FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3608

DATE FILMED 7-29-94 CAMERA NO. 2

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**BEFORE THE FEDERAL ELECTION COMMISSION**
**OF THE UNITED STATES OF AMERICA**

**Complaint:** Violations of 2 U.S.C. §§ 441a(b), 441a(f), and 11 C.F.R. § 9003.1

**Respondents:** Bush/Quayle '92 General Committee, James H. Harrison, and Phil Roof

**Complainant:** South Carolina Democratic Party

MUR 3608

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## INTRODUCTION

The South Carolina Democratic Party hereby brings this complaint against the Bush-Quayle '92 Committee, James H. Harrison, and Phil Roof for actual and impending violations of the Federal Election Campaign Act of 1971, as amended ("FECA"), and the regulations of the Federal Election Commission ("FEC"), by reason of unlawful expenditures made by Mr. Harrison and Mr. Roof on behalf of -- and in concert with -- the Bush-Quayle campaign. The South Carolina Democratic Party makes these allegations on information and belief based on an article appearing in The New York Times on September 9, 1992.

In particular, Mr. Roof and Mr. Harrison hired a single engine plane that made repeated fly-bys with an anti-Clinton message in tow at events sponsored by the campaign of Gov. Bill Clinton in South Carolina. These activities were encouraged and assisted by officials of the Bush-Quayle campaign. Indeed, the record suggests that it was the goal of the Bush-Quayle campaign to disrupt Clinton events while at the same time, through the participation of Mr. Roof and Mr. Harrison, avoiding public association with conduct generally regarded as a "dirty trick"; the appearance of a similar plane at Clinton events in Ohio suggests that this is part of a continuing strategy.

The South Carolina Democratic Party asserts that these activities violate 2 U.S.C. §§ 441a(b) and 441a(f), as well as 11 C.F.R. § 9003.1, because they are an impermissible attempt (1) to supplement the $55.24 million in federal funds paid to the Bush-Quayle campaign and (2) to circumvent the related spending limitations and other restrictions attached to that grant.

For the reasons discussed more fully below, the South Carolina Democratic Party respectfully requests that the FEC initiate an expeditious investigation of these matters and that the FEC:

(a) make a finding that Mr. Roof's and Mr. Harrison's in-kind contributions to the Bush-Quayle campaign, and the Bush-Quayle campaign's encouragement of such contributions, violate the FECA and the FEC's regulations, and

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(b) order that the Bush-Quayle campaign, from its $55 million federal grant, repay to Mr. Roof and Mr. Harrison funds expended by them to assist the Bush-Quayle campaign, and

(c) seek injunctive relief authorized by 26 U.S.C. § 9010(c) to prevent the Bush-Quayle campaign, Mr. Roof, and Mr. Harrison from further violations of the FECA and the FEC's regulations.

**STATEMENT OF FACTS**

1. The Bush/Quayle '92 General Committee is the principal campaign committee of George H.W. Bush and J. Danforth Quayle, who are candidates for President and Vice President of the United States, respectively. The committee's headquarters are located at 1030 15th Street, N.W., Washington, D.C. 20005.

2. The mailing address of Phil Roof is P.O.B. 11348, Columbia, South Carolina 29211.

3. The address of James H. Harrison is 4210 Wilmont, Columbia, South Carolina 29205.

4. According to an article that appeared in The New York Times, p. A14, on September 9, 1992, Clinton campaign appearances were disrupted in South Carolina and Ohio during the week of September 6, 1992, by a single engine plane that flew overhead towing a banner that read: "No Draft Dodger for President." See Exhibit 1, infra.

5. Mr. Roof and Mr. Harrison concede that they paid $600 for the plane to make two fly-bys at Clinton events in South Carolina. Mr. Roof has stated that he was encouraged in this by officials of the Bush-Quayle campaign, who also "helped [him] get the logistics set up." See Exhibit 1, infra.

6. Mr. Roof himself is associated with the Bush-Quayle campaign, having served as Bush-Quayle finance chairman for South Carolina during the presidential primaries this year. Mr. Hamilton is a state representative in South Carolina. See Exhibit 1, infra. According to information and belief, Mr. Harrison is also a member of a group called "Veterans for Bush."

7. The use of the plane and banner avowedly was designed to assist the Bush-Quayle campaign and to harm the Clinton-Gore campaign; Mr. Roof stated that he engaged in his activities because "I'm just tired of everybody being pro-Clinton." See Exhibit 1, infra.

8. The Clinton events were disrupted at a time when, as was widely reported in the press, "President Bush's re-election campaign intensified its public assault on Gov. Bill Clinton's draft record." Exhibit 1, infra.



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## DISCUSSION

Both the FECA and the FEC's regulations provide that a candidate who receives federal funds for use in the general election must certify "[t]hat no contributions have been or will be accepted by the candidate." 11 C.F.R. § 9003.2(a)(2). The Bush-Quayle campaign has made such a certification. The term "contribution," in turn, includes "anything of value made by any person for the purpose of influencing any election for Federal office." 11 C.F.R. § 100.7(a)(1).

Against this background, the activities engaged in by Mr. Roof and Mr. Harrison must be deemed contributions to the Bush-Quayle campaign. Mr. Roof expressly avowed that they were designed to benefit that campaign; moreover, coming at a time when the Bush-Quayle campaign has made Gov. Clinton's service record an issue, the banner's reference (however inaccurate) plainly was to be understood as an attack on President Bush's opponent. As a consequence, the expenditures made by Mr. Roof and Mr. Harrison on behalf of the Bush-Quayle campaign were unlawful unless they fell within one of the enumerated exceptions to the definition of "contribution" found at 11 C.F.R. § 100.7(b). They plainly did not.

- Given that the plane and banner hired by Mr. Roof and Mr. Harrison was used for "general public communication or political advertising," it could not qualify as a permissible state party contribution under 11 C.F.R. § 100.7(b)(17). See 11 C.F.R. § 100.7(b)(17)(i).

- For a similar reason -- and because the banner made no reference to Mr. Harrison -- the expenditure is not supportable as an "exemption" on the theory that it was made for "campaign materials" used by Mr. Harrison in connection with a campaign for state office. See 11 C.F.R. § 100.7(b)(16).

- Given that both Mr. Roof and Mr. Harrison are associated with the Bush-Quayle campaign -- and because the plane was hired with the encouragement and assistance of the Bush-Quayle campaign -- the activities of Mr. Roof and Mr. Harrison cannot be justified as independent expenditures. See 11 C.F.R. § 109.1(a), (b)(4).

- Given that Mr. Roof and Mr. Harrison provided goods and paid for the services of a third party, the activities of the pilot cannot qualify under the exemption for services rendered by a campaign volunteer. See 11 C.F.R. § 100.7(b)(3); compare 11 C.F.R. § 100.7(a)(iii).

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## CONCLUSION

Based upon the facts as known, the South Carolina Democratic Party has reason to believe that the Bush-Quayle campaign, Mr. Roof and Mr. Harrison have violated the FECA and FEC regulations. That identical violations already have been committed in two states also suggests that such violations will continue. The South Carolina Democratic Party therefore respectfully requests the FEC to provide the relief requested in this complaint.

Respectfully submitted,

Albert McAlister

City of Columbia )
) ss.
State of South Carolina )

Sworn to and subscribed before me this 11th day of September, 1992.

Martha J Quigg
Notary Public

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1992

Albert McAlister
South Carolina Democratic Party
2730 Devine Street
Columbia, SC 29205

RE: MUR 3608

Dear Mr. McAlister:

This letter acknowledges receipt on September 15, 1992, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Bush-Quayle '92 General Committee, Inc., and J. Stanley Huckaby, as treasurer, Phil Roof, and James H. Harrison. 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 3608. 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.

Sincerely,

Jonathan Bernstein

Jonathan A. Bernstein
Assistant General Counsel

Enclosure
Procedures

24043560662

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1992

Bush-Quayle '92 General Committee, Inc.
J. Stanley Huckaby, Treasurer
1030 15th Street, NW
Washington, DC 20005

RE: MUR 3608

Dear Mr. Huckaby:

The Federal Election Commission received a complaint which indicates that the Bush-Quayle '92 General Committee, Inc. ("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 3608. 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.

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If you have any questions, please contact Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein

Jonathan A. Bernstein
Assistant General Counsel

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

9404356064

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1992

Phil Roof
P.O. Box 11348
Columbia, SC 29211

RE: MUR 3608

Dear Mr. Roof:

The Federal Election Commission received a complaint which indicates 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 3608. 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.

2404356065

If you have any questions, please contact Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan M. Bernstein
Assistant General Counsel

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

9404356066

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 16, 1992

James H. Harrison
4210 Wilmont
Columbia, SC 29205

RE: MUR 3608

Dear Mr. Harrison:

The Federal Election Commission received a complaint which indicates 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 3608. 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 Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

Jonathan Bernstein

Jonathan A. Bernstein
Assistant General Counsel

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

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#6583

Richard D. Holcomb
Deputy General Counsel
(202) 336-7195

September 22, 1992

**HAND DELIVERED**

Mr. Richard M. Zanfardino
Paralegal Specialist
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3608

Dear Mr. Zanfardino:

Please find enclosed a completed Statement of Designation of Counsel, wherein Bobby R. Burchfield, the Committee's General Counsel, and myself have been listed as the attorneys of record in this matter.

I thank you for your attention in this matter.

Sincerely,

Richard D. Holcomb

RDH:non

cc: Mr. J. Stanley Huckaby

92 SEP 23 AM 9:30
FEDERAL ELECTION COMMISSION
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# STATEMENT OF DESIGNATION OF COUNSEL

MUR 3608

NAME OF COUNSEL: Bobby R. Burchfield, General Counsel
Richard D. Holcomb, Deputy General Counsel

ADDRESS: Bush - Quayle '92 General Committee, Inc.
1030 15th Street, N.W.
Washington, D.C. 20005

TELEPHONE: (202) 336 - 7110

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.

9/21/92
Date

Signature

RESPONDENT'S NAME: J. Stanley Huckaby, Treasurer

ADDRESS: Bush - Quayle '92 General Committee, Inc.
1030 15th Street, N.W.
Washington, D.C. 20005

HOME PHONE:

BUSINESS PHONE: (202) 336 - 7300

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92 SEP 25 PM 3:32

Richard D. Holcomb
Deputy General Counsel
(202) 336-7195

September 25, 1992

**HAND DELIVERED**

Mr. Richard M. Zanfardino
Paralegal Specialist
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 3608

Dear Richard:

By this letter we formally request an extension of time of fifteen (15) days to file our formal response in the above cited MUR. The additional time is necessary to complete our field investigation of the allegations raised by the Complaint. Since our response was originally due on October 4th, granting of this request would require that the response be filed no later than October 19th.

I thank you for your attention in this matter.

With kindest regards.

Sincerely,

Richard D. Holcomb

RDH:non

cc: Mr. J. Stanley Huckaby

2404356067

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 28, 1992

Richard D. Holcomb, Esq.
Deputy General Counsel
1030 15th St., NW
Washington, DC 20005

RE: MUR 3608
Bush-Quayle '92 General
Committee, Inc. and
J. Stanley Huckaby, as
treasurer

Dear Mr. Holcomb:

This is in response to your letter dated September 25, 1992, which we received that same day, requesting an extension until October 19, 1992 to respond to the complaint filed against your clients. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on October 19, 1992.

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

Sincerely,

Richard M. Zanfardino
Staff Member

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JAMES H. HARRISON
ATTORNEY AT LAW
1819 HAMPTON STREET
COLUMBIA, SOUTH CAROLINA 29201
(803) 256-0049

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FEDERAL ELECTION
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MAIL ROOM
OCT 5 11 08 AM '92

October 2, 1992

Jonathan A. Bernstein, Esquire
Federal Election Commission
Washington, DC 20463

Re: MUR 3608

Dear Mr. Bernstein:

Enclosed is my affidavit in the above referenced matter.

Sincerely,

James H. Harrison

JAMES H. HARRISON

JHH/mdb

92 OCT -5 PM 3:54
FEDERAL ELECTION COMMISSION
2404356067 3

STATE OF SOUTH CAROLINA )
)
COUNTY OF RICHLAND ) AFFIDAVIT

PERSONALLY comes the undersigned, who, being duly sworn, deposes and says that:

1. R. Phil Roof personally contacted me and asked me to participate with him in hiring an airplane to fly over a Clinton campaign event carrying the banner "No Draft Dodger for President".

2. I agreed to personally participate with Mr. Roof.

3. I was not asked by the Bush Quayle campaign to participate.

James H. Harrison
James Harrison

SWORN to Before me this 2nd day of October, 1992
Barbara Elizabeth Buff (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 4-1-2001
(SEAL)

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R. PHIL ROOF
POST OFFICE BOX 11348 • COLUMBIA, SOUTH CAROLINA 29211

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October 5, 1992

General Counsel's Office
Attn: Jonathan M. Bernstein
Federal Election Commission
999 E Street NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION COMMISSION
92 OCT -6 PM 11:20

Re: MUR 3608

Dear Mr. Bernstein:

Please find attached the Response of R. Phil Roof and James H. Harrison in the above referenced matter.

Yours very truly,

R. Phil Roof

R. Phil Roof

RPR/ssh

Attachment

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BEFORE THE FEDERAL ELECTION COMMISSION
OF THE UNITED STATES OF AMERICA

Complaint: Violations of 2 U.S.C. §§ 441a(b), 441a(f), and 11 C.F.R. § 9003.1

Respondents: Bush/Quayle '92 General Committee, James H. Harrison and Phil Roof

Complainant: South Carolina Democratic Party

Regarding: MUR 3608

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ANSWER OF RESPONDENT

Respondent comes forth and hereby answers the Complaint filed by the South Carolina Democratic Party as follows:

RESPONSE TO INTRODUCTION

1. With reference to paragraph 1 of the Introduction which refers to "...unlawful expenditures made by Mr. Harrison and Mr. Roof"..., the Respondents hereby state that under the First Amendment to the Constitution of the United States of America, Mr. Roof and Mr. Harrison have a right to independently spend personal funds as an expression of their freedom of free speech. These expenditures were made neither "...on behalf of..." nor "...in concert with -- the Bush/Quayle campaign". A personal check was sent by R. Phil Roof to the person who was hired to fly the banner and the check was funded in no manner, directly or indirectly, by the Bush/Quayle campaign.

