number only) $118,875.00

9604374138 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Allison Beck

ADDRESS: 1300 Connecticut Avenue, N.W.
Suite 810
Washington, D.C. 20036

TELEPHONE: 202/857-5250

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.

Sept. 24, 1991
Date

Allison Beck
Signature

RESPONDENT'S NAME: Tom Ducy

ADDRESS: Machinists Non-Partisan Political League
1300 Connecticut Avenue, N.W.
Washington, D.C. 20036

HOME PHONE:

BUSINESS PHONE: 202/857-5265

9604374138 3

ELIZABETH FRAWLEY BAGLEY
1539 29TH STREET N.W.
WASHINGTON, D.C. 20007
202-333-5984

September 19, 1991

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

MUR 3420

Dear Mr. Noble:

Please find attached a copy of two checks that I have made to the Wofford Campaign. As you can see by the date, one check was dated May 10 and the other May 21, both well before the June 1 deadline according to your legal requirements. I hope that this will clarify any questions that you might have regarding my compliance with FEC regulations.

If you have any further questions please do not hesitate to contact me at 202 333-5984.

Sincerely,

Elizabeth F. Bagley

Elizabeth Frawley Bagley

9604374138 4

ELIZABETH FRAWLEY BAGLEY
[redacted]

No. 874

5-21 91

15-7/540

Pay to the order of Citizens for Senator Wofford $ 1,000.00

One thousand DOLLARS

JUN 07 1991

THE NATIONAL BANK OF WASHINGTON
GEORGETOWN OFFICE WASHINGTON, D.C. 20007

LINGLESTOWN

Memo

Elizabeth F Bagley

[redacted]

ELIZABETH FRAWLEY BAGLEY
[redacted]

No. 872

5-10 91

15-7/540

Pay to the order of Pennsylvanians for Wofford $ 1,000.00

One thousand and 00/100 DOLLARS

JUN 07 1991

THE NATIONAL BANK OF WASHINGTON
GEORGETOWN OFFICE WASHINGTON, D.C. 20007

LINGLESTOWN

Memo

Elizabeth Frawley Bagley

[redacted]

9604374138 5

06C2919

AFSCME.
American Federation of State, County and Municipal Employees, AFL-CIO
1625 L Street, N.W., Washington, D.C. 20036-5687
Telephone (202) 429-1000
Telex 89-2376
Facsimile (202) 429-1293
TDD (202) 659-0446

Gerald W. McEntee
President
William Lucy
Secretary Treasurer
Vice Presidents
Ronald C. Alexander
Columbus, Ohio
Dominic J. Badolato
New Britain, Conn.
Joseph Bolt
Richmond, Ind.
Joseph M. Bonavita
Boston, Mass.
George Boncoraglio
New York, N.Y.
Robert A. Brindza
Columbus, Ohio
Stephen M. Culen
Chicago, Ill.
Albert A. Diop
New York, N.Y.
Danny Donohue
Albany, N.Y.
James Glass
Lansing, Mich.
Stanley W. Hill
New York, N.Y.
Blondie P. Jordan
Orlando, Fla.
Edward J. Keller
Harrisburg, Pa.
Joseph J. Kreuser
Menomonee Falls, Wisc.
Faye D. Krohn
Kasota, Minn.
Marilyn LeClaire
Columbiaville, Mich.
Joseph E. McDermott
Albany, N.Y.
Donald G. McKee
Des Moines, Iowa
Jack Merkel
Trenton, N.J.
Gary Moore
Olympia, Wash.
Henry Nicholas
Philadelphia, Pa.
Russell K. Okata
Honolulu, Hawaii
George E. Popyack
Belmont, Calif.
Joseph P. Puma
Albany, N.Y.
Thomas A. Rapanotti
Baltimore, Md.
Joseph P. Rugola
Columbus, Ohio
Kathy J. Sackman
Pomona, Calif.
Burhman D. Smith
Philadelphia, Pa.
Linda Chavez-Thompson
San Antonio, Tex.
Garland W. Webb
Baton Rouge, La.

September 24, 1991

91 SEP 26 PM 3:08

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3420

Dear Mr. Noble:

Enclosed please find a Statement of Designation of Counsel designating the undersigned as counsel for the American Federation of State, County and Municipal Employees (AFSCME) - PEOPLE and William Lucy, its Treasurer. Please note that we will be moving to the address shown on the Designation of Counsel form on October 7, 1991. Until that time, our office will be located at 1615 L Street, N.W., Suite 1360, Washington, D.C. 20036. Please see that all communications regarding this matter are directed to the undersigned.

Based upon our review of the complaint and a preliminary investigation of the facts regarding this matter, it appears that this complaint may present extremely complex issues of state law and that a determination of the facts relevant to this matter will require extensive investigation. For these reasons, it does not appear that the normal 15 days allowed for response to a complaint will afford these respondents an adequate opportunity to prepare their response. Therefore, we request that these respondents be allowed an additional 20 days within which to respond to the complaint in this matter. Please advise the undersigned of your decision with regard to this request as soon as possible.

Sincerely,

Larry P. Weinberg
General Counsel

LPW:bsc
Enclosure

9604374138 6

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Larry P. Weinberg

ADDRESS: 1101 17th Street, N.W.
Suite 1210
Washington, D.C. 20036

TELEPHONE: 202-775-5900

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.

9/24/91
Date

William Lucy
Signature

RESPONDENT'S NAME: AFSCME-PEOPLE and William Lucy

ADDRESS: 1625 L Street, N.W.
Washington, D.C. 20036

HOME PHONE:

BUSINESS PHONE: 202-429-1200

9604374138 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 1, 1991

Larry P. Weinberg, Esq.
General Counsel
American Federation of State,
County and Municipal Employees,
AFL-CIO (AFSCME)
1625 L Street, N.W.
Washington, D.C. 20036

RE: MUR 3420
American Federation of State,
County and Municipal Employees,
AFL-CIO (AFSCME) and
William Lucy, as treasurer

Dear Mr. Weinberg:

This is in response to your letter dated September 24, 1991, which we received on September 26, 1991, requesting an extension of 20 days to respond to the complaint in this matter. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

9604374138

American Income Life Insurance Company
Executive Offices: P.O. Box 2608, Waco, Texas 76797, 817-772-3050

MBC 2920

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL CENTER ROOM

91 SEP 26 AM 11: 12

BERNARD RAPOPORT
Chairman of the Board and
Chief Executive Officer

91 SEP 26 PM 3: 08

September 20, 1991

Ms. Lisa Klein
Assistant Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3420

. . .first, Ms. Klein, I want to thank you for the cooperative manner in which you provided an explanation in reference to the letter from the Commission to me in re: myself, Audre, Ronald and Patricia Rapoport.

As I explained, it was our understanding that it was entirely proper to contribute to the primary and general election for Senator Wofford. Obviously, if this information is incorrect, we will request a refund from the Wofford Committee.

One question, Ms. Klein: Should we request the refund now or should we await the final decision of the Commission as to whether the contribution for the primary and the general is proper?

Sincerely yours,

Bernard Rapoport

BR/pn

9604374139

Obl 2926

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

September 26, 1991

91 SEP 27 PM 3:23

VIA FACSIMILE

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Citizens for Senator Wofford and John D. Sheridan, as Treasurer, we request an extension of time to respond to the complaint filed by the Republican State Committee of Pennsylvania. The Commissioner's notification of the complaint was received in Pennsylvania and subsequently transmitted to this office only at the end of last week. Due to the recent designation of Perkins Coie as counsel (attached), the deadline of October 4 does not provide us with an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until October 25.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

BHS:mah

[09901-97/00/DA912690.046]

TELEX 44-0277 PCSO UI • FACSIMILE (202) 454-1690
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE

9604374139 0

STATEMENT OF DESIGNATION OF COUNSEL

MUR MUR 3420

NAME OF COUNSEL: ROBERT BAUER, HOLLY SCHADLER

ADDRESS: PERKINS COIE
607 14th ST. NW
Washington, DC 20005

TELEPHONE: 202/434-1634

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.

9/20/91
Date

Paul E. Bezanis, CAMPAIGN MANAGER
Signature

RESPONDENT'S NAME: CITIZENS FOR SENATOR WOFFORD

ADDRESS: 3905 NORTH FRONT STREET
HARRISBURG, PA 17110

HOME PHONE:

BUSINESS PHONE: (215) 893-1102

9604374139 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 1, 1991

B. Holly Schadler, Esq.
Perkins Coie
Suite 800
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Ms. Schadler:

This is in response to your letter dated September 26, 1991, which we received on September 26, 1991, requesting an extension of 20 days to respond to the complaint against Citizens for Senator Wofford and John D. Sheridan, as treasurer. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner

BY: Lois G. Lerner
Associate General Counsel

9604374139 2

OGC 3000

PERKINS COIE

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607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

October 2, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT -2 PM 3:54

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Paul Warnke, Burke Marshall, Robert Stein, and Gregory Craig, we request an extension of time to respond to the complaint filed by the Republican State Committee of Pennsylvania. Due to the recent designation of Perkins Coie as counsel (attached), the deadline of October 4 does not provide us with an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until October 25.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

BHS:mah

[16564-0001/DA912730.016]

9604374139 3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

Sept. 26, 1995
Date

Burke Marshall
Signature

RESPONDENT'S NAME: BURKE MARSHALL

ADDRESS: Castle Meadow Rd.
Newtown, CT. 06470

HOME PHONE: 203/270-7582

BUSINESS PHONE: 203/432-4953

9604374139 4

STATEMENT OF DESIGNATION OF COUNSEL

NSR 3420

NAME OF COUNSEL: [illegible]

ADDRESS: Robert [illegible]

[illegible]

Washington

[illegible]

[illegible] hereby designate [illegible]

[illegible] information and belief

[illegible] on my behalf before

the Commission.

10-1-91

Signature

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

9604374139 5

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

October 1, 1991
Date

Gregory B. Craig
Signature

RESPONDENT'S NAME: Gregory B Craig

ADDRESS: 910 17th Street, NW
Washington, DC 20008

HOME PHONE: (202) 686 2820

BUSINESS PHONE: (202) 331-5506

9604374139 6

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

9/30/91
Date

Signature

RESPONDENT'S NAME: Paul Warnke

ADDRESS: 815 Connecticut Avenue
Washington, DC 20006

HOME PHONE:

BUSINESS PHONE: (202) 828-4246

9604374139 7

06C 2999

RECEIVED
FEDERAL ELECTION COMMISSION
MAIN COP / ROOM

STATEMENT OF DESIGNATION OF COUNSEL

91 OCT -2 PM 2:26

MUR 3420

NAME OF COUNSEL: Robert F. Bauer, Esquire

ADDRESS: Perkins Coie
607 14th Street
Washington, DC 20005

TELEPHONE:

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT -2 PM 3:22

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.

September 30, 99
Date

Gregory B. Craig
Signature

RESPONDENT'S NAME: Gregory B. Craig

ADDRESS: 910 17th NW
Washington, DC 20006

HOME PHONE: (202) 686-2820

BUSINESS PHONE: 331-5506

9604374139 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 10, 1991

Robert F. Bauer, Esq.
Perkins Coie
Suite 800
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Paul Warnke
Burke Marshall
Robert Stein and
Gregory Craig

Dear Mr. Bauer:

This is in response to your letter dated October 2, 1991, which we received on October 2, 1991, requesting an extension to respond to the complaint against Paul Warnke, Burke Marshall, Robert Stein and Gregory Craig. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374139 9

06-C 3015

ROBERT OSBORNE MEYER
ATTORNEY AT LAW

MEMBER OF NJ & NY BARS

65 HIGHVIEW AVENUE
BERNARDSVILLE, NEW JERSEY 07924

(908) 766-7727
(201) 540-9020

October 2, 1991

FEDERAL ELECTION COMMISSION
MAIL CENTER
91 OCT -3 PM 3:37

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT -4 AM 11:15

9604374140 0

VIA FEDERAL EXPRESS

Lawrence N. Noble
General Counsel
General Counsel's Office
Federal Election Commission
Washington, DC 20463

SUBJECT: MUR 3420

Dear Mr. Nobel:

I am in receipt of your letter to Raymond G. Chambers and Patricia A. Chambers dated September 16, 1991 (received September 19, 1991) with copies of the complaint filed by the Republican State Committee of Pennsylvania alleging Federal Election Campaign Act (the "Act") violations by Citizens for Senator Wofford ("Citizens"). I represent Patricia A. Chambers and Raymond G. Chambers, and signed forms designating me as counsel are enclosed herewith.

Mr. and Mrs. Chambers (husband and wife) each contributed $1,000.00 to each of the primary and general election campaigns of Senator Wofford. They relied in good faith upon representations made by Citizens that were offered to them by telephone in June, 1991. Possessing the basic Federal Election Law knowledge that US Citizens are permitted to contribute a maximum of $1,000.00 for each of the Senatorial Primary and General Elections, Mr. and Mrs. Chambers legitimately believed and still believe that their contributions were not in violation of the Act. Attached is a copy of a letter from Mr. Chambers to the Honorable Harris Wofford dated June 17, 1991 that included checks payable to Citizens for Senator Wofford in the amount of $2,000.00 from each of Mr. and Mrs. Chambers (a copy of Mr. Chamber's check is attached -- a copy of Mrs. Chamber's check will follow by separate correspondence).

Mr. and Mrs. Chambers acted in good faith and did not violate the Act, and no action should be taken against them by the Federal Election Commission. They wish to be as helpful as possible with regard to the resolution of this matter, and I am asking that you contact me at any time if I may be of assistance on their behalf.

Very truly yours,

Robert O. Meyer, Esq.

Enclosure
ROM:bvl:870
cc: Patricia A. Chambers
Raymond G. Chambers
Paul Begala, Esq., (Citizens for Senator Wofford)
Robert F. Bauer, Esq. (Counsel for Citizens for Senator Wofford)

9604374140 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Robert O. Meyer, Esq.

ADDRESS: 65 Highview Avenue
Bernardsville, NJ 07924

TELEPHONE: 201 - 540-9020 (office)
908 - 766-7727 (home)

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.

9/24/91
Date

Signature Raymond G. Chambers

RESPONDENT'S NAME: Raymond G. Chambers

ADDRESS: Van Beuren Road
Morristown, NJ 07960

HOME PHONE: 201 - 984-0316

BUSINESS PHONE: 201 - 540-9148

9604374140 2

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Robert O. Meyer, Esq.

ADDRESS: 65 Highview Avenue
Bernardsville, NJ 07924

TELEPHONE: 201-540-9020 (Office)
908-766-7727 (Home)

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.

9/26/91
Date

Patricia Chambers
Signature Patricia A. Chambers

RESPONDENT'S NAME: Patricia A. Chambers

ADDRESS: Van Beuren Road
Morristown, NJ 07960

HOME PHONE: 201-984-0316

BUSINESS PHONE: 201-540-9148

9604374403

RAYMOND G. CHAMBERS

[redacted]

1088

JUNE 24, 19 91

PAY TO THE ORDER OF CITIZENS FOR SENATOR BOSFORD $ 2,000.00

TWO THOUSAND AND NO/100'S DOLLARS

Princeton Bank and Trust Company NA

MEMO

[redacted]

9604374140 4

EPSTEIN BECKER & GREEN, P.C.
ATTORNEYS AT LAW
1227 25TH STREET, N.W.
WASHINGTON, D.C. 20037-1156†
(202) 861-0900
TELECOPIER: (202) 296-2882
DIRECT LINE

250 PARK AVENUE
NEW YORK, NEW YORK 10177-0077†
(212) 351-4500

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-2501
(213) 556-8861

SIX LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-2704†
(203) 348-3737

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(201) 642-1900

27 SCHOOL STREET
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(617) 720-3555

FOUR EMBARCADERO
SAN FRANCISCO, CALIFORNIA 94111-5954
(415) 398-3500

12201 MERIT DRIVE
DALLAS, TEXAS 75251-2213†
(214) 490-3143

116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1530
(904) 681-0896

2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33133
(305) 858-1100

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132†
(703) 684-1204

†P.C. NEW YORK, WASHINGTON, D.C.
CONNECTICUT, VIRGINIA AND
TEXAS ONLY

October 4, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT -7 AM 11:03

9604374405

HAND-DELIVERED

Veronica M. Gillespie, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20462

RE: M.U.R. 3420

Dear Ms. Gillespie:

Enclosed please find a completed Statement of Designation of Counsel from Mrs. Susie Field, a Respondent in M.U.R. 3420.

Sincerely,

Leslie J. Kerman
Counsel to Respondent Susie Field

Enclosure

STATEMENT OF DESIGNATION OF COUNSEL

MUR: 3420

NAME OF COUNSEL: Leslie J. Kerman, Esquire

ADDRESS: Epstein Becker & Green, P.C.
1227 25th Street, N.W., Suite 700
Washington, D.C. 20037

TELEPHONE: 202/861-1877

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

October 3, 1991
Date

X Susie Field
Signature

RESPONDENT'S NAME: Susie Field

ADDRESS: 608 Mountain Drive
Beverly Hills, CA 91210

HOME PHONE: ------

BUSINESS PHONE: 213/208-8636

9604374140 6

06C 3075

PERKINS COIE

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607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

October 9, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT -9 PM 2:30

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Anne Sobel, Robert M. Krasne and Hale A. Krasne, we request an extension of time to respond to the complaint filed by the Republican State Committee of Pennsylvania. Due to the recent designation of Perkins Coie as counsel (attached), we do not have an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until October 25.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

Attachment

BHS:mah

06043741407

[16568-0001/DA912730.016]

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

Oct. 7 1991
Date

Anne Sobel
Signature

RESPONDENT'S NAME: ANNE SOBEL

ADDRESS: 101 EXECUTIVE CTR. DR.
1-600
WEST PALM BEACH, FLA. 33401

HOME PHONE: 407-697-5558

BUSINESS PHONE:

9604374408

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

October 8, 1991
Date

Robert M. Krasne
Signature

RESPONDENT'S NAME: Robert M. Krasne

ADDRESS: 3245 Ellicott Street, N.W.
Washington, D.C. 20008

HOME PHONE: 202-362-0108

BUSINESS PHONE: 202-331-5188

9604374140 9

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

10/8/91
Date

Hale A. Krasne
Signature

RESPONDENT'S NAME: Hale A. Krasne

ADDRESS: 3245 Ellicott Street, N.W.
Washington, D.C. 20008

HOME PHONE: 202-362-0108

BUSINESS PHONE: N/A

9604374110

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 10, 1991

Robert F. Bauer, Esq.
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Anne Sobel
Robert M. Krasne
Hale A. Krasne

Dear Mr. Bauer:

This is in response to your letter dated October 9, 1991, which we received on October 9, 1991, requesting an extension to respond to the complaint in this matter. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374411

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 10 AM 10:44

October 10, 1991

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Bernard Rapoport and Avore Rapoport, we request an extension of time to respond to the complaint filed by the Republican State Committee of Pennsylvania. Due to the recent designation of Perkins Coie as counsel (attached), we do not have an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until October 25.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

Attachment

BHS:mah

[16568-0001/DA912730.016]

TELEX 44-0277 PCSO UI • FACSIMILE (202) 434-1690
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE

9604374412

STATEMENT OF DESIGNATION OF COUNSEL

DATE: 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and R. Kelly Zebeller
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-4400

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

Date 10/9/91

Signature

RESPONDENT'S NAME: BERNARD RAPOPORT

ADDRESS: PO BOX 2608
WACO, TEX 76797

HOME PHONE: 817-772-1875

BUSINESS PHONE: 817-751-8601

9604374113

STATEMENT OF DESIGNATION OF COUNSEL

NUM: 3450

NAME OF COUNSEL: Terrica Gale

ADDRESS: Robert P. Bauer and R. Kelly Schedler
607 14th Street, NW, Suite 900
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

10/9/91
Date

Andre Rapoport
Signature

RESPONDENT'S NAME: ANDRE RAPOPORT

ADDRESS: 2332 WENDYLANE
WACO, TEX 76710

HOME PHONE: 817-772 1875

BUSINESS PHONE:

9604374414

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 11, 1991

Robert F. Bauer, Esq.
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Bernard Rapoport
Avore Rapoport

Dear Mr. Bauer:

This is in response to your letter dated October 10, 1991, which we received on October 10, 1991, requesting an extension to respond to the complaint in this matter. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374415

BC-C 3089

EPSTEIN BECKER & GREEN, P.C.
ATTORNEYS AT LAW
1227 25TH STREET, N.W.
WASHINGTON, D.C. 20037-1156†

(202) 861-0900
TELECOPIER: (202) 296-2882
DIRECT LINE

250 PARK AVENUE
NEW YORK, NEW YORK 10177-0077†
(212) 351-4500

1875 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-2501
(213) 556-8861

SIX LANDMARK SQUARE
STAMFORD, CONNECTICUT 06901-2704†
(203) 348-3737

ONE RIVERFRONT PLAZA
NEWARK, NEW JERSEY 07102-5401
(201) 642-1900

27 SCHOOL STREET
BOSTON, MASSACHUSETTS 02108-4303
(617) 720-3666

†P.C. NEW YORK, WASHINGTON, D.C.
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12201 MERIT DRIVE
DALLAS, TEXAS 75251-2213†
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116 SOUTH MONROE STREET
TALLAHASSEE, FLORIDA 32301-1530
(904) 681-0596

2400 SOUTH DIXIE HIGHWAY, SUITE 100
MIAMI, FLORIDA 33133
(305) 856-1100

510 KING STREET, SUITE 301
ALEXANDRIA, VIRGINIA 22314-3132†
(703) 684-1204

LEGAL & CONFIDENTIAL

October 10, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 10 AM 10:32

9604374116

HAND-DELIVERED

Veronica M. Gillespie, Esquire
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Room 657
Washington, D.C. 20463

RE: M.U.R. 3420; Respondent Susie Field

Dear Ms. Gillespie:

In accordance with 2 U.S.C. §437g(a)(1) and 11 C.F.R. §111.6(a), the following is a response on behalf of Susie Field to the meritless complaint filed with your office by the Republican State Committee of Pennsylvania (the "Republican Committee").

The Republican Committee filed a complaint alleging that Citizens for Senator Wofford violated the Federal Election Campaign Act of 1971, as amended (the "Act") by accepting primary contributions after the date of the Pennsylvania Democratic Party's nominating convention (the "Democratic Convention") which the Republican Committee asserts was the date of the primary election (the "Complaint"). The Complaint as against Ms. Field is baseless on both legal and factual grounds.

I. THE COMPLAINT AS AGAINST MS. FIELD DOES NOT COMPLY WITH 11 C.F.R. §114(d)(2)

According to the Code of Federal Regulations (the "Regulations"), a complaint "must clearly identify as a respondent each person or entity who is alleged to commit a violation." (emphasis added.) 11 C.F.R. §111.4(d)(2) (1991). The Complaint states in its opening paragraph that it "sets forth reasons to believe that violations of federal law have been committed by the Citizens for Senator Wofford . . ." (Complaint at p. 1). The Complaint then extensively addresses the alleged violations of Citizens for Senator Wofford. However, the Complaint makes no mention of Ms. Field. The Complaint makes only a vague reference to "many of the contributors" who made contributions after the June 1 Democratic Convention date. (Complaint at p. 2.)[1] Certainly then, Ms. Field is not clearly identified. Based upon this gross failure to comply with the most basic standards of a valid, formal complaint as set forth in the Regulations, the Federal Election Commission (the "Commission") should dismiss the Complaint action against Ms. Field.

II. MS. FIELD DID NOT VIOLATE 2 U.S.C. §441a(a)(1)(A) BY MAKING A $1,000 PRIMARY CONTRIBUTION AND A $1,000 GENERAL ELECTION CONTRIBUTION ON JUNE 1, 1991

Should the Commission determine that the Complaint was in compliance with the Regulations and clearly identified Ms. Field as a respondent, the Commission should take no further action since Ms. Field's actions were not in violation of the Act.

A. Even Assuming Arguendo That The State Democratic Primary Is Considered Held On June 1, 1991, Ms. Field's Primary Contribution Was Not Made After The Democratic Primary

The Republican Committee alleges that the Citizens for Senator Wofford violated the Act by accepting contributions after the "primary," which should have been designated general election contributions. Specifically, the Republican Committee alleges that the Democratic Convention held on June 1, 1991 constituted a "primary". Therefore, primary contributions

---

[1]Moreover, the Republican Committee's reference to "many of the contributors" who made primary contributions after June 1, 1991 does not include Ms. Field since her contribution was made on June 1, 1991. See cancelled check attached hereto as Exhibit A and discussion, infra, Section II. A.

9604374117

could not be accepted after this date.[2] Ms. Field made both primary and general election contributions on June 1, 1991. The Republican Committee asserts that contributors who donated in excess of $1,000 after June 1, 1991 are in violation of the Act's contribution limits. Therefore, the Republican Committee argues that any individual contribution made after June 1, 1991 must be treated as a general election contribution subject to the $1,000 per election limit.

Ms. Field, however, did not make her primary contribution after June 1, 1991. Ms. Field made a $1,000 primary contribution on June 1, 1991 and a $1,000 general election contribution on that same date.[3]

According to the Regulations, a "contribution shall be considered to be made when the the contributor relinquishes control over the contribution. A contributor shall be considered to relinquish control over the contribution when it is delivered by the contributor to the candidate, to the political committee or to an agent of the political committee." 11 C.F.R. 110.1(b)(6) (1991).[4]

Ms. Field delivered her primary and general election contributions to a California-based consultant, and therefore agent, of Citizens for Senator Wofford on or before June 1, 1991.[5] It appears, based upon the cancelled check, that Citizens for Senator Wofford did not deposit the check in its account until June 17, 1991. However, Ms Field, by delivering the contribution to an agent of Citizens for Senator Wofford, relinquished control over the funds and thus made the contribution on June 1, 1991. Therefore, even if the Commission were to determine that

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[2]The Republican Committee also asserts in the Complaint that Citizens for Senator Wofford did not have any net debts outstanding for which these primary contributions could have been applied. (Complaint at p. 2).

[3]Ms. Field forwarded to Citizens for Senator Wofford one check for $2,000 and designated $1,000 for the primary election and $1,000 for the general election. (See Exhibit A).

[4]A contribution mailed to the candidate, political committee or agent of the political committee is considered to be made on the date of the postmark. 11 C.F.R. §110.1(b)(6) (1991).

[5]According to the Regulations, every person who receives a contribution for an authorized committee shall, no later than 10 days after receipt, forward such contribution to the treasurer. The date of receipt is the date that such person obtains possession of the contribution. 11 C.F.R. §102.8(a)(1991). Upon receipt by the treasurer, the treasurer then has 10 days to deposit such contributions. 11 C.F.R. §103.3(a).

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the primary was held on June 1, 1991, Ms. Field is not in violation of the individual contribution limitations as set forth in Section 441 a(a)(1)(A) of the Act because she made her primary contribution by the primary cutoff date.

B. Even If Ms. Field's Primary Contribution Is Considered Made After June 1, 1991, Ms. Field's Contribution Did Not Violate The Individual Contribution Limitation Because The Official Democratic Primary Did Not Occur Until September 5, 1991

To the best of Ms. Field's knowledge, the Republican Committee's assertion that the date of the Democratic primary was June 1, 1991, the date of the Democratic Convention, is wholly unfounded.

At the time of Ms. Field's primary contribution on June 1, 1991, the Pennsylvania Democratic Party (the "Democratic Party") was set to convene. According to Citizens for Senator Wofford, although the Democratic Party met on June 1, 1991 and expressed its intention to nominate Senator Wofford at that time, the Democratic Convention, by resolution, specifically provided that the certificate of nomination required to effect the nomination not be delivered to the Secretary of State until a later date. The Democratic Party planned to make its nomination official on the same date that the Pennsylvania Republican Party (the "Republican Party") nominated its candidate.[6]

According to Citizens for Senator Wofford, the Democratic Convention understood that the Republican Party would meet two weeks subsequent to the Democratic Convention to nominate Richard Thornburgh as its candidate for the special election. However, events subsequent to the Democratic Convention caused the Thornburgh nomination to be made on September 5, 1991.[7] On September 5, 1991, after the Third Circuit Court of Appeals had

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[6] Citizens for Senator Wofford contend that the Democratic Party decision to postpone its nomination until the Republican nomination was made was based upon Pennsylvania law which generally provides that political parties acting in popular primaries nominate their candidates for election on the same date. According to Citizens for Senator Wofford, the statute reflects a clear policy in favor of coextensive or parallel primary election periods.

[7] The Republican Party repeatedly deferred the date of its nominating convention. Richard Thornburgh remained in his position as Attorney General at the Department of Justice, postponing any formal decision to enter the senatorial race. In addition, a Pennsylvania court action was instituted challenging whether the political parties had the authority to nominate by convention rather than by popular primary. This action resulted in

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overruled the United States District Court's ruling requiring a popular primary[8] and the Republican Party acted to nominate Richard Thornburgh for the special election, the Democratic State Committee delivered to the Secretary of State the certificate nominating Senator Wofford. In light of these facts, Ms. Field has been informed by Citizens for Senator Wofford that the official primary date was September 5, 1991.

The Regulations provide that primary elections are determined in accordance with applicable state law.[9] Pennsylvania state law regarding the primary, as demonstrated above, was ambiguous and subject to conflicting interpretations. However, to the best of Ms. Field's knowledge, based upon information provided to her by Citizens for Senator Wofford, September 5, 1991 is the official Democratic primary date. Accordingly, the $1,000 primary contribution and $1,000 general election contribution made by Ms. Field on June 1, 1991 were not in violation of the individual contribution limits set forth in the Act.

III. CONCLUSION

As demonstrated herein, the Complaint as against Ms. Field clearly is not in compliance with the standards set forth in the Regulations for a valid complaint because the Complaint lacks adequate identification of Ms. Field as a respondent. Accordingly, the Complaint should be dismissed.

Moreover, even if the Complaint complies with the standards for a formal complaint, and assuming arguendo that June 1, 1991 is the official primary cutoff date, Ms. Field is not in violation of the $1,000 individual contribution limitation since she made her $1,000 primary contribution by June 1, 1991.

---

a ruling by the United States District Court invalidating the Democratic Convention action and requiring a popular primary. According to Citizens for Senator Wofford, the Democratic Convention deferred delivery of the certificate (1) until the issue of whether the Democratic Party would have the authority to nominate a candidate or whether a popular primary was required was resolved, and (2) until the Republican Party would meet in convention to nominate its own candidate.

[8]John S. Trinsey v. Commonwealth of Pennsylvania, No. 91-1490, (August 6, 1991).

[9]"An election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable state law, for election to Federal office in a subsequent election is a primary election." (emphasis added.) 11 C.F.R. §100.2(c)(1)(1991).

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Finally, even if the Commission were to determine that Ms. Field made her primary contribution after June 1, 1991, the Commission should take not action against Ms. Field since to the best of Ms. Field's knowledge, September 5, 1991 is the official Democratic primary date. Since Ms. Field's primary contribution was made well within the primary period, she did not exceed the permissible individual contribution limits.

For all the above-stated reasons, we respectfully request that the Federal Election Commission find no reason-to-believe that Ms. Field violated 2 U.S.C. §441(a)(1)(A) and, accordingly, dismiss the Complaint.

Sincerely,

Leslie J. Kerman

Leslie J. Kerman
Counsel for Respondent Susie Field

Enclosure

9604374421

EXHIBIT A

SUSIE FIELD
[redacted]

FIRST INTERSTATE BANK
OF CALIFORNIA
707 WILSHIRE BLVD
LOS ANGELES, CA 90030
19-81/1220

2166

6/1/91

Pennsylvanians for Senator Wofford $ *****2,000.00

Two thousand and 00/100********** DOLLARS

14

JUN 17 1991

MEMO

Susie Field

[redacted]

PAY TO THE ORDER OF
PENNSYLVANIA NATIONAL BANK
HARRISBURG, PA 17110
⑆ 0000000 ⑈
FOR DEPOSIT ONLY
CITIZENS FOR SENATOR WOFFORD
27001100

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122000018

122000001

00100000

CITIZENS FOR SENATOR WOFFORD

236 MASSACHUSETTS AVENUE, N.E., SUITE 401, WASHINGTON, D.C. 20002
Telephone 202-544-1247 — FAX 202-544-1037
P. O. BOX 11359 HARRISBURG, PENNSYLVANIA 17108

CONTRIBUTOR REDESIGNATION FORM

Mrs. Susie Field
608 Mountain Drive
Beverly Hills, CA 91210

I, Susie Field, request that my contribution of $2,000, check # 2166, dated June 1, 1991 be attributed as follows (please check one):

X — $1,000 to Susie Field for the primary election
$1,000 to Susie Field for the general election

____ $1,000 to Susie Field for the primary election
$1,000 to my spouse for the primary election

Spouse's Name: _____

Spouse's Signature: _____

Date: _____

Spouse's Occupation: _____

Spouse's Employer: _____

____ I wish to have the excess portion of my contribution refunded.

Signed: Susie Field

Date: _____

Occupation: _____

Employer: _____

9604374142 3

Authorized and paid for by Citizens for Senator Wofford; John Sheridan, C.P.A., Treasurer

MUR 3115

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

October 15, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 15 PM 3:11

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Louise S. Ansberry, Daniel B. Wofford and Sarah E. Peck, we request an extension of time to respond to the complaint filed by the Republican State Committee of Pennsylvania. Due to the recent designation of Perkins Coie as counsel (attached), we do not have an adequate opportunity to respond. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, and prepare a comprehensive response. Therefore we are requesting an extension until October 25.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

Attachment

BHS:mah

[16568-0001/DA912730.016]

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TELEX 44-0277 PCSO UI • FACSIMILE (202) 434-1690
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

10/8/91
Date

Louise S. Ansberry
Signature

RESPONDENT'S NAME: Louise S. Ansberry

ADDRESS: 505 North School Lane
Lancaster, PA 17603

HOME PHONE: (717)394-6734

BUSINESS PHONE:

9604374142 5

[redacted]

[redacted] 3420

[redacted]: Perkins Coie

[redacted]: Robert F. Bauer and B. Holly Schadler

607 14th Street, NW, Suite 800

Washington, DC 20005

[redacted]: (202) 628-6600

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.

10/3/91
Date

Daniel B Wofford
Signature

[redacted]'S NAME: Daniel B Wofford

[redacted]: 158 Three Ponds Lane
Malvern, PA 19355

[redacted] PHONE: 215 [redacted] 933-9701

[redacted] PHONE: 215 893-1102

9604374142 6

[redacted]

NUMBER: 3620

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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.

10/3/91
Date

Sarah E Peck
Signature

RESPONDENT'S NAME: Sarah E. Peck

ADDRESS: 158 Three Ponds Lane
Malvern, PA 19355

HOME PHONE: 215-933-9701

BUSINESS PHONE: 215-524-1500

9604374142 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 17, 1991

Robert F. Bauer, Esq.
Perkins Coie
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Louise S. Ansberry
Daniel B. Wofford
Sarah E. Peck

Dear Mr. Bauer:

This is in response to your letter dated October 15, 1991, which we received on October 15, 1991, requesting an extension to respond to the complaint in this matter. 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 October 25, 1991.

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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06C 3141

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 OCT 16 AM 11: 17

ROBERT OSBORNE MEYER
ATTORNEY AT LAW

MEMBER OF NJ & NY BARS

65 HIGHVIEW AVENUE
BERNARDSVILLE, NEW JERSEY 07924

(908) 766-7727
(201) 540-9020

October 14, 1991

Lawrence N. Noble
General Counsel
General Counsel's Office
Federal Election Commission
Washington, DC 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 OCT 16 PM 3 24

SUBJECT: MUR 3420

Dear Mr. Nobel:

As a follow-up to my letter to you of October 2, 1991, attached is a copy of Patricia A. Chambers' check in the amount of $2,000.00 made payable to Citizen for Senator Wofford.

Again, Mr. and Mrs. Chambers wish to be as helpful as possible to the resolution of this matter and I am asking that you contact me at any time if I may be of assistance on their behalf.

Very truly yours,

Robert O. Meyer, Esq.

Enclosure
ROM:bvl:836
cc: Patricia A. Chambers
Raymond G. Chambers
Paul Begala, Esq., (Citizens for Senator Wofford)
Robert F. Bauer, Esq. (Counsel for Citizens for Senator Wofford)

9604374429

PATRICIA A. CHAMBERS

[redacted]

1779

June 21 1991

25 80/440

PAY TO THE ORDER OF Citizens for Senator Wofford $ 2,000.00

Two Thousand and 00/100 DOLLARS

Kidder, Peabody

JUN 23 1991

PREMIUM INVESTOR ACCOUNT

BANK ONE.

LINGLESTOWN

MEMO

Patricia Chambers

[redacted]

OGC 3248

AFSCME®

American Federation of State, County and Municipal Employees, AFL-CIO
General Counsel's Office
1101 17th Street, N.W.
Suite 1210
Washington, D.C. 20036
Telephone (202) 775-5900
Facsimile (202) 296-5279

Gerald W. McEntee
International President

William Lucy
International Secretary-Treasurer

John C. Dempsey
Larry P. Weinberg
General Counsel

Kimberlee Keller
Robert D. Lenhard
Mary Joyce Carlson
Associate General Counsel

October 25, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 25 PM 3:05

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

ATTN: Veronica M. Gillespie

Re: MUR 3420

Dear Mr. Noble:

This letter is the response of the American Federation of State, County & Municipal Employees, AFL-CIO (AFSCME) PEOPLE Committee and William Lucy, as its Treasurer, to the Commission's letter dated September 16, 1991 advising us of the complaint filed by Anne B. Anstine. Specifically, the complaint appears to allege that AFSCME PEOPLE exceeded the Act's contribution limits by making contributions to Pennsylvanians for Senator Wofford after the June 1, 1991 date of the Democratic Party Convention which exceeded $5,000. As is set forth more fully below, assuming for purposes of this response that June 1, 1991 was the date of the primary election,* AFSCME PEOPLE made one contribution prior to that date, which was designated for the primary election, in the amount of $5,000, and one contribution after that date, which was designated as being for the general election, in the amount of $3,500. Therefore, even assuming the complaint is correct in asserting that the primary occurred on June 1, 1991, AFSCME PEOPLE and William Lucy did not violate the Act and respectfully request that the Commission dismiss the complaint with no further action.

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* It is our understanding that there is a substantial dispute as to whether the "primary election" should be treated as having occurred on June 1 or on some later date. Should the Commission find reason to believe as to these respondents, we reserve the right to submit additional arguments so as to when such primary occurred, to the extent that issue may be relevant.

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As set forth in the attached affidavit of Ulric Scott, AFSCME's Director of Political Action, AFSCME PEOPLE issued a check in the amount of $5,000 payable to Pennsylvanians for Senator Wofford on May 22, 1991. That check carried the memo entry "D/PA Primary Spec. Election." As set forth in the Scott Affidavit, that check was mailed by AFSCME PEOPLE to the campaign no later than May 23, 1991. Therefore, assuming the primary occurred on June 1, 1991 as alleged in the complaint, that contribution was properly designated for the primary election and should be treated as such.

As is further set forth in the Scott Affidavit, AFSCME PEOPLE issued a second check as a contribution to Pennsylvanians for Senator Wofford. This check was issued on June 6, 1991 in the amount of $3,500 and contained the memo entry "D/PA General Spec. Election." As stated in the Scott Affidavit, the second check was mailed to Pennsylvanians for Senator Wofford on or about June 7, 1991. Therefore, the second check was properly designated as a general election contribution and should be treated as such.

Based upon the foregoing, the contributions made by AFSCME PEOPLE to Pennsylvanians for Senator Wofford did not exceed the permissible limits for either the primary or general election and, therefore, AFSCME PEOPLE and William Lucy respectfully request that the Commission find no reason to believe and dismiss this complaint with no further action.

Very truly yours,

Larry P. Weinberg
General Counsel

LPW:bsc
Attachment

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 25 PM 3:14

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AFFIDAVIT OF ULRIC SCOTT

Ulric Scott, being duly sworn, deposes and states as follows:

1. I am employed by the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) as its Director of Political Action and have held that position since September 1, 1990. In that capacity, I am responsible for directing the affairs of AFSCME's Department of Political Action.

2. As Director of Political Action for AFSCME, one of my responsibilities is to cause contributions to be made from AFSCME's separate segregated fund, which is registered with the Federal Election Commission as the AFSCME PEOPLE Committee.

3. On or about May 20, 1991, I directed my staff to prepare the necessary paperwork to initiate a contribution of $5,000 from the PEOPLE Committee to the Senatorial Campaign of Harris Wofford, Pennsylvanians for Senator Wofford, as a primary election contribution in connection with the special election to be held in November 1991 to fill the position previously held by the late Senator Heinz.

4. Pursuant to my direction, AFSCME PEOPLE issued its check No. 1238 in the amount of $5,000 dated May 22, 1991 payable to Pennsylvanians for Senator Wofford. That check, a copy of the front and back of which are attached hereto as Exhibit A and incorporated herein by reference, contains the memo entry "D/PA 1991 Primary Spec. Election."

5. The check described in the preceding paragraph was mailed by AFSCME to Pennsylvanians for Senator Wofford, Sarah Peck, Treasurer, no later than May 23, 1991.

6. The Primary Election contribution made by AFSCME PEOPLE to Pennsylvanians for Senator Wofford was reported by AFSCME PEOPLE to the Commission on its report covering its disbursements made during the month of May 1991.

7. On June 3, 1991, I directed my staff to initiate the paperwork necessary to cause AFSCME PEOPLE to make a contribution to the general election campaign of Senator Wofford. As a result, AFSCME PEOPLE issued its check No. 1286 payable to Pennsylvanians for Senator Wofford dated June 6, 1991 in the amount of $3,500. That check carried the memo entry "D/PA 1991 General Spec. Election." A copy of the front and back of that check is attached hereto and incorporated herein by reference as Exhibit B.

8. The check referred to in the preceding paragraph was mailed by AFSCME to Pennsylvanians for Senator Wofford, Sarah Peck, Treasurer, on or about June 7, 1991.

9. The general election contribution made by AFSCME PEOPLE to Pennsylvanians for Senator Wofford referred to above in paragraph 7 was reported by AFSCME PEOPLE to the Commission on its report covering disbursements made during the month of June 1991.

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FURTHER AFFIANT SAYETH NOT.

Ulric Scott
ULRIC SCOTT

Subscribed and sworn to before me this 25th day of Oct. 1991.

Beverly Smith Contee
Notary Public

My Commission Expires:

My Commission Expires April 30, 1994

2604374145

1238

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES-AFL-CIO
1625 L STREET, N.W., WASHINGTON, D.C. 20036

May 22, 1991

JUN 07

PAY TO THE ORDER OF Pennsylvanians for Senator Wofford $ 5,000.00

--- Five Thousand Dollars DOLLARS

LINGLESTOWN

AFSCME EMPLOYEES ORGANIZED TO PROMOTE LEGISLATIVE EQUALITY

RIGGS

FOR PA 1991 Primary Spec. Election

⑈001238⑈ ⑆054000030⑆ 12-0861 ⑈0000500000⑈

CREDITED TO THE ACCOUNT OF
The Within Named Payee
IN ACCORDANCE WITH PAYEE'S INSTRUCTIONS
ABSENCE OF ENDORSEMENT GUARANTEED
PENNSYLVANIA NATL BANK
& TRUST COMPANY
LINGLESTOWN, PA

2011 2 1001

PENNSYLVANIA
NATIONAL BANK
& TRUST COMPANY
LINGLESTOWN, PA
⑆031 30 7 361⑆

JUN - 7 '91

RIGGS NAT. BANK
PROCESSED
06/10/91
01112957

12 10
RIGGS NATIONAL BANK
WASHINGTON, D.C.
20013

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 25 PM 3:14

EXHIBIT

1286

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES-AFL-CIO
1625 L STREET, N.W., WASHINGTON, D.C. 20036

2

June 6, 1991

JUN 27 1991

PAY TO THE ORDER OF Pennsylvanians for Senator Wofford $ 3500.00

--- Three Thousand Five Hundred Dollars --- DOLLARS

LINGLESTOWN

PUBLIC EMPLOYEES ORGANIZED TO PROMOTE LEGISLATIVE EQUALITY

RIGGS

FOR D/PE 1991 General Spec. Election

⑈001286⑈ ⑆054000030⑆ 12-0864 7650⑈ ⑈0000350000⑈

PAY TO THE ORDER OF
PENNSYLVANIA NATIONAL BANK
HARRISBURG, PA 17110
▶ 0010071361 ▲
FOR DEPOSIT ONLY
CITIZENS FOR SENATOR WOFFORD
2700118

PENNSYLVANIA

RIGGS NAT. BANK
PROCESSED
06/28/91

7150749

JUN 91 28

COLLECTING BANK ENDORSEMENT OF

0310
0004

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EXHIBIT B

OGL3256

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

October 25, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 25 PM 5:06

Lawrence M. Noble, Esq.
Federal Election Commission
Office of the General Counsel
999 E Street, NW
Washington, DC 20463

Attention: Veronica M. Gillespie

Re: MUR 3420

Dear Mr. Noble

This letter constitutes the response by Citizens for Senator Wofford (the "Committee"); John D. Sheridan, as Treasurer (collectively "Respondents"); and the individual contributors to the Committee ("Contributors" listed on Exhibit A) to the Commission's letter dated September 16, 1991, regarding the complaint filed by Ms. Anstine, Chairman of the Republican State Committee of Pennsylvania. Specifically, the complaint alleges that the Committee improperly accepted contributions, intended for the primary election after June 1, the date of the Democratic Party convention. Based on federal and state law, and the highly unusual circumstances surrounding the special election for United States Senate in Pennsylvania, Ms. Anstine's allegations are wholly unsupported. We respectfully request that the Commission dismiss this complaint with no further action.

Factual Background

The special election for United States Senate in Pennsylvania is being held to fill the vacancy created upon the death of Senator John Heinz on April 4, 1991. Shortly after the Senator's death, Governor Casey appointed Harris Wofford to serve the unexpired term until November 5, 1991, the next regularly scheduled election.

The Democratic Party of Pennsylvania proceeded, in accordance with Pennsylvania State law, to make arrangements to nominate Harris Wofford at its convention held on June 1, 1991. Party members believed at that time that the Republican Party was preparing to nominate its own candidate on or around

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TELEX 44-0277 PCSO UI • FACSIMILE (202) 434-1690
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE

June 15. The Party proposed, therefore, to designate its nominee on June 1, 1991, but to reserve certification, the requisite step to effect the nomination, until such date that the Republican Party nominated its candidate. On June 1, the Democratic Party approved nominating resolutions providing that while it was the will of the Democratic Party to nominate Harris Wofford for the United States Senate, the Executive Committee of the Party could not, and should not, effect the nomination by delivery of a nominating certificate to the Secretary of Senate until the date of the Republican nominating convention. See Exhibit B.

On June 10, 1991, the United States District Court held that the nominating process for special elections in Pennsylvania was unconstitutional, abridging the citizens' right to vote, and that a popular election was required. Trinsey v. Commonwealth of Pennsylvania, 766 F. Supp. 1338 (E.D. Pa. 1991). The decision threw not only the nominating process, but the entire special election process into turmoil. The District Court offered one option: to hold a fall primary and a spring general election. Trinsey, 766 at 1346 n.11. The press, calling the situation "one big mess", raised other alternatives: an April primary and a November, 1992 general election; foregoing the primary and holding an open general election in November, 1991; Wofford serving Heinz's full term until January, 1995. See Exhibit C. Unless the District Court ruling was reversed or the legislature amended the statute in emergency session, there could be no election. Only one thing was certain -- Attorney General Thornburgh remained at the Justice Department and had no apparent intention of deciding whether to get into the race until the legal status of the election was resolved. As his spokesman commented, "There may not be anything to run for." The Philadelphia Inquirer, June 11, 1991.

In the wake of the Trinsey decision, the actions of the Democratic convention to nominate a candidate were suspended, and the Party was, in effect, barred from proceeding under state law or its party rules. Only after the United States Court of Appeals reversed this decision on August 6, 1991, was the Party certain of its authority to act as a nominating body. Trinsey v. Commonwealth of Pennsylvania, 766 F. Supp. 1338 (E.D. Pa. 1991), rev'd, 941 F.2d 224 (3d Cir. 1991).

The Executive Committee, which has plenary authority to interpret the will of and act on behalf of the Party when not

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sitting in convention, indefinitely postponed the delivery of the nomination certificate to the Secretary of State. Under the Trinsey decision, neither the Party's nominating process, nor the certificate itself, had any apparent legal authority, raising the question of whether the Secretary of State would or could accept it. Until the District Court decision was reversed, the certificate could not effect a nomination.

Therefore, the Party suspended action until certain express intentions of the membership on June 1 were confirmed: that there would be a primary election and, subsequently, a general election in November; that there would be a Republican nominating convention; and that it would nominate Mr. Thornburgh. All of this was then in doubt. Under Pennsylvania law, this postponement effectively suspended the nomination and the "primary election" period.

Accordingly, only on September 5, 1991, after the Republican convention nominated Mr. Thornburgh, was the certificate delivered. Thus, the primary election period came to a close. Based on this timetable, the Committee accepted contributions, properly designated for the primary, through the date of certification.[1]

Federal Law

The Committee's actions in this matter were entirely consistent with federal and state law. The Federal Election Campaign Act of 1971, as amended (the "FECA"), 2 U.S.C. §§ 431 et. seq., prescribes limitations on contributions from individuals and political committees. Those limitations apply separately to primary and general elections, requiring a determination of when each of the election periods begins and ends.[2] 2 U.S.C. § 441a(a).

---

[1]Although the certificate was delivered on September 5, the Party received primary contributions only until August 30, the date of the Republican nominating convention.

[2]Individuals are limited to $1,000 per election; political committees have varying limits, also divided by election, depending upon whether the committee is an authorized multi-candidate committee, a party committee or some other political committee duly registered and operating under the provisions of the Act. 2 U.S.C. § 441a(a).

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Under the FECA, the term "election is defined to include "(A) a general, special, primary, or runoff election; [and] (B) a convention or caucus of a political party which has the authority to nominate a candidate . . ." 2 U.S.C. § 431(1)(A)-(B). The regulations specify that state law determines the method and manner of primary elections. ("An election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable state law, for election to Federal Office in a subsequent election is a primary election".) 11 C.F.R. § 100.2(c)(1). (emphasis added)

Moreover, in a series of Advisory Opinions, the FEC has held that the question of whether a party convention has the "authority to nominate," and, therefore, is an election, must be determined from an analysis of state law pertaining to the power and the role of the party convention in the nomination of candidates for federal office. See, e.g., Advisory Opinions 1976-58, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5211 (August 26, 1976); 1978-25(b), 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5320 (June 5, 1978); 1978-30, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5325 (June 22, 1978); 1980-60, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5499 (May 30, 1980); 1981-29, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5616 (August 13, 1981); 1984-16, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5758 (May 11, 1984). In each case, the Commission examined when the primary election occurred for purposes of the contribution limits under the terms of the appropriate state law or party rules.

The theory of the complaint appears to be that the Commission may substitute its judgment in these unusual circumstances for that of the Democratic Party and its Executive Committee operating under the authority of Pennsylvania State law. The Commission has judged which body -- that of the voters or the Party -- has the authority to nominate. There is no precedent, however, for the Commission to direct a state party in the manner in which it effects the nomination. The Commission makes reasonable judgments, as it has in the above-referenced Advisory Opinions, about when a primary election period ends for purposes of contribution limits within the framework of state law. It has never, however, as the Complainant suggests, attempted to rewrite state law or override the mandate of state party committees operating under authority of state law.

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In FEC Advisory Opinion 1978-79, for example, a United States Senate candidate ran in the party primary under the provisions of state law and, upon winning fifty percent, became the effective general election victor. He was not required to run in the general election and, indeed, his name did not even appear on the November ballot. Nonetheless, because the Secretary of State did not issue the certificate of formal election to him until November of that same year, the FEC construed the election to be held in November, not on the date of the all party primary, and authorized him to continue to collect contributions for a general election campaign.

Similar circumstances apply here. By statute, the Party acts in place of the State for purposes of the special election. It determined that Wofford should be the nominee, but deferred the decision's effective date until the delivery of its certificate to the Secretary of State. The decision to hold the certificate, a decision only the Party could make, effectively deferred the date of election until the date of delivery.

Ms. Anstine cites Advisory Opinion 1980-60 as authority for her position that the date of a convention is necessarily the date of the primary election. But, the Commission's holding in this Advisory Opinion again reflects the deference given to state law to determine the date of the primary election. Under West Virginia law, candidates for special election are nominated by Convention of the Congressional district executive committee. Therefore, the Commission determined that the date of the Convention constituted the date of nomination. The facts and the state law presented in this case are wholly different. While the nominees are selected by Convention, Pennsylvania law expressly provides that for special elections party rules dictate the method of such nomination. And, crucially, under Democratic Party Rules, until the certification process is complete, a nomination is not effective.

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Pennsylvania State Law

Pennsylvania State law vests authority in the political parties to nominate a candidate to run in a special election to fill a vacancy created by death or resignation. Pa. Stat. Ann. tit. 25, § 2776 (Purdon 1991). ("Candidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with party rules related to the filling of vacancies, by means of nomination certificates.") (emphasis added) Rule VIII of the Democratic Party of the Commonwealth of Pennsylvania states:

> Section 1. Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary Election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination. (emphasis added)

Under both the statute and Party Rules, the requisite step to effect a nomination is delivery of the certificate to the Secretary of State. This is the second step of a two step legal process -- (1) to "make" a nomination and (2) to "certify" it. Therefore under Pennsylvania law, the date of certification, not the date of the convention, is determinative for purposes of identifying the primary period. The language of the statute is clear on the fundamental point that this is a two step process; if the certificate is not received by the Secretary of State, no nomination occurs. It is a standard of statutory construction that each word of an enactment must be treated as meaningful and given effect. Securities Exchange Commission v. Sloan, 436 U.S. 103 (1978); Camanetti v. United States, 242 U.S. 470 (1917); March v. United States, 506 F.2d 1306 (D.C. Cir. 1974).

While the Party planned to convene on June 1 to nominate Harris Wofford, the Party's express intention was to reserve certification until a later date to ensure a "unified primary" for both the Democratic and Republican nominees. To this end, the Party sought a formal opinion from its Parliamentarian and

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advice from legal counsel as to the appropriateness of this bifurcated process under federal and state law, as well as Party Rules. The Parliamentarian's opinion confirms that the Party's proposed two-step nominating process was consistent with the Party Rules. Formal Opinion No. 9101, May 31, 1991. Exhibit D.

Although there is no express provision addressing the issue of how to effect the nomination, the Rules are clear that the process must include <u>both the making and certification</u> of the nomination in order to be effective. Party Rules dictate that Roberts Rules of Order shall govern procedures at all meetings of the Committee. Rule IX. Roberts Rules of Order provide: "If no method of nominating has been specified in the bylaws and if the assembly adopted no rule on the subject, any member can make a motion prescribing the method." Nominations and Elections, §§ 31 and 45. Therefore, a resolution may prescribe the process by which a nomination is effected.

Through a series of resolutions, the Party expressly provided that the effective date of the nomination would be the date of certification. Exhibit B. Critical to the Party's deliberation was the understanding that the Republicans would hold a convention on June 15 to nominate Attorney General Thornburgh. The inclusion of the date, June 15, was incorporated at the last moment based on this belief. The date had no significance independent of the apparent date of the Republican nomination. The <u>Trinsey</u> decision in effect invalidated the Party's specific instruction in the resolution, leaving only the intent of the membership to be honored.

As a matter of policy in keeping with state law, the Party intended to effect its nomination on the same day as the Republican Convention. Pennsylvania law, like the laws of other states, requires the regularly scheduled primaries of political parties to be held on the same date so that the primary elections end on one day and the general election begins simultaneously for each party. Pa. Stat. Ann. tit. 25 § 2753 (Purdon, 1991). Different primary periods would distort the special election process in Pennsylvania in a manner detrimental to the voters and to the interests of the parties. Because the Republicans appeared equivocal about their own nomination plans and, as it turned out deferred them indefinitely, the Democratic Party would be nominating a

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candidate without a general election opponent or true general election activity in which to engage. Nor for that matter, could the Party adequately develop a general election strategy in the circumstances.

Contributors could not be approached for general election contributions in these circumstances since they would have no way of knowing their ultimate choice of candidates or be able to make reasonable assessments of the race. The voters could not even be engaged, inasmuch as the identity of the Republican nominee, much less the actual event of an election, was unknown.

Both the intervening Trinsey holding and Attorney General Thornburgh's indecision whether to run caused the June 15 date to change, thus thwarting the Party's intent. In light of these circumstances, the only procedure by which the Executive Committee could exercise the intent of the State Committee was to delay the delivery of the certificate, thus postponing the primary election, until such time as the legal authority of the Party's nominating process was clarified and the Republican Party nominated a candidate.

Contributors to the Committee

The Contributors supported Senator Wofford's campaign with the fundamental understanding that federal election law permits an individual to contribute a maximum of $1,000 per election. Each of the Contributors acted in good faith, based on an understanding of the timetable of the election process as discussed in this Response. Accordingly, the Contributors committed no violation of the limits and the Complaint as to them, should be immediately dismissed.

Conclusion

The circumstances surrounding the Pennsylvania Special Election have been highly unusual and necessitated the adoption of procedures tailored to address this process. But it is equally clear that the Party and the Committee were acting in accordance with both federal and state law in accepting contributions designated for the primary through the date of certification on September 5, 1991. The Committee complied with federal law for contribution limit purposes and looked to state law to determine the manner, method and timing of the nomination, marking the end of the primary period.

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The Commission must find no reason to believe and dismiss this Complaint.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

Attachments

BHS:dml

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EXHIBIT A

Paul Warnke
Burke Marshall
Robert Stein
Gregory Craig
Anne Sobel
Robert Krasne
Hale Krasne
Bernard Rapoport
Audre Rapoport
Daniel Wofford
Sarah Peck
Louise Ansberry

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
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EXHIBIT B

RESOLUTION TO NOMINATE

MR. CHAIRMAN, I proudly move the adoption of the following Resolution:

BE IT RESOLVED, that pursuant to the authority vested in this august body pursuant to Amendment XVII, Paragraph 2 of **The United States Constitution**, State law governing "Special Elections for United States Senator" and, **Rule VIII, Section I of the Rules of the Democratic Party of the Commonwealth of Pennsylvania**, that the Democratic Party of the Commonwealth of Pennsylvania on this date assembled, does hereby make **HARRIS WOFFORD** our nominee for United States Senate, to represent the Democratic Party of Pennsylvania in the Special Election to be held on November 5, 1991 (to fill the unexpired term of the late United States Senator H. John Heinz). (Optional.)

91 OCT 25 PM 5:06

RESOLUTION TO CERTIFY

MR. CHAIRMAN, I proudly move the adoption of the following Resolution:

BE IT RESOLVED, that pursuant to the authority vested in this august body pursuant to Amendment XVII, Paragraph 2 of **The United States Constitution,** State law governing "Special Elections for United States Senator" and, **Rule VIII, Section I of the Rules of the Democratic Party of the Commonwealth of Pennsylvania,** that the Democratic Party of the Commonwealth of Pennsylvania officially certify our nominee **HARRIS WOFFORD** to the Secretary of State on June 15, 1991, and from then and thereafter to acknowledge him as **the** Democratic candidate from the Commonwealth of Pennsylvania to appear on the official ballot for United States Senate at the Special Election to be held on November 5, 1991 (to fill the unexpired term of the late United States Senator, H. John Heinz). (Optional.)

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EXHIBIT C

Vote decision a primary issue

by John M. Baer
Daily News Staff Writer

HARRISBURG — One day after a federal judge derailed a special election to replace the late U.S. Sen. John Heinz, state lawyers and others were looking for the legal tools to get it back on track — or not.

U.S. District Judge Edward N. Cahn Jr. ruled Monday that a state law allowing political parties to pick candidates for a special election was unconstitutional. He suggested that voters should choose candidates in a primary election.

The effect of the order could keep U.S. Sen. Harris Wofford, a Democrat appointed by Gov. Casey to replace Heinz, in office longer than he might have otherwise. His supporters are privately grinning.

It also could prevent U.S. Attorney General Dick Thornburgh, a Republican, from running. His supporters are congratulating themselves that he didn't resign last week, when he announced he'd be a candidate.

Politically, this is high-stakes stuff. And it goes beyond Wofford and Thornburgh. It could force the state's 67 counties to spend millions of dollars. And it could force further litigation.

Initially, though, it's one big mess. Will there be an election this year? Will there be a primary? Is Thornburgh in or out?

The answers could alter the state's political landscape. The immediate question is how to deal with the judge's ruling. For now, Harrisburg shrugs.

The governor and the state attorney general, both parties to the suit, say they don't know what they're going to do.

"At this point we've come to no conclusions," said Casey's press secretary, Vincent Carocci.

Robert Gerrtel, spokesman for Attorney General Ernie Preate Jr., said, "Staff here is doing the legal research now. We have 30 days to get an appeal together, if that's what we decide."

He said he expects a quick decision.

Some see the potential of Democrat Wofford holding the post without an election until next year or even the end of Heinz's term in January 1995.

But Thomas Druce, executive director of the Republican State Committee, said that would be "a gross violation" that would bring the GOP into court.

Two state lawyers who spoke on condition their names not be used said the only options facing the state are a quick appeal or legislation creating a primary.

Both options come with problems. "The danger is, an appeal could be tied up for years," one lawyer said. The other said, "Even if legislation [to hold a primary] were passed, it could be challenged and we'd be back into court."

Moreover, Democrats controlling the state House appear to have little interest in hurrying a race in which Thornburgh is regarded as the favorite over Wofford.

House Democratic leader M. William DeWeese, when asked whether he'd move primary legislation, said: "I'm inherently political. My perspective will likely be tinctured with the politics of a Democrat."

In addition, a special primary would cost counties at least $4.5 million, according to state officials.

One option is a Senate primary on Nov. 5 concurrent with the general election and a Senate general election next spring concurrent with the presidential primary. If so, Thornburgh is likely to stay in.

But if there's no election this year, a source close to Thornburgh said yesterday, Thornburgh will not leave the Justice Department and will not commit to seeking the seat next year.

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Hearing Is Set Monday On Pa. Senate Vote Suit

By Tim Curran

Both Republicans and Democrats in Pennsylvania are hoping that a Monday hearing will be the first step toward overturning a ruling that has put the state's scheduled November special Senate election in jeopardy.

State Attorney General Ernest Preate Jr. will go before the 3rd District Circuit Court of Appeals Monday to urge the court to overturn federal Judge Edward Cahn's June 10 ruling, which found the state's method of selecting candidates for Senate specials unconstitutional. According to the decision, allowing parties — rather than primary voters — to choose nominees violates the dictum of one-person, one-vote.

Photo by Maureen Keeney

Appointed Sen. Harris Wofford is the likely beneficiary if legal action pushes the race back to next year.

A special election to succeed the late Sen. John Heinz (R), killed in a plane crash April 4, had been scheduled for Nov. 5.

If Cahn's decision is upheld, the legislature may be forced to pass a law setting up a September primary. Or the election could be moved back to November 1992, with a primary taking place in April.

If the race is moved to next fall, Pennsylvania, like California, will have both its Senate seats up for grabs. Sen. Arlen Specter (R-Pa) will be vying for a third term in 1992.

Another possibility — though a longshot — is that the election would be pushed into 1994, when Heinz's term was scheduled to expire.

Sen. Harris Wofford (D), appointed to fill the Heinz vacancy, appears to be in little danger of losing his party's nomination, even if the election is postponed, but Cahn's decision has delayed the expected entry of US Attorney General Dick Thornburgh into the race.

Thornburgh, a former two-term governor of the Keystone State, is considered the favorite in the contest. President Bush announced June 4 that the Attorney General would be leaving the cabinet later this summer to challenge Wofford, but Thornburgh would not commit to a date; then the lawsuit intervened, making his resignation from the Administration even less certain.

Most observers believe that Wofford will be the beneficiary if the race is postponed since he'll be able to enhance his name recognition among Pennsylvanians, but delaying the race until '92 would make it difficult for two Democrats to raise funds.

The complaint in the case was filed by John Trinsey Jr., a would-be Republican contender for the Heinz seat. The court appointed Temple Law School associate professor Laura E. Little to help Trinsey prepare his brief for the appeal. Preate's office filed its response to that brief Monday.

"We are arguing that there is absolutely nothing unconstitutional about not having a primary" and expediting the process, Robert Gentzel, spokesman for the state Attorney General, said.

Preate, who is a Republican, also plans to argue that a delay in the election makes the process "less democratic" because it leaves an appointed Senator in office for a longer period without facing voters.

"We expect that the court will act quickly," Gentzel said. "The sense is that they will probably make their decision on the briefs filed and Monday's arguments." Among the evidence that the state plans to present is an estimate of the costs to taxpayers of setting up a primary, which Gentzel puts at between $800,000 and $1 million in Allegheny County, which includes Pittsburgh, alone.

Even if the decision is upheld, both parties appear willing and ready to establish a September primary in the legislature so that the election can go on as scheduled in November. If that happens, both Wofford and Thornburgh, should he actually run, are expected to have little trouble securing the nominations.

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Inquirer

Election in doubt on Heinz seat

Judge overturns nomination rule

By Emilie Lounsberry
Inquirer Staff Writer

A federal judge has thrown into doubt the Nov. 5 election to replace the late John Heinz by declaring unconstitutional the section of state law that governs the special elections of U.S. senators.

In a ruling yesterday, U.S. District Judge Edward N. Cahn concluded that the section, by allowing the nominees for the Senate seat to be picked by the political parties, violated the fundamental right of citizens to vote.

"A state may not, for the sake of expedience, delegate authority over the election process to political parties who then violate the constitutional rights of the citizens of that state," Cahn wrote in a 21-page decision.

The ruling — which was being faxed among various political strategists in the Republican and Democratic organizations from Philadelphia, Harrisburg and Washington late yesterday — could preclude the special election scheduled for Nov. 5 to replace Heinz, who was killed April 4 when his plane crashed in Lower Merion.

Gov. Casey has appointed Democrat Harris Wofford, former state secretary of labor and industry, to fill the seat until the special election. Wofford has already been endorsed by the Democratic State Committee as its candidate.

Wofford was then to face U.S. Attorney General Dick Thornburgh, who announced last week his intention to run for the Senate seat as a Republican, once his candidacy had been approved by the Republican State Committee.

But, at least for now, there is no provision of the election code to fill the vacancy by special election because it was struck down by Cahn. "There's no question it's thrown a curve into the process," said Jack J. Lewis, a spokesman for Pennsylvania Attorney General Ernie Preate Jr. He said no decision had been made on whether to appeal the ruling to the Third U.S. Circuit Court of Appeals.

"We're left in a situation now where unless the federal court decision is reversed or stayed in some way, or unless the legislature could act quickly enough to rewrite the statute and provide for a primary

(See ELECTION on 10-A)

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Ruling casts doubt on November election for Heinz seat

ELECTION, from 1-A

election prior to November, we face the potential that there will be no election in November," said Lewis.

Murray Dickman, a top political aide to Thornburgh, said the possibility of such a ruling had been a key reason for Thornburgh's delay in announcing whether he would run in November.

"At least for the time being, there is a legitimate question of whether or not there's going to be an election this fall," said Dickman.

Dickman said, however, that the ruling would have no immediate impact upon Thornburgh. "He is the attorney general of the United States until he or President Bush says otherwise," said Dickman.

As for Thornburgh's intention to run for the seat, Dickman said, "There may not be anything to run for."

James Carville, a political strategist for Wofford, said the ruling was likely to lead to further political attacks on Thornburgh, who has been criticized for staying on at the Justice Department in spite of his intention to run for the Senate seat.

"He holds the entire prosecutorial apparatus of the federal government in the palm of his hand," said Carville. "I think this whole Iscuro decision ... is going to bring this whole thing into greater focus ... about the propriety of a sitting attorney general saying, 'I'm going to leave in due course.'"

The ruling came in a lawsuit filed by a former Olympic rower and developer from Montgomery County who wants to be a U.S. senator.

Acting as his own counsel, John S. Trimmy Jr. focused his legal challenge on the nomination procedure for party candidates. He contended that the statute violated the 17th Amendment of the U.S. Constitution because it placed "the power to elect [a] Senator not in the hands of the People of Pennsylvania but rather in the hands of small groups of Republican and Democratic Party Committee members."

Trimmy asked Cohn to bar the appointment of Wofford and to declare unconstitutional the section of the state election code governing the special election of U.S. senators.

Cohn refused to enjoin the appointment of Wofford but agreed that the provision should be struck down.

Acknowledging that the issue of whether the right to vote must be protected at the nomination stage "has not been squarely presented before," Cohn traced the history of the selection of senators, who were elected by state legislatures until the 17th Amendment was passed in 1913.

"One purpose of the Amendment ... was to wrest control of the Senate from political parties," wrote Cohn.

Under Pennsylvania law, he said, "the party committees perform the nomination function, and they perform that function undemocratically."

The judge agreed that the state was under no obligation to have a primary election, and he acknowledged that there was a "valid state interest" in shortening the term of an appointed senator.

But he concluded that in spite of that interest, Pennsylvania "may not achieve its goal by stripping the fundamental rights of its citizens."

Inquirer staff writer Robert [illegible] contributed to this article.

EXHIBIT D

COPY

THE DEMOCRATIC PARTY OF THE COMMONWEALTH

OF PENNSYLVANIA

FORMAL OPINION NO. 9101

by

John P. Karoly, Jr., Esquire
Parliamentarian, Democratic State Committee
As Filed with the Secretary of the Party

Request Date: May 30, 1991
Opinion Date: May 31, 1991
File Date: June 1, 1991

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PARLIAMENTARY MEMORANDUM
SUMMARY OPINION

In response to the parliamentary inquiry posited this date by the Executive Director of the Democratic State Committee, my formal opinion follows:

QUAERE: In order to give effect to a "unified primary" (for both the Democratic and Republican nominees for U.S. Senate), may the Democratic State Committee select a nominee on June 1, 1991 to be certified, effective June 15, 1991?

OPINION: For the reasons stated hereinafter, it is the opinion of your Parliamentarian that the Democratic State Committee, lawfully assembled, may select a nominee to fill the unexpired term of the late U.S. Senator H. John Heinz at its meeting of June 1, 1991 and, by appropriate action of that deliberative body, cause said nomination to be certified to the Secretary of the State on June 15, 1991.

BACKGROUND

This matter comes to issue as a result of the untimely demise of Pennsylvania Senior United States Senator, H. John Heinz, III and, the necessity for filling the Senatorial vacancy created thereby.

On May 29, 1991, in accordance with The Rules of the Democratic Party of the Commonwealth of Pennsylvania, State Chair

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Lawrence J. Yatch issued an "Official 10-day Call to Saturday, June 1, 1991, Special Nominating Convention and Meeting." The principal order of business for said Special Nominating Convention was specified to be "the slating of a nominee to represent the party in the Special Election to be held on November 5th to fill the unexpired term of the late U.S. Senator H. John Heinz."

Communications to members of the Democratic State Committee beginning on or about April 5, 1991 presaged this call.

This same issue has been addressed by Attorney Judith L. Corley, Special Counsel on Federal Election Campaign Act compliance, whose opinion dated May 31, 1991 has been considered as a predicate and is attached hereto for reference.

In like fashion, the memorandum of Laurel McLeaish, Esquire dated May 30, 1991, incorporating advisory opinions of Pat Kline of the Public Affairs Division of the Federal Election Commission and Monna Accurti of the Department of Elections in the Secretary of State office, were also considered and, are attached hereto for reference.

LIMITED PURPOSE

Accordingly, the within opinion makes no expression as to the application of FECA or FEC requirements to the issue presented but, represents a parliamentary interpretation of the application of the Rules of the Democratic Party of the Commonwealth of Pennsylvania to the instant question.

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ANALYSIS

The procedures which apply to the filling of a vacancy for U.S. Senator are derived from the application of four (4) separate sources of authority.