   R. Phil Roof was the Finance Chairman for the Bush/Quayle campaign until August 25, 1992 (see attached letter-Exhibit A).

   "The South Carolina Democratic Party makes these allegations on information and belief based on an article appearing in The New York Times on September 9, 1992" (Exhibit B). Response: In that article, Carol Darr, a lawyer for the Democratic National Committee, acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incident. It was R. Phil Roof's idea to fly the plane and it was R. Phil Roof who contacted Jim Harrison to ask him to help sponsor the "fly by".

2. With regard to the allegation that it was the goal of the Bush/Quayle campaign to disrupt Clinton events through Mr. Roof and Mr. Harrison so there would be no association with conduct generally regarded as a dirty trick, I, R. Phil Roof, categorically deny that my acts were part of any conspiracy of the campaign. I did this on a personal basis without anyone from the Bush/Quayle campaign directing me to do so.

   In the newspaper article in The State newspaper of Thursday, September 10, 1992, Roof and Harrison both stated "...they hired the plane on their own." If the Democratic Party had read The State newspaper as they did The New York Times, then they would have seen that this was an independent act by Mr. Roof and Mr. Harrison (see Exhibit C).

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## RESPONSES TO STATEMENT OF FACTS

1. Agree.

2. Agree.

3. Agree.

4. I disagree that the Clinton campaign appearances were disrupted in South Carolina and Ohio. Mr. Roof and Mr. Harrison acted independently of the Bush/Quayle campaign and flew the banners as a message of truth concerning Governor Clinton. The plane event could only be a disruption if what was stated on the banner was an untrue statement. Governor Clinton has stated publicly that he never received a "draft notice"--which he has. Governor Clinton has also said that he used no connections to duck the draft--which he did. Governor Clinton also said that he didn't know that an uncle pulled strings to get a Naval Reserve slot--he knew this.

   - In October 1978, Clinton says that because of his willingness to be drafted, he never enjoyed an ROTC deferment. Clinton said he knew in the summer of 1969 that he was likely to be drafted and agreed in July to go into Army ROTC after he finished his Rhodes Scholarship studies. (The Pine Bluff Commercial, 10/29/78)

   - In February 1992, Clinton said "It was simply a fluke I wasn't called and there are no facts to the contrary." (Press Conference, 2/12/92)

   - In April 1992, "Faced with disclosure of the letters, the Clinton campaign acknowledged late Saturday that Clinton received a draft induction notice in 1969 before he joined the ROTC program at the University of Arkansas. The campaign said Clinton received the notice while he was at Oxford in late April, 1969." (Los Angeles Times, 4/5/92)

   - In September 1992, Clinton said "The truth is that I have told the same story all along. Maybe I haven't handled it as well as I should, but I told the same story. The facts are clear." (Brokaw Report, 9/6/92)

   In an Insight/Opinion article by Sandy Grady published Sunday, September 13, 1992 in The State newspaper (Exhibit D), it was stated that Governor Clinton received "...a passionate defense on the Senate floor from Sen. Bob Kerrey, D-Neb., who lost part of a leg in Vietnam. 'God help us if in 1992 the people who brought us the tragedy of Vietnam use it in a deceptive way to hold power,' Kerrey told Bush. 'Call off your dogs.'" That is Sen. Bob Kerrey now. What about Sen. Bob Kerrey as a candidate? What did he say then?

   Sen. Bob Kerrey has also been quoted as follows on Bill Clinton's draft record:

   - Associated Press, 2/28/92, in Florida
     "If he wanted to go into the military, he could have gone into the military, plain and simple. Had he wanted to go and serve his country, he could have."

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- "All this stuff...'I was doing this, that and the other thing, I tried to do,'that's baloney."

- UPI, 2/27/92, in Florida
  "I find myself not believing the statements that he (Clinton) made, 'Gee, I really tried to get in, but I couldn't get in,'...I just don't find those statements believable."

- Associated Press, 2/28/92, in Florida
  "Yes, I was opposed to [the Vietnam War], but that was only after spending eight months in the hospital. That's not the issue. The issue is I just don't believe Bill Clinton's story."

- Associated Press, 3/03/92, in California
  "To hide behind a high draft number it seems to me it is not a believable statement."

Sen. Kerrey in the article calls Republicans "dogs" now for stating the truth on this issue. What did he call the Democrats when they were discussing this issue in the Presidential Primary? The Democrats were the ones that first brought up this issue, not the Republicans.

5. I agree that we paid $600 for the plane to make two "fly bys" over the Clinton events in South Carolina, one on Saturday and one on Sunday at the Darlington 500. Mr. Robert Adams of the Bush/Quayle campaign advised me that Bermuda High Soaring in Lancaster, South Carolina, performed banner flying services. When The New York Times reporter contacted me, he asked me if the campaign people said, "Do you think it's a good idea?" I answered, "Yes." He then asked me what did they say exactly and I said, "I don't remember exactly what the quote was." After further reflection, I can state that Mr. Adams did not make this statement to me that "it's a good idea", and that I only answered the reporter's question directly. Then when I tried to remember exactly what he said, I could not remember exactly what he said. I would feel safe in stating at this time that I do not remember Mr. Adams trying to talk me out of my First Amendment rights once I told him that I wanted to fly the plane with the banner at the two events. Neither Mr. Adams nor the Bush/Quayle campaign specifically encouraged me to accomplish this "fly by". I did it of my own volition.

6. See attached termination letter as Bush/Quayle Finance Chairman for South Carolina. Mr. Roof has no knowledge as to whether Mr. Harrison is a member of a group called "Veterans for Bush".

7. The use of the plane and banner was an exercise of Respondents' First Amendment rights to the Constitution. The term "No Draft Dodger for President" is a true statement because I, R. Phil Roof, believe that Bill Clinton was a draft dodger.

8. Any real or perceived intensification of President Bush's re-election campaign by the Democrats is irrelevant.

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I do not believe the Clinton events were disrupted. The only people that think there was a disruption are the people that don't want to see the truth flying around the sky. I believe the Democratic Party as well as the Democrats that were running for President intensified the public assault on Governor Bill Clinton's draft record. See item 4 above with reference to Sen. Bob Kerrey's comments on Bill Clinton's draft record, then and now.

RESPONSE TO DISCUSSION

1. The statement that, "Against this background, the activities engaged in by Mr. Roof and Mr. Harrison must be deemed contributions to the Bush-Quayle campaign. Mr. Roof expressly avowed that they were designed to benefit that campaign..." I never "...expressly avowed that they were designed to benefit that campaign". I was exercising my first amendment rights--that is my prerogative. As to "...the banner's reference (however inaccurate) plainly was to be understood as an attack on President Bush's opponent", I do not understand how the Democratic Party can state that this is an inaccurate reference when the banner states "No Draft Dodger for President". That is an expressed opinion that I have. I consider Governor Bill Clinton to be a draft dodger.

2. In regard to the statement that, "Given that both Mr. Roof and Mr. Harrison are associated with the Bush-Quayle campaign...". I expressly deny that I am associated with the Bush/Quayle campaign at this time. I certify that I made this as an independent act and expenditure.

CONCLUSION

Based upon the facts as listed above, I do not consider that I have violated FECA and FEC Regulations. Over the East Carolina/South Carolina football game, someone hired a plane that said, "Bush Set the Style with the Draft with Quayle". I do not consider this to be a violation of the FEC laws and do not intend to file a complaint nor do I believe that the Republican Party would file a complaint with the FEC. I, R. Phil Roof, consider this filing of a complaint against me as personal harassment and an attack by the Democratic Party and resent the implication and accusation that I am controlled by anyone other than myself and that I do not have the right of free expression and free speech. I have presently scheduled a plane for a "fly over" of the game before the November 3rd election which will read, "No Draft Dodger for President".

It is strange that "George Stephanopoulos, communications director for the Clinton campaign, said he tried the tactic once [hiring a banner plane] when he worked for Michael S. Dukakis, the Democratic nominee in 1988." This is also noted in The New York Times article of September 9, 1992. He characterized it in the article as a "political trick". The South Carolina Democratic Party is now saying the association with this conduct is generally regarded as a dirty trick.

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I would respectfully request that I be allowed to continue to exercise my First Amendment rights to the Constitution of the United States of America, and further, that this complaint be dismissed in its entirety against the Bush/Quayle '92 General Committee, James H. Harrison and Phil Roof.

Respectfully submitted,

R. Phil Roof

Attachments

County of Richland )
) ss.
State of South Carolina )

Sworn to and subscribed before me this 2nd day of October, 1992.

Sharon B. Honeycutt
Notary Public
My Commission Expires 10/11/99.

9404356068O

STATE OF SOUTH CAROLINA )
)
COUNTY OF RICHLAND : ) AFFIDAVIT

PERSONALLY comes the undersigned, who, being duly sworn, deposes and says that:

1. R. Phil Roof personally contacted me and asked me to participate with him in hiring an airplane to fly over a Clinton campaign event carrying the banner "No Draft Dodger for President".

2. I agreed to personally participate with Mr. Roof.

3. I was not asked by the Bush Quayle campaign to participate.

James H. Harrison
James Harrison

SWORN to Before me this 2nd day of October, 1992

Barbara Elizabeth Buff (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 4-1-2001
(SEAL)

9404356068 1

EXHIBIT A

RPR & Associates, Inc.
RECEIVED
AUG 31 1992
PROJECT #
File
cc: SUPERVISIONENT
cc: T/F

Finance Division

August 25, 1992

Mr. R. Phil Roof
500 Rivermont Road
Columbia, SC 29210

Dear Phil,

We want you to know how grateful we are and, more importantly, the President is, for your efforts on behalf of the campaign. You have done a superhuman job, and you have a great deal to be proud of through your collective fundraising efforts.

You have obviously distinguished yourself as one of the top leaders of our party nationwide and are therefore on a short list of friends that the President and our party will be counting on between now and the election.

We have many other responsibilities facing us that will directly benefit the President and our entire ticket on November 3; therefore, we officially release you from your Bush-Quayle '92 responsibilities effective immediately.

Again Phil, you have our sincerest thanks and respect for a job well done.

Sincerely,

Ted

Ted Welch
General Finance Chairman

Peter

Peter Terpeluk
Finance Chairman

92 OCT -5 AM 11:29
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
9240435606682

1030 15th St. NW, Washington, DC 20005
Paid for by Bush-Quayle '92 Primary Committee, Inc.
Printed on Recycled Paper

"All the News That's Fit to Print"

# The New York Times

EXHIBIT B

National Edition

South: Georgia, Carolinas, dense morning fog, then humid, rather warm, scattered showers and thunderstorms Tennessee Valley, hot, humid. Weather map is on page B11.

VOL. CXLI ..... No. 49,084 Copyright © 1992 The New York Times WEDNESDAY, SEPTEMBER 9, 1992 Printed in Georgia 75 CENTS

**In the Background**

## Democrats Charge 'Dirty Tricks' Over Draft Issue

By RICHARD L. BERKE

Special to The New York Times

WASHINGTON, Sept. 8 — As President Bush's re-election campaign intensified its public assault on Gov. Bill Clinton's draft record today, Democrats accused their opponents of resorting to "dirty tricks" to press the issue behind the scenes.

Senator Bob Dole of Kansas, a wounded World War II veteran, took the Senate floor on behalf of the Bush campaign to denounce the Democratic Presidential nominee for telling "tall tales" about how he avoided serving in Vietnam. He went on to say: "Let me be clear — the fact that Bill Clinton avoided military service and did not go to Vietnam are not the issues here. The real issues now are trust, confidence and credibility, and on these three critical standards Bill Clinton is flunking the test."

Democratic and Clinton campaign officials, meanwhile, accused Republicans of seeking to disrupt several Clinton appearances over the past few days with a single-engine plane overhead towing a banner with the message, "No to all Dodger for President."

### Encouraged by Local Officials

Phil Roof, who was the Bush-Quayle finance chairman for South Carolina during the primaries, said in a telephone interview that he and State Representative James Harrison, a Republican, paid $600 for the plane to make two fly-bys at Clinton events. He said they were encouraged by local Bush campaign officials, who "helped me get the logistics set up."

"I'm just getting tired of everybody being pro-Clinton," said Mr. Roof, who rents space in his building to the Bush-Quayle campaign, "and I'm just getting tired of hearing all this bugwash about his draft. Bush served honorably in the service, and I want a man whose got real character."

He said he had nothing to do with another plane that flew overhead before a Clinton event in Cincinnati on Monday with a banner that read, "Draft Dodger."

Carol Darr, a lawyer for the Democratic National Committee, said the planes exemplified underhanded campaign tactics.

"It's self-evidently a dirty trick," she said. "If it weren't a dirty trick they wouldn't try to hide it by having a state rep do it."

Ms. Darr acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incidents.

> A question about Clinton that will not die.

In another example that Democrats cite as demonstrating how far Republicans will go to attack Mr. Clinton as they try to hold on to their Southern base, a newsletter being distributed in Alabama seeks to ridicule Mr. Clinton and his family.

The newsletter, produced by the Greater Birmingham Young Republicans, includes a picture of Mr. Clinton, his wife, Hillary, and their daughter, Chelsea, on the podium at the Democratic convention with Reggie Jackson, a 12-year-old black boy who sang "America the Beautiful."

The heading under the photograph reads, "Future Shock." The caption says: "In case you've read through this entire newsletter and still aren't convinced that this election is most important, take a look at this photograph and tell me you can handle this family as the First Family. Does not daughter Chelsea (named after the 60's Judy Collins hit folk song 'Chelsea Morning') remind you just a little too much of the last Democratic First Daughter we had, Amy Carter?"