First, the U.S. Constitution, Amendment XVII, Paragraph 2, provides in pertinent part that ". . . the people fill vacancies by election as the Legislature may direct."

Secondly, the Legislature of Pennsylvania has spoken through applicable state law. 25 P.S., Paragraph 2776. Special Elections for United States Senator; nominations. provides inter alia, that candidates in Special Elections "shall be nominated by political parties in accordance with party rules."

Thirdly, The Rules of the Democratic Party of the Commonwealth of Pennsylvania, as revised, provide in Rule VIII, Section 1 that:

> Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary Election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination.

Fourthly, because the State Party Rules are silent as to precisely how the State Committee shall "make and certify a nomination" Rule IX of said party rules dictates that, "Roberts Rules of Order, as most recently revised, in-so-far as applicable, shall govern procedure at all meetings of the State Committee."

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Pursuant to Robert Rules of Order, 1990 Edition, Chapter XIV, Nominations and Elections, § 45, p.423: "If no method of nominating has been specified in the bylaws and if the assembly has adopted no rule on the subject, any member can make a motion prescribing the method." (Also appearing at § 31, p.282.)
(N.B. A Motion prescribing the method of nominating is an incidental Motion when the election is pending, Roberts Rules of Order, 1990 Edition, § 31, p. 281.)

At a mass meeting or convention such as that proposed for June 1, 1991, the most appropriate method of nomination is "from the floor" (sometimes called "open nominations") by way of a viva voce election. "The viva voce method of election finds application principally in mass meetings - or in cases where a candidate is unopposed or the election is not strongly contested, and the bylaws do not require election by ballot." Roberts Rules of Order, 1990 Edition, Chapter XIV, § 45, p.434.

It should also be noted that:

> When only one nominee is put up and the bylaws do not require a ballot, the chair can take a voice vote, or can declare that the nominee is elected, thus effecting the election by unanimous consent or "acclamation." The motion to close nominations should not be used as a means of moving the election of the candidate in such a case.
> Roberts Rules of Order, 1990 Edition, p.435.

Once the method of nomination has been established by a majority of those voting, the manner of nominating is accomplished

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by the language of the Motion or Resolution. In any case, the Motion or Resolution is self-limiting and self-executing. That is to say that, Roberts Rules of Order requires only that said Motion or Resolution be subject to the eight (8) standard descriptive characteristics relating to incidental motions, to wit, that it:

> 1. Take precedence over the pending election for which nominations are to be made. (If a member is seeking the floor to make a nomination, however, the motion to close nominations is out of order.) They yield to the privileged motions, and to the motion to Lay on the Table.
>
> 2. Apply to any pending election. No subsidiary motion except Amend** can be applied to them.
>
> 3. Are out of order when another has the floor.
>
> 4. Must be seconded.
>
> 5. Are not debatable.
>
> 6. Are amendable.
>
> 7. Require a majority vote, except a motion to close nominations, which requires a two-thirds vote because (a) its adoption deprives members of a basic right--to nominate; and (b) the assembly must be protected against attempted abuse of the power to close nominations by a temporary majority.
>
> 8. Can be reconsidered, except the motion to close nominations, or an affirmative vote on a motion to reopen nominations. (In the latter cases the same effect can be obtained by renewal or by the opposite motion.); and,

it may provide, within the motion itself, the effective date of the nomination. (This, of course, is not an unusual occurrence and occurs with great frequency in deliberative bodies and organization

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which elect the following year's officers before the close of the present officers' terms.)

Thus, standing alone, Roberts Rules of Order would permit a bifurcation of the voting process from the effective date of the vote so as to allow a prospective effect. However, the peculiarity of the wording of our state rules lends itself even more strongly to such a permissible interpretation.

Significantly, our state rules do not require that the vacancy be filled by an "election" but rather by "mak(ing) and certify(ing) a nomination." Hence, our "election" process must be considered to encompass a two-step procedure. First, we "make" a nomination, then, secondly, we determine when to "certify" that nomination.

Accordingly, it follows that the first step of the nomination process (i.e. nomination) can certainly be made effective (and even be conducted) on a day separate and distinct from the second step (certification), if appropriate resolutions are adopted.

The suggested form of such resolutions, in compliance with Roberts Rules of Order, 1990 Edition, are attached.

Respectfully Submitted,

John P. Karoly Jr. Esquire
Parliamentarian
Democratic State Committee

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October 30, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 OCT 30 PM 3:22

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

This letter is written to amend Exhibit A of the response filed with the Commission on October 25, 1991 on behalf of Citizens for Wofford. The name Ronald B. Rapoport is hereby added to the list of Contributors on Exhibit A. Attached is his Statement of Designation of Counsel.

Very truly yours,

B. Holly Schadler

Attachment

BHS:mah

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[16568-0001/DA913020.050]

TELEX 44-0277 PCSO UI • FACSIMILE (202) 434-1690
ANCHORAGE • BELLEVUE • LOS ANGELES • PORTLAND • SEATTLE • SPOKANE

DOC 3528

2175 Buttonwood Road
Berwyn, PA 19312

October 31, 1991

VIA FEDERAL EXPRESS

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3420

Dear Mr. Noble:

This letter is in response to the complaint which was filed in the above-matter by the Republican State Committee of Pennsylvania against the Citizens for Senator Wofford. By this letter I am requesting that the Federal Election Commission take no action against me in the above-matter.

On June 30, 1991, I made a $1,000 primary election contribution and a $1,000 general election contribution to the Wofford campaign. In making these contributions to the Wofford campaign, it was my intent that $1,000 be contributed towards Mr. Wofford's primary election campaign and $1,000 be contributed towards Mr. Wofford's general election campaign. I made these contributions in good faith reliance upon the representations made by the Citizens for Senator Wofford that I could make a maximum contribution of $1,000 for each such election if I so designated my contributions therefor.

As it was not my intention to violate the Federal Election Campaign Act, and I believe I have not done so, I respectfully request that no action be taken against me in this matter.

Sincerely,

Ethel B. Wister

Ethel B. Wister

Sworn to and subscribed
before me this 31 day
of October, 1991.

Notary Public

cc: Richard H. Glanton, Esquire
Robert F. Bauer, Esquire

NOTARIAL SEAL
ROBERT A. EAGER, Notary Public
Radnor Twp., Delaware Co.
My Commission Expires Aug. 7, 1994

FEDERAL ELECTION COMMISSION
91 NOV -4 AM 11:54

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 NOV -5 AM 11:54

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Richard H. Glanton

ADDRESS: Reed Smith Shaw & McClay
2500 One Liberty Place
Philadelphia, PA 19103

TELEPHONE: (215) 851-8120

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.

10/31/91
Date

Ethel B. Wister
Signature

RESPONDENT'S NAME: Ethel B. Wister

ADDRESS: 2175 Buttonwood Road
Berwyn, PA 19312

HOME PHONE: (215) 647-7315

BUSINESS PHONE: (215) 647-7315

9604374463

Middlebury College
Box 3695
Middlebury, VT 05753

October 31, 1991

VIA FEDERAL EXPRESS

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3420

Dear Mr. Noble:

This letter is in response to the complaint which was filed in the above-matter by the Republican State Committee of Pennsylvania against the Citizens for Senator Wofford. By this letter I am requesting that the Federal Election Commission take no action against me in the above-matter.

On June 30, 1991, I made a $1,000 primary election contribution and a $1,000 general election contribution to the Wofford campaign. In making these contributions to the Wofford campaign, it was my intent that $1,000 be contributed towards Mr. Wofford's primary election campaign and $1,000 be contributed towards Mr. Wofford's general election campaign. I made these contributions in good faith reliance upon the representations made by the Citizens for Senator Wofford that I could make a maximum contribution of $1,000 for each such election if I so designated my contributions therefor.

As it was not my intention to violate the Federal Election Campaign Act, and I believe I have not done so, I respectfully request that no action be taken against me in this matter.

Sincerely,

Sabina F. Wister

Sabina F. Wister

Sworn to and subscribed
before me this 31 day
of October, 1991.

Robert A. Eager

Notary Public

cc: Richard H. Glanton, Esquire
Robert F. Bauer, Esquire

NOTARIAL SEAL
ROBERT A. EAGER, Notary Public
Radnor Twp., Delaware Co.
My Commission Expires Aug. 7, 1994

9604374464

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Richard H. Glanton

ADDRESS: Reed Smith Shaw & McClay
2500 One Liberty Place
Philadelphia, PA 19103

TELEPHONE: (215) 851-8120

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.

10/31/91
Date

Sabina F. Wister
Signature

RESPONDENT'S NAME: Sabina F. Wister

ADDRESS: Middlebury College
Box 3695
Middlebury, VT 05753

HOME PHONE: (215) 647-7315

~~BUSINESS~~ COLLEGE PHONE: (802) 388-1314

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OGC 4653

REPUBLICAN STATE COMMITTEE OF PENNSYLVANIA

George I. Bloom Republican Center • 112 State Street • Harrisburg, Pennsylvania 17101 • Telephone (717) 234-4901

92 MAY 11 PM 3:53

May 7, 1992

Joan Aikens, Chairman
Federal Election Commission
999 E Street, N.W.
Washington D.C. 20463

Dear Chairman,

This letter is pursuant to docket number MUR 3420, the complaint filed by the Republican State Committee of Pennsylvania against Citizens for Senator Wofford.

I want to restate our desire to see this matter resolved by the Federal Election Commission (FEC) as expeditiously as possible. The Citizens for Senator Wofford have violated federal election laws (2 U.S.C. 441a (a)), and must be reprimanded in a timely fashion.

In accordance to your description of the procedures, the Office of the General Counsel should have reported its findings to the FEC.

I ask that the Federal Election Commission rule on this case. Thank you for your time and consideration.

Sincerely,

Anne Anstine

Anne B. Anstine
Chairman

9604374146 6

Anne B. Anstine, Chairman
Robert S. Taylor, Treasurer
Grace M. Jesberger, Secretary
William R. Sasso, Finance Chairman
Herbert Barness, National Committeeman
William H. Lamb, Vice Chairman
Jacob D. Yaros, Assistant Treasurer
Nancy L. Kimble, Assistant Secretary
Blaine A. Brown, Deputy Chairman
Elsie H. Hillman, National Committeewoman

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 13, 1992

Ms. Anne B. Anstine
Chairman
Republican State Committee of Pennsylvania
George I. Bloom Republican Center
112 State Street
Harrisburg, Pennsylvania 17101

RE: MUR 3420
Citizens for Senator Wofford and
John D. Sheridan, as treasurer

Dear Ms. Anstine:

This is in response to your letter dated May 7, 1992, in which you request information pertaining to the complaint you filed on September 10, 1991, with the Federal Election Commission.

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the party being investigated has agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Because there has been no written agreement that the matter be made public, we are not in a position to release any information at this time.

We will notify you as soon as the Commission takes final action on your complaint.

Sincerely,

Veronica M. Gillespie

Veronica M. Gillespie
Attorney

26043741467

SENSITIVE

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

RECEIVED
F.E.C.
SECRETARIAT
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FIRST GENERAL COUNSEL'S REPORT

MUR #3420
DATE COMPLAINT RECEIVED
BY OGC: September 10, 1991
DATE OF NOTIFICATION TO
RESPONDENTS: September 16, 1991
STAFF MEMBER: Veronica M. Gillespie

COMPLAINANTS: Republican State Committee of Pennsylvania and Anne B. Anstine, as chairman

RESPONDENTS: Citizens for Senator Wofford and John D. Sheridan, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(1)(B)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(2)(A)
2 U.S.C. § 441a(a)(6)
2 U.S.C. § 441a(f)
11 C.F.R. § 100.2(c)(1)
11 C.F.R. § 110.1(b)(2)(i)
11 C.F.R. § 110.1(b)(2)(ii)
11 C.F.R. § 110.1(b)(3)(i)

INTERNAL REPORTS CHECKED: Disclosure reports; FEC indexes

FEDERAL AGENCIES CHECKED: None

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I. GENERATION OF MATTER

This matter was initiated by an external complaint filed by the Republican State Committee of Pennsylvania and Anne B. Anstine, as chairman, alleging a violation of the Federal Election Campaign Act of 1971, as amended (the "Act") by the Citizens for Senator Wofford and John D. Sheridan, as treasurer. Attachment A.

The complaint calls into question the validity of "primary contributions" reported by the Citizens for Senator Wofford, the

principal campaign committee of Senator Wofford (the "Wofford Committee"). Essentially, the complaint alleges that these "primary contributions" were made to Wofford's campaign after the June 1, 1991 primary election date and therefore, are invalid as "primary contributions" under the Act.[1]

II. FACTUAL AND LEGAL ANALYSIS

A. BACKGROUND

H. John Heinz, III, the United States Senator from Pennsylvania, died in an airplane accident on April 4, 1991. As a result, Pennsylvania Governor Robert Casey appointed Harris Wofford to fill the senatorial vacancy created by Heinz's death until the next regularly scheduled general election, held on November 5, 1991.

On June 1, 1991, the Democratic Party of the Commonwealth of Pennsylvania held a Special Nominating Convention and Meeting to nominate Senator Harris Wofford as the party's candidate for the United States Senate.[2] The Democratic Party represents that "[t]he principal order of business for said Special Nominating Convention was specified to be 'the slating of a nominee to

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1. This Office notified only those contributors who, at the time the complaint was filed, reportedly had made $1000 contributions for both the primary and general elections after the June 1, 1991 primary election date. These contributors were notified because contributions for the primary election, when aggregated with the contributions for the general election from the same contributor, would exceed the statutory contribution limits. Most of the respondents, through counsel, filed answers to the allegations contained in the complaint. See Attachments B-J.

2. The Special Nominating Convention was called by the State Chairman of the State Executive Committee, Pennsylvania Democratic Party, pursuant to its Party Rules: Rule VIII, Section 1. See Party Rules at Attachment O, p. 19.

represent the party in the Special Election to be held on November 5th to fill the unexpired term of the late U.S. Senator H. John Heinz.'" The Democratic Party of the Commonwealth of Pennsylvania. Formal Opinion No. 9101. Attachment B, Exhibit D, p. 2.

It appears that party members believed that the Republican Party was preparing to nominate its own candidate on or around June 15, and therefore the Democratic Party decided to endorse Wofford as its nominee at the Special Convention on June 1, but not certify the nomination until two weeks later.[3] However, the Democratic Party did not actually deliver the nomination certificate to the Secretary of State until September 5th, purportedly for two reasons. First, the party was awaiting resolution of a pending judicial challenge to the Pennsylvania statute authorizing state political parties to nominate candidates in special elections. Secondly, the party was awaiting the endorsement of Richard Thornburg, former U.S. Attorney General, as the Republican Party's candidate.

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3. The Democratic Party requested its Parliamentarian to provide a ruling as to whether the Democratic State Committee could select the nominee on one day (e.g., June 1, 1991) and certify the nominee on a different day (e.g., June 15, 1991). The Parliamentarian's formal opinion states, in pertinent part, that "the first step of the nomination process (i.e. nomination) can certainly be made effective (and even be conducted) on a day separate and distinct from the second step (certification), if appropriate resolutions are adopted." The Democratic Party of the Commonwealth of Pennsylvania. Formal Opinion No. 9101. p. 6. The Formal Opinion states that it is predicated upon written opinions of Judith L. Corley and Laurel McLeaish. The General Counsel requested that those opinions cited and purportedly attached to Formal Opinion No. 9101 be produced but the Committee's counsel refused to produce them.

B. LAW

The Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission regulations set forth rules governing contribution limits. The Act states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Additionally, the Act states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). Furthermore, the Act states that the limitations on contributions imposed by 2 U.S.C. §§ 441a(a)(1) and (2) apply separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act also provides that no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. 2 U.S.C. § 441a(f).

The Commission has promulgated regulations which set out rules to determine the election for which a contribution is made. If the contribution is donor-designated in writing for a particular election, then the contribution is considered to have been made for the election so designated. 11 C.F.R. § 110.1(b)(2)(i). If the contribution is not donor-designated in writing for a particular election, then the contribution is considered to be made with respect to the next election.

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11 C.F.R. § 110.1(b)(2)(ii). If the contribution is donor-designated in writing for an election but is made after that election, then it may be accepted only to the extent that it does not exceed the net debts outstanding from such election. 11 C.F.R. § 110.1(b)(3)(i). Furthermore, if the contributions exceed the amount of the outstanding debt from the primary election, then the contributions must be refunded in accordance with Commission regulations, or a valid redesignation must be obtained from the contributor. 11 C.F.R. § 110.1(b)(3)(i).

A contribution is considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to have relinquished control over the contribution when it is delivered to the candidate, when it is delivered to an authorized committee of the candidate, or to an agent of an authorized committee of the candidate. A contribution that is mailed to any recipient will be considered to have been made on the date of the postmark of the envelope. 11 C.F.R. § 110.1(b)(6).

Finally, the Act defines the term "election" as "a convention or caucus of a political party which has authority to nominate a candidate." 2 U.S.C. § 431(1)(B). Commission regulation 11 C.F.R. § 100.2(c)(1) further defines a "primary election" as "[a]n election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election."

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C. **ANALYSIS**

The question at issue here is whether the June 1 convention held by the Democratic Party to nominate Wofford as its candidate for the Senate seat constituted an "election" within the meaning of 2 U.S.C. § 431, for purposes of the contribution limits of the Act. If so, then all undesignated contributions received after the June 1 date would be attributable to the general election and any contributions designated for the primary election, which were made after the primary election, would be subject to the condition that they not exceed the net debts outstanding from the primary election.

The complaint in this matter alleges that under federal law, June 1, the date Wofford was nominated as the Democratic nominee, counts as the primary. The complainant opines that in the case of a state party nominating convention, "primary" contributions cannot be accepted after the party chooses its candidate. Therefore, the complainant argues that all contributions received by the Committee after June 1 are invalid as primary contributions and accordingly are in violation of the Act.

The Wofford Committee, through counsel, argues that the June 1 date is not the date of the primary election under Pennsylvania State law and that State law controls in this case. See Attachment B. Counsel notes that Pennsylvania State law expressly provides that party rules dictate the method of nomination for special elections. Under the Pennsylvania State Democratic Party rules, counsel argues that a nomination is not

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effective until the certification process has been completed, which requires delivery of the certificate of nomination to the Secretary of State. In this instance, counsel argues that although the Democratic Party endorsed Wofford as the nominee on June 1, its action to withhold the nomination certificate effectively deferred the date of the election until the date the certificate actually was delivered to the Secretary of State. Therefore, according to counsel, all contributions received by the Wofford Committee before August 30, 1991, are legitimate primary contributions.[4]

To date, the Commission has not explicitly addressed the specific question of whether the date of a state nominating convention or the date the nomination certificate is delivered controls when determining which date constitutes the date of the "election" for purposes of contribution limits. However, the Commission has previously held that the question of whether a party convention is an "election" having the "authority to nominate a candidate" pursuant to 2 U.S.C. § 431(1)(B), must be determined from an analysis of state law regarding the power and

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4. The Wofford Committee represents that although the nomination certificate was not delivered until September 5, 1991, they received primary election contributions only until August 30, 1991, the date of the Republican nominating convention. Attachment B, p. 3. Nevertheless, the Wofford Committee's reports disclose six (6) primary contributions totalling $10,500 as having been received between August 30, 1991 and September 29, 1991. Although the reason for this apparent discrepancy will be addressed in discovery, it could be attributable to the time delay incurred for receiving contributions by mail.

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role of such a convention in the nomination of candidates for Federal office. See Advisory Opinions 1976-58, 1978-25 (Part B), and 1978-30. In each instance where a state party convention has the authority to nominate a candidate under state law, as opposed to just the mere authority to endorse a candidate, and where the party convention actually nominates its candidate, the Commission has concluded that the party convention constitutes an "election" within the meaning of 2 U.S.C. § 431(1)(B). See Advisory Opinions 1976-58, 1978-30, and 1980-60.

In this case, the issue of whether the Democratic Party of Pennsylvania had the "authority" to nominate a candidate within the meaning of 2 U.S.C. § 431(1)(B) appears clear given the language of the Pennsylvania statute in question. Pennsylvania Stat. Ann. Tit. 25, § 2776 (1991) states in pertinent part that: "[c]andidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with party rules related to the filling of vacancies, by means of nomination certificates...."[5]

This Office has examined a copy of The Rules of the Democratic Party of the Commonwealth of Pennsylvania ("Party Rules") in order to determine whether the Pennsylvania

5. Section 2780 of this title specifies the requirements for nomination certificates. They must set forth information pertaining to the office for which it is filed, the cause of the vacancy, and information about the nominee. The certificate also must set forth the party rules pursuant to which the nomination is made, affirm that a quorum of the party committee met, and identify those members present at the meeting.

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Democratic Party in fact nominated Senator Wofford at its June 1st convention. Rule VIII, Section 1 of the Party Rules addresses the filling of vacancies for the Senate seat. It provides that:

> "Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination." See Party Rules at Attachment O, p. 19.

Section 2 of Rule VIII provides for the selection of candidates to fill vacancies in other offices. Once again, the rule confers the "authority to make and certify a nomination" to the State Executive Committee. That section also sets forth very specific voting procedures to be followed by the State Executive Committee in exercising its explicit "authority to make and certify a nomination." Additionally, Rule V, Section 8, provides that the State Executive Committee "shall take into account the recommendations of the County Committee[s]" in carrying out its responsibilities under Rule VIII, Section 2. However, the Party Rules are totally silent with regard to any certification requirements and or procedures.[6] This suggests

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6. With regard to the procedures which govern at the convention meetings, Party Rule IX, Section 1, further states:

"Robert's Rules of Order, as most recently revised, in-so-far as applicable, shall govern procedure at all meetings of the State Committee and the State Executive Committee." See Party Rules at Attachment O, p. 20.

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that, contrary to counsel's characterization of Pennsylvania law as a bifucated process, the selection process is over once the voting is complete and that the tendering of the nomination certificate is merely a ministerial act. Generally, a ministerial act is construed as any act which the law requires a person to perform in a prescribed manner, without regard to any exercise of judgment and discretion. See, e.g. Marbury v. Madison, 5 U.S. 137 (1803) (delivery of a commission found to be a ministerial act once signed and sealed by the President); Lewis v. Labor Board, 357 U.S. 10, 14-15 (1957) (issuance of an NLRB subpoena deemed ministerial because it involved no exercise of discretion). Since the Party Rules do not appear to contemplate that the State Executive Committee exercise any judgment or discretion with regard to the delivery of the nomination certificate, the tendering of it to state officials should be viewed as a ministerial step that derives its importance from its effect on the general election, namely to ensure that the party's selected nominee, Harris Wofford, would appear on the general election ballot.

Counsel also suggests that the Democratic Party rightfully sought to make Wofford's nomination effective the same date a Republican nominee was selected because Pennsylvania requires regularly scheduled primaries of political parties to be held on the same date. While the State may have determined that unified primaries are required for regularly scheduled elections, it has not made such a

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decision as it pertains to special elections, and while an "unopposed" candidate may confront the problems noted by counsel, the circumstances presented simply are inadequate to allow a state party to modify principles of federal campaign finance law and effectively defer the date of an election by retaining the nomination certificate after the candidate has been selected.

In sum, Pennsylvania law clearly gives the political parties the "authority" to nominate candidates and the candidate so nominated automatically becomes the party's nominee in the next election, omitting the necessity of running in a direct primary election. Trinsey v. Commonwealth of Pennsylvania, 766 F. Supp. 1338 (E.D. Pa.), rev'd, 941 F.2d 224 (3rd Cir. 1991), cert. denied, 60 U.S.L.W. 3376 (1991).[7] Moreover, the Party Rules state that

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7. In Trinsey, plaintiff alleged that the nominating process for special elections in Pennsylvania was unconstitutional because it authorized nominations of candidates to fill Senate vacancies by political parties rather then by primary elections in violation of the 14th and 17th Amendments. The District Court struck down the state provision as unconstitutional because it did not provide for a primary election before the special election. However, the U.S. Court of Appeals reversed, holding that a primary election was not required.

Counsel for the Wofford Committee argues that in the wake of Trinsey, the Democratic Party believed it was barred from completing its nomination of Wofford under both state law and its party rules, and therefore did not issue its certificate to the Secretary of State. Counsel contends that "[u]ntil the District Court decision was reversed, the certificate could not effect a nomination." (emphases in the original) Attachment B, p. 3. Regardless of the Party's belief that it had no power to act, the circumstances indicate that the Party did have the authority to act and, indeed, exercised that authority by meeting as a Special Nominating Convention and performing two acts: (1) passing a resolution, by motion and majority vote, to nominate Harris Wofford effective on June 1, 1991; and (2) passing a resolution,

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the State Executive Committee shall have the authority to make and certify a nomination, but do not appear to predicate the completion of the nomination process on the actual delivery of the nomination certificate. Accordingly, it appears that the Pennsylvania Democratic Party exercised its authority and nominated Senator Wofford on June 1, 1991. This Office therefore concludes that under Pennsylvania State law, the June 1 convention at which the Party nominated Wofford as its nominee constituted an "election" within the meaning of 2 U.S.C. § 431(1)(B).

In light of our conclusion that the June 1, 1991 Special Nominating Convention and Meeting of the Democratic Party of Pennsylvania to nominate Senator Wofford for the Senate seat is an "election" under 2 U.S.C. § 431(1)(B), we have reviewed the Wofford Committee's disclosure reports of the contributions. Based on that review and the responses received to date, it appears that the Committee actively solicited and accepted approximately $642,000 in primary contributions between June 1 and August 31, 1991. See Attachments K-L. However, as previously noted, there is no indication that the Wofford Committee had any debts

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(Footnote 7 continued from previous page)
by motion and a majority vote, to retain the nomination certificate of Harris Wofford until June 15, 1991, at which time the certificate would be delivered to the Secretary of State. Moreover, the Party had decided to separate the nomination and certification dates prior to the issuance of the District Court's decision in Trinsey. In fact, the Party had already nominated Senator Wofford by the time the lower court rendered its June 10, 1991 decision.

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outstanding from the primary election, so as to enable the Committee to accept contributions for the primary election after June 1, 1991. Accordingly, the Office of the General Counsel recommends that the Commission find reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).[8]

With respect to those contributors who made the excessive contributions in question, the materials at hand indicate that during its solicitations, the Wofford Committee apparently informed contributors that the primary cutoff date was not until August 30, 1991, the day of the Republican convention. See Attachment M. Therefore, it appears that the Wofford Committee explicitly solicited contributions for the primary election after June 1, 1991, the date of the primary election, and that the contributors may have relied upon the Committee's representations. In light of the

8. Assuming the June 1, 1991, Special Nominating Convention to be an "election," then the amount in violation would appear to be approximately $642,000, the total of contributions received after June 1, 1991, which the Wofford Committee reported as having been designated for the primary election. The Wofford Committee has not refunded or obtained reattributions or redesignations for these contributions. Of this amount, $261,544 represents contributions from persons who also contributed the statutory maximum for the general election.

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circumstances presented here, this Office recommends taking no action against the contributors. However, five contributors who were notified of the complaint demonstrated in their responses that their contributions, which totalled approximately $14,000, were made on or before June 1, 1991. See Attachments C-G. With regard to these contributors, this Office recommends that the Commission find no reason to believe they violated 2 U.S.C. § 441a.

III. RECOMMENDATIONS

1. Find reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

2. Find no reason to believe that Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE violated 2 U.S.C. § 441a.

3. Take no action against the remaining contributors in this matter.

4. Approve the appropriate letters and attached Factual and Legal Analysis.

5/8/92
Date

Lawrence M. Noble
General Counsel

Attachments
A. Complaint
B-J. Responses to Complaint
K. Charts
L. Chart
M. Dept. of Justice Letter
N. Factual and Legal Analysis
O. The Democratic Party Rules

9604374148 1

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH DR
COMMISSION SECRETARY

DATE: MAY 14, 1992

SUBJECT: MUR 3420 - FIRST GENERAL COUNSEL'S REPORT DATED MAY 8, 1992

The above-captioned document was circulated to the Commission on MONDAY, MAY 11, 1992 at 4:00 p.m.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for TUESDAY, MAY 19, 1992.

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

9604374482

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3420
Citizens for Senator Wofford	)	
and John D. Sheridan, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 19, 1992, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3420:

1. Find reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f) for accepting contributions, except for contributions received during the period between June 10 through August 6, 1991.

2. Find no reason to believe that Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE violated 2 U.S.C. § 441a.

3. Take no action against the remaining contributors in this matter.

4. Approve appropriate letters.

(continued)

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5. Direct the Office of General Counsel to revise the Factual and Legal Analysis recommended in the General Counsel's report dated May 8, 1992, and circulate it for Commission approval on a tally vote basis.

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

Attest:

5-22-92
Date

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

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F.E.C.
SECRETARIAT
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1992 **SENSITIVE**

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 3420
Revised Proposed Factual and Legal Analysis
Additional Recommendations

On May 19, 1992, the Commission found reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f). On the same date, the Commission found no reason to believe that Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE violated 2 U.S.C. § 441a and took no further action against the remaining contributors notified of the complaint in this matter.

The Commission also voted to direct this Office to revise the Factual and Legal Analysis attached to the First General Counsel's Report dated May 8, 1992, and circulate it for Commission approval on a tally vote basis. This Office hereby submits the attached revised Factual and Legal Analysis for the Commission's approval.

In addition, the First General Counsel's Report in this matter inadvertently omitted recommendations that the Commission close the file as it pertains to Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE and as it pertains to the remaining contributors. Therefore, this Office now recommends that the the file be closed as it pertains to these respondents.

9604374185

RECOMMENDATIONS:

1. Close the file as it pertains to Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE.

2. Close the file as it pertains to the remaining contributors notified of the complaint in this matter.

3. Approve the appropriate letters.

4. Approve the attached Factual and Legal Analysis.

Attachment
Factual and Legal Analysis

Staff Assigned: Veronica M. Gillespie

9604374148 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH
COMMISSION SECRETARY

DATE: JUNE 10, 1992

SUBJECT: MUR 3420 - MEMORANDUM TO THE COMMISSION DATED JUNE 5, 1992.

The above-captioned document was circulated to the Commission on MONDAY, JUNE 8, 1992 11:00 A.M.

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

Commissioner Aikens	XXX
Commissioner Elliott	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, JUNE 16, 1992.

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

9604374187

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3420
Citizens for Senator Wofford and	)	
John D. Sheridan, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 16, 1992, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3420:

1. Close the file as it pertains to Elizabeth F. Bagel, Patrick McCarthy, Susie Field, Machinists Non-Partisan Political League, and AFSCME PEOPLE.

2. Close the file as it pertains to the remaining contributors notified of the complaint in this matter.

3. Approve the appropriate letters as recommended in the General Counsel's report dated June 5, 1992.

(continued)

9604374148

4. Approve the Factual and Legal Analysis as recommended in the General Counsel's report dated June 5, 1992.

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

Attest:

6-17-92
Date

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

9604374489

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 7, 1992

Robert F. Bauer, Esq.
Perkins Coie
Suite 800
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Louise S. Ansberry
Gregory B. Craig
Hale A. Krasne
Robert M. Krasne
Burke Marshall
Sarah E. Peck
Avore Rapoport
Bernard Rapoport
Robert B. Rapoport
Anne Sobel
Robert J. Stein
Paul C. Warnke
Daniel B. Wofford

Dear Mr. Bauer:

On September 16, 1991, the Federal Election Commission notified your clients referenced above of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by your clients, to take no action against them and on June 16, 1992, closed its file in this matter as it pertains to them.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

9604374490

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

96043741491

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Leslie J. Kerman, Esq.
Epstein Becker & Green
1227 25th Street, N.W.
Washington, D.C. 20037

RE: MUR 3420
Susie Field

Dear Ms. Kerman:

On September 16, 1991, the Federal Election Commission notified your client, Susie Field, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe that Susie Field violated 2 U.S.C. § 441a. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to Susie Field.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374492

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mr. Patrick H. McCarthy
526 Hamilton Road
Merion, Pennsylvania 19066

RE: MUR 3420
Patrick H. McCarthy

Dear Mr. McCarthy:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated 2 U.S.C. § 441a. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374149 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Larry P. Weinberg
General Counsel
AFSCME
1101 17th Street, N.W.
Suite 1210
Washington, D.C. 20036

RE: MUR 3420
American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) PEOPLE

Dear Mr. Weinberg:

On September 16, 1991, the Federal Election Commission notified the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) PEOPLE, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe that the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) PEOPLE, violated 2 U.S.C. § 441a. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to the AFL-CIO (AFSCME) PEOPLE.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

9604374149 4

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

96043741495

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3420

NAME OF COUNSEL: Perkins Coie

ADDRESS: Robert F. Bauer and B. Holly Schadler
607 14th Street, NW, Suite 800
Washington, DC 20005

TELEPHONE: (202) 628-6600

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

10/12/91
Date

Signature

RESPONDENT'S NAME: Ronald B Rapoport

ADDRESS: 107 North Trace
Williamsburg VA 23185

HOME PHONE: (804) 565 0568

BUSINESS PHONE: (804) 221 3042

9604374149 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Allison Beck, Esq.
International Association of Machinist
and Aerospace Workers
Machinists Building
1300 Connecticut Avenue
Washington, D.C. 20036

RE: MUR 3420
Machinists Non-Partisan Political League

Dear Ms. Beck:

On September 16, 1991, the Federal Election Commission notified the Machinists Non-Partisan Political League, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe that the Non-Partisan Political League violated 2 U.S.C. § 441a. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to the Non-Partisan Political League.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374497

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mrs. Elizabeth F. Bagley
1539 29th Street, N.W.
Washington, D.C. 20007

RE: MUR 3420
Elizabeth F. Bagley

Dear Ms. Bagley:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated 2 U.S.C. § 441a. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374498

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mr. Smith Bagley
1539 29th Street, N.W.
Washington, D.C. 20007

RE: MUR 3420

Dear Mr. Bagley:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374149 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Richard H. Glanton, Esq.
Reed, Smith, Shaw & McClay
2500 One Liberty Place
Philadelphia, PA 19103

RE: MUR 3420
Ethel B. Wister
Sabina F. Wister

Dear Mr. Glanton:

On September 16, 1991, the Federal Election Commission notified your clients, Ethel and Sabina Wister, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by your client, to take no action against Ethel or Sabina Wister. Accordingly, on June 16, 1992, the Commission closed its file in this matter as it pertains to them.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 0

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Robert O. Meyer, Esq.
65 Highview Avenue
Bernardsville, New Jersey 07924

RE: MUR 3420
Raymond G. Chambers
Patricia A. Chambers

Dear Mr. Meyer:

On September 16, 1991, the Federal Election Commission notified your clients, Raymond and Patricia Chambers, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by your client, to take no action against Raymond or Patricia Chambers. Accordingly, on June 16, 1992, closed its file in this matter as it pertains to them.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mr. Thomas L. Siebert
Suite 200
1901 L Street, N. W.
Washington, D.C. 20036

RE: MUR 3420

Dear Mr. Siebert:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 2

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 7, 1992

Ms. Alida R. Messinger
Room 5600
30 Rockefeller Plaza
New York, New York 10112

RE: MUR 3420

Dear Ms. Messinger:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mr. John E. Connelly
361 Saxonburg Road
Pittsburgh, Iowa 15238

RE: MUR 3420

Dear Mr. Connelly:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mrs. Clare Wofford
407 Old Gulph Road
Bryn Mawr, PA 19010

RE: MUR 3420

Dear Mrs. Wofford:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Mr. Arnold Sagalyn
Sagalyn Associates
2000 M Street, N. W.
Washington, D.C. 20036

RE: MUR 3420

Dear Mr. Sagalyn:

On September 16, 1991, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 19, 1992 and June 16, 1992, the Commission decided, on the basis of the information in the complaint, and information provided by you, to take no action and close its file in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after the file has been closed with respect to all respondents. If you wish to submit any materials to appear on the public record, please do so within ten days. Please send such materials to the Office of the General Counsel.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9604374150 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 7, 1992

Robert F. Bauer, Esq.
Perkins Coie
Suite 800
607 14th Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford and
John D. Sheridan, as treasurer

Dear Mr. Bauer:

On September 16, 1991, the Federal Election Commission notified your clients, Citizens for Senator Wofford and John D. Sheridan, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on May 19, 1992, found that there is reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f), a provision of 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 your clients. 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 within 15 days of 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 your clients, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

9604374150 7

If your clients 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.