And, referring to the young singer, the caption goes on: "And who is the short fellow with the bow tie? Perhaps it's because I'm biased, certainly, but there's just something non-Presidential about this whole Clinton family. Arkansas may deserve this, but not the nation!"

### Racial Slant Is Denied

The leaflet was put out by Joseph Sanders, a local Republican worker, who said in an interview with The Boston Globe that no racial slant was intended.

Mr. Clinton said the flyer was "typical of the politics of fear and division promoted by the Bush-Quayle Administration, campaign and convention in Houston."

Richard Dent, the Alabama spokesman for the Clinton-Gore campaign, said the flyer "just shows how low and slimy the Republicans in this state will sink to get a vote."

Asked whether he would endorse or disavow the leaflet and the plane flights, Rich Bond, the Republican national chairman, said through a spokesman that he had no comment.

Such campaign tactics are not new, and Democrats, too, have pulled their share of stunts to put a negative spotlight on their opponents. Even as he criticized the Republicans today for a "political trick" in sending the plane over Clinton events, George Stephanopoulos, communications director for the Clinton campaign, said he tried the tactic once when he worked for Michael S. Dukakis, the Democratic nominee in 1988.

He recalled that as Bush was delivering a speech at Boston Harbor about Mr. Dukakis's environmental record, the Democratic campaign hired a plane with a banner that read "something like, 'Bush Equals Toxic Waste.'"

The Democrats also accused Republicans of spreading false information about a Clinton rally last Saturday at the University of South Carolina in Columbia. The South Carolina Young Democrats had distributed a flyer saying the rally would take place from 3:30 P.M. to 5 P.M. but the Democrats found that on the morning of the event, other people on campus were distributing a look-alike flyer falsely saying that the event would be held from 5:30 P.M. to 7 P.M.

Democratic officials said they caught on to the trick and were able to alert Clinton backers on campus.

The speech today by Mr. Dole, the Senate minority leader, came as the Bush campaign has been steadily building the sharpness and frequency of its attacks on Mr. Clinton over the draft. Republican strategists said the issue was certain to find its way into the Bush campaign's political advertising.

Mr. Dole introduced into the Senate record a thick sheaf of documents compiled by the Bush campaign listing conflicting statements, purportedly by Mr. Clinton, on the draft dating to 1978. He said Mr. Clinton should "come clean."

In his speech Senator Dole said Mr. Clinton should make a major public statement to clear the record. "If in this time of personal political crisis, if it amounts to making your own 'Checkers speech' so be it," Mr. Dole said, referring to Richard M. Nixon's 1952 apologia as the Republican Vice-Presidential nominee. "And if it means holding a no-holds-barred news conference, so be it."

## Wild for Harry, But Not in '48

Special to The New York Times

WASHINGTON, Sept. 8 — George Bush is campaigning against Congress as Harry S. Truman did. He is promising a come-from-behind victory like the one Harry S. Truman staged in 1948. He invokes the spirit and oratory of Harry S. Truman in almost every speech.

But his challenger, Gov. Bill Clinton, says the President is leaving something out of his Trumanesque performance: In the famous 1948 election, Mr. Bush voted for Mr. Truman's opponent, Gov. Thomas Dewey of New York.

"George Bush cast his first vote against Harry Truman and he has spent four years fighting against everything that Harry Truman fought for," Mr. Clinton said in campaign speech over the weekend. "And we won't let him forget it in the last eight weeks of this race."

Mr. Bush has acknowledged that he didn't vote for Truman. And anyway, said the Bush campaign spokeswoman, Torie Clarke, the President's voting record of 44 years ago is relatively unimportant. "I think the American people will decide in November who is more like the good side of Harry Truman," she said today. "And that man is George Bush."

EXHIBIT C

The State

Thursday
September 10, 1992
Columbia, South Carolina
101st Year — No. 254
4 sections — 52 pages

**The right clothes for school**
Big, baggy and bright are musts. 1D

**Yount hits 3,000**
He's 17th player to reach mark. 1C

**More of same**
Some sunshine, small chance of thunderstorms. Highs about 90, lows in the upper 60s. 2A



# GOP playing dirty, Democrats charge

By JEFF MILLER
Staff Writer

South Carolina Democrats accused the Bush campaign of race-baiting and dirty tricks Wednesday, and Gov. Carroll Campbell apologized for one attack involving Camden youth Reggie Jackson.

The Democrats cited a newsletter distributed by Alabama Republicans that included a picture of Reggie standing with presidential candidate Bill Clinton and his family at the Democratic National Convention in July. The black youth was invited by Clinton to sing "America the Beautiful."

The caption asks, "And who is the short fellow with the bow tie? Perhaps it's because I'm biased, certainly, but there's just something non-presidential about this whole Clinton family. Arkansas may deserve this, but not the nation!"

The Democrats also cited:

■ News reports that Richland Rep. Jim Harrison and Phil Roof, a former finance chairman for Bush-Quayle, paid for the airplane that buzzed Clinton stops in Columbia and Darlington over Labor Day weekend dragging a sign calling the candidate a draft dodger.

■ Accusations that Republicans distributed fliers on the University of South Carolina campus giving the wrong time for Clinton's rally Saturday at the State House. Democrats said they plan to file a complaint with the Federal Election Commission.

"They hope that these sleazy attacks will get us to divert our attention from the real issues of this campaign," said Heyward Bannister, Clinton's state campaign manager. "You can forget it. It won't work anymore."

The Bush campaign said it had nothing to do with the incidents.

"Who's throwing the mud? Not us," said Hobert Adams, state director for Bush. "They're screaming foul on this draft issue because they want it to go away."

The newsletter distributed by the Greater Birmingham Young Republicans included a picture of the 12-year-old Reggie with Clinton, his wife Hillary and daughter Chelsea, all of whom are white. Reggie was asked to sing at the convention after Clinton heard him on an earlier trip through Camden.

"Certainly this time they have gone too far, and every American should be outraged at the effort to make Reggie Jackson the latest victim of pure, unadulterated race-baiting," said Sen. Isadore Lourie, a state campaign chairman for Clinton.

Lourie demanded an apology from the Bush campaign and Campbell, its Southern chairman.

Campbell called Reggie at home Wednesday afternoon, a spokesman said. Mark Campbell said the governor "had absolutely no knowledge of this and considers it an outrage."

Reggie spent a normal day at school unaware of the national attention he was receiving. He said he tries to avoid watching negative stories about politics on television, particularly those that attack Clinton.

"They're just going to bring up more things to try to bring him down, so I don't even listen," Reggie said in an interview before the governor called him. "I know there is going to be a lot of conflict with the Democrats and Republicans, so I try not to follow it too much."

Reggie said he won't let the partisan attack dim his positive memories of performing in New York.

Clinton supporters, however, said at a news conference that the incident is an example of the dirty tricks Republicans are trying to keep voters from concentrating on the real issue of the campaign, such as the economy.

Fifth Circuit Solicitor Dick Harpootlian said that even though the Bush campaign isn't directly responsible for the contents of the newsletter, it's still accountable.

"The connection is that the Republicans continue to use race as an issue to define their national priorities," Harpootlian said. "This is just the latest example of it. Rod Shealy saw it as a way to turn out voters. And George Bush saw it 3½ years ago as the critical issue to try to divide this country."

Harpootlian successfully prosecuted Shealy, who paid a black candidate to enter a congressional race in the hope it would boost white turnout when his sister, Sherry Martschink, ran for lieutenant governor in 1990.

Adams said he doesn't condone what the Alabama group did, but he sees nothing wrong with the attempt by Harrison and Roof to keep Clinton's draft problems in the public eye.

Roof, a Vietnam veteran, and Harrison, a member of the National Guard, both said they hired the plane on their own. "I thought it would send him a message that we people here in South Carolina don't like draft dodgers," Roof said.

He said the flybys in no way represented dirty politics.

"It reflected fact," Roof said. "I say it's calling a spade a spade. It's telling it like it is. He manipulated the system to not go into the military."

As for the fliers on the USC campus, Adams said, "The Democrats could have printed that thing just as easily as Republicans could have."

Lourie said denials from the Bush camp, however, aren't enough. "This wink and nod continues the real tactics of smear, hate and divisiveness," he said.

Staff writers Warren Bolton and Nita Brook contributed to this report.

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# It's time for Clinton to own up about the draft

WASHINGTON

In his Great Healer mode as he stood on the Capitol steps making his inaugural speech in 1989, George Bush slammed the history books on the Vietnam War.

"That war cleaves to us still," said Bush. "But, friends, that war began in earnest a quarter of a century ago. Surely the statute of limitations has been reached. No great nation can long afford to be sundered by a memory."

Goodbye, Vietnam War, right, Mr. President?

Wrong. Bush has revoked that statute of limitations on Vietnam memory until — well, until November 1992 slides past.

Desperate to jerk attention from the economy and to mount a comeback, Bush and campaign confederates are making Bill Clinton's doublespeak on his Vietnam draft behavior their breakout counterattack.

They want to turn Clinton's draft record into the Willie Horton of '92.

Same battering-ram technique Bush & Co. used four years ago against Michael Dukakis — daily hammering on a "character issue" through TV ads, surrogates and sound bites until the opponent is defined as an untrustworthy bum.

Already the "Hortonizing" of Clinton's sitout of the Vietnam War and consequent memory lapses is churning full blast.

Those planes flying "NO DRAFT DODGER FOR PRESIDENT" banners over Clinton appearances didn't magically appear. South Carolina Republicans put up $600 for the overflights.

Dan Quayle, who sat out Vietnam in an Indiana National Guard billet, misses no chance to intone, "Bill Clinton should come clean."

**Sandy Grady**

Pat Buchanan, who fought the war from Nixon White House barricades, told the Republican convention, "When Bill Clinton's turn came, he sat up in a dormitory in Oxford, England, and figured how to dodge the draft."

Sen. Bob Dole, R-Kan., wounded in World War II, excoriates Clinton for "inconsistencies he can't duck."

And, of course, Bush, as he did at the Houston convention, dramatizes his role as pilot in the Last Good War. Next will come TV ads with split-screen contrasts of Bush's 1945 heroics against Clinton's Vietnam evasions. The predictable kicker: "Who Do You Trust as Commander in Chief?"

OK, a fair, tough question. And the chorus against Clinton's Vietnam misadventure — engineered by Jim Baker who presided over the Horton slashing of '88 — is shrewd politics by a Bush campaign with its back to the wall.

As patsy for this draft-dodger caricature, Bill Clinton has only himself to blame.

Not the idealistic, anti-war young Clinton of 1969, but the ambitious pol of 1992 who's backpedaled, jived and juked until his Vietnam experience is a damning cloud.

Skip the hypocrisy of Republican outrage. Never mind the Bush-Quayle bigshots of Clinton's age who avoided the draft through student deferments: Defense Secretary Dick Cheney, Republican chairman Rich Bond, top Bush strategist Charles Black, hawkish Rep. Newt Gingrich, R-Ga., and Sen. Phil Gramm, R-Texas. Bush's son George, like Quayle, joined the National Guard. Buchanan was 4-F.

Considering their noisy disapproval of Clinton, call them "chickenhawks." Like them, Clinton did nothing illegal to duck the draft. Anyone who lived through the late '60s turmoil — I had two college-age sons, neither of whom had to go to Vietnam — can empathize with Clinton's torment and the route he took.

But Clinton's impaled on the hook of Vietnam amnesia. He's got the worst memory since Ronald Reagan's. Clinton said he never received a draft notice. (He had.) He said he used no connections to duck the draft. (He did.) Only last week he said he didn't know an uncle pulled strings to get a naval reserve slot. (He'd known.)

This damaging mishmash crystalizes Clinton's weakness as a politician with such a fierce drive to be approved that he'll shade his own life story. No wonder the Bush crew gloatingly repeats their mantra, "Who do you trust?"

Sure, only 16 percent tell an NBC/*Wall Street Journal* poll they care about Clinton's draft record. The economy is such an overwhelming blight, most voters don't give a damn what Clinton did 23 years ago. I doubt a clever TV blitz against Clinton's draft squishiness will stop Bush's bleeding.

But what about the baggage of potential President Clinton?

Sure, Clinton got a passionate defense on the Senate floor from Sen. Bob Kerrey, D-Neb., who lost part of a leg in Vietnam. "God help us if in 1992 the people who brought us the tragedy of Vietnam use it in a deceptive way to hold power," Kerrey told Bush. "Call off your dogs."

And sure, Clinton made a stab at honesty before an American Legion convention. "I won't lie to you. I was relieved when I saw my (draft) number was 311. Not because I didn't want to serve my country, but because I believed so strongly our policy in Vietnam was wrong. I still believe that."

That's a start. But if Clinton's to shake his Vietnam ghost, he needs to buy a chunk of TV time and level with the country. For once I agree with Dan Quayle.

Come clean, Bill, for the sake of the office you seem destined to win.

*Mr. Grady writes for the Philadelphia Daily News.*

EXHIBIT D

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FEDERAL ELECTION
COMMISSION
MAIL ROOM

OCT 14 11 54 AM '92

# RPR

RPR & Associates, Inc.
General Contractor

Post Office Box 11348 - Columbia, S.C. 29211 - 803-799-1601
500 Rivermont Road - Columbia, S.C. 29210 - RPR Fax 803-779-0720

October 12, 1992

~~FAX LETTER~~

Mr. Jonathan M. Burnstein
Assistant General Counsel
Federal Election Commission
Washington, DC 20463

RE: MUR 3608

Dear Mr. Burnstein:

Please be advised that I wish the above-referenced matter be made public. I also advise you that I do not intend to be represented by counsel in this matter and that I prepared the response recently sent to you.