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.

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

If you have any questions, please contact Veronica M. Gillespie, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
Factual & Legal Analysis

9604374150 8

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Citizens for Senator Wofford and John D. Sheridan, as treasurer **MUR: 3420**

I. GENERATION OF MATTER

This matter was initiated by an external complaint filed by the Republican State Committee of Pennsylvania and Anne B. Anstine, as chairman, alleging a violation of the Federal Election Campaign Act of 1971, as amended (the "Act") by the Citizens for Senator Wofford and John D. Sheridan, as treasurer. The complaint calls into question the validity of "primary contributions" reported by the Citizens for Senator Wofford, the principal campaign committee of Senator Wofford (the "Wofford Committee"). Essentially, the complaint alleges that these "primary contributions" were made to Wofford's campaign after the June 1, 1991 primary election date and therefore, are invalid as "primary contributions" under the Act.

II. FACTUAL AND LEGAL ANALYSIS

A. BACKGROUND

H. John Heinz, III, the United States Senator from Pennsylvania, died in an airplane accident on April 4, 1991. As a result, Pennsylvania Governor Robert Casey appointed Harris Wofford to fill the senatorial vacancy created by Heinz's death until the next regularly scheduled general election, held on November 5, 1991.

9604374150 9

On June 1, 1991, the Democratic Party of the Commonwealth of Pennsylvania held a Special Nominating Convention and Meeting to nominate Senator Harris Wofford as the party's candidate for the United States Senate.[1] The Democratic Party represents that "[t]he principal order of business for said Special Nominating Convention was specified to be 'the slating of a nominee to represent the party in the Special Election to be held on November 5th to fill the unexpired term of the late U.S. Senator H. John Heinz.'" The Democratic Party of the Commonwealth of Pennsylvania. Formal Opinion No. 9101.

It appears that party members believed that the Republican Party was preparing to nominate its own candidate on or around June 15, and therefore the Democratic Party decided to endorse Wofford as its nominee at the Special Convention on June 1, but not deliver the nomination certificate until two weeks later.[2] In fact, the Democratic Party did not actually deliver the nomination certificate to the Secretary of State until September 5th, purportedly for two reasons. First, the party was awaiting the endorsement of Richard Thornburg, former U.S.

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1. The Special Nominating Convention was called by the State Chairman of the State Executive Committee, Pennsylvania Democratic Party, pursuant to its Party Rules: Rule VIII, Section 1.

2. The Democratic Party requested its Parliamentarian to provide a ruling as to whether the Democratic State Committee could select the nominee on one day (e.g., June 1, 1991) and certify the nominee on a different day (e.g., June 15, 1991). The Parliamentarian's formal opinion states, in pertinent part, that "the first step of the nomination process (i.e. nomination) can certainly be made effective (and even be conducted) on a day separate and distinct from the second step (certification), if appropriate resolutions are adopted." The Democratic Party of the Commonwealth of Pennsylvania. Formal Opinion No. 9101.

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Attorney General, as the Republican Party's candidate. Secondly, the party was awaiting resolution of a pending judicial challenge to the Pennsylvania statute authorizing state political parties to nominate candidates for a special election. Trinsey v. Commonwealth of Pennsylvania, 766 F. Supp. 1338 (E.D. Pa.), rev'd, 941 F.2d 224 (3rd Cir. 1991), cert. denied, 60 U.S.L.W. 3376 (1991). In Trinsey, plaintiff alleged that the nominating process for special elections in Pennsylvania was unconstitutional because it authorized nominations of candidates to fill Senate vacancies by political parties rather then by primary elections in violation of the 14th and 17th Amendments. On June 10, 1991, the District Court struck down the Pennsylvania statute as unconstitutional because it did not provide for a primary election before the special general election. However, on August 6, 1991, the U.S. Court of Appeals reversed the lower court's judgment, ruling that a primary election was not required before holding a special general election to fill a senatorial vacancy.

B. LAW

The Federal Election Campaign Act of 1971, as amended (the "Act") and the Commission regulations set forth rules governing contribution limits. The Act states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Additionally, the Act states that no multicandidate political committee shall make contributions to

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any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). Furthermore, the Act states that the limitations on contributions imposed by 2 U.S.C. §§ 441a(a)(1) and (2) apply separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act also provides that no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. 2 U.S.C. § 441a(f).

The Commission has promulgated regulations which set out rules to determine the election for which a contribution is made. If the contribution is donor-designated in writing for a particular election, then the contribution is considered to have been made for the election so designated. 11 C.F.R. § 110.1(b)(2)(i). If the contribution is not donor-designated in writing for a particular election, then the contribution is considered to be made with respect to the next election. 11 C.F.R. § 110.1(b)(2)(ii). If the contribution is donor-designated in writing for an election but is made after that election, then it may be accepted only to the extent that it does not exceed the net debts outstanding from such election. 11 C.F.R. § 110.1(b)(3)(i). Furthermore, if the contributions exceed the amount of the outstanding debt from the primary election, then the contributions must be refunded in accordance with Commission regulations, or a valid redesignation must be obtained from the contributor. 11 C.F.R. § 110.1(b)(3)(i).

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A contribution is considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to have relinquished control over the contribution when it is delivered to the candidate, when it is delivered to an authorized committee of the candidate, or to an agent of an authorized committee of the candidate. A contribution that is mailed to any recipient will be considered to have been made on the date of the postmark of the envelope. 11 C.F.R. § 110.1(b)(6).

Finally, the Act defines the term "election" as "a convention or caucus of a political party which has authority to nominate a candidate." 2 U.S.C. § 431(1)(B). Commission regulation 11 C.F.R. § 100.2(c)(1) further defines a "primary election" as "[a]n election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election."

C. **ANALYSIS**

The question at issue here is whether the June 1 convention held by the Democratic Party to nominate Wofford as its candidate for the Senate seat constituted an "election" within the meaning of 2 U.S.C. § 431, for purposes of the contribution limits of the Act. If so, then all undesignated contributions received after the June 1 date would be attributable to the general election and any contributions designated for the primary election, which were made after the primary election, would be subject to the condition that they not exceed the net

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debts outstanding from the primary election.

The complaint in this matter alleges that under federal law, June 1, the date Wofford was nominated as the Democratic nominee, counts as the primary. The complainant opines that in the case of a state party nominating convention, "primary" contributions cannot be accepted after the party chooses its candidate. Therefore, the complainant argues that all contributions received by the Committee after June 1 are invalid as primary contributions and accordingly are in violation of the Act.

The Wofford Committee, through counsel, argues that the June 1 date is not the date of the primary election under Pennsylvania State law and that State law controls in this case. Counsel notes that Pennsylvania State law expressly provides that party rules dictate the method of nomination for special elections. Under the Pennsylvania State Democratic Party rules, counsel argues that a nomination is not effective until the certification process has been completed, which requires delivery of the certificate of nomination to the Secretary of State. In this instance, counsel argues that although the Democratic Party endorsed Wofford as the nominee on June 1, its action to withhold the nomination certificate effectively deferred the date of the election until the date the certificate actually was delivered to the Secretary of State. Therefore, according to counsel, all contributions received by the Wofford Committee before August 30, 1991, are legitimate primary contributions.

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To date, the Commission has not explicitly addressed the specific question of whether the date of a state nominating convention or the date the nomination certificate is delivered controls when determining which date constitutes the date of the "election" for purposes of contribution limits. However, the Commission has previously held that the question of whether a party convention is an "election" having the "authority to nominate a candidate" pursuant to 2 U.S.C. § 431(1)(B), must be determined from an analysis of state law regarding the power and role of such a convention in the nomination of candidates for Federal office. See Advisory Opinions 1976-58, 1978-25 (Part B), and 1978-30. In each instance where a state party convention has the authority to nominate a candidate under state law, as opposed to just the mere authority to endorse a candidate, and where the party convention actually nominates its candidate, the Commission has concluded that the party convention constitutes an "election" within the meaning of 2 U.S.C. § 431(1)(B). See Advisory Opinions 1976-58, 1978-30, and 1980-60.

In this case, the issue of whether the Democratic Party of Pennsylvania had the "authority" to nominate a candidate within the meaning of 2 U.S.C. § 431(1)(B) appears clear given the language of the Pennsylvania statute in question. 25 Pa. Stat. Ann. § 2776 (1991) states in pertinent part that: "[c]andidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with party rules related to the filling of vacancies, by means of

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nomination certificates...."[3]

This Office has examined a copy of The Rules of the Democratic Party of the Commonwealth of Pennsylvania ("Party Rules") in order to determine whether the Pennsylvania Democratic Party in fact nominated Senator Wofford at its June 1st convention. Rule VIII, Section 1 of the Party Rules addresses the filling of vacancies for the Senate seat. It provides that:

> Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination.

Section 2 of Rule VIII provides for the selection of candidates to fill vacancies in other offices. Once again, the rule confers the "authority to make and certify a nomination" to the State Executive Committee. That section also sets forth very specific voting procedures to be followed by the State Executive Committee in exercising its explicit "authority to make and certify a nomination." Additionally, Rule V, Section 8, provides that the State Executive Committee "shall take into account the recommendations of the County Committee[s]" in carrying out

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3. Section 2780 of this title specifies the requirements for nomination certificates. They must set forth information pertaining to the office for which they are filed, the cause of the vacancy, and information about the nominee. The certificate also must set forth the party rules pursuant to which the nomination is made, affirm that a quorum of the party committee met, and identify those members present at the meeting.

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its responsibilities under Rule VIII, Section 2. However, the Party Rules are totally silent with regard to any certification requirements and/or procedures."[4] This suggests that, contrary to counsel's characterization of Pennsylvania law as a bifurcated process, the selection process is over once the voting is complete and that the tendering of the nomination certificate is merely a ministerial act.

Generally, a ministerial act is construed as any act which the law requires a person to perform in a prescribed manner, without regard to any exercise of judgment and discretion. See, e.g. Marbury v. Madison, 5 U.S. 137 (1803) (delivery of a commission found to be a ministerial act once signed and sealed by the President); Lewis v. Labor Board, 357 U.S. 10, 14-15 (1957) (issuance of an NLRB subpoena deemed ministerial because it involved no exercise of discretion). Since the Party Rules do not appear to contemplate that the State Executive Committee exercise any judgment or discretion with regard to the delivery of the nomination certificate, the tendering of it to state officials should be viewed as a ministerial step that derives its importance from its effect on the general election,

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4. With regard to the procedures which govern at the convention meetings, Party Rule IX, Section 1, further states:

> Robert's Rules of Order, as most recently revised, in-so-far as applicable, shall govern procedure at all meetings of the State Committee and the State Executive Committee.

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namely to ensure that the party's selected nominee, Harris Wofford, would appear on the general election ballot.

Counsel also suggests that the Democratic Party rightfully sought to make Wofford's nomination effective the same date a Republican nominee was selected because Pennsylvania requires regularly scheduled primaries of political parties to be held on the same date. While the State may have determined that unified primaries are required for regularly scheduled elections, it has not made such a decision as it pertains to special elections, and while an "unopposed" candidate may confront the problems noted by counsel, the circumstances presented simply are inadequate to allow a state party to modify principles of federal campaign finance law and effectively defer the date of an election by retaining the nomination certificate after the candidate has been selected.

In sum, Pennsylvania law clearly gives the political parties the "authority" to nominate candidates and the candidate so nominated automatically becomes the party's nominee in the next election, omitting the necessity of running in a direct primary election. Counsel for the Wofford Committee contends that in the wake of Trinsey, the Democratic Party believed it was barred from completing its nomination of Wofford under both state law and its party rules, and therefore did not issue its certificate to the Secretary of State. Counsel contends that "[u]ntil the District Court decision was reversed, the certificate could

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not effect a nomination." (emphasis in the original). The lower court's decision in Trinsey undoubtedly created uncertainty regarding the nomination of candidates for this special election although the District Court did not issue an injunction.[5] Indeed, had the court's decision been affirmed on appeal, the candidates would have had to raise money for a popular primary election campaign. In light of the unusual circumstances created by the Trinsey litigation, the Commission believes it is appropriate not to consider contributions received during the pendency of the appeal. Therefore, the Commission finds reason to believe that the Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f) by accepting primary contributions after June 1, 1991, except for those contributions received during the period between the June 10th District Court decision in Trinsey and the August 6th reversal of that decision by the Court of Appeals.[6]

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5. As noted, the circumstances indicate that the Party did have the authority to act and, indeed, exercised that authority by meeting as a Special Nominating Convention and performing two acts: (1) passing a resolution, by motion and majority vote, to nominate Harris Wofford effective on June 1, 1991; and (2) passing a resolution, by motion and a majority vote, to retain the nomination certificate of Harris Wofford until June 15, 1991, at which time the certificate would be delivered to the Secretary of State. The Party thus had decided to separate the nomination and certification dates prior to the issuance of the District Court's decision in Trinsey, and had already nominated Senator Wofford by the time the lower court rendered its June 10, 1991 decision.

6. It appears that the Wofford Committee actively solicited and accepted approximately $354,000 in primary contributions between June 1 through June 10, and after August 6, 1991. However, as previously noted, there is no indication that the Wofford Committee had any debts outstanding from the primary election, so as to enable the Committee to accept contributions for the primary election after June 1, 1991.

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

July 20, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 20 AM 10: 23

Ms. Veronica Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 3420

Dear Ms. Gillespie:

On behalf of Citizens for Senator Wofford and John D. Sheridan, as treasurer, we request an extension of time to respond to the Commission's finding of reason to believe. An extension of time is necessary in order to review the record, have an adequate opportunity to discuss the issues with our client, collect factual information, complete the necessary legal research and prepare a comprehensive response. Therefore we are requesting an extension until August 18.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

BHS:mah

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[16568-0001/DA921960.016]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1992

Robert F. Bauer, Esq.
Perkins Coie
607 14th Street, N.W.
Suite 800
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford and
John D. Sheridan, as treasurer

Dear Mr. Bauer:

This is in response to your letter dated July 20, 1992, which we received on the same date, requesting an extension until August 18, 1992, to respond to the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 18, 1992.

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

Sincerely,

Veronica M. Gillespie

Veronica M. Gillespie
Attorney

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 18 PM 12:59

August 18, 1992

Veronica M. Gillespie
Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Citizens for Senator Wofford and John D. Sheridan, as Treasurer, MUR 3420

Dear Ms. Gillespie:

This letter confirms our conversation that we will file the response on behalf of Citizens for Senator Wofford and John D. Sheridan, as Treasurer, on Friday, August 21. If you have any questions, please feel free to contact me at (202) 434-1634.

Very truly yours,

B. Holly Schadler

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[16568-0001/DA922310.013]

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 19, 1992

B. Holly Schadler, Esq.
Perkins Coie
607 14th Street, N.W.
Suite 800
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford and
John D. Sheridan, as treasurer

Dear Ms. Schadler:

This is in response to your telephone call and letter dated August 18, 1992, which we received on the same date, requesting an extension until August 21, to respond to the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 21, 1992.

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

Sincerely,

Veronica M. Gillespie

Veronica M. Gillespie
Attorney

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

August 21, 1992

Lawrence M. Noble, Esq.
Federal Election Commission
Office of the General Counsel
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE
92 AUG 21 PM 5:23

Attention: Veronica M. Gillespie

Re: MUR 3420

Dear Mr. Noble

This letter constitutes the response by Citizens for Senator Wofford (the "Committee") and John D. Sheridan, as Treasurer (collectively "Respondents") to the Commission's letter and Factual and Legal Analysis dated July 7, 1992.

The General Counsel's Analysis concludes that because the Pennsylvania Democratic Party (the "Party") had the "authority" to nominate and certify a candidate at its June 1 convention, the process was automatically completed on that day. This after-the-fact analysis completely ignores the extraordinary circumstances of the 1991 Pennsylvania Senate election, would retroactively penalize Respondents for their good faith response to those circumstances, and is abjectly unfair. Rather than promote the desired goal of a level playing field for the two political parties in the election, the Analysis would affirm and ratify an unfair advantage enjoyed by the Pennsylvania Republican Party in the summer of 1991.

Indeed, according to the Analysis, the Party did not have the authority to adopt an alternative nominating procedure to address the highly unusual circumstances of this special election. The General Counsel takes this position even though Pennsylvania law gives the Party broad discretion to determine what method it will use to select its nominee; and, the Party rules governing this process are similarly discretionary. While the Party's nominating procedure may not be suitable in the context of a standard election, it certainly represents a reasonable alternative to address the extraordinary circumstances of this special election.

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The Pennsylvania Special Election Required a Unique Nominating Procedure

The 1991 special election for United States Senate in Pennsylvania presented highly unusual circumstances that were not anticipated by federal or state law.[1] Senator Wofford entered the race shortly after Senator John Heinz's unexpected death. His apparent opponent, former Attorney General Richard Thornburgh, equivocated numerous times about whether to run. All the while, he remained at the Justice Department acting more as the heir apparent to the Republican nomination than Attorney General of the United States. The Valley News Dispatch observed: "What Bush is providing and Thornburgh is accepting -- is a convenient national platform to raise money and conduct a Senate campaign without becoming an official candidate." See Exhibit A. Republican aides continued to organize his campaign and raise funds on his behalf. See Exhibit B. According to FEC reports, the Thornburgh for Senate Committee raised thousands of dollars in August, maximizing the campaign's advantage in scheduling a late August primary. See Exhibit C. In anticipation of Mr. Thornburgh's announcement, Republicans scheduled and rescheduled their nominating convention, thus extending the primary period. See Exhibit A.

To add to the confusion, the United States District Court decision in Trinsey v. Commonwealth of Pennsylvania, 766 F. Supp. 1338 (E.D. Pa. 1991) threw, not only the nominating process, but the entire special election process into question. In response, a myriad of alternatives regarding the conduct of the election were proposed by the court and the press: a fall primary and spring general election; an April primary and a November, 1992 general election; foregoing the primary and holding an open general election in November, 1991; Wofford serving Heinz's full term until January, 1995. Until the United States Court of Appeals reversed the ruling, there could be no special election as planned. And, the Party did not have the authority to nominate a candidate.

Given these unprecedented circumstances, the General Counsel's Analysis would apply a new rule that could not have

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[1]The Commission appears to recognize, at least in part, the highly unusual nature of this election in its discussion of the contributions received after the Trinsey decision and before its reversal.

been anticipated by Respondents. Rather than provide appropriate prospective guidance, the Analysis would unfairly punish Respondents for non-compliance with a standard they could not have foreseen. On elemental grounds of equity and fairness, the Analysis cannot stand.

The Party's Bifurcated Nominating Procedure Was Designed In Accordance With State Law

It was the Party's role to construct a nominating procedure that addressed these unique circumstances. Pennsylvania State law gives the political parties the authority and broad discretion to nominate a candidate to run in a special election to fill a vacancy created by death or resignation. Pa. Stat. Ann. tit. 25, § 2776 (Purdon 1991). ("Candidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with Party rules related to the filling of vacancies, by means of nomination certificates.") (emphasis added) No particular nominating procedure is prescribed.

The Party rules are also silent as to the nominating procedure except to require a two step process. To fill a vacancy the Party must first "make" a nomination and then "certify" it.[2] Therefore under Pennsylvania law, the requisite step to effect a nomination is delivery of the certificate to the Secretary of State. The date of certification, not the date of the convention, is determinative for purposes of identifying the primary period. In consultation with its Parliamentarian and legal counsel, the Party proceeded to construct a nomination and certification procedure within this legal frame work to address the circumstances of this election. It chose to designate its nominee, Senator Harris Wofford, on June 1 and to reserve certification until the date of the Republican nomination. Had the Party not done so, Senator Wofford's candidacy would have been unfairly prejudiced.

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[2]Section 1. Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary Election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination. (emphasis added)

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The General Counsel's Analysis, concludes that because the Party had the authority to consummate its nomination of Senator Wofford at its June 1 convention, that it must, as matter of law, have completed the process. While clearly Pennsylvania state law would permit a party to "make" and "certify" a nomination on the same day, it does not mandate a this procedure. Similarly, nothing in the Party rules indicates that the nominating process must be effected in one day. There is no time limitation imposed.

Therefore, the Party chose, in keeping with state law and policy,[3] to reserve certification until a later date to ensure a "unified primary" for both the Democratic and Republican nominees. The General Counsel objects however:

> While the state may have determined that unified primaries are required for regularly scheduled elections, it has not made such a decision as it pertains to special elections . . . General Counsel's brief at page 10."

The state "may not have made such a decision as it pertains to special elections" because it has arranged for the party to decide. So the question is: if the state had provided for "unified" special election dates, would this represent a lawful exercise of state authority? It would have, of course; and so must the party's right to make this choice be recognized. The party made this decision, then implemented it through the certification process over which it also had control under state law.

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[3]Pennsylvania law, like the laws of other states, requires the regularly scheduled primaries of political parties to be held on the same date so that the primary elections end on one day and the general election begins simultaneously for each party. Pa. Stat. Ann. tit. 25 § 2753 (Purdon, 1991); Also see, Or. Rev. Stat. § 254.056 (1991); Miss. Code Ann. § 23-15-171 (1986); Ga. Code Ann. § 21-2-150 (Michie 1992); D.C. Code Ann. § 1-1314 (1981); Va. Code Ann. § 24.1-174 (Michie 1985), Md. Elec. Code Ann. § 5-2 (1990). There are strong policy reasons for unified party primaries, not only in regularly scheduled elections, but special elections as well. Different primary periods distort the special election process in a manner detrimental to the voters and to the interests of the parties. Candidates would be running without general election opponents or true general election activity in which to engage.

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There is no question that the Party had the authority to make and certify the nomination in the same day. It did have this authority. The question is whether another nominating procedure is permitted under state law, and the answer is yes. As the General Counsel notes in its Analysis, it has not addressed this specific question. This is because such highly unusual circumstances have not, and rarely would, present themselves. Nevertheless, the Analysis simply disregards any alternative interpretation of state law, regardless of its merits and the fact that the nominating procedure was specifically designed to address the unique facts of this election.

The Commission has frequently examined whether a party convention has the authority to nominate and when a primary election occurs for purposes of the contribution limits under the appropriate state law or party rules.[4] FEC Advisory Opinion 1978-79 presents an equally unusual situation, but the Commission did not attempt to impose its judgment as to the legitimacy of the election procedure. No more should the Commission impose an unfair, after-the-fact judgement here. In that opinion, a United States Senate candidate ran in the party primary under the provisions of state law and, upon winning fifty percent, became the effective general election victor. He was not required to run in the general election and, indeed, his name did not even appear on the November ballot. Nonetheless, because the Secretary of State did not issue the certificate of formal election to him until November of that same year, the FEC construed the election to be held in November, not on the date of the all party primary, and authorized him to continue to collect contributions for a general election campaign.

This process is the same as the one in Pennsylvania which the General Counsel rejects. A "vote" had taken place in September; but state law deferred delivery of the certificate until November which became the "general election". In the

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[4] See, e.g., Advisory Opinions 1976-58, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5211 (August 26, 1976); 1978-25(b), 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5320 (June 5, 1978); 1978-30, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5325 (June 22, 1978); 1980-60, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5499 (May 30, 1980); 1981-29, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5616 (August 13, 1981); 1984-16, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5758 (May 11, 1984).

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Pennsylvania case, the decision to defer was also the State's, only made by the party as its lawfully appointed delegate. The Commission owes Pennsylvania the same deference paid to Louisiana.

Moreover, any "policy" of concern to the Commission should weigh more heavily in favor of Pennsylvania than it did in the case of Louisiana. The party in Pennsylvania was acting to assure a fair and competitive election, by adjusting the dates of the primary elections to coincide so that the general election would commence for both parties at the same time. The Commission's decision in the Louisiana case served no such immediate purpose, except to allow the raising of contributions for an election which was never, in fact, held. If policy plays any role in these matters, than it is a role weighing heavily in favor of Pennsylvania and certainly more so than in the case of Louisiana.

In sum, this is an area left to the authority of a state. But the Commission has never "second-guessed" the procedure or manner used to effect the nomination or election. The General Counsel has no role substituting its judgement for the reasonable judgement of the Party, operating under the authority of state law, about the appropriateness or legitimacy of its procedures.

Certification of the Nomination was not a "Ministerial Act"

The General Counsel's Analysis contends that certification of the nomination was merely a ministerial act; therefore, it concludes, the nomination was complete once the Party voted. But, this conclusion is wholly inconsistent with state law as well as the nominating procedure adopted by the Party.

The General Counsel's error is apparent in his formulation, appearing on page nine of his brief:

> However, the party rules are totally silent with regard to any certification requirements and/or procedures. This suggests that, contrary to Counsel's characterization of Pennsylvania law as a bifurcated process, the selection process is over once the voting is complete and that the tendering of the nomination certificate is merely a ministerial act.

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The notion expressed here is that "silence" about certification procedures means that they are ministerial. Silence, however, means precisely that: an absence of direction. The authority to prescribe this direction is the state's, not the FEC's. The state, moreover, has delegated this authority in the circumstances of this case to the Party.

The Party also reads the nature of this certification requirement differently than the FEC. First, unlike the FEC, it follows the standard rule of construction, that a chosen word of statutory language is not to be treated as "surplusage". The statute says, the Party may use any means to nominate its candidate to fill a vacancy, but requires that the process be completed by means of nomination certificates.

Second, the Party did not read into this requirement a purely ministerial function. Nor should it. A ministerial act is one, as the Commission notes, to be performed "in a prescribed manner, without regard to any exercise of judgement and discretion". See General Counsel's Brief at page 9. But the statute here prescribes nothing about the act of "certification": nothing about form, timing, or manner of delivery. By prescribing nothing, it must mean to leave these choices to the Party. This is a delegation of "judgement and discretion", not the creation of a ministerial act.

A "ministerial act" is one performed in a prescribed manner required by law without regard to or the exercise of individual judgement or discretion. Thompson v. Duke, 82 F.2d 1180 (7th Cir. 1989); Lowe v. Letsinger, 772 F.2d 308 (7th Cir. 1985) (clerk's duty to type and send notice after entry of judgment is ministerial task); Williams v. Wood, 612 F.2d 982 (5th Cir. 1980) (entrance of order and notification to parties is ministerial act); Kline v. Republic of El Salvador, 603 F. Supp. 1313 (D.D.C. 1985); Bedroom v. Baron, 90 Ind. App. 655, 169 N.E. 695 (1930) (making entries in a docket book is a ministerial task). The acts reviewed in these decisions involve clerical procedures such as the automatic issuance of a notice or the making of entires in a ledger. Even in the two cases cited by the General Counsel, Marbury v. Madison, 5 U.S. 137 (1803), and Lewis v. National Labor Relations Board, 357 U.S. 10 (1957), the tasks that are deemed ministerial involved merely clerical procedures.

Nothing in the statute or the Rules mandated the certification to be completed within a particular time. Nor was the Party required to certify the nomination within a

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prescribed period after the convention date. Contrary to the General Counsel's contention, that this silence suggests that the certification was ministerial, this silence is further evidence that it was within the Party's discretion when to complete this process.

For all of these reasons -- reasons of law, policy, precedent and fundamental fairness -- we urge the Commission to terminate this investigation and dismiss the complaint.

Very truly yours,

Robert F. Bauer
B. Holly Schadler

BHS:mah

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EXHIBIT A

DATE: 6-6-91 PAGE A-4

VALLEY NEWS DISPATCH

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 AUG 21 PM 4 23

Thornburgh should bow out now

President Bush's announcement that Attorney General Dick Thornburgh will run for John Heinz's senate seat is a surprise to no one. But like actor Anthony Quinn's reading of the wrong Tony Award-winner a few days ago, it's premature and makes everyone wonder who's running the show.

Thornburgh, who enjoyed widespread support during his two terms as Pennsylvania governor, won't be stepping down as attorney general until at least the end of July. The president says he needs him to continue working on important civil rights and anti-crime legislation.

What Bush is providing — and Thornburgh is accepting — is a convenient national platform to raise money and conduct a senate campaign without becoming an official candidate. Thornburgh should step down now, having declared his intent to run.

This is an unusual situation. In the wake of Heinz's death, the Republican nomination is Thornburgh's for the asking. The state Republican committee has conveniently postponed the nominating process twice to accommodate its favorite son.

Thornburgh has no competition for the nomination — just Harris Wofford, the interim Democratic senator, to worry about. They will face each other in a special November election.

Dick Thornburgh

Harris Wofford

The Justice Department can go on without Thornburgh. Some critics say it hasn't been running all that smoothly with him at the helm.

If he stays on, Thornburgh will be subjected to a higher level of scrutiny, and he'll have to fend off charges of politicizing important legal issues because of his status as a candidate for national office. To avoid those conflicts and to even the playing field, he should give up his cabinet post and focus on the senate campaign. Now.

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EXHIBIT B

Pittsburgh Post-Gazette
THURSDAY, JUNE 06, 1991
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Strident campaign for Senate shaping up

By Gary Turna
Post-Gazette Harrisburg Correspondent

HARRISBURG — One of Sen. Harris Wofford's top campaign aides said the Democrat would use the Harry Truman strategy against Republican Dick Thornburgh.

"The old line was 'Give 'em hell, Harry,' and Truman used to say, 'I don't give 'em hell. I just tell the truth and they think it's hell.'

"Well, we're going to tell a lot of the truth about Dick Thornburgh," said Paul Begala, an associate of Wofford's campaign manager, James Carville.

The truth about Thornburgh, the Republicans will say, is that the state was in heavenly financial shape when his term as governor ended in 1987.

"He cut taxes three years in a row and left office with a budget surplus. You may hear that a lot in the campaign," said Tom Druce, executive director of the GOP state committee.

Those two statement probably reveal the developing themes of the race between Thornburgh and Wofford for the U.S. Senate seat that belonged to the late John Heinz. Gov. Casey appointed Wofford, a fellow Democrat, to the vacancy last month, but a special election Nov. 5 will decide who fills the remaining three years of the term.

And the most prominent issue in that election may well be Thornburgh himself. The U.S. attorney general will run largely on his record of public service, stressing his reputation as a good fiscal manager during his two terms as governor. Democrats have claimed there are skeletons galore in his closet, and will endeavor to drag them out.

Wofford's high point in government came during the Kennedy administration, when he served as an adviser on civil rights to the late president and later worked as an administrator for the Peace Corps. Since then he has been president of Bryn Mawr College, practiced law and served as a state Cabinet officer. Little in his recent background seems likely to arouse the masses, pro or con.

Thornburgh's achievements and liabilities are more obvious. Republicans will try to cast Wofford as too liberal for the state, but several conceded that they would run mainly against the man who appointed him.

"What most people in Pennsylvania know about Sen. Wofford is that he is the nominee of Bob Casey," said one state Republican close to Thornburgh.

"It may appear at times that Thornburgh is running against Casey, but keep in mind that Harris Wofford is part of that administration," said Druce, who went on to point out that Casey expected to end the fiscal year with a budget deficit and had asked for a $2.7 billion tax increase for next year.

The widespread opinion in political circles is that Wofford must run a campaign that attacks Thornburgh's image back home. He has a master tactician of that campaign style in Carville.

"Expect a tremendously negative campaign. They will try to dirty Thornburgh up," predicted state Rep. Stephen Freind, R-Delaware, who would have run for the seat had Thornburgh not done so.

Evans Rose, who was Thornburgh's top fund-raiser in his successful gubernatorial runs in 1978 and 1982, said yesterday that he would be involved in this campaign as well.

Rose, who estimated the cost of the race at $3.5 million, said he probably would start laying some groundwork soon for fund-raising. Thornburgh's aides said Tuesday that the attorney general would engage in no fund-raising until he was officially a candidate, probably in August.

Thornburgh was asked yesterday about the propriety of staying on the job now that his intentions have been made known.

"There are no politics in the Justice Department," he said. "I am not a candidate. When I become a candidate, I will resign."

While Bush said Thornburgh was staying to complete unfinished work, Justice Department spokesman Dan Eramian noted that Thornburgh did not want to resign until pending legal issues concerning the election were resolved.

A lawsuit filed in U.S. District Court in Philadelphia by a Montgomery County man has had sought to block the election because of the method by which the two political parties are choosing their candidates — with state committee meetings instead of primary elections.

Judge Edward Cahn has ordered John Grinsey and the state Attorney General's Office to submit briefs in the case by tomorrow.

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Thornburgh's quest off to a rocky start

By Richard Benedetto
USA TODAY

Attorney General Dick Thornburgh's run for a Pennsylvania U.S. Senate seat, which once looked like a cake walk, is suddenly developing the makings of a race.

Thornburgh, a Republican two-term governor, announced last month he would leave the Bush Cabinet in July to run for the Senate seat.

The consensus then was he would breeze past Democrat Harris Wofford, who was appointed to temporarily fill the seat left vacant by GOP Sen. John Heinz, killed April 4 in a plane crash.

But that was before.

▶ The May 5 special election was put on hold by a court challenge to the legality of the candidate selection process. The state GOP picked Thornburgh for the job. The court said a contested election is necessary. The ruling is on appeal.

▶ Democrats began questioning Thornburgh's ethics in his decision to stay on as attorney general until he officially became a Senate candidate.

Published reports said aides are digging deep into Thornburgh's past as governor, federal prosecutor and lawyer, plus looking at stock listings and business dealings, to see if there's anything that might tarnish his image.

Democrats also are looking at fund-raisers by GOP stars Vice President Quayle — Monday night in Philadelphia — and first lady Barbara Bush — last week in Pittsburgh.

Wofford campaign manager Paul Begala says money being collected at those fund-raisers could be coming from people with cases pending before the Justice Department — creating a potential conflict of interest for Thornburgh.

He says Thornburgh "should step down now."

Thornburgh, however, says he won't resign at least until July, depending on when the court challenge is resolved. Meanwhile, he refuses to discuss politics.

Thornburgh hasn't created a campaign committee. And he hasn't directly solicited cash for his campaign. But money that could flow to his campaign — such as from the Quayle and Barbara Bush fund-raisers — is being collected by the Pennsylvania GOP State Committee.

Quayle press secretary David Beckwith says the vice president, who has raised nearly $18 million for Republican candidates in his nearly 2½ years in office, agreed to appear on behalf of the Pennsylvania GOP last February, more than two months before Heinz was killed. He would have attended the dinner whether Thornburgh was running or not, Beckwith said.

▶ The spoiler, 2A

Justice Department running well, officials say

By Sam Vincent Meddis
USA TODAY

The Justice Department is operating normally, despite Attorney General Dick Thornburgh's plans to run for the Senate, top officials say.

"The attorney general's plans have had no impact — not a ripple — on the day-to-day operations of the department," says its No. 2 official, Deputy Attorney General William Barr. "It's strictly business as usual."

Some current and former staffers even say the prospect of Thornburgh leaving to run for the Senate seat of the late Pennsylvania Republican John Heinz has had a positive effect.

"If anything, Thornburgh's announcement boosted morale," claims Bruce Fein, a former department official and Thornburgh critic.

By Barry Thumma, AP

THORNBURGH: Plans reportedly have 'no impact'

A longstanding gripe among some is the department's bureaucracy has been that Thornburgh surrounded himself with overprotective aides, "and that has created a sense that Thornburgh is aloof," says Fein.

But Fein and others in Washington legal circles say they've observed no turmoil.

"I haven't sensed anything bad," says former U.S. attorney in Washington, Joseph diGenova. "There's the normal wondering about who may be the next attorney general."

Some legal experts say Thornburgh should step down immediately to avoid what they see as an appearance of a conflict of interest — a perception that legal judgments might be swayed by political considerations.

But Thornburgh, rejecting such claims, has refused calls from congressional Democrats to resign.

"I am unaware of anything that we are currently handling that would give rise to even the appearance of a conflict," says Assistant Attorney General Robert Mueller, criminal division chief.

Department officials say Thornburgh will refrain from campaigning, including fund-raising. And he'll handle any business involving Pennsylvania that would have come to Thornburgh.