Thank you very much

Yours very truly,

**RPR & ASSOCIATES, INC.**

R. Phil Roof
President

RPR/jmh

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FEDERAL ELECTION COMMISSION
LEGAL

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OGC 6970

J. Stanley Huckaby
Treasurer
(202) 336-7300

92OCT 19 PM 2:45
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE

October 19, 1992

**HAND DELIVERED**

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

RE: MUR 3608 -- Bush - Quayle '92 General Committee, Inc. and J. Stanley Huckaby, Treasurer

Dear Mr. Noble:

This letter constitutes the Response of Bush - Quayle '92 General Committee, Inc. ("Bush - Quayle '92") and its Treasurer, J. Stanley Huckaby (collectively "Respondents"), to the Complaint filed with the Federal Election Commission ("FEC" or the "Commission") by the South Carolina Democratic Party ("Complainant"). Respondents received the Complaint on September 17, 1992 and on September 28, 1992 were granted an extension of 15 days to file this Response.

Complainant alleges that James H. Harrison and Phil Roof hired a single engine plane that made repeated fly-bys with an "anti-Clinton" message in tow at events sponsored by the campaign of Bill Clinton in South Carolina. Complainant further alleges that these activities were encouraged and assisted by officials of the Bush - Quayle campaign, and as such were in violation of 2 U.S.C. §§ 441a(b) and 441a(f), and 11 C.F.R. § 9003.1.

**Statement of Facts**

According to The New York Times article upon which the Complainant bases its Complaint, Phil Roof, a Vietnam Era Veteran, and James H. Harrison, a Desert Storm Veteran, chartered a single engine plane that flew over a South Carolina Clinton campaign appearance on September 9, 1992, towing a banner that read "No Draft Dodger for President". The banner contained no direct reference to Clinton.

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While the Complainant uses The New York Times article to infer that the activity of Roof and Harrison was with the cooperation, consent of, in consultation with, or at the request or suggestion of the Bush - Quayle '92 campaign, it offers no evidence to document its inference. Indeed, the same article which Complainant uses to challenge the independent action of Roof and Harrison, exonerates Bush - Quayle '92, stating that Carol Darr, a lawyer for the Democratic National Committee, "acknowledged that she had no evidence that the Republican Party or **the Bush campaign** was behind the airplane incidents".

**Discussion**

For the expenditure made by Roof and Harrison to be governed by the Federal Election Campaign Act of 1971, as amended (the "Act"), it must depict a clearly identified candidate and convey an electioneering message. See 2 U.S.C. §§ 431(8)(A)(i), 431(9)(A)(i), and Advisory Opinion 1978-46, Fed. Election Camp. Fin. Guide (CCH) ¶5348 (September 5, 1978). Under the Act and regulations, a candidate is clearly identified if his or her name or likeness appears or if his or her identity is apparent by unambiguous reference. 2 U.S.C. § 431(18) and 11 C.F.R. § 106.1(d). Electioneering messages include statements "designed to urge the public to elect a certain candidate or party". United States v. United Auto Workers, 352 U.S. 567, 587 (1957), Advisory Opinion 1984-62, Fed. Election Camp. Fin. Guide (CCH) ¶5813 (March 21, 1985).

While it is true that Clinton was able to avoid the draft during the Vietnam era by, first, committing to join a University of Arkansas ROTC program from which he later withdrew, and second, drawing a high lottery number in December 1969, there is question as to whether the banner containing the phrase "No Draft Dodger for President" was an **"unambiguous reference"** to Bill Clinton. Through the filing of this Complaint, the Complainant is taking the position that the term "Draft Dodger" is an unambiguous reference to Bill Clinton.

Even based on Complainant's admission that the term "Draft Dodger" was an unambiguous reference to Clinton, the activities of Roof and Harrison do not constitute a contribution to Bush - Quayle '92. The expenditure was an outward expression by two veterans of a preference for the type of person they do not wish to see as the Commander-in-Chief. The activity of Roof and Harrison was not conducted with any type of cooperation, consent of, in consultation with, or at the request or suggestion of the Bush - Quayle '92 campaign. The Complainant offers no evidence to document its charges. In fact, the same article used by the Complainant to

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level this charge against Respondents, exonerates Bush - Quayle '92 by Ms. Darr's acknowledgment "that she had no evidence that the Republican Party or **the Bush campaign** was behind the airplane incidents".

**Conclusion**

The Complaint fails to state a violation of any statute or regulation under the jurisdiction of the Commission. Respondents respectfully request that the General Counsel recommend to the Commission that it find no reason to believe that a violation has occurred, and that this matter be promptly closed.

Respectfully submitted,

J. Stanley Huckaby

**Verification**

The undersigned swears that the facts set forth in this response are true to the best of his knowledge, information, and belief.

J. Stanley Huckaby

Subscribed and sworn before me this 19 day of October, 1992.

Lisa Rogers

Notary Public

My Commission in VA expires 9/30/95.

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SECRETARIAT
92 OCT 14 PM 3:49

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 14, 1992

**SENSITIVE**

**MEMORANDUM**

**TO:** The Commission

**FROM:** Lawrence M. Noble
General Counsel

**BY:** Lois G. Lerner
Associate General Counsel

**SUBJECT:** MUR 3608-Bush/Quayle '92 General Committee and J. Stanley Huckaby, as treasurer, James H. Harrison, and Phil Roof

## I. BACKGROUND

On September 15, 1992, the South Carolina Democratic Party filed a complaint alleging that the Bush/Quayle '92 General Committee ("Committee") and J. Stanley Huckaby, as treasurer, James H. Harrison, and Phil Roof violated the Federal Election Campaign Act of 1971, as amended ("the Act") as well as the Commission's regulations. These allegations were based on an article appearing in The New York Times on September 9, 1992. The article detailed a single engine plane towing a banner reading "No Draft Dodger for President" making fly-bys at Bill Clinton campaign appearances in South Carolina. In the article, Messrs. Harrison and Roof admit to paying $600 to arrange the flights. Mr. Harrison states that they were encouraged by local Bush campaign officials who "helped me get the logistics set up." The complaint asks the Commission to make a finding that Messrs. Harrison and Roof made an in-kind contribution to the Bush/Quayle Campaign and that the Campaign's encouragement of such contributions violate the Act and the Commission's regulations. Furthermore, the complaint asks that the Commission order the Bush/Quayle campaign, from its general election campaign fund, repay Messrs. Harrison and Roof the value of the alleged contribution. Finally, the complaint requests that the Commission seek injunctive relief under 26 U.S.C. § 9010(c) to "further prevent the Bush-Quayle campaign, Mr. Roof and Mr. Harrison from further violations of the FECA and the FEC's regulations.

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## II. LEGAL AND FACTUAL ANALYSIS

The Commission is empowered to initiate a civil suit for injunctive relief if it is unable to correct or prevent a violation of the Act. 2 U.S.C. §§ 437d(a)(6) and 437g(a)(6). In addition, the Fund Act provides that the Commission is authorized to seek any declaratory or injunctive relief "concerning any civil matter covered by the provisions of this subtitle or section 6096." The procedure for pursuing that immediate remedy is problematic since the Commission must normally wait 15 days before it takes action on a complaint. 2 U.S.C. § 437g(a)(1).

In considering whether injunctive relief should be sought, the Commission has used the criteria for obtaining a preliminary injunction as the appropriate standard. This standard examines the requested relief in these terms:

(1) whether there is a substantial likelihood that a violation of the Act has or is about to occur;

(2) whether the failure by the Commission to obtain an injunction will result in irreparable harm to the complainant or some other party;

(3) whether the injunctive relief will not result in undue harm or prejudice to the interests of other persons; and

(4) whether the public interest would be served by such injunctive relief.

## III. DISCUSSION

On September 28, 1992, this Office received a request for a 15 day extension of time from counsel for the Bush/Quayle Committee. Counsel cited the time required to conduct a field investigation regarding the complaint. On October 5, 1992, this Office received a response from Mr. Harrison stating that he was "not asked by the Bush Quayle campaign to participate." Attachment 1. The determination as to whether a substantial violation of the Act has occurred will require a response from the Committee as well as further analysis. Moreover, an investigation to resolve important facts may also be required. Thus, it is not clear that the first standard for injunctive relief has been met. Furthermore, this Office does not believe that the remaining three criteria are met as well. Therefore, this Office recommends that the Commission decline at this time to seek injunctive relief versus any of the respondents in this matter.

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## IV. RECOMMENDATIONS

1. Decline at this time to seek injunctive relief.

2. Approve the appropriate letters.

Attachment
Response of James Harrison

Staff assigned: Jonathan A. Bernstein, Richard M. Zanfardino

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | | |
| Bush-Quayle '92 General Committee and J. Stanley Huckaby, as treasurer, James H. Harrison, and Phil Roof. | ) | MUR 3608 |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 19, 1992, the Commission decided by a vote of 6-0 to take the following actions in MUR 3608:

1. Decline at this time to seek injunctive relief.
2. Approve the appropriate letters, as recommended in the General Counsel's Report dated October 14, 1992.

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

Attest:

10-20-92
Date

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

Received in the Secretariat: Wed., October 14, 1992 3:49 p.m.
Circulated to the Commission: Wed., October 14, 1992 4:00 p.m.
Deadline for vote: Mon., October 19, 1992 4:00 p.m.

dr

2404356069 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992

Albert McAlister
South Carolina Democratic Party
2730 Devine St.
Columbia, SC 29205

RE: MUR 3608

Dear Mr. McAlister:

On September 15, 1992, the Federal Election Commission received your letter alleging that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, Phil Roof, and James H. Harrison ("Respondents") violated the Federal Election Campaign Act of 1971, as amended.

Your letter seeks injunctive relief to prevent the Respondents from continuing to engage in the allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny your request at this juncture. The Commission will notify you at such time when the entire file is closed in this matter.

If you have any questions, please contact Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404356069 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992

James H. Harrison
4210 Wilmont
Columbia, S.C. 29205

RE: MUR 3608

Dear Mr. Harrison:

On September 16, 1992, the Federal Election Commission notified you of a complaint alleging that you violated certain sections of the Federal Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

The complainant seeks injunctive relief to prevent you from continuing to engage in allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny the complainant's request for injunctive relief at this juncture. The Commission will nonetheless proceed with the processing of the complaint pursuant to 2 U.S.C. § 437g(a).

If you have any further questions, please contact Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404356069 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992

Phil Roof
P.O. Box 11348
Columbia, S.C. 29211

RE: MUR 3608

Dear Mr. Roof:

On September 16, 1992, the Federal Election Commission notified you of a complaint alleging that you violated certain sections of the Federal Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

The complainant seeks injunctive relief to prevent you from continuing to engage in allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny the complainant's request for injunctive relief at this juncture. The Commission will nonetheless proceed with the processing of the complaint pursuant to 2 U.S.C. § 437g(a).

If you have any further questions, please contact Richard M. Zanfardino, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9404356069 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992

Richard D. Holcomb, Deputy General Counsel
Bush-Quayle '92 General Committee, Inc.
1030 15th St., NW
Washington, D.C. 20005

RE: MUR 3608
Bush-Quayle '92 General
Committee, Inc., and
J. Stanley Huckaby, as
treasurer

Dear Mr. Holcomb:

On September 16, 1992, the Federal Election Commission notified the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("Committee") of a complaint alleging that the Committee violated certain sections of the Federal Campaign Act of 1971, as amended. A copy of the complaint was forwarded to Mr. Huckaby at that time.

The complainant seeks injunctive relief to prevent the Committee from continuing to engage in allegedly improper activity. At this time there is insufficient evidence to warrant the Commission's seeking such relief. Accordingly, the Commission has decided to deny the complainant's request for injunctive relief at this juncture. The Commission will nonetheless proceed with the processing of the complaint pursuant to 2 U.S.C. § 437g(a).

If you have any further questions, please contact Richard M. Zanfardino, the staff member 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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SECRETARIAT
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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 30, 1992 **SENSITIVE**

**MEMORANDUM**

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3608
Waiver of Confidentiality

On October 6, 1992, R. Phil Roof submitted a waiver of confidentiality regarding this MUR. This Office has not received any such waiver from the remaining respondents in this matter. The waiver of confidentiality would pertain solely to the information in this MUR concerning Mr. Roof.

By making this waiver, Mr. Roof has requested that the Commission not apply the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) to this matter. However, that section merely provides that any notification or investigation shall not be made public by the Commission without the written consent of the person receiving such notification or the person with respect to whom such investigation is made. By its terms, Section 437g(a)(12)(A) does not impose an affirmative duty on the Commission to publicize this matter at this time as it pertains to Mr. Roof. Therefore, this Office will respond to requests for information subject to the following considerations. First, requests must be in writing. Second, such requests would be considered by the Commission subject to the provisions of the Freedom of Information Act, the Government in the Sunshine Act, and all relevant privileges which would limit or preclude the release of such requested information.

**RECOMMENDATION**

1. Approve the attached letter.

Attachments
1. Waiver
2. Letter

9404356069 8

BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| R. Phil Roof. | ) | MUR 3608 |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 4, 1992, the Commission decided by a vote of 6-0 to approve the letter, as recommended in the General Counsel's Memorandum dated October 30, 1992.

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

Attest:

11-4-92
Date

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

| | | |
|---|---|---|
| Received in the Secretariat: | Fri., Oct. 30, 1992 | 9:48 a.m. |
| Circulated to the Commission: | Fri., Oct. 30, 1992 | 12:00 p.m. |
| Deadline for vote: | Wed., Nov. 04, 1992 | 4:00 p.m. |

bjr

9 4 0 4 3 5 6 0 6 9 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 10, 1992

R. Phil Roof
RPR & Associates
P.O. Box 11348
Columbia, S.C. 29211

RE: MUR 3608

Dear Mr. Roof:

This is in response to your letter dated October 12, 1992, wherein you waive your right to confidentiality in the above-captioned matter, pursuant to 2 U.S.C. § 437g(a)(12)(A). The waiver is hereby acknowledged by the Federal Election Commission.

The Commission will consider requests for information concerning this matter subject to the following considerations. First, requests must be in writing. Second, such requests will be considered by the Commission subject to the provisions of the Freedom of Information Act, the Government in Sunshine Act, and all relevant privileges which limit or preclude the release of such requested information.

Please note that this waiver pertains to information concerning you alone, and does not pertain to any other respondents in this matter. Thus, you may not disclose any information pertaining to the other respondents in this matter until notified by the Commission that the entire file in this matter is closed.

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

Sincerely,

Tony Buckley
Attorney

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RECEIVED
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SECRETARIAT
93 OCT 18 AM 10:40

**SENSITIVE**

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

**FIRST GENERAL COUNSEL'S REPORT**

**MUR # 3608**
**DATE COMPLAINT RECEIVED BY OGC:** September 15, 1992
**DATE OF NOTIFICATION TO RESPONDENTS:** September 16, 1992
**STAFF MEMBER:** Tony Buckley

**COMPLAINANT:** South Carolina Democratic Party

**RESPONDENTS:** Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

James H. Harrison

Phil Roof

**RELEVANT STATUTES:** 2 U.S.C. § 434(b)(3)(A)
2 U.S.C. § 434(b)(5)(A)
26 U.S.C. § 9002(11)(A)(iii)
26 U.S.C. § 9002(11)(C)
26 U.S.C. § 9003(b)(2)

**INTERNAL REPORTS CHECKED:** Disclosure Reports

**FEDERAL AGENCIES CHECKED:** None

## I. GENERATION OF MATTER

The South Carolina Democratic Party filed a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Committee"), James H. Harrison and Phil Roof. The complaint alleges that Messrs. Roof and Harrison paid for an airplane to fly over rallies

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on behalf of Democratic presidential candidate Bill Clinton, trailing banners which read "No Draft Dodger for President." The complaint further alleges that officials of the Committee encouraged and assisted in these activities.[1] The activity which gave rise to the complaint occurred during the first week of September 1992. The complaint was based on a New York Times article, which quoted Mr. Roof as stating that local Bush campaign officials "helped me get the logistics set up." See Berke, "Democrats Charge 'Dirty Tricks' Over Draft Issue," N.Y. Times, Sept. 9, 1992.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Applicable Law

Pursuant to 26 U.S.C. § 9003(b)(2), in order to be eligible to receive payments from the Presidential Election Campaign Fund, the candidates of a major party in a presidential election shall certify to the Commission that neither they nor their authorized campaign committees will accept contributions to defray qualified campaign expenses. President George Bush and Vice President Dan Quayle submitted this certification to the Commission on August 20, 1992. See Memorandum from Assistant Staff Director, Audit Division dated August 21, 1992.

Pursuant to 26 U.S.C. § 9002(11)(A)(iii), the term "qualified campaign expense" includes an expense incurred by an authorized

1. The complaint also sought injunctive relief to prevent respondents from committing further violations of the Act and the Commission's regulations. On October 19, 1992, the Commission declined to seek such relief.

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committee of the candidates of a political party for President and Vice President, to further the election of either or both of such candidates to such offices, and which is incurred within the expenditure report period. An expense is incurred by an authorized committee if it is incurred by a person authorized by such committee to incur such expense on behalf of such committee. See 26 U.S.C. § 9002(11)(C). For purposes of the Committee, the "expenditure reporting period" ran from August 21, 1992 to December 2, 1992. See 26 U.S.C. § 9002(12)(A).

An independent expenditure is an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. See 11 C.F.R. § 109.1(a). Such an expenditure is "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate" if it involves any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. See 11 C.F.R. 109.1(b)(4)(i). An expenditure will be presumed to be so made when it is based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents,

9404356070 3

with a view toward having an expenditure made; or it is made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, or the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(A), (B). Pursuant to 11 C.F.R. 109.1(c), an expenditure not qualifying as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

Pursuant to 2 U.S.C. § 434(b)(3)(A), a political committee's periodic report of receipts and disbursements shall contain the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contributions have an aggregate amount or value in excess of $200 within the calendar year. Pursuant to 2 U.S.C. § 434(b)(5)(A), each report shall also contain the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

Pursuant to 2 U.S.C. § 441d(a)(2), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly defined

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candidate, if such communication is paid for by other persons but is authorized by the authorized political committee of a candidate, or its agents, that communication shall clearly state that it is paid for by such other persons and is authorized by such authorized political committee.

**B. Substance of Responses**

In response to the complaint, Mr. Roof states that he and Mr. Harrison "paid $600 for the plane to make two 'fly bys' over the Clinton events in South Carolina, one on Saturday and one on Sunday at the Darlington 500." Attachment 1 at 4. He further states that the expenditures to hire the airplane were made "neither 'on behalf of . . .' nor '. . . in concert with -- the Bush/Quayle campaign'," and that he sent a personal check to the person hired to fly the banner and that the check "was funded in no manner, directly or indirectly, by the Bush/Quayle campaign." Id. at 2. Mr. Roof denies that his acts "were part of any conspiracy of the campaign. I did this on a personal basis without anyone from [the Committee] directing me to do so." He also claims that "I made this as an independent act and expenditure." Id.

Mr. Roof does acknowledge, however, that he served as Bush/Quayle Finance Chairman for South Carolina until August 25, 1992. Id. Also, he states that "Mr. Robert Adams of the

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Bush/Quayle campaign advised me that Bermuda High Soaring in Lancaster, South Carolina, performed banner flying services." Id. at 4. Robert Adams is identified in a newspaper article attached to Mr. Roof's response as "state director for Bush." Id. at 10. The Audit Division has confirmed that Robert Adams was employed by the Committee.[2]

Mr. Harrison states that Mr. Roof personally contacted him and asked him to participate with Mr. Roof in hiring the airplane. Id. at 7. Mr. Harrison further states that he agreed to personally participate and was not asked by the Committee to participate. Id.

The Committee, through its treasurer, states that "[t]he activity of Roof and Harrison was not conducted with any type of cooperation, consent of, in consultation with, or at the request or suggestion of" the Committee. Attachment 2 at 2.

**C. Analysis**

The responses of Mr. Roof and the Committee, to the extent they disavow any consultation or coordination, are inconsistent with certain statements made by Mr. Roof. These statements, and other evidence, suggest that the hiring of the airplane was not an independent expenditure by Messrs. Roof and Harrison.

First, there is the statement, under oath, by Mr. Roof that he told Mr. Adams he wanted to fly a plane with the banner at the

2. Mr. Adams was employed by the Bush/Quayle '92 Primary Committee from January 16, 1992 through March 15, 1992, and by the Bush/Quayle '92 General Committee from August 20, 1992 through November 5, 1992.

9404356070 6

two events and that Mr. Adams advised him as to who could provide the banner flying services. Attachment 1 at 4. Consistently, Mr. Roof is quoted in the New York Times article as stating that campaign officials helped him get the logistics set up. Id. at 9. The Committee's conclusory denial of any coordination does not specifically refute the latter statement. Attachment 2 at 2. If Roof's sworn and reported admission is true, his informing an agent of the Committee about his planned activity, and his receipt of suggestions from that agent about how to carry out that activity, are evidence of direct "coordination" with the campaign. See 11 C.F.R. § 109.1(b)(4)(i).[3]

In addition to the evidence of direct coordination between Mr. Roof and the Committee, other factors presume coordination. Indeed, all three factors enumerated at section 109.1(b)(4)(i)(B), based upon which coordination is presumed, appear applicable here.

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3. In response to the New York Times article, Mr. Roof states that

> [w]hen The New York Times reporter contacted me, he asked me if the campaign people said, "Do you think it is a good idea?" I answered, "Yes." He then asked what did they say exactly and I said, "I don't remember exactly what the quote was." After further reflection, I can state that Mr. Adams did not make this statement to me that "it's a good idea", and that I only answered the reporter's question directly.

Id. at 4. However, Mr. Roof's statement does not contradict his own reported assertion that campaign officials helped him get the logistics set up.

Specifically, Mr. Roof served as Finance Chairman for the Committee, Mr. Roof's duties as Finance Chairman included raising funds for the Committee[4], and Mr. Roof received payments from the Committee.[5]

Because there appears to have been coordination between Mr. Roof and the campaign, the expenditure at issue is treated as an in-kind contribution by Messrs. Roof and Harrison to the Committee, and an expenditure by the Committee. See 11 C.F.R. § 109.1(c). Such an expenditure is properly treated as a qualified campaign expenditure. See Statement of Reasons

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4. Mr. Roof attached to his response an August 25, 1992 letter to him from the Committee, releasing him from his responsibilities. That letter acknowledges his "collective fundraising efforts." Attachment 1 at 8.

5. The Audit Division has tracked the following payments by the Committee (and its predecessor, the Bush/Quayle '92 Primary Committee), to Mr. Roof's company, RPR and Associates, Inc.:

| Date | Amount |
|---|---|
| 02-20-92 | $ 836.06 |
| 03-03-92 | $2,592.20 |
| 04-24-92 | $ 58.00 |
| 05-12-92 | $ 188.50 |
| 08-25-92 | $ 10.00 |
| 10-01-92 | $1,125.00 |

Based on documents obtained by the Audit Division, it appears that the payments of $836.06 and $1,125.00 related to space rented by Mr. Roof to the Primary Committee and the General Committee, respectively. These same documents reveal that the space rented to the Committee by Mr. Roof had the same address as Mr. Roof's place of business. Thus, it appears that Mr. Roof would have been in constant contact with campaign officials, even though he may not have been officially employed by the Committee.

9404356070 8

Supporting the Final Repayment Determination of the Dole for President Committee, Inc. at 23-25.[6]

Accordingly, this Office recommends that the Commission find reason to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) by accepting a contribution in contravention of its Presidential Election Campaign Fund certification. Additionally, because the Committee failed to report its receipt of this in-kind contribution and failed to report this in-kind contribution as an expenditure, this Office further recommends that the Commission find reason to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).[7]

For several reasons, the importance of this matter transcends the modest amount of money ($600) apparently involved. First, by coordinating with Messrs. Roof and Harrison and having them purchase the services of the airplane, and not reporting this

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6. Also, the message, "No Draft Dodger for President," clearly advocated Bill Clinton's defeat, and thus gave rise to the presumption that the communication should have carried a disclaimer pursuant to 2 U.S.C. § 441d. However, this Office believes that the flying of such a banner is a situation where "the inclusion of a disclaimer would be impracticable," and thus should not be required. See 11 C.F.R. § 110.11(a)(2). Accordingly, no recommendations regarding any such violation are being made.

7. Because the making of such a contribution is not unlawful, cf. 1992 Fed. Elec. Com. Ann. Rep. at 54 (explaining the Commission's legislative recommendation to add a section to 2 U.S.C. § 441a to prohibited making such contributions), and because the amount involved ($600) is within the section 441a(a)(1)(A) contribution limit, no recommendations are being made against Phil Roof or James Harrison at this time.

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activity, the publicly-funded Committee was able to advance the re-election of George Bush while not appearing to be involved in this controversial effort. Second, the actual dissemination of the message was apparently much greater than would normally be expected, as one of the events over which the banner was flown was the Southern 500 race in Darlington, a Winston Cup NASCAR race which presumably would have attracted tens of thousands of spectators.

## III. DISCOVERY PLAN

The record in this case is not clear as to the extent of the contacts between Phil Roof and the Committee regarding the hiring of the airplane, although Mr. Roof admits to some discussions between himself and Robert Adams. Moreover, this Office believes it would be beneficial to examine the relationships between the Committee, Messrs. Roof and Adams, and Bermuda High Soaring, and how the Committee planned to address the draft issue. Accordingly, this Office also recommends that the Commission approve subpoenas for depositions to Phil Roof and Robert Adams, and the attached subpoenas for documents to Robert Adams, Phil Roof and Bermuda High Soaring.

## IV. RECOMMENDATIONS

1. Find reason to believe that Bush-Quayle '92 General Committee and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

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2. Approve subpoenas for deposition to Phil Roof and Robert Adams, and the attached subpoenas for documents to Robert Adams, Phil Roof and Bermuda High Soaring.

3. Approve the attached Factual and Legal Analysis and the appropriate letters.

10/15/93
Date

Lawrence M. Noble
General Counsel

Attachments
1. Response of Phil Roof and James Harrison
2. Response of the Committee
3. Factual and Legal Analysis
4. Subpoenas and Orders (3)

9404356071 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**MEMORANDUM**

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: OCTOBER 22, 1993

SUBJECT: MUR 3608 - FIRST GENERAL COUNSEL'S REPORT DATED OCTOBER 15, 1993.

The above-captioned document was circulated to the Commission on Monday, October 18, 1993 at 4:00.

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

| | |
|---|---|
| Commissioner Aikens | XXX |
| Commissioner Elliott | XXX |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Potter | XXX |
| Commissioner Thomas | XXX |

This matter will be placed on the meeting agenda for Tuesday, October 26, 1993.

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 3608 |
| Bush-Quayle '92 General Committee, Inc. | ) | |
| and J. Stanley Huckaby, as treasurer | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 26, 1993, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3608:

1. Find reason to believe that Bush-Quayle '92 General Committee and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

2. Approve the Factual and Legal Analysis attached to the General Counsel's report dated October 15, 1993.

3. Return the October 15, 1993 report to the Office of General Counsel with the request that the Office of General Counsel draft a proposed conciliation agreement and submit it to the Commission for approval.

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

Attest:

10-27-93
Date

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

9404356071 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**SENSITIVE**

November 1, 1993

**MEMORANDUM**

**TO:** The Commission

**FROM:** Lawrence M. Noble
General Counsel

**SUBJECT:** MUR 3608
Proposed Conciliation Agreement

On October 26, 1993, the Commission found reason to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("Respondents"), violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), and approved a Factual and Legal Analysis and the appropriate letter. The Commission also returned this matter to the Office of the General Counsel for drafting of a proposed conciliation agreement.

Attached is a conciliation agreement which this Office recommends the Commission offer to Respondents.

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**RECOMMENDATIONS**

1. Enter into pre-probable cause conciliation with the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Approve the attached conciliation agreement.

Attachment
1. Proposed Conciliation Agreement

Staff Assigned: Tony Buckley

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**MEMORANDUM**

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: NOVEMBER 10, 1993

SUBJECT: MUR 3608 - MEMORANDUM TO THE COMMISSION DATED NOVEMBER 1, 1993.