Meanwhile, Thornburgh shows no signs of being distracted by his potential Senate run, says Assistant Attorney General Stuart Gerson, civil division chief.

In recent weeks, Thornburgh has maintained a high profile — for example, acting as a visible player in the Bush administration's wrangling with Congress over new crime legislation, gay rights and civil rights.

"I see him as engaged and I see people have moving forward," Gerson says. "I see him whenever I think to see him and find him sensitive to what I'm doing."

EXHIBIT B

92 JUN 25 PM 5:24

The Herald

OUR VIEW

The Herald, Sharon, Pa., Thursday, June 6, 1991 Page 4

U.S. SENATE RACE

Thornburgh background in Pa. big election asset

NO SURPRISES WERE IN President Bush's announcement that Attorney General Dick Thornburgh would seek the Pennsylvania seat in the U.S. Senate. The possibility has been discussed for weeks. And it had been rumored that Thornburgh may step down as attorney general after three years of a lackluster record.

But as a candidate for the seat of U.S. Sen. John Heinz who was killed in a plane crash on April 4, Thornburgh already is being tputed as unbeatable. His opponent will be Harris Wofford, secretary of the state Department of Labor and Industry until Gov. Robert P. Casey named him to fill the Senate seat until a special election in November.

Thornburgh was praised highly for his management of Pennsylvania when he was governor from 1979 to 1987. His major achievements were in improving the state's business climate and in cleaning up corruption that he said was left behind by his Democratic predecessor, Gov. Milton Shapp. He also was lauded for outstanding improvements in the state's Department of Transportation, which had major problems during the Shapp administration.

Previously, Thornburgh was a U.S. attorney for western Pennsylvania and then a top official in the Justice Department under President Gerald R. Ford. He did well there, too, founding the department's public-integrity section, which investigates federal, state and local officials accused of corruption. He also headed the criminal division for two years.

After his second term as Pennsylvania governor ended in 1986, Thornburgh was director of Harvard University's Kennedy School of Government until President Reagan tapped him to succeed Edwin Meese III in August of 1988. The expectation was that Thornburgh would restore the Justice Department's reputation which had been badly tarnished by the legal problems of Meese and his staff.

But Thornburgh fell short of that with his own problems in the Justice Department. His appointments were widely criticized. The Senate Judiciary Committee rejected his first choice for civil rights chief as unqualified. All four of the aides he brought to his staff from Pennsylvania eventually left under a cloud. One of them, Henry Barr was sentenced to 16 months in prison for using cocaine and lying about his drug use on his application to be Thornburgh's adviser on criminal law.

Partisanship was a favorite charge by Thornburgh's critics. That was accented when Thornburgh publicly cleared President Bush [illegible]

Other charges followed. Civil rights groups accused Thornburgh of putting politics ahead of his legal judgment by advising Bush to oppose legislation aimed at job discrimination. The American Civil Liberties Union criticized him for "pushing anti-crime policies, principally designed for their political appeal."

His slow response to the savings and loan problems brought more animosity. But he was vindicated later when he appointed a coordinator to lead the prosecutions that netted some 500 convictions.

Thornburgh came under fire again when he was accused of trying to protect his close aides by interfering with a leak investigation involving Rep. William Gray, D-Pa., running for House majority whip.

Despite the negatives, however, Thornburgh gained his share of plaudits as attorney general. He was lauded for carrying on Reagan's policies in civil rights and judicial selection and for helping to win ratification of a United Nations convention that requires closer cooperation on the fight against illegal drugs. That step is said to be working.

So far as any new initiatives or major changes in the office of attorney general, Thornburgh broke no new ground. When rumors of his departure from the attorney general's post were circulating a few months ago, Newsday, a newspaper in suburban New York, called him the "surprise dud" of the cabinet.

But, that has changed rapidly in the last few weeks. Many Pennsylvanians view Thornburgh as the most electable politician to replace Heinz. He earned name recognition and a reputation of integrity and "Mr. Clean" as governor; is credited with a fantastic ability to raise money, and remains on top of public opinion polls.

He certainly knows Pennsylvania, its strengths, weaknesses and needs and would be in an enviable position to represent it in Congress. His acceptance of the candidacy has the Democrats in a snit and the Republicans celebrating.

Voters can look for a heated campaign. In a state where Democrats have a large edge in voter registration, Thornburgh will have to continue winning them over. But not if the Democrats can help it. Already, they're putting the heat on him to resign immediately as attorney general since his candidacy for the Senate could raise questions of conflicts of interest if he remains in the office until July 15.

The Thornburgh pros and cons assure Pennsylvanians of a vigorous fight by two qualified men for the Senate seat. That should do away with some of the apathy of an off-year election and hope dimmer of [illegible]

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EXHIBIT C

SCHEDULE A ITEMIZED RECEIPTS Page 1 of ___ for Line Number 11a

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Full Name of Committee: Thornburgh for Senate Committee

A. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Herbert Barness 975 Easton Road Warrington PA 18976	The Barness Organizati Developer	08/19/91 09/03/91 09/25/91	1000.00 1000.00 REM* -1000.00 RED*
Receipt for: Primary	Year-to-Date Total: $	2000.00	

A.

Memo Entry(s):

* REM: REA/RED requested
* RED: redesignated to general

B. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Herbert Barness 975 Easton Road Warrington PA 18976	The Barness Organizati Developer	09/25/91	1000.00 RED*
Receipt for: General	Year-to-Date Total: $	2000.00	

* RED: redesignated from primary

C. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
William S. Dietrich 500 Grant Street Pittsburgh PA 15219	Dietrich Industries, I President	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

D. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
William S. Dietrich 500 Grant Street Pittsburgh PA 15219	Dietrich Industries, I President	09/10/91	1000.00
Receipt for: General	Year-to-Date Total: $	2000.00	

E. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Allen H. Berkman 1500 Oliver Building Pittsburgh PA 15222	Kirpatrick & Lockhart Attorney	08/19/91	500.00
Receipt for: Primary	Year-to-Date Total: $	1000.00	

SUBTOTAL of Receipts This Page 4500.00

TOTAL This Period .....

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SCHEDULE A ITEMIZED RECEIPTS for Line Number 11a

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Full Name of Committee: Thornburgh for Senate Committee

A. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Allen H. Berkman 1500 Oliver Building Pittsburgh PA 15222	Kirpatrick & Lockhart Attorney	09/18/91	500.00
Receipt for: General	Year-to-Date Total: $	1000.00	

B. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
David B. Oliver II Pink House Road Sewickley PA 15143	Retired	08/19/91	100.00
Receipt for: Primary	Year-to-Date Total: $	350.00	

C. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
David B. Oliver II Pink House Road Sewickley PA 15143	Retired	09/16/91	250.00
Receipt for: General	Year-to-Date Total: $	350.00	

D. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Farrell Rubenstein 5023 Frew Street Pittsburgh PA 15213	Consultant	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

E. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Farrell Rubenstein 5023 Frew Street Pittsburgh PA 15213	Consultant	10/03/91	1000.00
Receipt for: General	Year-to-Date Total: $	2000.00	

F. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Ernest U. Buckman II 661 Canterbury Lane Sewickley PA 15143	Retired	08/19/91	500.00
Receipt for: Primary	Year-to-Date Total: $	1000.00	

SUBTOTAL of Receipts This Page 3350.00

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Full Name of Committee: Thornburgh for Senate Committee

A. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Ernest U. Buckman II 661 Canterbury Lane Sewickley PA 15143	Retired	09/30/91	500.00
Receipt for: General	Year-to-Date Total: $	1000.00	

B. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Edgar S. Lewis 630 East Drive Sewickley PA 15143	Retired	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

C. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Edgar S. Lewis 630 East Drive Sewickley PA 15143	Retired	09/26/91	1000.00
Receipt for: General	Year-to-Date Total: $	2000.00	

D. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Elsie Y. Lewis 630 East Drive Sewickley PA 15143	Information Requested Information Requested	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

E. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Elsie Y. Lewis 630 East Drive Sewickley PA 15143	Information Requested Information Requested	09/26/91	1000.00
Receipt for: General	Year-to-Date Total: $	2000.00	

F. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Thomas P. Johnson 14 W. Woodland Road Pittsburgh PA 15232	Kirkpatrick & Lockhart Lawyer	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

SUBTOTAL of Receipts This Page 5500.00

TOTAL This Period .....

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Full Name of Committee: Thornburgh for Senate Committee

A. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Thomas P. Johnson 14 W. Woodland Road Pittsburgh PA 15232	Kirkpatrick & Lockhart Lawyer	10/01/91	1000.00
Receipt for: General	Year-to-Date Total: $	2000.00	

B. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
James W. Braham 130 South Drive Pittsburgh PA 15238	Parker/Hunter Inc. Sr. V-President	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	1500.00	

C. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
James W. Braham 130 South Drive Pittsburgh PA 15238	Parker/Hunter Inc. Sr. V-President	09/24/91	500.00
Receipt for: General	Year-to-Date Total: $	1500.00	

D. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
J. M. Childs 5453 Albemarle Avenue Pittsburgh PA 15217	Parker/Hunter Vice-Chairman	08/19/91	500.00
Receipt for: Primary	Year-to-Date Total: $	1500.00	

E. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
J. M. Childs 5453 Albemarle Avenue Pittsburgh PA 15217	Parker/Hunter Vice-Chairman	09/24/91	1000.00
Receipt for: General	Year-to-Date Total: $	1500.00	

F. Full Name, Address, Zip	Employer/Occupation	Date	Receipts
Peter M. Standish Persimmon Road Sewickley PA 15143	Stanover Associates Partner	08/19/91	1000.00
Receipt for: Primary	Year-to-Date Total: $	2000.00	

SUBTOTAL of Receipts This Page 5000.00

TOTAL This Period .....

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than using name & addr. of a political comm. to solicit from the comm.

Name of Committee: Thornburgh for Senate Committee

ll Name, Address, Zip	Employer/Occupation	Date	Receipts
M. Standish immon Road kley PA 15143	Stanover Associates Partner	09/17/91	1000.00
pt for: General	Year-to-Date Total: $	2000.00	

ll Name, Address, Zip	Employer/Occupation	Date	Receipts
A. Robertshaw Jr. . Maple Avenue sburg PA 15601	Laurel Vending Co. Executive	08/19/91	1000.00
for: Primary	Year-to-Date Total: $	2100.00	

I Name, Address, Zip	Employer/Occupation	Date	Receipts
. Robertshaw Jr. Maple Avenue urg PA 15601	Laurel Vending Co. Executive	09/18/91 09/24/91 09/16/91	250.00 100.00 REM* 750.00
for: General	Year-to-Date Total: $	2100.00	

Memo Entry(s):

REM: REA requested

Name, Address, Zip	Employer/Occupation	Date	Receipts
gen Court ld VA 22151	Housing & Urban Dev Administrator	08/19/91	500.00
r: Primary	Year-to-Date Total: $	500.00	

me, Address, Zip	Employer/Occupation	Date	Receipts
um re Road PA 15208	Retired	08/19/91	1000.00
Primary	Year-to-Date Total: $	2000.00	

Receipts This Page 4600.00

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OGC 8729

REPUBLICAN STATE COMMITTEE OF PENNSYLVANIA

George I. Bloom Republican Center • 112 State Street • Harrisburg, Pennsylvania 17101 • Telephone (717) 234 - 4901

Anne B. Anstine
Chairman

RECEIVED
FEDERAL ELECTION COMMISSION
93 MAR 24 AM 10: 23

March 16, 1993

Ms. Veronica M. Gillespie, Esquire
Federal Election Commission
Washington, D.C. 20463

MUR 3420

Dear Ms. Gillespie:

This letter is to inquire whether any further action has been taken by the Commission with regard to our complaint filed on September 10, 1991.

Thank you for your consideration. I look forward to your response, and would be happy to discuss this at any time.

Sincerely,

Chris Bravacos
Executive Director

9604374154 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 25, 1993

Chris Bravacos, Executive Director
Republican State Committee
of Pennsylvania
112 State Street
Harrisburg, Pennsylvania 17101

RE: MUR 3420

Dear Mr. Bravacos:

This is in response to your letter dated March 16, 1993, received by the General Counsel's Office on March 24, 1993, in which you request information pertaining to the complaint you filed on September 10, 1991, with the Federal Election Commission.

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making public the fact of any notification or investigation by the Commission, prior to closing the file in the matter, unless the party being investigated has agreed in writing that the matter be made public. See 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A). Because there has been no written agreement that the matter be made public, we are not in a position to release any information at this time.

As we informed Ms. Anstine by letters dated September 16, 1991 and May 13, 1992, we will notify you as soon as the Commission takes final action on your complaint. Please note that Ms. Veronica Gillespie is no longer with the Office of the General Counsel. Therefore, if you have any further questions, please contact me at (202) 219-3400.

Sincerely,

Lisa E. Klein
Assistant General Counsel

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SECRETARIAT
94 APR -5 PM 12: 10

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the matter of

Citizens for Senator Wofford and John D. Sheridan, as treasurer	)	MUR 3420

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 19, 1992, the Commission found reason to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer (collectively, "the Committee") violated 2 U.S.C. § 441a(f) by accepting approximately $354,000 in contributions designated for the 1991 primary election after the date of the primary despite the fact that the Committee had no net debts outstanding from that election.[1] See 11 C.F.R. § 110.1(b)(3)(i). On August 21, 1992, the Committee responded to the reason to believe finding with a letter requesting termination of the investigation and dismissal of the complaint. Attachment A.

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1. The Committee was the principal campaign committee of U. S. Senator Harris Wofford of Pennsylvania in the 1991 Pennsylvania special election. For background concerning the special election, see MUR 3420, First General Counsel's Report, May 8, 1992 (hereinafter, "First General Counsel's Report"), at 2-3.

The Commission excluded nearly $290,000 in primary contributions accepted by the Committee between June 10, 1991 and August 6, 1991 from the scope of the apparent violation. Between those dates, candidates faced uncertainty as to whether there would be a popular primary election as a result of a U. S. District Court decision. See MUR 3420, Factual and Legal Analysis (hereinafter, "Factual and Legal Analysis"), at 11 (approved June 16, 1992). See also Trinsey v. Pennsylvania, 766 F. Supp. 1338 (E.D. Pa.) (declaring unconstitutional Pennsylvania law allowing nomination of candidates in a special election without a popular primary), rev'd, 941 F.2d 224 (3d Cir.), cert. denied, 112 S. Ct. 658 (1991).

9604374154 3

II. EFFECT OF FEC v. NRA ON THIS MATTER

The Committee's response to the original reason to believe finding made clear that there are no controverted issues of fact in this matter. The remaining controversy, discussed infra, concerns the meaning and application of the governing law and the further application of equitable and policy considerations to the uncontested facts. Accordingly, this Office's investigation was completed upon receipt of the Committee's response to the reason to believe finding. Consistent with the Commission's November 9, 1993 decisions concerning compliance with the Court's decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed (U.S. No. 93-1151, Jan. 18, 1994), this Office will recommend, at the stage of a probable cause determination, that the Commission ratify the reason to believe finding.

III. THE REQUEST FOR DISMISSAL

The Committee makes two broad challenges to the Commission's reason to believe finding. First, the Committee contends it could not have anticipated the legal analysis accompanying the reason to believe finding and that this matter should therefore be dismissed on grounds of equity and fairness. Second, the Committee renews its contention that the primary election did not occur until September 5, 1991, despite the designation of Senator Wofford as the nominee at a Special Nominating Convention and Meeting of the Democratic Party of the Commonwealth of Pennsylvania ("the Party") on June 1, 1991. This report will now analyze each of these contentions in turn.

9604374154 4

A. **Equity and Fairness Do Not Demand That This Matter Be Dismissed**

The Committee asserts that during the summer of 1991, U. S. Attorney General Richard Thornburgh was Senator Wofford's "apparent [general election] opponent," although it also asserts that Thornburgh "equivocated numerous times about whether to run." Attachment A at 2. The Committee contends that during this period of asserted equivocation, "aides continued to organize [Thornburgh's] campaign and raise funds on his behalf," and that Pennsylvania Republicans "scheduled and rescheduled their nominating convention," thus "maximizing the [Thornburgh] campaign's [fundraising] advantage in scheduling a late August primary." Id.[2]

The Committee admits that the Party "designate[d] its nominee, Senator Harris Wofford, on June 1 . . . ." Id. at 3. However, the Committee contends that, faced with the Pennsylvania Republicans' continuing delay in making a nomination, the Party "chose to . . . reserve certification until the date of the Republican nomination." Id. Apparently, the Party did not

---

2. The Committee's response does not explicitly state what fundraising advantage was maximized by "scheduling a late August primary." However, 2 U.S.C. § 441a(a)(6) provides that the limitations of 2 U.S.C. §§ 441a(a)(1) and 441a(a)(2) apply separately with respect to each election. Moreover, contributions designated in writing for a particular election and received prior to that election are considered to have been made for that election without regard to whether the committee has net debts outstanding for that election. See 11 C.F.R. §§ 110.1(b)(2)(i) and (b)(3)(i). Thus, the later in the election cycle a primary election occurs, the more time candidates have to solicit and receive both primary and general election contributions from the same contributor. This is presumably the "fundraising advantage" referred to by the Committee.

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actually deliver the nomination certificate to the Secretary of State of Pennsylvania until September 5. First General Counsel's Report at 3.[3]

The Committee now argues that it "could not have . . . anticipated" the finding in the Factual and Legal Analysis adopted by the Commission that the primary election was held June 1. Attachment A at 2-3. But contrary to the Committee's assertion, either the Committee or the Party could have requested an advisory opinion to determine in advance when the primary period ended. See 2 U.S.C. § 437f.[4]

However, the Party, and by extension the Committee, apparently relied on the advice of the Party's parliamentarian that both state law and the Party's rules allowed the Party to delay certification of its chosen nominee. The Committee then apparently concluded unilaterally that it could accept primary election contributions until the Party delivered Wofford's

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3. The June 1 convention was called by the State Chairman of the Party's Executive Committee, pursuant to the Party's rules. First General Counsel's Report at 2 n. 1. At the convention, the Party exercised the authority granted it by state law and passed two resolutions. The first nominated Wofford. The second directed that Wofford be certified as the nominee, but that the certification be retained until June 15. Id. at 11 n.7; see also id., Attachment B at pages 11-12 (resolutions). The Committee has provided no evidence showing by what authority the certification was delayed until September 5. More importantly, it has provided no evidence that the first resolution, which nominated Wofford, was ever rescinded or vitiated in any way.

4. The Party's Executive Committee was familiar with the advisory opinion process. It joined with the Pennsylvania Republican State Executive Committee to request an advisory opinion concerning the special election's effect on allocation of the party committees' administrative expenses. See Advisory Opinion 1991-25.

nomination certificate to the Secretary of State. See Attachment A at 3. But it appears the Committee may not have heeded the parliamentarian's warning that his opinion made "no expression as to the application of FECA or FEC requirements to the issue presented." Democratic Party of the Commonwealth of Pennsylvania, Formal Opinion 9101 at 2 (June 1, 1991), reprinted in First General Counsel's Report at Attachment B, page 19. The circumstances recounted by the Committee may at best mitigate its violations, but they do not justify dismissal of this matter.[5]

B. Wofford Was Nominated on June 1, 1991

Despite the legal analysis adopted by the Commission in connection with the reason to believe finding, the Committee continues to assert that "the date of certification, not the date of the convention, is determinative for purposes of identifying the primary period." Attachment A at 3. However, in the opinion of this Office, the question is not, as the committee asserts, whether Pennsylvania law permitted the procedure the Party followed. See id. at 5. Instead, the question is, when did the primary election occur, as a direct result of which Wofford was nominated? See 11 C.F.R. § 100.2(c)(1). The Commission has consistently looked to state law -- as it did here -- to determine whether a caucus or convention has the authority to select a nominee. See, e.g., Advisory Opinion 1976-58. The caucus or convention must have such authority in order to be an election.

5. Moreover, and as noted, the Commission has already reduced the scope of the Committee's violation by nearly $290,000 based on equitable and policy grounds related to the Trinsey litigation. See supra n.1.

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11 C.F.R. § 100.2(e). But once a caucus or convention with such authority makes its selection, there is no need to return to state law to conclude that an election has occurred. In this case, there is no dispute that the Special Nominating Convention and Meeting held June 1 had the authority to select Wofford as the nominee, nor is there any dispute that it did so. Accordingly, the primary election was held June 1.[6]

The Committee cites Advisory Opinion 1978-79 for the proposition that no election within the meaning of 2 U.S.C. § 431(1) can occur until delivery of any certificate that may be required by state law. However, the Committee's reliance on that opinion is misplaced. AO 1978-79 was requested by the winner of an "open primary" for U. S. Senator from Louisiana, in which candidates of all parties competed in the same primary election. Because he won more than 50 percent of the vote in the "open primary", the requester faced no competition in the general election and his name did not appear on the general election ballot; nevertheless, he did not receive a certificate of election until after the general election. The Commission found that the requester could accept contributions for the general election.

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6. The Committee characterizes the Factual and Legal Analysis as erroneously concluding "that because the Party had the authority to consummate its nomination of Senator Wofford at its convention, that it must, as a matter of law, have completed that process." Attachment A at 4 (emphasis in original). However, the Factual and Legal Analysis explicitly relied on uncontroverted evidence that the Party exercised the authority granted it by state law and selected Wofford as its nominee on June 1. See Factual and Legal Analysis at 11 n.5; see also First General Counsel's Report at 11-12. Cf. Attachment A at 3 (admitting that Wofford was designated as the nominee on June 1).

However, the Commission's analysis turned not on the date the election certificate was delivered, but on the Commission's judgment that a candidate who wins more than 50 percent of the vote in an "open primary" becomes an unopposed candidate in the ensuing general election under 11 C.F.R. § 110.1(j)(2).[7] Similar reasoning does not apply in this case, because the convention was not an "open primary" and because there was no ensuing election after the convention and before the general election in which Wofford could have been considered an unopposed candidate. Thus, AO 1978-79 has no bearing on this matter.

The Committee also attacks the conclusion in the Factual and Legal Analysis that delivery of the certificate of nomination was "ministerial". It argues that because no certification procedures are explicitly required, certification requires an exercise of "judgment and discretion" with respect to the "form, timing, and manner of delivery" of the nomination certificate. Consequently, the Committee argues, certification must not be a ministerial act. See Attachment A at 7. However, as discussed supra at 5-6, the "form, timing, and manner of delivery" of the nomination certificate have nothing to do with whether Wofford was chosen as the nominee on June 1.[8] The certification resolution, which was

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7. This determination was later codified at 11 C.F.R. § 110.1(j)(3).

8. Even if Wofford had never been certified, the only effect would have been the absence of any Democratic nominee from the general election ballot. Such absence would not change the fact that a convention with authority under state law to choose a nominee did so June 1, thus making that convention a primary election under 11 C.F.R. § 100.2(c)(1). See supra at 5-6.

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also adopted by the June 1 convention, unambiguously directs that Harris Wofford be certified as the nominee. First General Counsel's Report, Attachment B, at 12. Even if the "form, timing, and manner of delivery" were left to the discretion of the certifying officer, that officer was afforded no judgment or discretion regarding whom to certify. Accordingly, the act of certification was ministerial with respect to the only issue relevant here.[9]

D. Conclusion

None of the arguments advanced by the Committee justify dismissal of this matter. Accordingly, this Office recommends that the Commission reject the Committee's request to dismiss the matter, and that the Commission proceed to the next stage of the enforcement process.

IV. RECOMMENDATIONS

1. Reject the request of Citizens for Senator Wofford and John D. Sheridan, as treasurer, that this matter be dismissed.

2. Proceed to the next stage of the enforcement process.

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9. The Committee also asserts that, having been given discretion by state law as to its nominating process, it was guided by "strong policy reasons for unified party primaries." See Attachment A at 4 n.3. However, this argument was sufficiently addressed in the First General Counsel's Report. First General Counsel's Report at 10-11. Moreover, it is not at all clear how withholding Wofford's certification supported the policies assertedly advanced by unified primaries. The Committee urges that unified primaries protect candidates from "running without general election opponents or true general election activity in which to engage." Attachment A at 4 n.3. This phrase appears to precisely describe Wofford's situation between June 1 and the date of the Republican nomination, whether he had been certified or not.

3. Approve the appropriate letter.

4/4/94
Date

Lawrence M. Noble
General Counsel

Attachments:

A. Committee's August 21, 1992 response to reason to believe finding
B. Certification, May 22, 1992
C. Certification, June 17,1992

Staff assigned: Lawrence L. Calvert Jr.
Andrea T. Low

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Citizens for Senator Wofford and John D. Sheridan, as treasurer.	)	MUR 3420
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 8, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3420:

1. Reject the request of Citizens for Senator Wofford and John D. Sheridan, as treasurer, that this matter be dismissed.

2. Proceed to the next stage of the enforcement process.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated April 4, 1994.

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

Attest:

4-8-94
Date

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

Received in the Secretariat: Tues., April 5, 1994 12:10 p.m.
Circulated to the Commission: Tues., April 5, 1994 4:00 p.m.
Deadline for vote: Fri., April 8, 1994 4:00 p.m.

bjr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1994

Robert F. Bauer, Esq.
Perkins Coie
607 14th St. N.W.
Suite 800
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Mr. Bauer:

Based on a complaint filed with the Federal Election Commission on September 10, 1991, and information supplied by you, the Commission, on May 19, 1992, found that there was reason to believe your clients, Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441b(a), and instituted an investigation in this matter.

The Commission received and considered your request that the Commission terminate the investigation and dismiss the complaint. On April 8, 1994, the Commission rejected your request and directed this Office to proceed to the next stage of the enforcement process. Accordingly, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote on whether there is probable cause to believe a violation has occurred.

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

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

Should you have any questions, please contact Lawrence L. Calvert Jr., the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of		
Citizens for Wofford and John D. Sheridan, as treasurer	)	MUR 3420

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated by a complaint received September 10, 1991, from the Republican State Committee of Pennsylvania and Anne B. Anstine, as chairman.

H. John Heinz, the United States Senator from Pennsylvania, died in an airplane accident on April 4, 1991. Pennsylvania Governor Robert Casey appointed Harris Wofford to fill the senatorial vacancy created by Heinz's death until the next regularly scheduled general election, held November 5, 1991.

The Democratic Party of the Commonwealth of Pennsylvania ("the Party") held a Special Nominating Convention and Meeting on June 1, 1991, to select a nominee to run in the November 5 election. The convention was called by the State Chairman of the Party's Executive Committee, pursuant to Rule VIII, section 1 of the Party's Rules. The convention passed two resolutions. The first nominated Wofford. The second directed that Wofford be certified to the Secretary of State of Pennsylvania as the nominee. However, in anticipation of Pennsylvania Republicans' selection of their nominee, the second resolution directed that the certification be delayed until June 15. In fact, the certification was not delivered until September 5, 1991. No

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evidence has been produced showing by what authority the certification was delayed, nor is there any evidence that the June 1 resolution nominating Wofford was ever rescinded or vitiated in any way.

After Wofford was nominated on June 1, Citizens for Senator Wofford and John D. Sheridan, as treasurer (collectively, "the Committee") continued to accept contributions designated for the primary election, even though it had no net debts outstanding for that election.[1] Disclosure reports indicate that between June 1 and June 10, 1991 and after August 6, 1991, the Committee accepted $353,850 in such contributions.[2]

The Commission found reason to believe that the Committee violated 2 U.S.C. § 441a(f) by accepting these contributions. The Committee responded to the reason to believe finding with a letter requesting termination of the investigation and dismissal of the complaint. On April 8, 1994, the Commission denied the Committee's request and determined to proceed to the next stage of the enforcement process.

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1. Citizens for Senator Wofford was Wofford's principal campaign committee for the 1991 special election.

2. Between June 11, 1991 and August 6, 1991, the Committee accepted nearly $290,000 in additional contributions designated for the primary election. However, between those dates, candidates faced uncertainty as to whether there would be a popular primary election as a result of a U. S. District Court decision. See Trinsey v. Pennsylvania, 766 F. Supp. 1338 (E. D. Pa.) (declaring unconstitutional Pennsylvania law allowing nomination of candidates in a special election without a popular primary), rev'd, 941 F.2d 224 (3d Cir.), cert. denied, 112 S. Ct. 658 (1991). At the reason to believe stage of this matter, the Commission, on equitable and policy grounds, excluded the additional amount from the scope of the violation.

II. ANALYSIS

A. Applicable Law

The Federal Election Campaign Act of 1971, as amended ("the Act") and the Commission's regulations set forth rules governing contribution limits. The Act states that no person shall make contributions to any candidate or his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Additionally, the Act states that no multicandidate political committee shall make contributions to any candidate or his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(2)(A). Furthermore, the Act states that the limitations on contributions imposed by 2 U.S.C. §§ 441a(a)(1) and (2) apply separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act also provides that no political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of Section 441a(a). 2 U.S.C. § 441a(f).

The Commission has promulgated regulations that determine the election for which a contribution is made. If the contribution is designated in writing by the donor for a particular election, then the contribution is considered to have been made for that election. 11 C.F.R. § 110.1(b)(2)(i). If the donor does not designate the contribution for a particular election, then the contribution is considered to have been made for the next election. 11 C.F.R. § 110.1(b)(2)(ii). If the contribution is designated in writing by the donor for an election

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that has already occurred at the time the contribution is made, the contribution may be accepted only if it does not exceed the net debts outstanding from that election. 11 C.F.R. § 110.1(b)(3)(i). If such a contribution exceeds the net debts outstanding, it must be refunded in accordance with the Commission's regulations, or else a valid redesignation must be obtained from the contributor. 11 C.F.R. § 110.1(b)(3)(i).

The Act defines the term "election" as including a convention or caucus of a political party which has authority to nominate a candidate. 2 U.S.C. § 431(1)(B). A primary election is an election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable state law, for election to Federal office in a subsequent election. 11 C.F.R. § 100.2(c)(1). Thus, a caucus or convention must have authority under state law to select a nominee in order to be an election. See, e.g., Advisory Opinion 1976-58.

B. The Primary Election Was Held June 1, 1991

1. The June 1 Convention Had Authority Under Pennsylvania Law to Select a Nominee

There is no dispute that Pennsylvania law gave the June 1 convention authority to select a nominee. Penna. Stat. Ann. tit. 25, § 2776 (1991) provides in pertinent part that: "[c]andidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with party rules related to the filling of vacancies, by means of nomination certificates . . . " Thus, Pennsylvania law gives political parties the authority to nominate candidates for senatorial

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vacancies "in accordance with" their own rules. The Party's rules provide that:

> Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of . . . the calling of a special election, or any other cause, and which cannot be filled at a Primary election under the law, shall be filled by the State Committee which shall have authority to make and certify a nomination.

Rules of the Democratic Party of the Commonwealth of Pennsylvania, Rule VIII, § 1. The June 1 convention was called pursuant to this rule. Thus, the convention had the authority to select a nominee under the Party's own rules, pursuant to the authority delegated to the Party by Penna. Stat. Ann., tit. 25, § 2776.

2. The Convention Selected Wofford as the Nominee

Neither is there any dispute that the June 1 convention, acting under authority of state law and the Party's rules, selected Wofford as the nominee. The convention, by motion and majority vote, passed a resolution to nominate Harris Wofford effective June 1, 1991. Moreover, the Committee admits that Wofford was designated as the nominee on June 1. Letter, Robert F. Bauer and B. Holly Schadler to Lawrence M. Noble, August 21, 1992 (hereinafter, "Request for Dismissal"), at 3. Accordingly, because the June 1 convention had authority under state law to select a nominee and did in fact select a nominee, the primary election, within the meaning of 11 C.F.R. § 100.2(c)(1), occurred June 1.

3. The Certification Date is Irrelevant

The Committee argued, both in response to the complaint and in support of its request for dismissal, that "the date of

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certification, not the date of the convention, is determinative for purposes of identifying the primary period." Request for Dismissal at 3. By this reasoning, the Committee would have been permitted to accept contributions designated for the primary election until the date of certification, in this case September 5. However, the question is not, as the Committee asserts, whether Pennsylvania law permitted the procedure the party followed. See id. at 5. Instead, the question is, when did the primary election occur, as a direct result of which Wofford was nominated? See 11 C.F.R. § 100.2(c)(1). The Commission has consistently looked to state law to determine whether a caucus or convention has the authority to select a nominee. See, e.g., Advisory Opinion 1976-58. The analysis of this matter has followed the same long-established practice. Supra at 4-5. The caucus or convention must have such authority in order to be an election. 11 C.F.R. § 100.2(e). But once a caucus or convention with such authority makes its selection, there is no need to return to state law to conclude that an election has occurred. As discussed supra, the June 1 convention both had and exercised such authority, and was therefore a primary election.

Moreover, the evidence in this matter indicates that certification, as opposed to nomination, is merely a ministerial act. Generally, a ministerial act is construed as any act which the law requires a person to perform in a required manner, without regard to any exercise of judgment and discretion. See, e.g., Lewis v. NLRB, 357 U.S. 10, 14-15 (1957) (issuance of an NLRB subpoena deemed ministerial because it involved no exercise of

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discretion); Marbury v. Madison, 5 U.S. (1 Cranch) 137, 158 (1803) (delivery of a commission found ministerial once signed and sealed by the President). The Party's Rules do not appear to contemplate that the certifying officer exercise any judgment or discretion with respect to delivery of the certificate of nomination to the Secretary of State of Pennsylvania. More importantly, the certification resolution, which was also adopted June 1, unambiguously directs that Wofford be certified as the nominee. Letter, Robert F. Bauer and B. Holly Schadler to Lawrence M. Noble, October 25, 1991, at Exhibit B.

In its request for dismissal, the Committee argued that because no certification procedures are explicitly required by the Party's Rules, certification requires an exercise of judgment and discretion with respect to the "form, timing and manner of delivery" of the nomination certificate. Consequently, it argued, certification could not be a ministerial act. Request for Dismissal at 7. However, the "form, timing and manner of delivery" of the nomination certificate have nothing to do with whether Wofford was chosen as the nominee on June 1.[3] Whether or not the "form, timing, and manner of delivery" were left to the discretion of the certifying officer, that officer was afforded no judgment or discretion regarding whom to certify. Accordingly, the act of certification was ministerial with respect to the only

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3. Even if Wofford had never been certified, the only effect would have been the absence of any Democratic nominee from the general election ballot. Such absence would not change the fact that a convention with authority under state law to choose a nominee did so June 1, thus making that convention a primary election under 11 C.F.R. § 100.2(c)(1). See supra at 5-6.

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issue relevant here.

Finally, the Committee's request for dismissal cited Advisory Opinion 1978-79 for the proposition that no election within the meaning of 2 U.S.C. § 431(1) can occur until delivery of any certificate that may be required by state law. However, the Committee's reliance on that opinion is misplaced. AO 1978-79 was requested by the winner of an "open primary" for U. S. Senator from Louisiana, in which candidates of all parties competed in the same primary election. Because he won more than 50 percent of the vote in the "open primary", the requester faced no competition in the general election and his name did not appear on the general election ballot; nevertheless, he did not receive a certificate of election until after the general election. The Commission found that the requester could accept contributions for the general election. However, the Commission's analysis turned not on the date the election certificate was delivered, but on the Commission's judgment that a candidate who wins more than 50 percent of the vote in an "open primary" becomes an unopposed candidate in the general election under 11 C.F.R. § 110.1(j)(2).[4] Similar reasoning does not apply in this case, because the convention was not an "open primary" and because there was no ensuing election after the convention and before the general election in which Wofford could have been considered an unopposed candidate. Thus, AO 1978-79 has no bearing on this matter.

Accordingly, the Party did not extend the period in which

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4. This determination was later codified at 11 C.F.R. § 110.1(j)(3).

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the Committee could accept contributions designated for the primary election by delaying delivery of Wofford's nomination certificate until September 5.

C. The Committee Accepted Excessive Contributions

As noted, a review of the Committee's disclosure reports for the period from June 1 through June 10, 1991 and the period subsequent to August 6, 1991 indicates that the Committee accepted $353,800 in primary election contributions during those periods. However, and also as noted, there is no indication from the reports that the Committee had any debts outstanding from the primary election. The Committee has not disputed these facts. Because the Committee had no outstanding primary debts, it was not permitted to accept the contributions unless it obtained valid redesignations from the contributors. 11 C.F.R. § 110.1(b)(3)(i). There is no evidence that any such redesignations were obtained. Accordingly, this Office recommends that the Commission find probable cause to believe the Committee violated 2 U.S.C. § 441a(f) by knowingly accepting the contributions.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

4/13/99
Date

Lawrence M. Noble
General Counsel

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COUNSEL
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April 25, 1994

Lawrence L Calvert Jr.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3420-Citizens for Senator Wofford and John D. Sheridan, as Treasurer

Dear Mr. Calvert:

We are in receipt of the Commission's letter of April 14, 1994, and General Counsel's Brief in MUR 3420. According to the Commission's letter, our brief is due within 15 days of receipt. In order to have adequate time to review the relevant records and prepare a response, we request an extension of 20 days. Respondents received the letter on April 20. Therefore, with the extension, our response would be due on May 25.

If you have any questions or need additional information before then, please contact Robert F. Bauer at 202-434-1602 or Holly Schadler at 202-434-1634.

Very truly yours,

B. Holly Schadler
Counsel to Respondents

BHS:bhs

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APRIL 26, 1994

B. Holly Schadler, Esq.
Perkins Coie
607 Fourteenth St., N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Ms. Schadler:

This is in response to your letter dated April 25, 1994, which we received on that date, requesting an extension until May 25, 1994 to respond to the General Counsel's Brief in the above-referenced matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on Wednesday, May 25, 1994.

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

Sincerely,

Lawrence D. Calvert Jr.
Attorney

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COMMISSION
OFFICE OF GENERAL
COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Citizens for Wofford and John D. Sheridan, as treasurer	))))	MUR 3420

RESPONDENTS' BRIEF

In a letter and accompanying Brief dated April 14, 1994, Lawrence M. Noble, General Counsel of the Federal Election Commission, notified Citizens for Senator Wofford (the "Committee") and John D. Sheridan, as treasurer (collectively referred to as "Respondents"), that the Office of the General Counsel has recommended "probable cause to believe" that a violation of the Federal Election Campaign Act ("FECA") occurred in this matter. This brief responds to the Office of General Counsel's recommendation and requests that the Commission take no further action in this matter.

I. Introduction

This case has developed into a fundamental question of whether the FEC, in the guise of enforcing contribution limits, may substitute its judgment for that of a state in the construction of that state's nominating procedure.

In their two previous responses, Respondents have addressed the unusual circumstances of the 1991 special election for United States Senate in Pennsylvania. The Office of General Counsel's

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Brief acknowledges those circumstances, including the effect of the Trinsey decision in calling the entire election into question over a period of almost two months. The District Court in Trinsey proposed, in fact, numerous alternatives for holding an election to replace former Senator Heinz. At the same time, the Republican Party repeatedly postponed its nominating convention, scheduling and rescheduling, in anticipation of former Attorney General Thornburgh's decision about whether to run.

The Pennsylvania State Democratic Party (the "State Party"), by the authority conferred upon it by Pennsylvania statute, attempted to construct a nominating procedure to address these highly unusual circumstances. See Respondent's Letters, August 21, 1992 at 3; October 25, 1991, at 6. An overriding interest in devising this nominating procedure was to ensure a unified primary, assuring that the general election periods for both Democratic and Republican nominees began on the same day. This was in keeping with state law and policy. To accomplish this result, and as permitted under state law and State Party Rules, the Party choose to bifurcate the process to consummate its nomination: selecting the candidate at one time and certifying the nomination at another.

It is not clear on what authority the Office of General Counsel relies in making its recommendation to disregard the Party's authority to choose the time and manner of selecting its nominee. The Office of General Counsel acknowledges that "the Commission consistently looked to state law to determine whether

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a caucus or convention has the authority to select a nominee." Office of General Counsel's Brief at 6. Nonetheless, after recognizing the state's authority to determine its election procedures and the requirement that the Commission defer to the state in this respect, the Office of General Counsel recommends disregarding the system that the State Party constructed. (". . . Once a caucus or convention with such authority makes its selection, <u>there is no need to return to state law to conclude that an election has occurred</u>.") Office of General Counsel's Brief at 6. By doing so, the Office of General Counsel effectively eviscerates the state's Constitutional authority to determine the time and manner of elections.

The Office of General Counsel is correct that the question presented in this matter is: when did the primary election occur for purposes of nominating Senator Wofford. Office of General Counsel's Brief at 6. But the controlling law is the state's and the legal question is the point at which, under state law, Senator Wofford became the party nominee. Under the state law and party rules, he became the nominee only after both steps of the nominating process occurred: first, the nomination was "made"; second, the nomination was certified. The Office of General Counsel disregards the second, "certification" step, apparently in the belief that there is "no need to return to state law" for purposes of determining when the election occurred.

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The Office of General Counsel's brief makes every attempt to belittle the nominating procedure adopted by the State Party. It attacks, in particular, the "certification" which followed the selection of Senator Wofford by several months. The brief suggests that this certification was, in effect, meaningless -- a so-called "ministerial" act of no more than mechanical consequence. This dismissal of certification is then followed, surprisingly, by the General Counsel's admission that if Senator Wofford had never been certified there would have been no Democratic nominee on the general election ballot. Office of General Counsel's Brief at 7, n.3. So the "ministerial" act of certification dismissed by the Office of General Counsel on the one hand, is conceded, on the other, to play an indispensable role in the nominating process -- that of assuring the Democratic nominee a place on the ballot.

The Office of General Counsel is effectively urging the Commission to preempt the state's authority to conduct its election procedures at the time and in the manner it chooses. But while it is well-established that the FECA preempts state law in the field of federal campaign contributions and expenditures, reporting and disclosure, it is equally clear that the FECA does not preempt state laws establishing election procedures. In the absence of affirmative Congressional action to preempt state law in such matters, the Constitution expressly reserves to the states the authority to regulate (and Congress to alter) the

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time, manner and place of holding elections for Members of Congress. U.S. Const. art. I § 4, cl. 1.

II. States Have The Constitutional Authority To Regulate The "Times, Places And Manner" Of Elections Under Article I of the Constitution

The United States Constitution provides that "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulation, except as to Places of choosing Senators." U.S. Const. art. I, § 4, cl. 1.[1]

Congress, of course, has not enacted any such "altering" regulation. It has certainly not done so in the FECA. The legislative history of the statute reflects clear Congressional intent to leave undisturbed the traditional role of the states in structuring their nominating processes.

Pursuant to this authority, states have enacted statutes that place various procedural requirements on those seeking federal office. These statutes typically seek to simplify and organize the electoral process as well as to prevent fraud and corruption. The Supreme Court in Smiley v. Holm, 285 U.S. 355 (1932) listed the type of statutes that qualify under the "manner" provision of Article I, section 4. In this case, Chief

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[1]As demonstrated in the following section, Congress expressly chose not to regulate in this area in enacting the FECA.

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Justice Hughes, delivering the unanimous opinion of the Court, wrote:

> It cannot be doubted that these comprehensive words embrace authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and in making and publication of election returns; in short, to enact the numerous requirements as to procedure and safeguards which experience shows are necessary in order to enforce the fundamental right involved.

Id. at 366 (emphasis added).

Each of these areas relate directly to the "nuts and bolts" of conducting a well-organized election. The "manner" provision simply allows states to set reasonable procedural rules regarding the election of federal officers. Under the "manner" provision, the Supreme Court has consistently upheld ballot access provisions and state regulation of primary elections that relate to "procedure and safeguards." See, e.g., Burson v. Freeman, 60 U.S.L.W. 4393 (May 26, 1992); Munro v. Socialist Workers Party, 479 U.S. 189 (1986); American Party of Texas v. White, 415 U.S. 767 (1974); Storer v. Brown, 415 U.S. 724 (1974); Bullock v. Carter, 405 U.S. 134 (1972); Jenness v. Fortson, 403 U.S. 431 (1971); United States v. Classic, 313 U.S. 299, 311 (1941); Riddell v. National Democratic Party, 508 F.2d 770 (4th Cir. 1975); Burdick v. Takushi, 937 F.2d 415 (9th Cir. 1991), aff'd. 112 S.Ct. 2059 (1992).

The State Party adopted its nomination-and-certification process under rules it lawfully adopted and in accordance with the interpretations of its own Parliamentarian. The Office of General Counsel's Brief does not suggest, nor could it, that the State Party did not follow its rules. Of more significance to the issue here is the absence of any suggestion by the Office of General Counsel that the State Party did not act on duly delegated authority from the state. The state provided that the party should act in its place in making this nomination, subject only to the requirement that it fulfill the vacancy in the general terms provided by statute. The statute in turn provides for a bifurcated process, divided into a "nomination" and "certification" procedure. The State Party implemented precisely such a procedure. In doing so, the State Party acted in place of the state and in fulfillment of its authority to make these decisions under art. I, § 4, cl. 1., of the United States Constitution.

The Office of General Counsel disputes that the State Party could exercise its discretion in this way. In so doing, the Office of General Counsel presumably has in mind to dispute, as a matter of law that the decision made by the State Party was one reserved to states under the Constitution and relevant federal law. In effect, the Office of General Counsel is arguing that at least with respect to the issue in this case, Congress has "altered" the state authority otherwise granted in election matters under Art. I, § 4, cl. 1., of the United States

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Constitution. The Office of General Counsel is arguing, in effect, a preemption theory.

III. The Federal Election Campaign Act Does Not Preempt State Authority To Determine Its Own Election Procedures

Federal law preempts state election law under certain circumstances, none of which are presented here.[2] First, federal law may preempt state law where Congress, in enacting a federal statute, expresses a clear intent to preempt state law. See Exxon Corp. v. Hunt, 475 U.S. 355, 362 (1986); Aloha Airlines v. Director of Taxation, 464 U.S. 7, 12 n.5 (1983);.Jones v. Rath Packing Co., 430 U.S. 519, 525 (1977).

In the absence of preemptive language, state law is preempted where it is clear that Congress intended to "occupy the field" and left no room for states to supplement federal law. Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947); See also Louisiana Pub. Service Comm'n. v. FCC, 476 U.S. 355 (1986); Pacific Gas & Electric Co. v. State Energy Resources Conservation & Development Comm'n., 461 U.S. 190 (1983).

The timing and manner of electing Members of Congress is not expressly or impliedly preempted by the FECA. In enacting the FECA, Congress did not intend to "occupy the field" of how

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[2]The Supremacy Clause of the United States Constitution provides that federal law supersedes state law only where it "interfere[s] with, or [is] contrary to federal law." U.S. Const. art. VI, cl. 2; Gibbons v. Ogden, 9 Wheat. 1, 211, 6 L.Ed. 23 (1824) (Marshall, C.J.) (emphasis added).

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elections are conducted. Indeed, the legislative history of the FECA demonstrates quite the opposite. Congress intended to reserve this area to the states.

In 1974, in adding the preemption language of Section 453, Congress specifically stated its intent to preserve the state's authority to set the time, place and manner of elections:

> It is clear that the Federal Law occupies the field with respect to reporting and disclosure of political contributions to and expenditures by Federal candidates and political committees, <u>but does not affect State laws as to the manner of qualifying as a candidate, or the dates and places of elections</u>.

S. Conf. Rep. No. 1237, 93rd Cong., 2d Sess., <u>reprinted in</u> 1974 U.S. Code Cong. & Ad. News 5587, 5618, 5668 (emphasis in the original).

Moreover, states have historically held virtually unfettered authority to determine their own election procedures. In such a case an inquiry regarding preemption of the state's authority to establish its own election procedures must begin with the assumption that federal law does not supersede state law unless Congress clearly intended to do so.

> ". . . We start with the assumption that the historic powers of the state were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress".

<u>Rice v. Santa Fe</u>, 331 U.S. at 230. <u>See also</u> <u>Pacific Gas & Electric</u>, 461 U.S. at 207. Here, not only did Congress fail to indicate an intent to legislate in the area of state election

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procedures, it expressly reserved the authority to regulate the time, manner and place of election to the states.[3]

Given Congress' intent to reserve this authority to the states, the only circumstances under which Pennsylvania law could be preempted is if state law conflicted or somehow made enforcement of the FECA impossible. Federal law supersedes state law when compliance with both federal and state law is impossible. See Florida Lime & Avocado Growers, Inc. v. Paul, 373 U.S. 132, 142-43 (1963); Hines v. Davidowitz, 312 U.S. 52, 67 (1941). A state law conflicts with federal legislation only to the extent that it frustrates the attainment of specific objects that the federal law was designed to promote. See International Paper Co. v. Ovellette, 479 U.S. 481 (1987); Commonwealth Edison Co. v. Montana, 453 U.S. 609, 634 (1981); Duke Power Co. v. Carolina Environmental Study Group, Inc., 438 U.S. 59 (1978); Palmer v. Liggett Group, Inc., 825 F.2d 620 (1st Cir. 1987).

Recognizing the state's authority to determine its own election procedures (time, manner, place), does not interfere with implementation of the FEC. And compliance is not hindered

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[3]Even with respect to state regulation in areas much more closely related to political contributions, not the time or manner as presented here, the courts have limited the preemptive effect of the FECA. See Stern v. General Elec. Co., 924 F.2d 472, 475 (2d Cir. 1991) (FECA does not preempt state regulation of corporate political activity); Reeder v. Kansas City Bd. of Police Comm'rs, 733 F.2d 543, 545 (1984) (FECA does not preempt state law regarding state employee political contributions), cert. denied, 479 U.S. 1065 (1985); Pollard v. Board of Police Comm'rs, 665 S.W.2d 333, 337 (Mo. 1984) (en banc) (FECA does not preempt "little Hatch Acts").

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or in any way made impossible. In fact, the FEC regulations specify that state law determines the method and manner of primary election. ("An election which is held prior to a general election, as a direct result of which candidates are nominated in accordance with applicable state law . . .). 11 C.F.R. § 100.2(c)(1) (emphasis added).

Moreover, the FEC has uniformly turned to applicable state law to determine when a primary occurs for purposes of establishing contribution limits. See, e.g., Advisory Opinions 1976-58, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5211 (August 26, 1976); 1978-25(b), 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5320 (June 5, 1978); 1978-30, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5325 (June 22, 1978); 1980-60, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5499 (May 30, 1980); 1981-29, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5616 (August 13, 1981); 1984-16, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5758 (May 11, 1984). In each case, the Commission examined when the primary election occurred for purposes of the contribution limits under the terms of the appropriate state law or party rules. It has never, however, chosen to disregard an essential stage of the election process in making this determination. Despite these precedents, the Office of General Counsel recommends applying an entirely new rule that Respondents could not have anticipated -- a rule that ignores the authority vested in the states to establish its own election procedures.

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In light of the unambiguous language of the Conference Report and Congress' unequivocal intent to reserve the regulation of election procedures (time, manner, place) to the states, there can be no doubt that the FECA does not supersede state law in this area. The Congress specifically recognized the state's authority to determine the manner of qualifying as a candidate as well as the time and place of election. Given the deference Congress intended to give to the states, the Office of General Counsel has no authority to second-guess the election process established by the Party to select the nominee.

IV. The Commission Is Constitutionally Prohibited From Disregarding The State Party's Rules

The Office of General Counsel takes the position that the certification process specifically called for in the State Party's nomination resolutions is "irrelevant" for purposes of determining when the nomination of Senator Wofford was effected. By doing so, he disregards an essential step in the nominating procedure expressly adopted by the State Party. This recommendation to "pick and choose" the parts of the nominating process the Commission recognizes violates the First Amendment by interfering with the State Party's authority to establish its own procedures.

The Supreme Court in Democratic Party of the United States v. Wisconsin ex. rel. LaFollette held:

> A state, or a court, may not constitutionally substitute its own judgment for that of the Party.

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> A political party's choice among the various ways of determining the makeup of a state's delegation to the national party's convention is protected by the Constitution. And, as is true of all expressions of First Amendment freedoms, the courts may not interfere on the ground that they view a particular expression as unwise or irrational.

450 U.S. 107, 123-124 (1981); see also Tashjian v. Republican Party of Connecticut, 479 U.S. 208, 224 (1986) ("The Party's determination of the boundaries of its own association and of the structure which best allows it to pursue its political goals, is protected by the Constitution"); Cousins v. Wigoda, 419 U.S. 477, 491 (1975) (state interest in protecting integrity of its electoral process cannot be deemed compelling in the context of the selection of delegates to the National Party Convention).

Other courts have recognized the overriding Constitutional interest in protecting from interference a party's freedom to govern itself in a way best calculated to advance its interests:

> What is important for our purposes is that a party's choice, as among various ways of governing itself, of the one which seems best calculated to strengthen the party and advance its interests, deserves the protection of the Constitution as much if not more than its condemnation. The express constitutional rights of speech and assembly are of slight value indeed if they do not carry with them a concomitant right of political association. Speeches and assemblies are after all not ends in themselves but means to effect change through the political process. If that is so, there must be a right not only to form political associations but to organize and direct them in the way that will make them most effective.

Ripon Society, Inc. v. National Republican Party, 525 F.2d 567, 585 (D.C. Cir. 1975), cert. denied, 424 U.S. 933 (1976) (emphasis added). Thus, a court has no greater authority than a state to substitute its judgment for that of a political party.

Likewise, a federal agency may not substitute its judgment for that of the party. Since the Courts have held that the right of a party to govern itself and develop internal procedures is a constitutionally protected right under the First Amendment, a federal agency would have no greater authority than a state to interfere with these judgments.

Here, the Party adopted a nominating procedure that both advanced its interests as well as effectively addressed the unusual circumstances of the special election. The Party had an overriding interest in constructing its nominating procedure to effect the nomination on the same day as the Republican Convention. As a matter of policy this interest was in keeping with Pennsylvania as well as other state laws.[4] The nominating procedure was specifically designed with that objective. The Party approved the resolutions and the nomination was effected by the Party's officers in accordance with that understanding.

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[4]Pennsylvania law, like the laws of other states, requires the regularly scheduled primaries of political parties to be held on the same date so that the primary elections end on one day and the general election begins simultaneously for each party. Pa. Stat. Ann. tit. 25 § 2753 (Purdon 1991); Also see, Or. Rev. Stat. § 254.056 (1991); Miss. Code Ann. § 23-15-171 (1986); Ga. Code Ann. § 21-2-150 (Michie 1992); D.C. Code Ann. § 1-1314 (1981); Va. Code Ann. § 24.1-174 (Michie 1985), Md. Elec. Code Ann. § 5-2 (1990).

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The Party's interest was justified for numerous reasons related to the effectiveness of the Party, the orderly conduct of an already confusing special election, and basic fairness to voters and prospective contributors. Different primary periods would distort the special election process in Pennsylvania in a manner detrimental to the voters and to the interests of the parties. Because the Republicans appeared equivocal about their own nomination plans and, as it turned out deferred them repeatedly, the State Party would have been nominating a candidate without a general election opponent or actual general election activity in which to engage. Nor for that matter, could the Party adequately develop a general election strategy in the circumstances.

Contributors could not be approached for general election contributions in these circumstances since they would have no way of knowing their ultimate choice of candidates or be able to make reasonable assessments of the race. Indeed, prospective general election contributors who might support Senator Wofford's campaign against one opponent might view the race differently if he were running against another opponent. Contributors might decide not to give at all in the elction if they liked both Republican and Democratic nominees; but until both parties choose their candidates, there is no way for contributors to make an informed judgment. Therefore, the effect of looking to the convention date rather than the actual date of the nomination -- the certification date -- would be to leave the Wofford campaign

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in limbo for a period of three months. Indeed, the voters could not even be engaged, inasmuch as the identity of the Republican nominee, much less the actual event of an election, was unknown. As a matter of law and policy, this is an untenable result.

In order to advance these objectives, the requisite step to effect the Party's nomination was delivery of the certificate to the Secretary of State. This was the second step of a two step legal process -- (1) to "make" a nomination and (2) to "certify" it. Therefore under the Party Rules, adopted pursuant to Pennsylvania law, the date of certification, not the date of the convention, is determinative for purposes of identifying the primary period. The language of the Rules is clear on the fundamental point that this is a two step process; if the certificate is not received by the Secretary of State, no nomination occurs.[5]

Indeed, the Party sought a formal opinion from its Parliamentarian and advice from legal counsel as to the appropriateness of this bifurcated process under Party Rules.

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[5]Rule VIII of the Democratic Party of the Commonwealth of Pennsylvania states:

> Section 1. Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary Election under the law, shall be filled by the State Committee which shall have authority to <u>make and certify</u> a nomination. (emphasis added)

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The Parliamentarian's opinion confirmed that the Party's proposed two-step nominating process was consistent with the Party Rules. Formal Opinion No. 9101, May 31, 1991.

> Significantly, our state rules do not require that the vacancy be filled by an "election" but rather by "mak(ing) and certify(ing) a nomination." Hence, our "election" process must be considered to encompass a two-step procedure. First, we "make" a nomination, then, secondly, we determine when to "certify" that nomination.
>
> Accordingly, it follows that the first step of the nomination process (i.e., nomination) can certainly be made effective (and even be conducted) on a day separate and distinct from the second step (certification), if appropriate resolutions are adopted. In keeping with this opinion, the Party expressly provided that the effective date of the nomination would be the date of certification.

By recognizing one stage of the process and disregarding the certification step, the FEC would unconstitutionally interfere with the Party's right to define its own internal procedures. See LaFollette, 450 U.S. 107 (1981); Tashjian, 479 U.S. 208 (1986); Cousins v. Wigoda, 419 U.S. 477 (1975).

V. Contrary to Office of General Counsel's Assertion, Certification Was Neither "Irrelevant" Nor "Ministerial"

Certification was an essential stage of the nominating process; the nomination was not effective unless the certification was completed. The Office of General Counsel even acknowledges the critical role of the certification process:

> Even if Wofford had never been certified, the only effect would have been the absence of any Democratic nominee from the general election

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> ballot. Such absence would not change the fact that a convention with authority under state law to choose a nominee did so June 1, thus making that convention a primary election under 11 C.F.R. § 100.2(c)(1). See supra at 5-6.

Office of General Counsel Brief at 7, n.3.

Nevertheless, it still looks to the Party convention on June 1 as the sole event that, in effect, triggered the start of the general election. This position eviscerates State Party Rules.

First, the entire nominating process is meaningless if the Democratic Party ends up with no nominee to run in the general election. Therefore, to say that the certification date is irrelevant for purposes of determining when the primary nominating process occurs defies logic. In fact, if the Party failed to certify the nomination, the Rules indicate that the Party may be required to make another nomination. The Rules state:

> Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of . . . the calling of a special election, or any other cause, and which cannot be filled at a Primary election under the law, shall be filled by the State committee which shall have authority to make and certify a nomination.

Rules of the Democratic Party of the Commonwealth of Pennsylvania, Rule VIII, § 1. Therefore, any vacancy in the Democratic nomination for whatever cause shall be filled by the State Party. If the Party had never certified Senator Wofford's nomination, the Party would not have effected the nomination.

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Under the Rules, the Party may have been required to make the nomination again.

Second, if the effect of not certifying Senator Wofford as the nominee is to eviscerate the nomination entirely thus leaving the Party with no nominee, then the date of the convention is the "irrelevant" date. The Party's "authority" to nominate on June 1 is utterly hollow if the end result of the process is that, failing certification, the Party has no nominee.

Moreover, there was nothing in the Party Rules that prevented the Party from choosing another nominee in lieu of Senator Wofford after the convention and before the certification. While the Party made the nomination on June 1, Senator Wofford was not the nominee of the Party until the certificate was filed. Therefore, at any time up until the date of certification, the Party could have called another convention or in some manner approved another resolution that selected another candidate for nomination. Any number of intervening events could have triggered such a change of course -- Senator Wofford's death, disability, his choice not to run, or the Party's decision that it preferred a different candidate. Regardless of the reason, the nomination would never have been effected; therefore, the Party retained the <u>authority</u> to choose another nominee.

The fact that the Party retained this power also demonstrates that the act of certifying the nomination was not

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ministerial. In addition to controlling the time of filing the certificate, the Party controlled the decision of whether to file the certificate at all. Thus, leaving a significant degree of discretion with the Party in effecting the nomination prior to certification.

The Office of General Counsel attempts to distinguish Advisory Opinion 1978-79. That opinion provided that a candidate receiving more than fifty percent of the vote in Louisiana's "open primary," and for that reason not appearing on the general election ballot, could still receive general election contributions through the date of the general election in that state. The Commission's opinion rested on precisely a "ministerial" event -- the delivery under state law of the election certificate only on the date of the general election. The Office of General Counsel insists, however, that "similar reasoning does not apply in this case" because the Pennsylvania convention was not an "open primary," and because "there was no ensuing election after the convention . . . in which Wofford could have been considered an unopposed candidate." Advisory Opinion 1978-79.

The Commission's treatment of the certificate in this case is entirely inconsistent with its treatment of the certification process in Advisory Opinion 1978-79. The Office of General Counsel is attempting to distinguish the case on the basis of completely extraneous factual distinctions, somewhat akin to arguing that a Miranda warning need not be delivered to a

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burglary suspect in California because the Miranda case involved a rape suspect in Arizona. The principal significance here is a principle of law. The certification process does matter and the Commission has so treated it in Advisory Opinion 1978-79. Because of that process, the Commission approved the acceptance by a noncandidate of contributions to support him in an election in which he was not competing. Should the Office of General Counsel disagree with the result in Advisory Opinion 1978-79, it should so state. The case it wishes to make should not rest, however, on specious factual distinctions.

VI. Conclusion

For the reasons discussed above, Respondents request that the Commission find no probable cause and dismiss the matter with no further action.

May 25, 1994

Robert F. Bauer
B. Holly Schadler
Counsel to Respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Citizens for Senator Wofford and John D. Sheridan, as treasurer	)))	MUR 3420

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On May 19, 1992, the Commission found reason to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer (collectively, "the Committee" or "respondents") violated 2 U.S.C. § 441a(f) by accepting approximately $354,000 in 1991 primary election contributions after the date of the primary despite having no net debts outstanding from that election.[1] See 11 C.F.R. § 110.1(b)(3)(i). The Committee responded to the reason to believe finding with a letter requesting termination of the investigation and dismissal of the complaint. On April 8, 1994, the Commission denied the Committee's request and determined to proceed to the next stage of the enforcement process.

Accordingly, this Office mailed respondents a General Counsel's Brief dated April 13, 1994. The brief recommended that the Commission find probable cause to believe that the Committee

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1. Citizens for Senator Wofford was the principal campaign committee of U. S. Senator Harris Wofford of Pennsylvania in the 1991 special election following the death of Senator H. John Heinz. As noted in this Office's brief, the Commission, on equitable and policy grounds, excluded an additional $290,000 in apparently excessive contributions from the scope of the violation because of circumstances presented by the litigation in Trinsey v. Pennsylvania, 766 F. Supp. 1338 (E.D. Pa.), rev'd, 941 F.2d 224 (3d Cir.), cert. denied, 112 S. Ct. 658 (1991). MUR 3420, General Counsel's Brief, April 13, 1994 (hereinafter, "General Counsel's Brief"), at 2 n.2.

had violated 2 U.S.C. § 441a(f). After requesting and receiving an extension of time in which to file, the Committee filed a brief with the Commission (hereinafter, "Respondents' Brief") on May 25, 1994.

II. RECOMMENDED ACTIONS IN LIGHT OF FEC v. NRA

Consistent with the Commission's November 9, 1993 decisions concerning compliance with the court's opinion in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted (U.S. June 20, 1994) (No. 93-1151), and as discussed in the General Counsel's Report on this matter dated April 4, 1994, this Office recommends that the Commission ratify the May 19, 1992 finding of reason to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f). This Office has attached the certification of the reason to believe finding, dated May 22, 1992, for the Commission's consideration. Attachment 1. This Office will inform respondents of the Commission's actions.

III. ANALYSIS

Respondents do not dispute the underlying facts described in the General Counsel's Brief, which is incorporated herein by reference. They agree, for example, that the Democratic Party of the Commonwealth of Pennsylvania (hereinafter, "State Party"), acting pursuant to state law and the party's rules, held a Special Nominating Convention and Meeting on June 1, 1991 to select a senatorial nominee. Respondents' Brief at 2, 19; General Counsel's Brief at 1, 4-5. They also agree that the convention passed two resolutions, one selecting Wofford as the nominee and

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one unambiguously directing that the nomination be certified to the Secretary of the Commonwealth of Pennsylvania. Cf. Respondents' Brief at 2 (describing "bifurcate[d] process"), 14 (referring to "resolutions"); see also General Counsel's Brief at 1.

Nor is there any disagreement that respondents continued to accept primary contributions after the June 1 convention even though they had no net primary debt outstanding. The State Party delayed certifying Wofford's nomination until September 5, 1991, and respondents admit that fundraising considerations motivated the delay. They assert that the State Party had an "overriding interest in . . . effect[ing] the nomination on the same day as the Republican convention" because "[c]ontributors could not otherwise be approached for general election contributions . . . since they would have no way of knowing the ultimate choice of candidates or be able to make reasonable assessments of the race." Respondents' Brief at 14, 15.[2]

Respondents also agree that the central issue in this matter is determining the date the primary election occurred. Respondents' Brief at 3; General Counsel's Brief at 6. As

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2. In fact, during the period at issue here, respondents received $87,667.91 in general election contributions from contributors who also made "primary" contributions during the same period. Cf. MUR 3420, First General Counsel's Report, May 8, 1992, at Attachment L (chart from which amount was derived). It appears more likely that respondents and the State Party delayed Wofford's certification in an attempt to negate the Republican nominee's "[fundraising] advantage in scheduling a late August primary." See Letter, Robert F. Bauer and B. Holly Schadler to Lawrence M. Noble, August 21, 1992, at 2; MUR 3420, General Counsel's Report, April 4, 1994 at 3 n.2 (explaining fundraising advantage of a later selection date).

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detailed in the General Counsel's Brief at 4-5, the June 1 convention constituted the primary election under 11 C.F.R. § 100.2(c)(1). By contrast, respondents argue there was no primary election until a party functionary delivered the nomination certificate to the Secretary of the Commonwealth of Pennsylvania more than three months later. See Respondents' Brief at 3 (arguing that delivery of certificate controls). But respondents offer little more in direct support of this contention than arguments already refuted by this Office or rejected by the Commission.[3]

Instead, most of respondents' brief is devoted to a series of preemption and constitutional arguments. Respondents characterize this Office as urging the Commission to preempt state

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3. For instance, respondents continue to challenge the Commission's conclusion, as expressed in the Factual and Legal Analysis, that certification was ministerial. See MUR 3420, Factual and Legal Analysis, June 16, 1992, at 9-10. Respondents attempt to contrast that conclusion with the statement in this Office's brief that that failure to certify Wofford would have left him off of the general election ballot. See General Counsel's Brief at 7 n.3. Respondents characterize the latter statement as an "admission" that certification could not have been ministerial because it "play[ed] an indispensible role in the nominating process. Respondents' Brief at 4. However, as noted in this Office's brief, "[s]uch absence [from the general election ballot] would not change the fact that a convention with authority under state law to select a nominee did so June 1, thus making that convention a primary election under 11 C.F.R. § 100.2(c)(1)." General Counsel's Brief at 7 n.3.

Respondents also continue to rely on Advisory Opinion 1978-79, and dismiss the analysis of that opinion on page 8 of this Office's brief as "rest[ing] . . . on specious factual distinctions." Respondents' Brief at 21. However, nothing in AO 1978-79 suggests that a candidate may continue to accept contributions for an election after the election occurs when there is no net debt outstanding from that election. Virtually the only similarity between this matter and AO 1978-79 is that a certificate is mentioned in each.

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law regarding election procedures in contravention of express Congressional intent and as effectively proposing that the Commission "eviscerate [Pennsylvania's] Constitutional authority to determine the time and manner of elections" in violation of Article I, section 4, clause 1 of the U. S. Constitution. See Respondents' Brief at 5-8 (Article I), 8-9 (preemption). Respondents also contend that the positions urged in this Office's brief would infringe the State Party's freedom of association in violation of the First Amendment to the Constitution. See id. at 12-17.

These arguments flow from the erroneous conclusion that this Office's brief calls on the Commission to "substitute its judgment for that of a state in the construction of that state's nominating procedure." Respondents' Brief at 1. In fact, neither the Federal Election Campaign Act of 1971, as amended ("the Act"), the Commission's regulations, nor this Office's brief interferes with, much less preempts or "eviscerates", Pennsylvania law or the State Party's rules. No nomination or election procedure is either prescribed or proscribed by the Act or regulations. Nor is the procedure followed here prohibited. Whether the State Party could wait more than three months to certify Wofford's nomination is a question of Pennsylvania law and the State Party's rules, and is not within the Commission's jurisdiction. But there is a difference between allowing or prohibiting the nominating procedure itself and determining the procedure's consequences, or lack thereof, under the Act and regulations. This Office's brief simply argues that no nominating procedure can allow a candidate

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who has already been selected as his party's nominee to continue accepting primary contributions when there is no net debt outstanding from the primary. Respondents' preemption and constitutional arguments are therefore misplaced.

Accordingly, this Office recommends that the Commission find probable cause to believe that Citizens for Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

IV. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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V. RECOMMENDATIONS

1. Ratify the May 19, 1992 finding of reason to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

2. Find probable cause to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

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

6/30/94
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Certification dated May 22, 1992
2. Proposed Conciliation Agreement

Staff assigned: Lawrence L. Calvert Jr.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/MICHAEL C. KENNEY mck.
COMMISSION SECRETARY

DATE: JULY 5, 1994

SUBJECT: MUR 3420 - GENERAL COUNSEL'S REPORT DATED JUNE 30, 1994.

The above-captioned document was circulated to the Commission on Thursday, June 30, 1994 at 4:00.

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

Commissioner Aikens	_____
Commissioner Elliott	_____
Commissioner McDonald	_____
Commissioner McGarry	_____
Commissioner Potter	_____
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, July 12, 1994.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3420
Citizens for Senator Wofford	)	
and John D. Sheridan,	)	
as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 12, 1994, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 3420:

1. Ratify the May 19, 1992 finding of reason to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

2. Find probable cause to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f).

3. Approve the proposed conciliation agreement and the appropriate letter recommended in the General Counsel's report dated June 30, 1994

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

Attest:

7-13-94
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 15, 1994

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Coie
607 14th St. N.W.
Suite 800
Washington, D. C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Mr. Bauer and Ms. Schadler:

On July 12, 1994, the Federal Election Commission found that there is probable cause to believe your clients, Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with contributions accepted for the 1991 special election.

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151). Pending action by the Supreme Court, the Commission, consistent with the Court of Appeals' opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on July 12, 1994, the Commission ratified its prior finding of reason to believe in this matter, and voted to find probable cause to believe that your clients violated 2 U.S.C. § 441a(f).

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The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Lawrence L. Calvert Jr., the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUL 28 12 17 PM '94

July 26, 1994

Mr. Lawrence L. Calvert, Jr.
Federal Election Commission
Office of General Counsel
999 E Street NW
Washington, D.C.

Re: MUR 3420

Dear Mr. Calvert:

As we discussed on the telephone yesterday, this letter is to confirm that I received the July 15, 1994 letter from Lawrence M. Noble in the above-referenced matter on July 25, 1994. We are reviewing the documents and will contact you shortly.

Sincerely,

B. Holly Schadler
Counsel to Respondents

BHS:dma

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[16568-0001/DA942070.044]

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(202) 628-6600 • FACSIMILE (202) 434-1690

August 17, 1994

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Aug 17 11 50 AM '94

Lawrence Noble, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 3420

Dear Mr. Noble:

We are submitting to your office and through your office to the Commission this request for reconsideration of your recommendation and the Commission's vote to find probable cause in this matter.

The questions presented in this case are large ones, directly raising the constitutional authority of states and political parties to order their affairs under Article 1 and Amendment 17 of the United States Constitution. We have been concerned that the Commission, frequently confronted with "constitutional" claims, may not have considered fully the compelling merits and indeed significance of the one presented by this case.