The above-captioned document was circulated to the Commission on Monday, November 1, 1993 at 4:00 p.m.

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

| | |
|---|---|
| Commissioner Aikens | XXX |
| Commissioner Elliott | XXX |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Potter | XXX |
| Commissioner Thomas | |

This matter will be placed on the meeting agenda for Tuesday, Novmeber 16, 1993.

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 3608 |
| Bush-Quayle '92 General Committee, Inc. | ) | |
| and J. Stanley Huckaby, as treasurer | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on November 16, 1993, do hereby certify that the Commission decided by a vote of 4-1 to take the following actions in MUR 3608:

1. Enter into pre-probable cause conciliation with the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Approve the conciliation agreement attached to the General Counsel's November 1, 1993 memorandum

Commissioners Aikens, Elliott, McDonald, and Thomas voted affirmatively for the decision. Commissioner Potter dissented. Commissioner McGarry was not present.

Attest:

11-17-93
Date

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

2404356071 7

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

NOVEMBER 18, 1993

Richard D. Holcomb, Esq.
Deputy General Counsel
Bush-Quayle '92 General Committee, Inc.
1030 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 3608

Dear Mr. Holcomb:

On September 16, 1992, the Federal Election Commission notified your clients, the Bush-Quayle '92 General Committee, Inc. ("Committee") and J. Stanley Huckaby, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") and Chapters 95 and 96 of Title 26, U.S. Code. A copy of the complaint was forwarded to your clients at that time.

On October 26 and November 16, 1993, the Federal Election Commission considered the above-captioned matter. Upon further review of the allegations contained in the complaint, and information supplied by your clients and others, the Commission found that there is reason to believe the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), provisions of the the Act, and 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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 your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement

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of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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 Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Factual & Legal Analysis
Conciliation Agreement

9404356071 9

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer **MUR:** 3608

The South Carolina Democratic Party filed a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended, by the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("the Committee"), et al. The complaint alleges that Phil Roof and James Harrison paid for an airplane to fly over rallies on behalf of Democratic presidential candidate Bill Clinton, trailing banners which read "No Draft Dodger for President," and that officials of the Committee encouraged and assisted in these activities. The activity which gave rise to the complaint occurred during the first week of September 1992. R. Phil Roof served as South Carolina State Finance Chairman for the Bush/Quayle '92 Primary Committee, Inc. until August 25, 1992. In addition, Mr. Roof rented office space to the Committee.

Pursuant to 26 U.S.C. § 9003(b)(2), in order to be eligible to receive payments from the Presidential Election Campaign Fund, the candidates of a major party in a presidential election shall certify to the Commission that neither they nor their authorized campaign committees will accept contributions to defray qualified campaign expenses. Pursuant to 26 U.S.C. § 9002(11)(A)(iii), the term "qualified campaign expense" includes an expense incurred by an authorized committee of the candidates of a political party for

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President and Vice President, to further the election of either or both of such candidates to such offices, and which is incurred within the expenditure report period. An expense is incurred by an authorized committee if it is incurred by a person authorized by such committee to incur such expense on behalf of such committee. See 26 U.S.C. § 9002(11)(C). For purposes of the Committee, the "expenditure reporting period" ran from August 21, 1992 to December 2, 1992. See 26 U.S.C. § 9002(12)(A).

An independent expenditure is an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. See 11 C.F.R. § 109.1(a). Such an expenditure is "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate" if it involves any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. See 11 C.F.R. 109.1(b)(4)(i). An expenditure will be presumed to be so made when it is based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or it is made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized

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committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, or the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(A), (B). Pursuant to 11 C.F.R. 109.1(c), an expenditure not qualifying as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

Pursuant to 2 U.S.C. § 434(b)(3)(A), a political committee's periodic report of receipts and disbursements shall contain the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contributions have an aggregate amount or value in excess of $200 within the calendar year. Pursuant to 2 U.S.C. § 434(b)(5)(A), each report shall also contain the name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

The facts in this matter indicate that the hiring of the airplane was a contribution to defray a qualified campaign expense, which was accepted by the Committee. First, there is a statement, under oath, by Mr. Roof that he told Robert Adams, a Committee official, that he wanted to fly a plane with the banner at the two events and that Mr. Adams advised him as to who could provide the banner flying services. Consistently, Mr. Roof is quoted in the New York Times article appended to the complaint as stating that campaign officials helped him get the logistics set

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up. See Berke, "Democrats Charge 'Dirty Tricks' Over Draft Issue." N.Y. Times, Sept. 9, 1992. The Committee's conclusory denial of any cooperation or consultation with respect to the activity does not specifically refute the latter statement. If Roof's sworn and reported admission is true, his informing an agent of the Committee about his planned activity, and his receipt of suggestions from that agent about how to carry out that activity, are evidence of direct "coordination" with the campaign. See 11 C.F.R. § 109.1(b)(4)(i).

In addition to the evidence of direct coordination between Mr. Roof and the Committee, other factors presume coordination. Indeed, all three factors enumerated at section 109.1(b)(4)(i)(B), based upon which coordination is presumed, appear applicable here. Specifically, Mr. Roof served as Finance Chairman for the Committee, Mr. Roof's duties as Finance Chairman included raising funds for the Committee[1], and Mr. Roof received payments from the Committee.[2]

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1. Mr. Roof received an August 25, 1992 letter from the Committee, releasing him from his responsibilities. That letter acknowledges his "collective fundraising efforts."

2. The Committee (and its predecessor, the Bush/Quayle '92 Primary Committee) made the following payments to Mr. Roof's company, RPR and Associates, Inc.:

| Date | Amount |
|---|---|
| 02-20-92 | $ 836.06 |
| 03-03-92 | $2,592.20 |
| 04-24-92 | $ 58.00 |
| 05-12-92 | $ 188.50 |
| 08-25-92 | $ 10.00 |
| 10-01-92 | $1,125.00 |

It appears that the payments of $836.06 and $1,125.00 related to

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Because there appears to have been coordination between Mr. Roof and the campaign, the expenditure at issue is treated as an in-kind contribution by Messrs. Roof and Harrison to the Committee, and an expenditure by the Committee. See 11 C.F.R. § 109.1(c). Such an expenditure is properly treated as a qualified campaign expenditure. See Statement of Reasons Supporting the Final Repayment Determination of the Dole for President Committee, Inc. at 23-25.

Therefore, there is reason to believe the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2). Additionally, the Committee failed to report its receipt of this in-kind contribution and failed to report this in-kind contribution as an expenditure. Therefore, there is reason to believe the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

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(Footnote 2 continued from previous page)
space rented by Mr. Roof to the Primary Committee and the General Committee, respectively, at Mr. Roof's place of business. Thus, it appears that Mr. Roof would have been in constant contact with campaign officials, even though he may not have been officially employed by the Committee.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DECEMBER 7, 1993

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Richard D. Holcomb, Esq.
Deputy General Counsel
Bush-Quayle '92 General Committee, Inc.
1030 15th Street, N.W.
Washington, D.C. 20005

RE: MUR 3608

Dear Mr. Holcomb:

On November 18, 1993, you were notified that the Federal Election Commission had found reason to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A). You were further informed that the Commission had determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations will soon expire. Unless we receive a response from you within five days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

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

Sincerely,

Tony Buckley

Tony Buckley
Attorney

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OGC 0609

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
TELEX 89-593 (COVLING WSH)
CABLE COVLING

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE 071-495 5655
TELEFAX 071-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2 5[illegible]
TELEFAX 32-2 5[illegible]

THOMAS O. BARNETT
DIRECT DIAL NUMBER
(202) 662-5407

93 DEC 14 PM 5:23

RECEIVED
FEDERAL ELECTION COMMISSION

December 14, 1993

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

The notice of the "reason to believe" finding in the above-captioned matter under review ("MUR") refers on page 3 to a "statement, under oath" by R. Phil Roof. We understand this statement to have been included in an affidavit submitted to the Commission by Mr. Roof. As counsel to the Bush-Quayle '92 General Committee, Inc., and J. Stanley Huckaby, as Treasurer, (collectively, the "Committee"), I request that the Commission provide the Committee access to this affidavit as well as other materials in the Commission's possession relevant to MUR 3608.

The Commission clearly relied upon this information in making its reason-to-believe determination, and it would be fundamentally unfair to require the Committee to respond to the allegations against it without knowledge of the relevant evidence.

Access to the evidence upon which the Commission is relying in this matter would greatly enhance the Committee's ability to evaluate the Commission's proposed resolution.

We appreciate your consideration of this request.

Sincerely,

Thomas O. Barnett

Thomas O. Barnett

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COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
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BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-512-9890
TELEFAX 32-2-502-1598

THOMAS O. BARNETT
DIRECT DIAL NUMBER
(202) 662-5407

December 14, 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 DEC 15 AM 9:30

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

The Bush-Quayle '92 General Committee, Inc., received the notice of the "reason to believe" finding and proposal for conciliation from Commission Chairman Scott Thomas in the above-captioned matter under review on December 10, 1993.

We have begun working to prepare a response and to evaluate the Commission's proposed conciliation agreement. However, as we discussed by telephone today, longstanding vacation plans and other commitments by a number of persons necessary to prepare a response make it difficult to meet the schedule set forth in the notice. We therefore request an extension of time until January 13, 1993, to submit pertinent factual and legal materials.

We appreciate your consideration of this request. Also, pursuant to your request, we are arranging to have a designation of counsel sent to you.

Sincerely,

Thomas O. Barnett

Thomas O. Barnett

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OGC 0616

# STATEMENT OF DESIGNATION OF COUNSEL

MUR 3608

NAME OF COUNSEL: Bobby R. Burchfield/Thomas O. Barnett

ADDRESS: Covington & Burling
P.O. Box 7566
1201 Pennsylvania Avenue NW
Washington, DC 20004

TELEPHONE: ( 202 ) 662-5350

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FEDERAL ELECTION COMMISSION
93 DEC 16 PM 2:52

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

12/15/93
Date

Signature

RESPONDENT'S NAME: Bush-Quayle '92 General Committee, Inc., and J. Stanley Huckaby, as Treasurer

ADDRESS: Bush-Quayle '92 General Committee, Inc.
228 S. Washington Street, #200
Alexandria, VA 22314

TELEPHONE: HOME( )

BUSINESS( 703 ) 549-7705

*For informational purposes only, I also request a copy of all correspondence from the Commission regarding MUR 3608 be sent to me as Treasurer at the campaign's address in Alexandria, VA.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

DECEMBER 16, 1993

Thomas O. Barnett, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Barnett:

This is in response to your letter dated December 14, 1993, which we received on December 15, 1993, requesting an extension until January 13, 1994 to respond to the reason to believe notification in the above-captioned 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 January 13, 1994. Please be advised that the time period for pre-probable cause conciliation remains at 30 days, and expires by the close of business on January 19, 1994.

With respect to your request to obtain a copy of the statement under oath of R. Phil Roof, which is referenced in the Commission's Factual and Legal Analysis, as well as any other materials relevant to this matter, please be advised that the Commission is under no obligation to release any portion of its investigative files at this time. Therefore, we will not provide you with a copy. However, in an effort to effectuate settlement of this matter, this Office will make Mr. Roof's statement available for you to review in our offices.

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

Sincerely,

Tony Buckley
Attorney

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OGC 0737

Stan Huckaby, Treasurer

94 JAN 13 PM 4:54

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

January 13, 1994

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

This letter constitutes the Response of Bush-Quayle '92 General Committee, Inc. and its Treasurer, J. Stanley Huckaby (collectively, "Respondents") to the reason-to-believe finding by the Federal Election Commission (the "Commission") in the above-captioned MUR. The underlying complaint was filed by the South Carolina Democratic Party ("Complainant") in September 1992 alleging that James H. Harrison and R. Phil Roof hired a single-engine plane that made fly-bys with an "anti-Clinton" message in tow at events sponsored by the campaign of Bill Clinton in South Carolina. The Commission found reason to believe that these activities constituted an in-kind contribution to the Bush-Quayle campaign and that, if the evidence were to bear out that suspicion, Respondents

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Post Office Box 19992 ■ Washington, D.C. 20036-0992
Telephone 703-549-8692 ■ FAX 703-684-0683
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would have violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

## FACTS

R. Phil Roof served as South Carolina Finance Chairman for Bush-Quayle '92 Primary Committee, Inc., until the end of the 1992 presidential primary period. A letter evidencing the completion of his responsibilities was sent to him on August 25, 1992, and is attached as Exhibit A. In September 1992, Mr. Roof was no longer engaged in raising funds for the President's re-election campaign, and held no position with either Bush-Quayle '92 Primary Committee, Inc. or Bush-Quayle '92 General Committee, Inc.

Each Consultant, Employee, and Volunteer of Bush-Quayle '92 was provided a copy of the campaign's "Standards of Conduct," which provided in pertinent part:

> "Unless expressly authorized to do so, consultants, employees, and volunteers shall not accept any contributions or incur any expenses on behalf of Bush-Quayle '92. . . . All expenses and contracts must be cleared in advance by the Treasurer." (Exh. B.)

This message was reiterated in writing numerous times. (See, e.g., Exh. C)

The Complaint in this matter arose from the hiring of an airplane to tow a banner stating "No Draft Dodger for President" at two events in South Carolina in September 1992.

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The banner contained no direct reference to Bill Clinton. The airplane was hired by Mr. Roof, a Vietnam Era Veteran, and James H. Harrison, a Desert Storm Veteran, for a fee of $600. A New York Times article reported that Mr. Roof spoke to Robert Adams, a Bush-Quayle campaign official in South Carolina, about his plans to arrange the fly-bys, but also reported that Carol Darr, a lawyer for the Democratic National Committee, "acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incidents."

Respondents submitted an answer to the Complaint on October 19, 1992. In that answer, Respondents argued that the phrase "No Draft Dodger for President" should not be construed as an "unambiguous reference" to Bill Clinton, and even if it could, the expenditure was not requested by, authorized by, or made in cooperation with Respondents.