Accordingly, we requested a review of the constitutional issues by a noted authority on this subject, Professor Michael Seidman of Georgetown University. His resume, reflecting his broad qualifications, is attached. Mr. Seidman has no association with Senator Wofford, no involvement in any of his campaigns or in his public life. Until the time that we requested the assistance of Professor Seidman, on the recommendation of other constitutional law scholars, we had not enlisted his opinion formally or informally on any aspect of this or any other case.

Professor Seidman's analysis has been submitted to us and without change, submitted to the Commission in support of our request for reconsideration. He concludes that the analysis that we submitted on behalf of the Senator under Article I, clause 4 correctly states that Pennsylvania and, by delegation

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[16568-0001/DA942290.007]

to the state party, the Democratic Party of Pennsylvania had the authority to defer the formal nomination of Senator Wofford until the delivery of its nominating certificate on September 5, 1991. In his judgment the FEC is bound by that decision, and its conclusion that the "election" occurred earlier is impermissible as a matter of constitutional law.

Of particular significance to Professor Seidman's analysis is his conclusion -- to this time not cited in our papers or the Commission's -- that the case is governed directly by the Seventeenth Amendment of the United States Constitution. That Amendment deals specifically with the authority of states to address vacancies in the Office of a United States Senator. The amendment, moreover, does not allow for any congressional "override" of state legislative decisions about the timing of such vacancy-filling elections. Once the State of Pennsylvania delegated this absolute authority to the state party, the State Party was entitled to exercise this authority without federal interference in adopting the nominating procedure that it did, culminating in the nomination of Senator Wofford on September 5, 1991.

The importance of the Seventeenth Amendment argument would alone justify the Commission's and your office's reconsideration of its earlier decision. We note, however, that Professor Seidman also adds additional analysis and support to the conclusions that we presented under Article 1, clause 4.

For both these reasons, we ask that the General Counsel's Office reconsider its recommendation and that the Counsel recommend and the Commission find no probable cause in this matter.

Very truly yours,

Robert F. Bauer
B. Holly Schadler
Counsel to the Respondent

RFB/BHS:smb

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LOUIS SEIDMAN

Address:

Home	Work
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Washington, D.C. 20012	600 New Jersey Avenue, N.W.
(Tel.) 726-6784	Washington, D.C. 20001
	(Tel.) 662-9102

Education:

Harvard Law School, Cambridge, Massachusetts
J.D. Magna Cum Laude
1971
Articles Officer, Harvard Law Review

University of Chicago, Chicago, Illinois
B.A. (political science) with honors
1968
Phi Beta Kappa

Employment:

1981-present	Professor of Law, Georgetown University Law Center
Dec., 1993-June, 1994	Visiting Professor of Law, Harvard Law School
Aug., 1993-Dec., 1993	Frank Talbott Jr. Visiting Professor of Law, University of Virginia Law School
1979-1981	Associate Professor of Law Georgetown University Law Center
1976-1979:	Assistant Professor of Law Georgetown University Law Center
1973-1976:	Staff Attorney District of Columbia Public Defender Service
1972-1973:	Law Clerk to The Honorable Thurgood Marshall Associate Justice United States Supreme Court
1971-1972:	Law Clerk to The Honorable J. Skelly Wright United States Court of Appeals District of Columbia Circuit

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Publications:

G. Stone, L. Seidman, C. Sunstein, M. Tushnet, Constitutional Law (2nd ed. 1991)

Thurgood Marshall, 1 J. Fight. Pov. __ (1993)

The State Action Paradox, 10 Const. Comm. 379 (1993)

Brown and Miranda, 80 Cal. L. Rev. 673 (1992)

Confusion at the Border: Cruzan, The "Right to Die," and the Public\Private Distinction, 1991 Sup. Ct. Rev 47

The Preconditions for Home Rule, 39 Catholic Law Rev. 373 (1990)

Self-Incrimination and the Problem of Coerced Preferences, 2 Yale J. of Law and Hum. 149 (1990).

Ambivolence and Accountability, 61 S. Calif. L. Rev. 1571 (1988).

Reflections on Context and the Constitution, 73 Minn. L. Rev. 73 (1988).

Baby M and the Problem of Unstable Preferences, 76 Geo. L. J. 1829 (1988).

Wasserstrom & Seidman, The Fourth Amendment as Constitutional Theory, 77 Geo. L. J. 19 (1988).

Public Principle and Private Choice: The Uneasy Case for a Boundary Maintenance Theory of Constitutional Law, 96 Yale L. J. 1006 (1987)

Tushnet & Seidman, A Comment on Tooley's Abortion and Infanticide, 96 Ethics 350 (1986).

ABSCAM and the Constitution, 83 Mich. L. Rev. 501 (1985)

Soldiers, Martyrs, and Criminals: Utilitarian Theory and the Problem of Crime Control, 94 Yale L. J. 315 (1984).

Entrapment, The Supreme Court, and Our Criminal Justice Dilemma, 1982 Sup. Ct. Rev. 111

Factual Guilt and the Burger Court: An Examination of Continuity and Change in Criminal Procedure, 80 Colum. L. Rev. 436 (1980)

American Bar Association, Standards Relating to Criminal Justice: Pretrial Release (2d ed. 1980) (Reporter)

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The Trial and Execution of Bruno Richard Hauptmann: Still Another Case That "Will Not Die," 66 Geo. L.J. 1 (1977).

Courses taught: Democracy and Coercion, Constitutional Law: The Federal System; Constitutional Law: Individual Rights and Liberties; Civil Rights; Legislation; Conflicts of law; Criminal Law; Advanced Criminal Procedure; Criminal Justice; Equal Protection Seminar

Other Activities:

Member, Superior Court Criminal Rules Advisory Committee, 1983-present

Chair, Ad Hoc Committee on First Year Curricular Reform, 1989-present

Board of Directors, Institute for Public Representation, 1990-present

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GEORGETOWN UNIVERSITY LAW CENTER
600 NEW JERSEY AVENUE N.W.
WASHINGTON, D.C. 20001

MEMORANDUM

TO: Robert F. Bauer, Esq.
B. Holly Schadler, Esq.

FROM: Michael Seidman

DATE: August 8, 1994

RE: In the Matter of Citizens for Wofford

At your request, I have reviewed the constitutional issues posed by the action against the Wofford campaign presently pending before the Federal Election Commission (FEC). Here are my conclusions:

Two separate constitutional provisions prohibit the FEC from attributing to the general election campaign contributions made prior to the certification of Senator Wofford as the Democratic nominee for the Senate. Section Two of the Seventeenth Amendment provides:

> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies; Provided, that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This provision unambiguously vests authority in the state legislature to determine the timing of elections to fill Senate vacancies when the governor makes a temporary appointment. In the case of primary elections, the Pennsylvania legislature has delegated this authority to the respective political parties, and the Democratic Party has exercised that authority by specifying that its candidate is not chosen until the nomination has been certified by party officials. Neither Congress, nor the FEC, exercising delegated congressional authority, has the constitutional power to countermand this state determination.

Article I, §4, cl. 1 provides:

> The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress

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may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

Unlike the Seventeenth Amendment, this provision grants Congress the power to override state determinations concerning the timing of elections. The provision makes clear, however, that state law is controlling in the absence of an express congressional override. Congress has passed no statute overriding Pennsylvania's determination to vest authority to determine the timing of party nominations in the respective political parties. Nor has it overridden the decision of the Democratic Party to delay choice of its candidate until certification. Hence, the FEC's attempt to override this decision on its own authority is unconstitutional.

A more detailed analysis of each constitutional provision follows.

The Seventeenth Amendment

Prior to ratification of the Seventeenth Amendment in 1913, United States Senators were chosen by state legislatures (Art. I, §3, cl.2), and the federal government was expressly prohibited from regulating the place of their selection. Art. I, §4, cl. 1. If a vacancy occurred while the legislature was in recess, the state executive was authorized to make a temporary appointment until the next meeting of the legislature. Art I, §3, cl. 2.

As originally proposed, the Seventeenth Amendment would have given the states unreviewable discretion to regulating the time place and manner of senatorial elections -- a compromised designed to satisfy Southern senators who otherwise would have opposed popular election. [1] See Valenti v. Rockefeller, 292 F. Supp. 851, 866 (S.D.N.Y. 1968), affd. 393 U.S. 405 (1969); Newbury v. United States, 256 U.S. 232, 252 (1921). Ultimately, opponents of the compromise prevailed, and the clause granting the states this power in regular senatorial elections was removed from the Amendment -- an outcome that left Congressional power under Art. I, § 4 to regulate such elections "intact and applicable both to election of Representatives and Senators." 46 Cong. Rec. 848.

Significantly, however, Congress chose to retain a special rule governing interim elections to fill Senate vacancies. Section 2 of the Seventeenth Amendment grants states the authori-

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[1] When first reported by Senator Borah for the Senate Judiciary Committee, the Amendment stated that "the times, places and manner of holding elections for Senator shall be prescribed in each state by the legislature thereof." S.J. Res. 134, 61st Cong, 46 Cong. Rec. 847.

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ty to fill such vacancies by temporary gubernatorial appointment. If a state selects this option, the Amendment provides that the ultimate election shall be conducted "as the legislature shall direct." Although Congress surely knew that the parallel section of Article I, governing ordinary Senatorial elections, provided for a congressional override, it chose to grant to the states unreviewable discretion concerning elections to fill vacant seats.

In light of this history, it is not surprising that the courts have been hostile to federal interference with the timing of interim senatorial elections. As the court held in Phillips v. Rockefeller, 321 F. Supp. 516, 521, (S.D.N.Y. 1970) affd. 435 F. 2d 976 (2d Cir. 1970), "The Seventeenth Amendment accords to the state legislatures discretion to provide for the timing of the election in which a vacancy in the Senate shall be filled." (Emphasis added). Cf. Rodriguez v. Popular Democratic Party, 457 U.S. 1, 10-11 (1982) (Puerto Rico has discretion, comparable to that given by Seventeenth Amendment to states, to determine method for filling legislative vacancy).

The leading authority is Valenti v. Rockefeller, supra, where a three-judge District Court rejected a challenge to New York's decision to delay an interim election for over two years. Even though the Seventeenth Amendment expressly provides that appointed Senators shall serve on a "temporary" basis, the court held that the framers meant to "allow the states a liberal degree of discretion concerning the procedures to be used in the selection of candidates for Senate vacancy elections," 292 F. Supp., at 861. The court went on to hold that this discretion included reasonable regulation of the timing of vacancy elections, and that New York had not exceeded this discretion by delaying the election for twenty-nine months.

The Valenti decision, which was affirmed by the United States Supreme Court, is controlling here. Pursuant to its authority under the Seventeenth Amendment, Pennsylvania has provided that "Candidates to fill vacancies in the office of United States Senator shall be nominated by political parties, in accordance with Party rules related to the filling of vacancies, by means of nomination certificates." Pa. Stat. Ann. tit. 25, § 2776 (Purdon 1991) (emphasis added). The Pennsylvania Democratic Party, in turn, exercised this delegated authority to provide that

> Any vacancy happening or existing in the Democratic nomination for any office to be voted for by the electors of the State at-large by reason of the death or withdrawal of a candidate, failure to nominate at the Primary Election, the calling of a special election, or other cause, and which cannot be filled at a Primary Election under the law, shall be filled by the State

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Committee which shall have authority to make and certify a nomination."

Rule VII of the Democratic Party of the Commonwealth of Pennsylvania (emphasis added).

An official opinion by the Party's Parliamentarian confirms that the nomination process is not complete until the date of certification -- a result mandated by Pennsylvania law, which contemplates the filing of "nomination certificates." These procedures are plainly rules governing the "timing" of an election to fill a vacancy -- the very sort of rules that Valenti held were not subject to federal regulation.[2]

Obviously, state immunity from federal regulation does not include the power to violate other provisions of the Constitution. For example, a state has no authority to conduct primary elections in a fashion that violates the Fourteenth Amendment's prohibition against racial segregation, see, e.g., Smith v. Allright, 321 U.S. 649 (1944), or the first amendment's protection for political association, see, e.g., Tashjian v. Republican Party, 479 U.S. 208 (1986). Indeed, in Valenti itself, the Court intimated that a state rule governing vacancy elections would be improper if it contravened the Seventeenth Amendment's requirement that vacancy appointments be "temporary." For this reason, the Valenti court held that the state had to demonstrate a state interest that would justify a significant delay in holding the election.

But in this case, the General Counsel does not contend, and the FEC did not find, that the Pennsylvania nominating procedure violates some independent constitutional norm. Instead, the General Counsel argued that the timing of the vacancy election should be treated in the first instance as a matter of federal law, see General Counsel's Brief, at 6 ("[Once] a caucus or convention with . . . authority makes its selection, there is no

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[2] The FEC does not dispute that the Party's nominating procedure is an "election" for purposes of this case. See Federal Election Commission, Factual and Legal Analysis, MUR: 3420, at 7. The Supreme Court held long ago that primary elections come within the scope of constitutional provisions regulating the conduct of elections. See United States v. Classic, 313 U.S. 299, 318 (1941). The Federal Election Campaign Act of 1971, enacted pursuant to congressional authority under Art. I § 4 to regulate elections, defines "election" to include a convention or caucus of a political party, which has authority to nominate a candidate. 2 U.S.C. § 431(1)(B). Hence, whatever regulatory authority the FEC possesses is premised on the assumption that the Party's nominating procedure is an "election" for federal constitutional purposes.

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need to return to state law to conclude that an election has occurred"), and the FEC found that the state's rules concerning election timing were preempted by federal requirements. See Federal Election Commission, Factual and Legal Analysis, MUR: 3420, at 10 ("the circumstances presented simply are inadequate to allow a state party to modify principles of federal campaign finance law and effectively defer the date of an election.")

These positions misapprehend the requirements of the Seventeenth Amendment. That Amendment plainly delegates to the states the authority to determine the timing for vacancy elections. Unless Pennsylvania exercises this authority in a manner that violates some independent constitutional requirement, the FEC has no constitutional authority to override its decision.

It follows that the problem of federal preemption simply does not arise in this case. Any federal regulation in this area unconstitutionally invades power reserved to the states by the Seventeenth Amendment and therefore cannot preempt state law. Cf. New York v. United States, 112 S. Ct. 2408 (1992) (federal statute purporting to preempt state law unconstitutional when it violates power reserved to states by 10th Amendment).

Similarly, it is simply irrelevant that FEC may believe that the certification requirement is "ministerial," that it constitutes a pointless formality, or that it makes more difficult the enforcement of federal election law. Even if these judgments are in some sense correct, they are not ones that the federal government is authorized to make. The Seventeenth Amendment grants to the states the power to make policy determinations concerning the timing of senatorial vacancy elections. For reasons of its own, Pennsylvania has chosen to delegate this power to the respective political parties, and the Democratic Party has exercised this delegated authority by making its selection of a candidate final only after certification by Party officials. State immunity from federal regulation in this area would amount to very little if it extended only to decisions that the federal government agreed with. So long as Pennsylvania's procedures do not contravene some independent constitutional provision, they are binding whether or not federal officials consider them wise.

Article I, §4, Cl. 1

As argued above, the Seventeenth Amendment expressly deals with the allocation of power between the federal government and the states regarding the timing of senatorial vacancy elections and expressly grants to the states exclusive authority to determine the timing of those elections. Nonetheless, even if we assume, arguendo, that the Seventeenth Amendment is somehow inapplicable, the FEC's disregard of Pennsylvania law remains unconstitutional.

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To the extent that the Seventeenth Amendment is inapplicable, the timing of vacancy elections is governed by Article I, § 4, cl. 1. See Newbury v. United States, 256 U.S. 232, 252 (1921). Like the Seventeenth Amendment, Article I grants to the states the authority in the first instance to regulate senatorial elections. Unlike the Seventeenth Amendment, however, Article I allows Congress, in its discretion, to override state regulation.[1]

It follows that, if we put the Seventeenth Amendment aside, Congress might, if it so chose, preempt state law determining when a senatorial candidate's nomination was final.[2] At the same time, Article I makes plain that in the absence of a Congressional override, the "times, places, and manner" of federal elections shall be governed by state law. In this case, Congress has not elected to override state procedures for selecting party nominees. On the contrary, Congress went out of its way to emphasize that it did not wish to exercise its override authority by enacting the Federal Election Campaign Act. When Congress added preemption language to the Act in 1974, it expressly provided that

> It is clear that the Federal Law occupies the field with respect to reporting and disclosure of political contributions to and expenditures by Federal candidates and political committees, but does not affect State laws as to the manner of qualifying as a candidate, or the dates and places of elections.

S. Conf. Rep. No. 1237, 93rd Cong., 2d Sess., reprinted in 19974 U.S. Code Cong & Ad News 5587, 5618, 5668 (emphasis in original).

By attempting to regulate the timing of nominee selection in the absence of congressional action, the FEC has violated power reserved to the states by Article I, §4, cl. 1.

This conclusion is strongly supported by the structure of Article I. Other grants of congressional power in Article I simply state that Congress shall have the power to enact the

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[1] The congressional override power does not extent to regulation of the place where Senators are chosen -- a limitation that has no bearing on this case.

[2] The statement in text assumes, arguendo, that the federal regulation did not violate the first amendment right of political parties to determine their own nominating procedures. Cf. Tashjian v. Republican Party, 479 U.S. 208 (1986) (state prohibition of "open primary" violates first amendment).

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described legislation.[8] Because the power to act in these areas is vested in the federal government, state laws affecting them may sometimes be preempted even if Congress fails to act. See, e.g., City of Philadelphia v. New Jersey, 437 U.S. 617 (1978); Cooley v. Board of Port Wardens, 53 U.S. (12 How.) 299 (1851). The structure of Article I, §4 cl.1 is unique. It expressly establishes a baseline of state power that can be overridden only if Congress chooses to act. This structure can only be understood as designed to ensure that state power would remain intact unless Congress made an affirmative decision to displace it. See, e.g., Oregon v. Mitchell, 400 U.S. 112, 123 (1970) (Black, J. announcing the judgment of the Court) ("In short, the Constitution allotted to the States the power to make laws regarding national elections, but provided that if Congress became dissatisfied with the state laws, Congress could alter them.")

The Supreme Court has squarely endorsed this interpretation. In Smiley v. Holm, 285 U.S. 355 (1932), Chief Justice Hughes, writing for a unanimous Court, held that the "comprehensive words" of Article I §4 granted to the states

> authority to provide a complete code for congressional elections, not only as to times and places, but in relation to notices, registration, supervision of voting, protection of voters, prevention of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers, and making and publication of election returns; in short, to enact the numerous requirements as to procedures and safeguards which experience shows are necessary in order to enforce the fundamental right involved.

285 U.S., at 366.

Although the Constitution granted Congress the power to override this state regulation,

> this broad [congressional] authority is conferred by the constitutional provision now under consideration, and is exercised by the Congress in making "such regulations" that is, regulations of the sort which, if there be no overruling action by the Congress, may be

---

[8] For example, Article I § 8, cl.3 grants Congress the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." Article I § 8, cl. 5 gives Congress the power "To coin Money, regulate the value thereof, and of foreign Coin, and fix the Standard of Weights and Measures."

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> provided by the Legislature of the state upon the same subject."

Id, at 367 (emphasis added). Since there has been no "overruling action by Congress" displacing Pennsylvania's system for filling vacant Senate seats, the FEC is bound to follow the rules "provided by the Legislature of the state."

This interpretation is also strongly supported by over a half century of federalism litigation in the Supreme Court. Before 1937, the Court often invalidated federal legislation as exceeding Congress' authority under its heads of power in Article I. See, e.g., Carter v. Carter Coal Co., 298 U.S. 238 (1936) (invalidating Bituminous Coal Conservation Act) ; A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935) (invalidating National Industrial Recovery Act); United States v. Butler, 297 U.S. 1 (1936) (invaldating Agricultural Adjustment Act). As part of the upheaval that accompanied the conflict between the "Old Court" and the New Deal, the Supreme Court more or less gave up its role as policeman for the federal-state boundary. Consequently, in recent years it has declined to upset congressional judgments about the appropriate scope of its Article I powers. See, e.g., Katzenbach v. McClung, 379 U.S. 294 (1964) (upholding Congress' commerce clause power to regulate racial segregation at local restaurant); Wickard v. Filburn, 317 U.S. 111 (1942) (upholding Congress' commerce clause power to regulate wheat grown by farmer for own consumption). But cf. New York v. United States, 112 S. Ct. 2408 (1972) (invalidating federal legislation as violative of Tenth Amendment); National League of Cities v. Usery, 426 U.S. 833 (1985) (same), overruled, Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528 (1985).

Significantly, however, the Court has remained passive in this area precisely because of its determination that Congress itself was best equipped to determine the limits of its constitutional authority vis a vis the states. As Justice Blackmun explained in Garcia v. San Antonio Metropolitan Transit Authority, supra,

> [The] Framers chose to rely on a federal system in which special restraints on federal power over the States inhered principally in the workings of the National Government itself, rather than in discrete limitations on the objects of federal authority. State sovereign interests, then, are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power. . . .
>
> [The] principle and basic limit on the federal commerce power is that inherent in all congressional

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> action -- the built-in restraints that our system provides through state participation in federal governmental action. The political process ensures that the laws that unduly burden the States will not be promulgated.

Id., at 552, 556. See generally, J. Choper, Judicial Review and the National Political Process (1980); Wechsler, The Political Safeguards of Federalism, in H. Wechsler, Principles, Political, and Fundamental Law 49-82 (1961).

It follows that when Congress expressly determines that it should override state sovereignty, the federal courts will not intervene. See, e.g., Perez v. United States, 402 U.S. 146 (1971) (Court will not upset congressional finding that extortionate credit transactions affect interstate commerce); Hodel v. Virginia Surface Mining Association, 452 U.S. 264 (1981) (Court defers to congressional determination that surface mining affects interstate commerce). An important corollary to this principle, however, is that the Court will only defer if Congress has made a determination to exercise federal power. This is so because judicial deference is premised on the judgment that federalism limits are best protected by congressional decisionmaking. In order for the deference to apply, there must be a congressional decision that warrants deference.

This corollary, in turn, has led the Court to promulgate a "clear statement" rule regarding federal displacement of state authority. Precisely because the federal-state boundary is congressionally, rather than judicially enforced, the Court has insisted that Congress clearly state its intent when it invades traditional areas of state sovereignty. For example, in United States v. Bass, 404 U.S. 336 (1971), the Court held that a defendant could not be convicted under a federal gun regulation statute without proof that the gun had moved in interstate commerce. The Court recognized that Congress had the constitutional authority to regulate such conduct, but declined to hold that it had chosen to exercise this authority in the absence of a clear statement:

> [Unless Congress conveys its purpose clearly, it will not be deemed to have significantly changed the federal-state balance. . . . In traditionally sensitive areas, such as legislation affecting the federal balance, the requirement of a clear statement assures that the legislature has in fact faced, and intended to bring into issue, the critical matters involved in the judicial decision. . . . Absent proof of some interstate commerce nexus in each case, [the statute] dramatically intrudes upon traditional state criminal jurisdiction. . . . The legislative history provides scanty basis for concluding that Congress faced these

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> serious questions and meant to affect the federal-state balance. . . .

Id., at 349. See also Bowen v. American Hospital Assn., 476 U.S. 610 (1986); United States v. Feola, 420 U.S. 671 (1975); Heublein v. South Carolina Tax Comm., 409 U.S. 275 (1972).

Similarly, in Pennhurst State School. & Hospital v. Halderman, 451 U.S. 1 (1981), the Court interpreted a "bill of rights" contained in the Developmentally Disabled Assistance and Bill of Rights Act of 1975 as not imposing judicially enforceable duties on the states. The Court of Appeals had held that the Act "created substantive rights in favor of the mentally retarded," and affirmed a decree that required a substantial alternation in the operation of Pennsylvania's major institution for the mentally retarded. The Supreme Court reversed. Once again, the Court did not question Congress' authority to enact such legislation. It nonetheless held that "[because] such legislation imposes congressional policy on a State involuntarily, and because it . . . intrudes on traditional state authority, we should not quickly attribute to Congress an unstated intent to act under its authority." Id., at 15. See also Gregory v. Ashcroft, 501 U.S. 452 (1991).

Bass and Pennhurst strongly support the view that the FEC lacks authority to ignore Pennsylvania's system for selecting Senate nominees. Indeed, there are two reasons why the case for state immunity is even stronger here than it was in Bass and Pennhurst. First, in both Bass and Pennhurst, a congressional statute at least arguably justified federal intervention. Even in the face of these statutes, the Court declined to permit an upsetting of the traditional federal-state balance in the absence of a clear statement that Congress desired this result. Here, in contrast, no congressional statute authorizes federal interference with the timing of state elections to fill Senate vacancies. On the contrary, the legislative history quoted above clearly states that Congress did not intend to permit such interference.

Second, in Bass and Pennhurst, there was no affirmative basis in the text of the Constitution for state authority to regulate guns and institutes for the mentally retarded. In contrast, as already noted, Article I expressly reserves to the states the regulation of federal elections unless state regulation is displaced by Congress.

It follows that the FEC exceeded its constitutional authority when it overrode Pennsylvania law on its own authority. In the absence of a clear statement by Congress, the regulation of Senatorial elections is committed to the states, and the FEC has no authority to ignore state decisions simply because it disagrees with them.

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I hope that this analysis is useful to you. If I can be of further assistance in this matter, please do not hesitate to let me know.

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FEDERAL ELECTION
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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the matter of

Citizens for Senator Wofford and John D. Sheridan, as treasurer	)))	MUR 3420

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On July 12, 1994, the Commission found probable cause to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer ("Respondents"), violated 2 U.S.C. § 441a(f) by accepting 1991 primary election contributions after the date of the primary despite having no net debts outstanding from that election. See 11 C.F.R. § 110.1(b)(3)(i). The Commission also approved a proposed conciliation agreement. On August 17, 1994, without having made a counteroffer, Respondents moved for reconsideration of the probable cause to believe finding. Attachment 1.

This report analyzes the arguments presented in Respondents' motion for reconsideration, and recommends that the Commission deny the motion.

II. ANALYSIS OF THE MOTION FOR RECONSIDERATION

At no point in this matter have the underlying facts been disputed. Instead, the only issue has been: when did the "primary election," as used as a term of art in 11 C.F.R. §§ 100.2(c)(1) and 110.1(b), occur? The Commission has consistently found that the "primary election" occurred June 1, 1991, when Harris Wofford was selected as the Democratic nominee for U. S. Senator in

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Pennsylvania's 1991 special election. See 11 C.F.R. § 100.2(e) (caucus or convention is "primary election" if it has authority under state law to select nominee); MUR 3420, General Counsel's Brief, at 5-6 (if caucus or convention with such authority selects nominee, "primary election" has occurred). On the other hand, Respondents have consistently argued that no election occurred until September 5, 1991, when a party functionary delivered a certificate of nomination to the Secretary of the Commonwealth of Pennsylvania. See MUR 3420, Respondents' Brief, at 3.

Respondents now renew their argument that Article I, section 4, clause 1 of the U. S. Constitution compels their conclusion and bars the Commission's. See Attachment 1 at 10-16. Additionally, Respondents raise a new, but similar, argument based on the Seventeenth Amendment to the Constitution. See Attachment 1 at 7-10. Both arguments are premised on the erroneous conclusion that the Commission interprets the Federal Election Campaign Act of 1971, as amended ("the Act"), and the regulations thereunder as preempting Pennsylvania law regarding the timing of elections. Respondents assert that this supposed preemption violates the states' power to determine the time, place and manner of Congressional elections. In fact, the Commission's interpretation of its own regulation in this matter does not conflict with either constitutional provision.[1]

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1. As a preliminary matter, Respondents' interpretation of Pennsylvania law may not be correct. Pa. Stat. Ann., tit. 25, § 2776, provides that candidates for senatorial vacancies shall be "nominated . . . in accordance with party rules . . . by means of nomination certificates." Respondents find in this provision a declaration that no nomination occurs under Pennsylvania law until

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A. Respondents' Article I Argument Is Inapposite

Article I, section 4, clause 1 of the Constitution provides:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may, at any time by Law make or alter such Regulations, except as to the Place of Chusing Senators.

Respondents rely on dicta from Smiley v. Holm, 285 U.S. 355 (1932), in which Chief Justice Hughes wrote that the states' power under this provision, while subject to Federal preemption, extended to all of the "numerous requirements as to procedures and safeguards" that are necessary for the conduct of elections. Attachment 1 at 11-12 (quoting Smiley, 285 U.S. at 366). Respondents argue that Pa. Stat. Ann. tit. 25, § 2776 is within the ambit of these "numerous requirements." They argue further that because Congress did not intend for the Act or regulations to preempt state laws regulating the time or manner of elections, neither the Act nor the regulations can preempt the Pennsylvania statute at issue here. Attachment 1 at 11.

The Act and regulations expressly preempt "any provision of

(Footnote 1 continued from previous page)
delivery of the nomination certificate. They argue that the Commission is constitutionally bound to follow this determination in ascertaining when the "primary election", as defined by 11 C.F.R. § 100.2(c), occurred. However, Pa. Stat. Ann. tit. 25, § 2602(k) provides that a "nomination . . . shall mean the selection, in accordance with provisions of this act, of a candidate for public office to be voted for at an election." Thus, in defining "nomination", Pennsylvania law appears to focus at least as much on when the candidate was selected as when the nomination was consummated. This Office has been unable to locate any Pennsylvania decision harmonizing sections 2602(k) and 2776. In any event, this Office submits that it is not necessary for the Commission to decide this state law question. MUR 3420, General Counsel's Brief, at 6.

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State law with respect to election to Federal office," 2 U.S.C. § 453, except for those concerning, generally, the times and places of elections and the mechanics of how they are conducted. 11 C.F.R. § 108.7(c); H. R. Rpt. No. 1438, 93d Cong., 2d Sess., reprinted in FEC, Legislative History of Federal Election Campaign Act Amendments of 1974 1044. Thus, by raising the preemption issue, Respondents have unwittingly created a dilemma for themselves. Their argument is entirely dependent upon their characterization of this matter as an intrusion into Pennsylvania's decisions about timing and mechanics. If this matter was instead about contributions, expenditures, and reporting, the state law would unquestionably be preempted, and their argument would fail. On the other hand, even if this matter is viewed as being within the realm of timing and mechanics, the Commission's position involves not the slightest intrusion upon, much less preemption of, Pennsylvania law. See MUR 3420, General Counsel's Report, June 30, 1994, at 5-6. Again, Respondents' argument must fail.

Ex parte Siebold, 100 U.S. 371 (1880), is more helpful than Smiley to resolution of this matter. At issue in Siebold was the constitutionality of election crimes provisions of the Enforcement Act, 16 Stat. 140 (1870), a Reconstruction-era civil rights statute. See 100 U.S. at 379-82. The petitioners in Siebold challenged their convictions, arguing that under Article I, section 4, clause 1, the Enforcement Act's partial regulation of Federal elections could not co-exist with the state's comprehensive regulation of Federal elections. 100 U.S. at

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382-83. The Supreme Court sustained the statute, not because there was any conflict between the Federal and state laws -- although it acknowledged that the Federal law would prevail if there were -- but because there was in fact no conflict at all. As the Court said, "[t]he State may make regulations on the subject; Congress may make regulations on the same subject, or may alter or amend those already made . . . There is no such conflict between them as to prevent their forming a harmonious system perfectly capable of being administered and carried out as such." 100 U.S. at 386.

Like Siebold, this case presents no conflict between the "concurrent authority of the two sovereignties," 100 U.S. at 384, as established by Article I, section 4, clause 1. In this case, state law provides that nominees are to be selected according to party rules; and so Wofford was. State law provides that nominations are to be certified to the Secretary of the Commonwealth; Wofford's nomination was so certified. State law may or may not provide that nominations are effective on delivery of the certificate. See supra n.1. However, for all purposes under state law, Wofford became the nominee at whatever time state law provided. Nothing in the Commission's reading of 11 C.F.R. § 100.2 would change these circumstances, either in this case or prospectively. "There is no such conflict between [the Commission's action and Pennsylvania law] as to prevent their forming a harmonious system perfectly capable of being administered and carried out as such." Siebold, 100 U.S. at 386. Thus, Respondents' Article I argument does not support their

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request for reconsideration.

B. **Respondents' Seventeenth Amendment Argument Is Similarly Inapposite**

The first two clauses of the Seventeenth Amendment provide:

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.
>
> When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.[2]

Respondents argue that elections to fill Senatorial vacancies shall be conducted "as the [state] legislature may direct." They cite Valenti v. Rockefeller, 292 F. Supp. 851 (S.D.N.Y. 1968), aff'd, 393 U.S. 405 (1969), for the proposition that the amendment grants to the states "some reasonable degree of discretion concerning both the timing of vacancy elections and the procedures to be used[.]" 292 F. Supp. at 856; see Attachment 1 at 7. They then assert, without demonstrating how, that the Commission's interpretation of 11 C.F.R. § 100.2 impermissibly intrudes on this "reasonable degree of discretion." See Attachment 1 at 9-10.

For the same reasons that defeat Respondents' Article I argument, there is no conflict between the Commission's position

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2. Prior to ratification of the Seventeenth Amendment, U. S. Senators were elected by the state legislatures, rather than directly by the people. See U.S. Const. art. I, § 3, cl. 1.

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in this matter and the discretion conferred on the states by the Seventeenth Amendment. This becomes even more apparent upon comparison of the facts of this matter with those of Valenti. In that case, private plaintiffs sought injunctions compelling New York to hold an election to fill a senatorial vacancy two years prior to the time provided by state statute. 292 F. Supp. at 853. By contrast, this matter would not compel Pennsylvania to do anything. What is at issue here is an after-the-fact determination of when an "election", as used as a term of art in the Act and regulations, occurred. The question arises in an enforcement proceeding directed not at Pennsylvania, but against a Federal candidate's authorized committee. The Seventeenth Amendment is of no more help to Respondents than Article I, section 4, clause 1.[3]

---

3. The historical context in which the Seventeenth Amendment was adopted also weighs agaisnt Respondents' position. Respondents would divorce the Amendment, which was submitted to the states for ratification in 1911, from that context -- a context that also includes the Tillman Act, 34 Stat. 864 (1907) (prohibiting corporate contributions), and the Publicity Act, 36 Stat. 864 (1911) and the Publicity Act Amendments, 37 Stat. 25 (1911) (first statutes requring disclosure of contributions or expenditures). Direct election of Senators and the early Federal campaign finance statutes were both products of what historians call the "Progressive era"; both were intended to promote "more democratic control of the government" and reduce "the alleged sinister influence of vested interests" that was perceived to be widespread in the late 19th and early 20th centuries. Congressional Quarterly's Guide to Congress 93 (4th ed. 1991); accord, 2 Samuel E. Morrison and Henry S. Commager, The Growth of the American Republic 380 (4th ed. 1950). Indeed, the Senate debates on the resolution that was to become the Seventeenth Amendment include references to the then-pending Publicity Act Amendments, indicating that the two issues were linked in the minds of the Seventeenth Amendment's framers. See 47 Cong. Rec. 1921 (1911) (remarks of Sen. Owen) (linking opponents of direct election of Senators with opponents of contribution and expenditure disclosure); see also id. at 1884 (remarks of Sen.

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III. CONCLUSION

For the reasons stated above, this Office recommends that the Commission deny Respondents' motion for reconsideration of the probable cause to believe finding in this matter.

IV. RECOMMENDATIONS

1. Deny Respondents' motion for reconsideration.
2. Approve the appropriate letter.

9/12/94
Date

Lawrence M. Noble
General Counsel

(Footnote 3 continued from previous page)
Heyburn). Given this history, it appears unlikely that the Seventeenth Amendment's framers would have interpreted it as a limit on the regulation of contributions and expenditures in Senate campaigns, whether in regular or vacancy elections. Cf. Marsh v. Chambers, 463 U.S. 783, 791 (1983) (actions of First Congress relevant in determining scope of First Amendment, which it framed).

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Attachments:

1. Motion for Reconsideration

Staff Assigned: Lawrence L. Calvert Jr.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: SEPTEMBER 16, 1994

SUBJECT: MUR 3420 - GENERAL COUNSEL'S REPORT DATED SEPTEMBER 12, 1994.

The above-captioned document was circulated to the Commission on Tuesday, September 13, 1994 at 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, September 27, 1994.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3420
Citizens for Senator Wofford and	)	
John D. Sheridan, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 27, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3420:

1. Deny Respondents' motion for reconsideration.
2. Approve the appropriate letter

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

Attest:

9-28-94
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 29, 1994

BY FACSIMILE AND FIRST CLASS MAIL

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Coie
607 14th Street N.W.
Suite 800
Washington, D. C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Mr. Bauer and Ms. Schadler:

On July 12, 1994, the Federal Election Commission found that there is probable cause to believe your clients, Citizens for Senator Wofford and John D. Sheridan, as treasurer, violated 2 U.S.C. § 441a(f). On September 27, 1994, the Commission considered and denied your August 17, 1994 motion for reconsideration of that finding.

In considering this matter, the Commission noted that the analysis on which it based its probable cause finding relied on your clients' disclosure reports, which identify the contributions at issue in this matter as primary election contributions. The Commission has directed this Office to encourage you to bring to our attention any evidence you or your clients may have that any of the contributions at issue were in fact general election contributions.

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

Sincerely,

Lawrence L. Calvert Jr.
Attorney

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011
(202) 628-6600 • FACSIMILE (202) 434-1690

October 19, 1994

Oct 19 3 30 PM '94

Lawrence L. Calvert, Esq.
Office of the General Counsel
Federal Election Commission
Sixth Floor
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3420

Dear Mr. Calvert:

In your letter dated September 29, 1994, you invited the Committee to provide any evidence that the contributions at issue were, in fact, general election contributions. The Committee is now conducting a thorough review of its records in order to produce any and all evidence of this type.

we will provide you with any additional information related to this review on Monday, October 24.

Please contact Robert F. Bauer at (202) 434-1602 or B. Holly Schadler at (202) 434-1634 if you have any questions.

Sincerely,

Robert F. Bauer
B. Holly Schadler
Counsel to Respondents

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[00000-0000/DA942920.075]

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ROBERT F. BAUER
(202) 434-1602

October 24, 1994

Lawrence L. Calvert, Esq.
Office of the General Counsel
Federal Election Commission
Sixth Floor
999 E Street, N.W.
Washington, D.C. 20463

OCT 26 1 03 PM '94
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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Re: MUR 3420

Dear Mr. Calvert:

This letter responds to your inquiry, in your letter dated September 29, 1994, regarding whether the Wofford Committee had any evidence that the contributions at issue in this matter were "in fact general election contributions."

The Committee conducted a preliminary review of its records from the 1991 campaign. Specifically they reviewed the records related to contributions made during the periods June 1 through June 10 and August 6 through September 5, the time period during which the contributions at issue in this matter were received.

During these periods, records indicate that the Committee received approximately 210 contributions from contributors who did not designate their contributions for a particular election. Pursuant to 11 C.F.R. § 110.1(b)(2)(ii), an undesignated contribution made on or before election day counts against the contributor's limit for the next election after the contribution was made. The Wofford Committee understood, pursuant to Pennsylvania law and the Democratic Party's nominating procedure, that the primary period ended September 5, 1995. Therefore, the Committee reported these contributions as primary contributions.

These contributions are listed on the Attachment A to this letter. The total amount of the contributions on Attachment A is $150,850. Based on the Committee's preliminary review, none of the contributors listed on Attachment A made contributions to the Committee that aggregate in excess of the allowable per election

[16568-0001/DA942970.010]

limit. Indeed, many of the contributions are in an amount substantially less than that limit.

Therefore, whether these contributions are considered to have been made for the primary election or general election is of no consequence for purposes of the contribution limits. Regardless of whether they are considered primary contributions, as the Committee contends, or as general election contributions, as the FEC contends, these contributions were not made in excess of the limits under the Act. And, the contributors did not make additional contributions to the Committee during the special election cycle or for debt retirement for the special election.

The Committee's findings are based on a preliminary review. They are continuing to review as quickly as possible records related to other contributions at issue. We will provide additional information as soon as it is available.

Sincerely,

Robert F. Bauer
B. Holly Schadler
Counsel to Respondents

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Attachment A

JUNE 1 THROUGH JUNE 10, 1991

Amalgamated Clothing and Textile Workers Union PAC	June 6, 1991	$2,500
Stanley Yake	June 6, 1991	$1,000
Thomas M. McDermott	June 6, 1991	$1,000
Hugh Beal	June 6, 1991	$1,000
Marjorie Benton	June 6, 1991	$1,000
Gene Gordon	June 6, 1991	$500
Andrew S. Price	June 6, 1991	$1,000
Thomas H. Quinn	June 6, 1991	$500

AFTER AUGUST 6, 1991

American Academy of Opthalmology Political Committee	Aug. 29, 1991	$5,000
American Chiropractic Assoc. PAC	Aug. 13, 1991	$5,000
American Optometric Assoc. PAC	Aug. 26, 1991	$2,000
Auction Markets PAC of Chicago Board of Trade	Aug. 29, 1991	$5,000
Babcock & Wilcox Good Government Fund	Aug. 30, 1991	$1,000
Bath Iron Works Corporation PAC	Aug. 19, 1991	$250
Bipartisan PAC/Mellon Bank	Aug. 27, 1991	$200
CarePAC, Blue Cross and Blue Shield	Aug. 26, 1991	$500
Central PA Savings Assoc. PAC	Aug. 15, 1991	$500
Civic Action Fund - Loral Corp.	Aug. 11, 1991	$1,000

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AFTER AUGUST 6, 1991 Con't

COM - PAC	Aug. 29, 1991	$500
Dusquesne Light Company Federal PAC	Aug. 28, 1991	$1,000
Fed. Nat. Mortgage Assoc. PAC	Aug. 27, 1991	$500
Firefighters Interested in Registration and Education PAC	Aug. 20, 1991	$1,500
Friends of Chris Dodd	Aug. 19, 1991	$500
Friends of Jim Sasser	Aug. 7, 1991	$1,000
Grumman PAC	Aug. 11, 1991	$1,000
Independent Action PAC	Aug. 30, 1991	$5,000
Ironworkers Political Action League	Aug. 30, 1991	$3,000
MEBA PAC	Aug. 19, 1991	$2,500
MOPAC	Aug. 17, 1991	$2,500
Nat. Assoc. of Retail Druggists PAC	Aug. 29, 1991	$1,000
Nat. Emergency Medicine PAC	Aug. 14, 1991	$1,000
Non-Partisan Political Support Committee for General Electric Company Employees	Aug. 7, 1991	$1,000
Operation Real Security PAC	Aug. 19, 1991	$1,000
Pennsylvanians for Congressman Paul Kanjorsky	Aug. 13, 1991	$1,000
Philadelphia Electric Company Federal PAC	Aug. 23, 1991	$1,000
Pittsburgh National Bank Bipartisan Voluntary PAC	Aug. 9, 1991	$1,000
Raytheon PAC	Aug. 26, 1991	$1,000
Re-Elect Exon for U.S. Senate Committee	Aug. 14, 1991	$1,000
Russell, Rea & Zappala, Inc. PAC	Aug. 30, 1991	$1,000

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AFTER AUGUST 6, 1991 Con't

United Technologies Corp. PAC	Aug. 19, 1991	$500
World Savings & Loan Assoc. PAC	Aug. 28, 1991	$2,000
William J.C. O'Donnell	Aug. 29, 1991	$100
Hon. Thomas P. O'Neill, III	Aug. 16, 1991	$500
Robert D. Haas	Aug. 27, 1991	$500
Patricia LaBalme	Aug. 9, 1991	$1,000
Nancy K. Magliochetti	Aug. 30, 1991	$1,000
Louise Malakoff	Aug. 30, 1991	$250
John Kenneth Galbraith	Aug. 20, 1991	$1,000
Mrs. Gordon G. Wallace	Aug. 30, 1991	$1,000
Clarence Walton	Aug. 22, 1991	$1,000
Caroline R. Ramsay	Aug. 29, 1991	$100
Marion O. Sandler	Aug. 28, 1991	$1,000
Alex Kapetan	Aug. 30, 1991	$300
John Caputo	Aug. 26, 1991	$500
Ellin L. Paquette	Aug. 14, 1991	$1,000
George Marcus	Aug. 28, 1991	$1,000
Sarah W. Hargrove	Aug. 28, 1991	$250
Victor H. Yarnell	Aug. 26, 1991	$500
Barbara Aaron	Aug. 23, 1991	$1,000
Eliza C. Harrison	Aug. 8, 1991	$100
Stephen G. Cary	Aug. 29, 1991	$300
William S. Cashel, Jr.	Aug. 9, 1991	$1,000
Philip Baskin	Aug. 30, 1991	$250
Lee Casper	Aug. 28, 1991	$1,000

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AFTER AUGUST 6, 1991, Con't

Howard G. Paster	Aug. 8, 1991	$1,000
David B. Batts	Aug. 15, 1991	$50
Alice E. Hausmann	Aug. 26, 1991	$500
Phyllis A. Hayes	Aug. 30, 1991	$500
Jane S. Abrahams	Aug. 30, 1991	$500
Asher Schapiro	Aug. 12, 1991	$500
Charles E. Schmidt Jr.	Aug. 30, 1991	$300
Stephen Schutz	Aug. 30, 1991	$500
Susan Schutz	Aug. 30, 1991	$500
Ann T. McInerney	Aug. 21, 1991	$500
Edwin H. Beachler, III	Aug. 19, 1991	$500
Charles H. Meacham	Aug. 26, 1991	$250
Mary Jane Leader	Aug. 15, 1991	$1,000
G. Michael Leader	Aug. 15, 1991	$500
Peter Hearn	Aug. 21, 1991	$1,000
Hon. John W. Hechinger	Aug. 16, 1991	$300
John F. Becker	Aug. 30, 1991	$300
William F. Heefner	Aug. 30, 1991	$500
Melvin A. Heffler	Aug. 30, 1991	$1,000
Robert B. Seidel	Aug. 30, 1991	$1,000
Fred Seigel	Aug. 15, 1991	$500
Richard G. Weinberg	Aug. 30, 1991	$1,000
Peter Weiss	Aug. 12, 1991	$1,000
Mae Gelb	Aug. 29, 1991	$1,000
Sen. John Melcher	Aug. 8, 1991	$1,000
L. Thomas Gemmill Jr.	Aug. 26, 1991	$250

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AFTER AUGUST 6, 1991 Con't

Ronald G. Lench	Aug. 20, 1991	$300
Charles Benton	Aug. 23, 1991	$1,000
William Leonard	Aug. 28, 1991	$250
John E. Geraghty	Aug. 16, 1991	$500
Jerome H. Gerber	Aug. 21, 1991	$500
Dr. Edwin Bergstresser	Aug. 21, 1991	$500
Judah S. Berkowitz	Aug. 23, 1991	$100
Charles S. Perlow	Aug. 26, 1991	$1,000
Dr. Arnold T. Berman	Aug. 22, 1991	$1,000
Irwin Bernstein	Aug. 14, 1991	$500
Alan Dershowitz	Aug. 20, 1991	$500
Norma K. Herzfeld	Aug. 15, 1991	$250
Raymond F. Nester	Aug. 16, 1991 Aug. 19, 1991	$100 $100
James A. West, Jr.	Aug. 30, 1991	$1,000
Dr. Alfred B. Lewis	Aug. 12, 1991	$250
Jerry I. Meyers	Aug. 30, 1991	$500
Edward Shakespeare	Aug. 23, 1991	$100
Francis M. Wheat	Aug. 29, 1991	$300
Howard L. Shecter	Aug. 29, 1991	$500
Stanley K. Sheinbaum	Aug. 26, 1991	$1,000
Betty W. Sheinbaum	Aug. 26, 1991	$1,000
Willis Shenk	Aug. 26, 1991	$500
Nicholas E. Chimicles	Aug. 30, 1991	$500
Barbara L. Chimicles	Aug. 30, 1991	$500
Delia F. Ehrlich	Aug. 26, 1991	$250

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AFTER AUGUST 6, 1991 Con't

Douglas M. Bibby	Aug. 27, 1991	$500
Arthur Nielsen, Jr.	Aug. 26, 1991	$250
Gladys C. P. Gifford	Aug. 16, 1991	$500
Ramsey DiLibero	Aug. 30, 1991	$500
Gail T. Miller	Aug. 12, 1991	$500
H. Donald Wilson	Aug. 8, 1991	$500
Paul G. Kirk, Jr.	Aug. 15, 1991	$1,000
Craig R. Eisendrath	Aug. 29, 1991	$300
Andre Citroen	Aug. 16, 1991	$500
Thomas Witt	Aug. 22, 1991	$250
Peter C. Aldrich	Aug. 16, 1991	$500
Joanna H. Flum	Aug. 27, 1991	$500
John L. Hoeltzel	Aug. 15, 1991	$1,000
John G. Wofford	Aug. 16, 1991	$500
Susanne L. Wofford	Aug. 29, 1991	$600
Richard J. Doherty	Aug. 16, 1991	$250
Alan S. Johnson	Aug. 15, 1991	$250
Charles R. Colbert III	Aug. 16, 1991	$500
Marian W. Colcher	Aug. 30, 1991	$500
Robert B. Golder	Aug. 20, 1991	$500
James M. Foley	Aug. 15, 1991	$500
Robert T. Foley	Aug. 16, 1991	$500
Frances E. Wolf	Aug. 21, 1991	$500
Margaret A. Wolff	Aug. 30, 1991	$500
James Colker	Aug. 29, 1991	$500

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AFTER AUGUST 6, 1991 Con't

Arthur A. Wolk	Aug. 30, 1991	$1,000
Anthony Bolognese	Aug. 27, 1991	$1,000
David Solomon	Aug. 30, 1991	$1,000
Mark Solomon	Aug. 30, 1991	$1,000
Joseph L. Romano	Aug. 30, 1991	$250
Dr. Lawrence I. Bonchek	Aug. 26, 1991	$1,000
Elizabeth W. Jones	Aug. 14, 1991	$500
Frank E. Conflenti	Aug. 26, 1991	$250
Russell B. Long	Aug. 8, 1991	$1,000
Marc J. Sonnenfeld	Aug. 29, 1991	$500
Robert J. Connolly	Aug. 30, 1991	$250
Elinor Goodspeed	Aug. 21, 1991	$500
Stephen Goodman	Aug. 22, 1991	$250
William F. Goodrich	Aug. 30, 1991	$500
Fred B. Rooney	Aug. 30, 1991	$1,000
Constance C. Moore	Aug. 26, 1991	$300
Carl Morganstein	Aug. 30, 1991	$1,000
Samuel W. Morris	Aug. 30, 1991	$1,000
Joann T. Portnoy	Aug. 26, 1991	$500
Daniel Rose	Aug. 8, 1991	$250
Samuel J. Cost	Aug. 30, 1991	$200
Lorraine B. Hovis	Aug. 19, 1991	$250
Richard G. Spagnolli	Aug. 30, 1991	$500
Keith Spalding	Aug. 26, 1991	$500
Dan B. Frankel	Aug. 30, 1991	$250

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AFTER AUGUST 6, 1991 Con't

Thomas J. Gravina	Aug. 30, 1991	$500
Jean E. Prebis	Aug. 16, 1991	$500
Robert Greenberg	Aug. 19, 1991	$250
Louis C. Green	Aug. 26, 1991	$500
Helen de Freitas	Aug. 29, 1991	$500
Martha S. Price	Aug. 26, 1991	$250
Barbara J. Trimble	Aug. 23, 1991	$250
Alden F. Briscoe	Aug. 21, 1991	$300
Stephen Probouck	Aug. 30, 1991	$500
Leonard J. Aronson	Aug. 16, 1991	$250
Shirley D. Grossman	Aug. 16, 1991	$250
Steven Grossman	Aug. 16, 1991	$1,000
Anne T. Arouca	Aug. 9, 1991	$1,000
Marjorie W. Brown	Aug. 26, 1991	$250
Catherine K. Ertel	Aug. 24, 1991	$500
Maureen A. Orth	Aug. 8, 1991	$250
William P. Kruer	Aug. 30, 1991	$500
Bernard Osher	Aug. 28, 1991	$250
Gilbert W. Oswald	Aug. 23, 1991	$1,000
Edward Steinberg	Aug. 26, 1991	$1,000
Henry L. Stern	Aug. 20, 1991	$300
Jerald L. Stevens	Aug. 30, 1991	$500
G. Stockton Strawbridge	Aug. 23, 1991	$500
Joseph Duckworth	Aug. 28, 1991	$500
Marvin J. Rudnitsky	Aug. 24, 1991	$300

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AFTER AUGUST 6, 1991 Con't

James A. Rudolph	Aug. 30, 1991	$500
L. H. Rudolph	Aug. 30, 1991	$500
John E. Quinn	Aug. 30, 1991	$500
Nancy H. Fullam	Aug. 27, 1991	$250
Joy D. Hurd	Aug. 7, 1991	$100
Phillip M. Murphy	Aug. 21, 1991	$500
Franklin L. Kury	Aug. 21, 1991	$1,000
Daryle D. Russell	Aug. 26, 1991	$500
George A. Butler	Aug. 26, 1991	$500
Marilyn J. Evans	Aug. 30, 1991	$500
Justin C. Sweeney	Aug. 19, 1991 Aug. 30, 1991	$100 $25
John T. Owens	Aug. 9, 1991	$1,000
R. David Myers	Aug. 30, 1991	$250
McCrory & McDowell	Aug. 30, 1991	$250
Block & New	Aug. 27, 1991	$25
Feldman Shephard & Wohlgelernter	Aug. 28, 1991	$500
Golden Flame Fuel Co.	Aug. 19, 1991	$500
Pietragello Bosick & Gordon	Aug. 30, 1991	$250

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FEDERAL ELECTION COMMISSION
1994 OCT 25 PM 3:04

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE
OCT 25 1994
EXECUTIVE SESSION

In the matter of

Citizens for Senator Wofford and John D. Sheridan, as treasurer	)	MUR 3420

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On July 12, 1994, the Commission found probable cause to believe that Citizens for Senator Wofford and John D. Sheridan, as treasurer ("Respondents"), violated 2 U.S.C. § 441a(f) by accepting 1991 primary election contributions after the date of the primary despite having no net debts outstanding from that election. See 11 C.F.R. §§ 110.1(b)(3)(i), 110.2(b)(3)(i). The Commission also approved a proposed conciliation agreement. On August 17, 1994, without having made a counteroffer, Respondents moved for reconsideration of the probable cause to believe finding.

The Commission considered the constitutional arguments Respondents advanced in support of their motion, and, on September 27, 1994, rejected the motion. However, in considering the matter, the Commission noted that the analysis on which the probable cause to believe finding was based relied on Respondents' disclosure reports, which identified the contributions at issue as primary election contributions. The Commission directed this Office to encourage Respondents to come forward with any evidence they might have that any of the contributions at issue here were in fact general election contributions.

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Accordingly, this Office recommends that the proposed conciliation agreement at Attachment 3 be submitted to Respondents as a final offer, and that the Commission authorize the Office of General Counsel to institute a civil suit against Respondents in U. S. District Court if Respondents do not sign and submit the final offer within ten days of receipt.

IV. RECOMMENDATIONS

1. Reject the counteroffer of Citizens for Senator Wofford and John D. Sheridan, as treasurer.

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

3. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Citizens for Senator Wofford and John D. Sheridan, as treasurer, in the event that the proposed conciliation agreement is not signed and submitted within ten days of receipt.

4. Approve the appropriate letter.

11/19/94
Date

Lawrence M. Noble
General Counsel

9604374164 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3420
Citizens for Senator Wofford	)	
and John D. Sheridan, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 25, 1994, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3420:

1. Reject the counteroffer of Citizens for Senator Wofford and John D. Sheridan, as treasurer.

2. Approve the conciliation agreement recommended in the General Counsel's report dated October 19, 1994

9604374164 2

(continued)

3. Authorize the Office of the General Counsel to a file a civil suit for relief in United States District Court against Citizens for Senator Wofford and John D. Sheridan, as treasurer, in the event that the proposed conciliation agreement is not signed and submitted within ten days of receipt.

4. Approve the appropriate letter.

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

Attest:

10-26-94
Date

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

9604374164 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 27, 1994

BY FACSIMILE AND FIRST CLASS MAIL

Robert F. Bauer, Esq.
B. Holly Schadler, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 3420
Citizens for Senator Wofford
and John D. Sheridan, as treasurer

Dear Mr. Bauer and Ms. Schadler:

This letter is to confirm the Federal Election Commission's receipt of the proposed conciliation agreement submitted on behalf of Citizens for Senator Wofford and John D. Sheridan, as treasurer ("the Committee"), on October 18, 1994, and the additional information with respect to assertedly undesignated contributions that you submitted on October 24, 1994.

The Commission has reviewed and rejected your October 18 counterproposal. It has also approved the attached proposed conciliation agreement.

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Accordingly, we submit the Commission's proposed conciliation agreement for your signature. Although I am hopeful that this matter can be settled through a conciliation agreement, please be advised that in the absence of your clients' acceptance of the enclosed agreement within ten days of receipt, the Commission has authorized this Office to institute a civil suit in the U.S. District Court.

Should you have any questions, please contact Lawrence L. Calvert, Jr., the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9604374164 5

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Mar 29 10 04 AM '96

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FEDERAL ELECTION COMMISSION, :
Plaintiff
:
vs. : CIVIL ACTION NO. 1:CV-94-2057

CITIZENS FOR SENATOR WOFFORD, :
JOHN D. SHERIDAN, Treasurer for
Citizens for Senator Wofford, :
Defendants

FILED
HARRISBURG PA
MAR 27 1996
MARY E. D'ANDREA, CLERK
Per _____ Deputy Clerk

ORDER

AND NOW, this 27th day of March, 1996, upon consideration of the Report of the United States Magistrate Judge, dated January 31, 1996, Plaintiff's exceptions thereto, and upon independent review of the Record, it is ordered that the Magistrate Judge's Report is adopted. It is further ordered, pursuant to the Magistrate Judge's recommendation, that:

1. The Defendants, Citizens for Senator Wofford and John D. Sheridan, as Treasurer, shall pay to the Federal Election Commission within thirty (30) days of the date of this Order, a civil penalty in the amount of $15,000.00 pursuant to 2 U.S.C. § 437g(a)(6)(B).

2. The Clerk of Court shall close this file.

William W. Caldwell
William W. Caldwell
United States District Judge

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AO 72A
(Rev. 8/82)

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Leslie J. Kerman, Esq.
Epstein, Becker & Green
1227 25th Street, N.W.
Washington, DC 20037

RE: MUR 3420
Susie Field

Dear Ms. Kerman:

On July 7, 1992, you were notified that the Federal Election Commission had found no reason to believe that your client violated 2 U.S.C. § 441a, and had closed the file in this matter with respect to your client. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.

Lawrence L. Calvert, Jr.
Attorney

9604374164 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. Patrick H. McCarthy
526 Hamilton Road
Merion, PA 19066

RE: MUR 3420
Patrick H. McCarthy

Dear Mr. McCarthy:

On July 7, 1992, you were notified that the Federal Election Commission had found no reason to believe that you violated 2 U.S.C. § 441a, and had closed the file in this matter with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374164 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Larry P. Weinberg
General Counsel
AFSCME
1101 17th Street, N.W.
Washington, DC 20036

RE: MUR 3420
American Federation of State,
County and Municipal Employees,
AFL-CIO (AFSCME) PEOPLE

Dear Mr. Weinberg:

On July 7, 1992, you were notified that the Federal Election Commission had found no reason to believe that your clients violated 2 U.S.C. § 441a, and had closed the file in this matter with respect to your clients. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Allison Beck, Esq.
International Association of Machinist
and Aerospace Workers
Machinists Building
1300 Connecticut Avenue
Washington, DC 20036

June 6, 1996

RE: MUR 3420
Machinist Non-Partisan Political League

Dear Ms. Beck:

On July 7, 1992, you were notified that the Federal Election Commission had found no reason to believe that your clients violated 2 U.S.C. § 441a, and had closed the file in this matter with respect to your clients. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 0

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mrs. Elizabeth F. Bagley
1539 29th Street, N.W.
Washington, DC 20007

June 6, 1996

RE: MUR 3420
Elizabeth F. Bagley

Dear Mrs. Bagley:

On July 7, 1992, you were notified that the Federal Election Commission had found no reason to believe that you violated 2 U.S.C. § 441a, and had closed the file in this matter with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. Arnold Sagalyn
Sagalyn Associates
2000 M Street, N.W.
Washington, DC 20036

RE: MUR 3420

Dear Mr. Sagalyn:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. Thomas L. Seibert
Suite 200
1901 L Street, N.W.
Washington, DC 20036

RE: MUR 3420

Dear Mr. Seibert:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

Celebrating the Commission's 20th Anniversary
YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. Thomas L. Seibert
Suite 200
1901 L Street, N.W.
Washington, DC 20036

RE: MUR 3420

Dear Mr. Seibert:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

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Celebrating the Commission's 20th Anniversary
YESTERDAY TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. John E. Connelly
361 Saxonburg Road
Pittsburgh, PA 15238

RE: MUR 3420

Dear Mr. Connelly:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Ms. Alida R. Messinger
Room 5600
30 Rockefeller Plaza
New York, New York 10112

RE: MUR 3420

Dear Ms. Messinger:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mrs. Clare Wofford
407 Old Gulph Road
Bryn Mawr, PA 19010

RE: MUR 3420

Dear Mrs. Wofford:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Robert F. Bauer, Esq.
Perkins Coie
Suite 800
607 14th Street, N.W.
Washington, DC 20005-2011

RE: MUR 3420
Louise S. Ansberry, Gregory B. Craig,
Hale A. Krasne, Robert M. Krasne,
Burke Marshall, Sarah E. Peck,
Avore Rapoport, Bernard Rapoport,
Anne Sobel, Robert J. Stein,
Paul C. Warnke and Daniel B. Wofford

Dear Mr. Bauer:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to your clients in the above-referenced matter and had closed the file. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Robert O. Meyer, Esq.
65 Highview Avenue
Bernardsville, NJ 07924

June 6, 1996

RE: MUR 3420
Raymond G. Chambers
Patricia A. Chambers

Dear Mr. Meyer:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to your clients in the above-referenced matter and had closed the file with respect to your clients. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Mr. Smith Bagley
1539 29th Street, N.W.
Washington, DC 20007

RE: MUR 3420

Dear Mr. Bagley:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to you in the above-referenced matter and had closed the file with respect to you. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374165 9

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

Richard H. Glanton, Esq.
Reed, Smith, Shaw & McClay
2500 One Liberty Place
Philadelphia, PA 19103

RE: MUR 3420
Ethel B. Wister
Sabina F. Wister

Dear Mr. Glanton:

On July 7, 1992, you were notified that the Federal Election Commission had decided to take no action with respect to your clients in the above-referenced matter and had closed the file with respect to your clients. However, you were also reminded that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remained in effect until the entire matter was closed. You were notified that you would be advised when the entire file was closed.

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

9604374160

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 6, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anne B. Anstine
Chairman
Republican State Committee of Pennsylvania
George I. Bloom Republican Center
112 State Street
Harrisburg, Pennsylvania 17101

RE: MUR 3420

Dear Ms. Anstine:

This is in reference to the complaint you filed on behalf of the Republican State Committee of Pennsylvania with the Federal Election Commission on September 5, 1991, concerning the alleged receipt of excessive primary election contributions by Citizens for Senator Wofford and John D. Sheridan, as treasurer ("the Committee").

After conducting an investigation the Commission found probable cause to believe the Committee violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. The Commission was unable to settle the matter through a conciliation agreement and, therefore, authorized the filing of a civil suit in United States District Court.

In Federal Election Commission v. Citizens for Senator Wofford, No. 1: CV-94-2057, after the defendants and the Commission stipulated that the defendants received $198,075 in excessive contributions in violation of 2 U.S.C. § 441a(f), the U.S. District Court for the Middle District of Pennsylvania, on March 27, 1996, ordered the defendants to pay the Commission a civil penalty in the amount of $15,000 pursuant to 2 U.S.C. § 437g(a)(6). A copy of the court's order, together with the Report of the United States Magistrate Judge adopted by the court on the same date, are enclosed. The Commission's consideration of this matter was concluded on April 26, 1996, and the file is now closed.

Celebrating the Commission's 20th Anniversary
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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

Sincerely,

Lawrence L. Calvert, Jr.
Attorney

Enclosures:
Order
Magistrate Judge's Report

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
Mar 29 10 06 AM '96

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FEDERAL ELECTION COMMISSION, Plaintiff	:	
	:	
vs.	:	CIVIL ACTION NO. 1:CV-94-2057
CITIZENS FOR SENATOR WOFFORD, JOHN D. SHERIDAN, Treasurer for Citizens for Senator Wofford, Defendants	:	

FILED
HARRISBURG PA
MAR 27 1996
MARY E. D'ANDREA, CLERK
Per _____ Deputy Clerk

ORDER

AND NOW, this 27th day of March, 1996, upon consideration of the Report of the United States Magistrate Judge, dated January 31, 1996, Plaintiff's exceptions thereto, and upon independent review of the Record, it is ordered that the Magistrate Judge's Report is adopted. It is further ordered, pursuant to the Magistrate Judge's recommendation, that:

1. The Defendants, Citizens for Senator Wofford and John D. Sheridan, as Treasurer, shall pay to the Federal Election Commission within thirty (30) days of the date of this Order, a civil penalty in the amount of $15,000.00 pursuant to 2 U.S.C. § 437g(a)(6)(B).

2. The Clerk of Court shall close this file.

William W. Caldwell
William W. Caldwell
United States District Judge

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(Rev. 8/82)

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COMMISSION
OFFICE OF GENERAL
COUNSEL
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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FEDERAL ELECTION COMMISSION, Plaintiff	:	CIVIL NO. 1:CV-94-2057
v.	:	(Judge Caldwell)
CITIZENS FOR SENATOR WOFFORD; and JOHN D. SHERIDAN, as Treasurer for Citizens for Senator Wofford, Defendants	:	(Magistrate Judge Smyser)

FILED
HARRISBURG, PA
JAN 31 1996
MARY E. D'ANDREA, CLERK
Per

REPORT AND RECOMMENDATION

Pending before the court is the question of the appropriate civil penalty and of the propriety of a permanent injunction.

The amount of unlawfully received contributions is stipulated to have been $198,075.

The Act provides that a permanent injunction may be granted and a civil penalty of no more than the amount of contribution(s) involved in the violation imposed. 2 U.S.C. §437g(a)(6)(B). The parties agree that the court has discretion to decide upon the amount of the civil penalty.

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Both parties address these factors: (1) the defendants' good or bad faith; (2) the injury to the public; (3) the defendants' ability to pay; (4) the need to eliminate the benefits derived from the violations; and (5) the need to vindicate the Commission's authority.

A motion for leave to file a brief amicus curiae has been filed. The moving parties are the Democratic National Committee and the Association of State Democratic Chairs.

There is no Rule of Civil Procedure regarding amicus briefs in district courts. However, whether a district court grants or denies leave to file an amicus brief is within the court's broad discretion. Liberty-Lincoln Mercury v. Ford Marketing Corp., 149 F.R.D. 675, 82 (D.N.J. 1993). Mausolf v. Babbitt, 158 F.R.D. 143, 148 (D.Minn. 1994). The court may grant leave to file an amicus brief if it deems the information timely and useful. Liberty-Lincoln Mercury, 149 F.R.D. at 82. However, if the court determines that the parties are already adequately represented and participation of amicus curiae is unnecessary because such participation will not further the court's consideration of the issues, leave may be denied. Id. Also, where the party seeking to appear as amicus curiae is perceived to be an interested party or an advocate of one of the parties leave may be denied. Here, it appears that the

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putative amicus would be acting as an advocate for the defendants. Indeed, the brief in support of the motion for leave to file an amicus brief is filed by the defendants. The motion for leave to file an amicus brief should be denied.

Turning to the criteria relating to the appropriate civil penalty, it is our view that there is not a basis presented upon which one may reasonably infer that the defendants acted in bad faith. We believe that the truth of this proposition is most forcefully evidenced by the plaintiff's own argument. The plaintiff argues that the defendants' "stated reason for initially violating the Act - solely to avoid a perceived partisan disadvantage - demonstrates bad faith." In a partisan process, acting to avoid a partisan disadvantage is not indicative of bad faith. It is certainly not self-apparently indicative of bad faith, such as it is characterized to be by the plaintiff here. The plaintiff refers to other grounds for a finding of bad faith. The defendants could have sought and obtained an opinion from the Federal Election Commission as to whether they were lawfully permitted to continue to solicit contributions, but did not do so even though they were on notice that the requirements of the Federal Election Campaign Act had not been addressed in the Parliamentarian's Opinion of May 31, 1991. Doc. 22, Exhibit B. Although the plaintiff speaks in terms of

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defendants' "reckless disregard of such notice without further inquiry," in fact the Parliamentarian's disclaimer was general in nature and did not allude to the specific question involving primary election versus general election contributions that is presented in this case. The extent to which that question was implicitly central to the Parliamentarian's Opinion is not self-evident to us, and we do not presume it to have been implicitly central.

The plaintiff argues that the defendants' bad faith is "shown by Defendants' unwillingness to accept its violation..." In the criminal law, in the sentencing context, a doctrine of "acceptance of responsibility" has emerged. The doctrine is not useful or applicable in this civil context. The defendants made arguments in support of their position. The resolution of the question was not free from interpretation and analysis. The defendants are under no duty to affirmatively embrace the court's (or the Commission's) interpretation, analysis or holding, but are merely bound to follow the law and the court's order(s).

The plaintiff does not specify how the defendants' acceptance of its violation, if it had occurred, would have been manifested.

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The plaintiff argues that public harm was caused, and that the conduct here involved public corruption or the appearance of public corruption. In an effort to buttress this characterization of the defendants' conduct here, the plaintiff cites Buckley v. Valeo, 424 U.S. 1 (1975), where the Court held, inter alia that the Act's monetary limitations upon contributions from a particular source are valid and found that these limitations serve the public interest of preventing corruption and the appearance of corruption in the electoral process. 424 U.S. at 26-27. The plaintiff's assertion here is that, "[F]rom Buckley, we see that contributions in excess of the Act's limitations equates to public corruption or the appearance of public corruption." This is a misstatement of the Buckley holding and of the Court's finding in Buckley as to the Act's limitation upon individual contributions. The Court's point of reference in Buckley was the prospect of unlimited, substantial contributions from individual sources. It is a great leap from that framework to the proposition that any contribution made or received in excess of the $1,000 individual contribution limitation, despite the particular circumstances, gives rise to or equates to corruption or the appearance of corruption.

The other public harm argument that is made by the plaintiff is that the public was harmed by potentially harming

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the candidate's opponent ("...such a large amount of funds must have had a substantial impact."). The public interest measure, obviously, must be made with reference to the election process, not with reference to the outcome of a particular election. The plaintiff's momentary focus upon this actual election is ephemeral. No analysis is possible on the basis of the facts of record about the effect of the unlawfully received $198,075 upon this actual election outcome.

The ability of the defendants to pay a fine is a factor here. The defendant committee has less than $15,000 in assets and $70,000 in debt. A fine in the amount of $15,000 would be adequate to vindicate all of the interests of the Commission and of the public in this case. This is not a situation that is likely to recur. This hiatus between nomination and certification and the hiatus between the Democratic and the Republican primaries were an unusual combination of factors. Furthermore, if they do recur, there is now clear precedent that would justify a more severe fine for any similar infraction in the future.

For the foregoing reasons, a civil penalty in the amount of $15,000 is recommended. The plaintiff also seeks an injunction "prohibiting similar future violations of the Act." It is recommended that no injunction be entered, inasmuch as

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the question of injunctive relief is mooted by subsequent developments. There is no ongoing conduct and no potentially recurring conduct by these defendants to be enjoined.

J. Andrew Smyser
Magistrate Judge

Dated: January 31, 1996.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3420

DATE FILMED 6/13/96 CAMERA NO. ___

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