In his response, submitted under oath on October 6, 1992 ("Roof Affidavit"), Mr. Roof unequivocally denied that he coordinated the expenditure with the Bush-Quayle campaign.[1/] "I certify that I made this as an independent act and expenditure." Mr. Roof further stated that Mr. Adams did not encourage him to hire the airplane, but merely gave him the

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[1/] Counsel for Respondents was permitted to view the Roof Affidavit at the Commission, but was not been permitted to have a copy or to see any other evidence that the Commission may possess that is relevant to the MUR.

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name of a flying service. In a declaration submitted as Exhibit D to this Response, Mr. Adams also unequivocally denies any such direction, coordination, or cooperation.

The Commission based its "reason-to-believe" finding on several factors that it found created a presumption that the fly-by was not an "independent expenditure" within the meaning of 2. U.S.C. §431(17): (i) Mr. Roof apparently asked Mr. Adams for the name of a flying service, and without commenting on the details or wisdom of Mr. Roof's plan, Mr. Adams gave Mr. Roof the name of a company that could perform the service; (ii) although Mr. Roof was no longer affiliated with the campaign, he had earlier served as finance chairman for the state campaign during the primaries and had been authorized to raise funds during that period; and (iii) Mr. Roof received payments from Respondents pursuant to a property lease during the general election campaign.

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## DISCUSSION

The Commission should dismiss the Complaint for three reasons. First, Respondents have not violated the federal election campaign laws. The evidence cited by the Commission shows, at most, that Mr. Adams had knowledge of Mr. Roof's plans, not that he or any other representative of Bush-Quayle '92 was in any way an active participant. Respondents did not suggest, encourage, approve, or direct the expendi-

ture.

A. The Expenditure at Issue Was an Independent Action Not Properly Attributable to the Campaign.

The Supreme Court held in Buckley v. Valeo, 424 U.S. 1 (1976), that the First Amendment prohibits the government from limiting direct expenditures by individuals in political campaigns. This right reflects "our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open.'" Id. at 14 (quoting New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964). The expenditure of Messrs. Roof and Harrison is entitled to this First Amendment protection, unless and until proven to be part of an effort by Respondents to circumvent the voluntary spending limits placed on recipients of public campaign financing.

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According to his affidavit, Mr. Roof independently chose the time, place, manner, and content of the message he wished to convey: "Neither Mr. Adams nor the Bush/Quayle campaign specifically encouraged me to accomplish this 'fly-by'. I did it of my own volition." Like Mr. Roof, Mr. Adams has stated under oath that he did no more than give Mr. Roof the name of a flying service, without commenting on the details or wisdom of Mr. Roof's plan. (Adams Aff., attached as Exh. D). Certainly the mere act of providing the name of a vendor does not rise to the level of "direct 'coordination'" with the campaign as alleged in the Analysis.[2/] Although the New York Times article suggests that Respondents helped to arrange the logistics of the fly-bys, the only probative evidence in the record -- affidavits from the two participants in the pertinent conversation -- rebuts that accusation.[3/]

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[2/] The Commission's Analysis misconstrues Mr. Roof's Affidavit in several respects. Most significantly, Mr. Roof never stated, as the Analysis asserts at page 4, that he received "suggestions from [Robert Adams] about how to carry out [the fly-by]." To the contrary, Mr. Roof stated emphatically that the fly-by was his idea from start to finish. It is clear that he conceived the "No Draft Dodger for President" message, selected the events at which to display the message, and decided to deliver the message by means of an airplane fly-by. Finding the name of a flying service was not a part of the substantive decision-making process. Mr. Adams' declaration further rebuts the Commission's preliminary assertion.

[3/] The Commission's dismissal of Mr. Roof's emphatic denials in its Analysis, at p.4, as "conclusory" is difficult to fathom. A general denial of coordination refutes all allegations of coordination, including specific statements.

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Indeed, the same article states that Carol Darr, a lawyer to the Democratic National Committee, "acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incidents."

Nor do the other factors cited in the Commission's Analysis support the "reason-to-believe" finding. The Analysis places controlling weight on the presumption that an expenditure is not independent if it was "[m]ade by or through any person who is, or has been, authorized to raise or expend funds . . ., or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. . .." 11 C.F.R. § 109.1(b)(4)(i)(B). Mr. Roof's fundraising work for the primary committee was completed by August 25, 1992 (Exh. A), and neither he nor anyone else was raising funds for the general committee in September 1992 because Bush-Quayle '92 General Committee, Inc. had accepted full public financing. Moreover, all monies paid by Respondents to Mr. Roof during the general election campaign were pursuant to a lease of property, a transaction totally unrelated to the expenditure at issue; there is no suggestion that the lease arrangement was anything other than an arm's length transaction.

But even if the presumption were triggered, it has been rebutted. First, both Mr. Roof and Mr. Adams have emphatically denied any "arrangement, coordination, or

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direction by the candidate or his or her agent prior to the . . . display . . . ." 11 C.F.R. § 109.1(b)(4)(i). Second, Respondents' express guidelines prohibited any such expenditure without the consent of the campaign treasurer (Exhibit B), and no such consent was sought or given. Under these circumstances, the Commission should reject the "reason-to-believe" finding and dismiss the Complaint.

B. The Civil Penalty Proposed

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C. The Commission's Refusal to Provide Respondents with Complete Access to the Evidence in the Record Violates Due Process.

The Commission has refused to allow Respondents complete access to the evidence in the record in this investigation. By letter dated December 14, 1993, counsel for Respondents requested the Commission to provide Mr. Roof's Affidavit "as well as other materials in the Commission's possession relevant to MUR 3608." Exh. E (Letter from Thomas O. Barnett to Tony Buckley). Counsel for the Commission responded that "the Commission is under no obligation to release any portion of its investigative files at this time." Exh. F (Letter dated December 16, 1993, from Tony Buckley to Thomas O. Barnett). The Commission refused to provide copies

of any materials, but did allow counsel for Respondents to view the Roof Affidavit on the Commission's premises.

The Commission's position violates fundamental notions of due process. Respondents are placed in the position of answering allegations without an adequate opportunity to confront the evidence against them. Moreover, Respondents have no assurance that the Commission does not possess other evidence that may be exculpatory.[4] It would be fundamentally unfair to find a violation under such procedures.

CONCLUSION

For the reasons set forth above, the Commission should dismiss this matter with no further action.

Respectfully submitted,

J. Stanley Huckaby

Declaration

I declare under penalty of perjury that the foregoing is true and correct. Executed in Alexandria, Virginia, on this 13th day of January 1994.

J. Stanley Huckaby

[4] Of course, in the event the Commission elects to pursue this matter in court, 2 U.S.C. § 437g(a)(6)(A), such evidence would be available to Respondents through the normal course of civil discovery.

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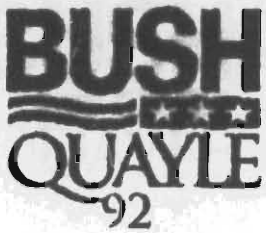
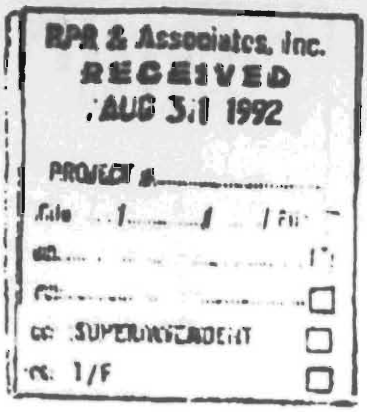
EXHIBIT A




Finance Division




August 25, 1992

Mr. R. Phil Roof
500 Rivermont Road
Columbia, SC 29210

Dear Phil,

We want you to know how grateful we are and, more importantly, the President is, for your efforts on behalf of the campaign. You have done a superhuman job, and you have a great deal to be proud of through your collective fundraising efforts.

You have obviously distinguished yourself as one of the top leaders of our party nationwide and are therefore on a short list of friends that the President and our party will be counting on between now and the election.

We have many other responsibilities facing us that will directly benefit the President and our entire ticket on November 3; therefore, we officially release you from your Bush-Quayle '92 responsibilities effective immediately.

Again Phil, you have our sincerest thanks and respect for a job well done.

Sincerely,

Ted

Ted Welch
General Finance Chairman

Peter

Peter Terpeluk
Finance Chairman

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1030 15th St. NW, Washington, DC 20005
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EXHIBIT B

February 5, 1992

# MEMORANDUM

TO: All Consultants, Employees, and Volunteers of Bush-Quayle 92

FROM: Bobby R. Burchfield, BRB General Counsel

RE: Standards of Conduct

==========

The attached Standards of Conduct for Consultants, Employees, and Volunteers of Bush-Quayle 92 must be reviewed and signed by all personnel. As you know, it is the policy of Bush-Quayle 92 to comply fully with the letter and spirit of all laws, and to conduct the campaign in an ethical and professional manner. ***Failure to adhere to any of these Standards will be grounds for immediate dismissal.***

Unauthorized disclosures to the press are misleading to the public and damaging to the campaign. Accordingly, contacts between the campaign and the news media will be conducted through and coordinated by the Press Office. Standards II and III prohibit contacts with the media and dissemination of campaign papers unless authorized by those offices.

The Hatch Act prohibits virtually all federal employees from actively participating in fundraising activities for a political candidate, actively managing the campaign of a candidate for public office, initiating or circulating a nominating petition or soliciting votes for a candidate for a public office, serving as a delegate, alternate, or proxy to a political party convention, or otherwise managing or participating in a political campaign. To avoid inadvertent violations of the Hatch Act, Standard IV prohibits campaign personnel from contacting federal employees unless those contacts have been cleared through procedures issued by the White House Chief of Staff.

1030 15th Street, N.W., Washington, DC 20005
Phone: 202-336-7080

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# STANDARDS OF CONDUCT FOR CONSULTANTS, EMPLOYEES, AND VOLUNTEERS OF BUSH-QUAYLE 92

All consultants, employees, and volunteers of Bush-Quayle 92 are to render their services in a manner conducive to the best interests of the campaign in accordance with the following policies:

I. All consultants, employees, and volunteers shall at all times -- both on and off the job -- conduct themselves according to the highest moral, ethical, and professional standards and in strict compliance with all applicable laws and regulations. All such persons shall avoid not only illegal or unethical conduct, but also conduct that gives rise to the appearance of impropriety.

II. Under no circumstances shall a consultant, employee, or volunteer communicate any information to the news media or any possible conduit to the media without prior approval from the Press Office.

III. Memos and documents prepared for internal campaign use shall not now or in the future be dispersed to, nor their contents shared with, any individual not associated with Bush-Quayle 92.

IV. Consultants, employees, and volunteers shall not initiate communications with the White House or any federal official or employee on behalf of the campaign for any purpose unless specifically authorized to do so by a member of the senior staff after securing legal clearance.

V. Unless expressly authorized to do so, consultants, employees, and volunteers shall not accept any contributions or incur any expenses on behalf of Bush-Quayle 92. All contributors shall be referred to the fundraising office. All expenses and contracts must be cleared in advance by the Treasurer.

VI. Finally, it is considered an illegal "in kind" contribution for a business to allow its employees to perform campaign work in lieu of their normal duties at no charge to the campaign. Volunteers may perform campaign work only on personal time, not employer time. Consultants to the campaign should perform campaign work only pursuant to consulting agreements cleared by the campaign General Counsel's office.

AGREED AND ACCEPTED:

February 5, 1992 _____ Name _____ Date

9 4 0 4 3 5 6 0 7 4 2

The Federal Election Campaign Act imposes a number of restrictions on campaign fundraising activity and expenditures. The Fundraising Office is fully apprised of these rules insofar as they relate to contributions, and the Treasurer's Office is fully apprised of these rules insofar as they relate to expenses. Accordingly, Standard V requires all contributions to be cleared with the Fundraising Office, and all expenses and contracts to be cleared through the Treasurer's Office. The Federal Election Campaign Act also prohibits "in-kind" contributions to the campaign; this matter is addressed in Standard VI.

When you have reviewed and signed your copy of the Standards, please return it to your supervisor for filing.

2 4 0 4 3 5 6 0 7 4 3

EXHIBIT C

January 14, 1992

# MEMORANDUM

TO: Chairs of State Republican Committees and State Bush-Quayle '92 Committees

FROM: Stan Huckaby, Treasurer

RE: Clearance of Financial Activities by State Organizations

---

The federal election laws strictly limit the type and amount of contributions that Bush-Quayle '92 can receive from any individual; contributions from corporations, labor unions, and trusts are strictly forbidden. Similarly, the federal election laws limit the amount of money Bush-Quayle '92 can spend in the primary and general election cycles. The regulations governing contributions and expenditures also apply to in-kind contributions and expenditures as well as those in cash.

Bush-Quayle '92 has taken appropriate steps to assure full compliance with all applicable laws and regulations. Our efforts to comply will be successful, however, only if we receive the full cooperation of state and local organizations. Accordingly, please refer all contributors to one of the campaign's designated fundraisers, or to the campaign fundraising office in Washington D.C. (202-336-7080). Further, no expenditure will be reimbursed or contract honored on behalf of Bush-Quayle '92 without prior written approval from my office and the office of campaign General Counsel.

cc: Mary Matalin

1030 15th Street, N.W., Washington, DC 20005
Phone: 202-336-7080

Paid For By Bush-Quayle '92 Primary Committee, Inc.

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EXHIBIT D

# DECLARATION OF ROBERT ADAMS

I, Robert Adams, do hereby declare as follows:

1. During the fall of 1992, I served as the State Director of Bush-Quayle '92 General Committee, Inc. ("Bush-Quayle '92") for the state of South Carolina during the general election campaign for the office of the President of the United States.

2. As State Director, I was aware of and followed the policy issued by the national headquarters of Bush-Quayle '92 of clearing all expenses with the treasurer in the national office before they were incurred.

3. I understand that the Federal Election Commission is investigating a complaint filed by the South Carolina Democratic Party concerning the hiring of an airplane by Phil Roof and James Harrison to tow a banner over two Clinton campaign events.

4. In early September 1992, R. Phil Roof, the individual from whom the state campaign offices were leased, mentioned in passing that he had decided to hire an airplane to tow a banner over two Clinton campaign events. He asked for, and I gave him, the name of an airplane flying service. I did not participate in the formation of Mr. Roof's plans and did not comment on the wisdom or the details of his plans. Neither in this conversation nor in any other communication did I, or to my knowledge any other representative of Bush-Quayle '92, arrange, coordinate, or direct the airplane fly-bys. More specifically, Bush-Quayle '92 did not arrange the logistics for the fly-bys.

5. In providing Mr. Roof with the name of an airplane flying service, I did not consider myself to be approving Mr. Roof's plans, arranging for the use of that flying service, coordinating his activities, directing Mr. Roof's activities, or committing the campaign to an expenditure.

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

Executed in Columbia, S.C., on this 12th day of January 1994.

Robert Adams

Robert Adams

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EXHIBIT E

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
TELEX 89-593 (COVLING WSH)
CABLE COVLING

LEDDRIFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE 071-495-5555
TELEFAX 071-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-512-9890
TELEFAX 32-2-502-1598

THOMAS O. BARNETT
DIRECT DIAL NUMBER
(202) 662-5407

December 14, 1993

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

The notice of the "reason to believe" finding in the above-captioned matter under review ("MUR") refers on page 3 to a "statement, under oath" by R. Phil Roof. We understand this statement to have been included in an affidavit submitted to the Commission by Mr. Roof. As counsel to the Bush-Quayle '92 General Committee, Inc., and J. Stanley Huckaby, as Treasurer, (collectively, the "Committee"), I request that the Commission provide the Committee access to this affidavit as well as other materials in the Commission's possession relevant to MUR 3608.

The Commission clearly relied upon this information in making its reason-to-believe determination, and it would be fundamentally unfair to require the Committee to respond to the allegations against it without knowledge of the relevant evidence. As a further consideration, the Commission has proposed an early resolution to the matter through a conciliation agreement that would include, among other things, a significant civil penalty. Access to the evidence upon which the Commission is relying in this matter would greatly enhance the Committee's ability to evaluate the Commission's proposed resolution.

We appreciate your consideration of this request.

Sincerely,

Thomas O. Barnett

Thomas O. Barnett

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EXHIBIT F

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C.

DECEMBER 16, 1993

Thomas O. Barnett, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Barnett:

This is in response to your letter dated December 14, 1993, which we received on December 15, 1993, requesting an extension until January 13, 1994 to respond to the reason to believe notification in the above-captioned 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 January 13, 1994. Please be advised that the time period for pre-probable cause conciliation remains at 30 days, and expires by the close of business on January 19, 1994.

With respect to your request to obtain a copy of the statement under oath of R. Phil Roof, which is referenced in the Commission's Factual and Legal Analysis, as well as any other materials relevant to this matter, please be advised that the Commission is under no obligation to release any portion of its investigative files at this time. Therefore, we will not provide you with a copy. However, in an effort to effectuate settlement of this matter, this Office will make Mr. Roof's statement available for you to review in our offices.

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

Sincerely,

Tony Buckley
Attorney

9404356074 7

STAMP AND RETURN

ATTACHMENT A

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
TELEX 89 593 (COVLING WSH)
CABLE COVLING

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
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TELEFAX 071-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-512-9890
TELEFAX 32-2-502-1598

RECEIVED
94 JAN 13 P 12:01

THOMAS O. BARNETT
DIRECT DIAL NUMBER
(202) 662-5407

January 18, 1994

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

As we discussed by telephone, you will find enclosed a substitute copy of the letter filed January 13, 1994, in the above-captioned matter under review. This substitute copy includes an original signature, but does not include any substantive changes. If you have any questions, please let me know.

Sincerely,

Thomas O. Barnett

Thomas O. Barnett

Enclosure

24043560748

January 13, 1994

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

This letter constitutes the Response of Bush-Quayle '92 General Committee, Inc. and its Treasurer, J. Stanley Huckaby (collectively, "Respondents") to the reason-to-believe finding by the Federal Election Commission (the "Commission") in the above-captioned MUR. The underlying complaint was filed by the South Carolina Democratic Party ("Complainant") in September 1992 alleging that James H. Harrison and R. Phil Roof hired a single-engine plane that made fly-bys with an "anti-Clinton" message in tow at events sponsored by the campaign of Bill Clinton in South Carolina. The Commission found reason to believe that these activities constituted an in-kind contribution to the Bush-Quayle campaign and that, if the evidence were to bear out that suspicion, Respondents

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would have violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

## FACTS

R. Phil Roof served as South Carolina Finance Chairman for Bush-Quayle '92 Primary Committee, Inc., until the end of the 1992 presidential primary period. A letter evidencing the completion of his responsibilities was sent to him on August 25, 1992, and is attached as Exhibit A. In September 1992, Mr. Roof was no longer engaged in raising funds for the President's re-election campaign, and held no position with either Bush-Quayle '92 Primary Committee, Inc. or Bush-Quayle '92 General Committee, Inc.

Each Consultant, Employee, and Volunteer of Bush-Quayle '92 was provided a copy of the campaign's "Standards of Conduct," which provided in pertinent part:

> "Unless expressly authorized to do so, consultants, employees, and volunteers shall not accept any contributions or incur any expenses on behalf of Bush-Quayle '92. . . . All expenses and contracts must be cleared in advance by the Treasurer." (Exh. B.)

This message was reiterated in writing numerous times. (See, e.g., Exh. C)

The Complaint in this matter arose from the hiring of an airplane to tow a banner stating "No Draft Dodger for President" at two events in South Carolina in September 1992.

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The banner contained no direct reference to Bill Clinton. The airplane was hired by Mr. Roof, a Vietnam Era Veteran, and James H. Harrison, a Desert Storm Veteran, for a fee of $600. A New York Times article reported that Mr. Roof spoke to Robert Adams, a Bush-Quayle campaign official in South Carolina, about his plans to arrange the fly-bys, but also reported that Carol Darr, a lawyer for the Democratic National Committee, "acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incidents."

Respondents submitted an answer to the Complaint on October 19, 1992. In that answer, Respondents argued that the phrase "No Draft Dodger for President" should not be construed as an "unambiguous reference" to Bill Clinton, and even if it could, the expenditure was not requested by, authorized by, or made in cooperation with Respondents.

In his response, submitted under oath on October 6, 1992 ("Roof Affidavit"), Mr. Roof unequivocally denied that he coordinated the expenditure with the Bush-Quayle campaign.[1/] "I certify that I made this as an independent act and expenditure." Mr. Roof further stated that Mr. Adams did not encourage him to hire the airplane, but merely gave him the

---

[1/] Counsel for Respondents was permitted to view the Roof Affidavit at the Commission, but was not been permitted to have a copy or to see any other evidence that the Commission may possess that is relevant to the MUR.

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name of a flying service. In a declaration submitted as Exhibit D to this Response, Mr. Adams also unequivocally denies any such direction, coordination, or cooperation.

The Commission based its "reason-to-believe" finding on several factors that it found created a presumption that the fly-by was not an "independent expenditure" within the meaning of 2. U.S.C. §431(17): (i) Mr. Roof apparently asked Mr. Adams for the name of a flying service, and without commenting on the details or wisdom of Mr. Roof's plan, Mr. Adams gave Mr. Roof the name of a company that could perform the service; (ii) although Mr. Roof was no longer affiliated with the campaign, he had earlier served as finance chairman for the state campaign during the primaries and had been authorized to raise funds during that period; and (iii) Mr. Roof received payments from Respondents pursuant to a property lease during the general election campaign.

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## DISCUSSION

The Commission should dismiss the Complaint for three reasons. First, Respondents have not violated the federal election campaign laws. The evidence cited by the Commission shows, at most, that Mr. Adams had knowledge of Mr. Roof's plans, not that he or any other representative of Bush-Quayle '92 was in any way an active participant. Respondents did not suggest, encourage, approve, or direct the expendi-

ture.

A. The Expenditure at Issue Was an Independent Action Not Properly Attributable to the Campaign.

The Supreme Court held in Buckley v. Valeo, 424 U.S. 1 (1976), that the First Amendment prohibits the government from limiting direct expenditures by individuals in political campaigns. This right reflects "our 'profound national commitment to the principle that debate on public issues should be uninhibited, robust and wide-open.'" Id. at 14 (quoting New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964). The expenditure of Messrs. Roof and Harrison is entitled to this First Amendment protection, unless and until proven to be part of an effort by Respondents to circumvent the voluntary spending limits placed on recipients of public campaign financing.

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According to his affidavit, Mr. Roof independently chose the time, place, manner, and content of the message he wished to convey: "Neither Mr. Adams nor the Bush/Quayle campaign specifically encouraged me to accomplish this 'fly-by'. I did it of my own volition." Like Mr. Roof, Mr. Adams has stated under oath that he did no more than give Mr. Roof the name of a flying service, without commenting on the details or wisdom of Mr. Roof's plan. (Adams Aff., attached as Exh. D). Certainly the mere act of providing the name of a vendor does not rise to the level of "direct 'coordination'" with the campaign as alleged in the Analysis.[2/] Although the New York Times article suggests that Respondents helped to arrange the logistics of the fly-bys, the only probative evidence in the record -- affidavits from the two participants in the pertinent conversation -- rebuts that accusation.[3/]

---

[2/] The Commission's Analysis misconstrues Mr. Roof's Affidavit in several respects. Most significantly, Mr. Roof never stated, as the Analysis asserts at page 4, that he received "suggestions from [Robert Adams] about how to carry out [the fly-by]." To the contrary, Mr. Roof stated emphatically that the fly-by was his idea from start to finish. It is clear that he conceived the "No Draft Dodger for President" message, selected the events at which to display the message, and decided to deliver the message by means of an airplane fly-by. Finding the name of a flying service was not a part of the substantive decision-making process. Mr. Adams' declaration further rebuts the Commission's preliminary assertion.

[3/] The Commission's dismissal of Mr. Roof's emphatic denials in its Analysis, at p.4, as "conclusory" is difficult to fathom. A general denial of coordination refutes all allegations of coordination, including specific statements.

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Indeed, the same article states that Carol Darr, a lawyer to the Democratic National Committee, "acknowledged that she had no evidence that the Republican Party or the Bush campaign was behind the airplane incidents."

Nor do the other factors cited in the Commission's Analysis support the "reason-to-believe" finding. The Analysis places controlling weight on the presumption that an expenditure is not independent if it was "[m]ade by or through any person who is, or has been, authorized to raise or expend funds . . ., or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent. . .." 11 C.F.R. § 109.1(b)(4)(i)(B). Mr. Roof's fundraising work for the primary committee was completed by August 25, 1992 (Exh. A), and neither he nor anyone else was raising funds for the general committee in September 1992 because Bush-Quayle '92 General Committee, Inc. had accepted full public financing. Moreover, all monies paid by Respondents to Mr. Roof during the general election campaign were pursuant to a lease of property, a transaction totally unrelated to the expenditure at issue; there is no suggestion that the lease arrangement was anything other than an arm's length transaction.

But even if the presumption were triggered, it has been rebutted. First, both Mr. Roof and Mr. Adams have emphatically denied any "arrangement, coordination, or

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direction by the candidate or his or her agent prior to the . . . display . . . ." 11 C.F.R. § 109.1(b)(4)(i). Second, Respondents' express guidelines prohibited any such expenditure without the consent of the campaign treasurer (Exhibit B), and no such consent was sought or given. Under these circumstances, the Commission should reject the "reason-to-believe" finding and dismiss the Complaint.

B. The Civil Penalty Proposed

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C. The Commission's Refusal to Provide Respondents with Complete Access to the Evidence in the Record Violates Due Process.

The Commission has refused to allow Respondents complete access to the evidence in the record in this investigation. By letter dated December 14, 1993, counsel for Respondents requested the Commission to provide Mr. Roof's Affidavit "as well as other materials in the Commission's possession relevant to MUR 3608." Exh. E (Letter from Thomas O. Barnett to Tony Buckley). Counsel for the Commission responded that "the Commission is under no obligation to release any portion of its investigative files at this time." Exh. F (Letter dated December 16, 1993, from Tony Buckley to Thomas O. Barnett). The Commission refused to provide copies

of any materials, but did allow counsel for Respondents to view the Roof Affidavit on the Commission's premises.

The Commission's position violates fundamental notions of due process. Respondents are placed in the position of answering allegations without an adequate opportunity to confront the evidence against them. Moreover, Respondents have no assurance that the Commission does not possess other evidence that may be exculpatory.[4] It would be fundamentally unfair to find a violation under such procedures.

CONCLUSION

For the reasons set forth above, the Commission should dismiss this matter with no further action.

Respectfully submitted,

J. Stanley Huckaby

Declaration

I declare under penalty of perjury that the foregoing is true and correct. Executed in Alexandria, Virginia, on this 13th day of January 1994.

J. Stanley Huckaby

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[4] Of course, in the event the Commission elects to pursue this matter in court, 2 U.S.C. § 437g(a)(6)(A), such evidence would be available to Respondents through the normal course of civil discovery.

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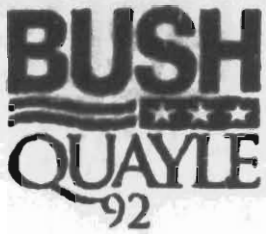
EXHIBIT A




RPR & Associates, Inc.
RECEIVED
AUG 31 1992
PROJECT #
cc: SUPERVISE/ADEIT
cc: I/F

Finance Division

August 25, 1992

Mr. R. Phil Roof
500 Rivermont Road
Columbia, SC 29210

Dear Phil,

We want you to know how grateful we are and, more importantly, the President is, for your efforts on behalf of the campaign. You have done a superhuman job, and you have a great deal to be proud of through your collective fundraising efforts.

You have obviously distinguished yourself as one of the top leaders of our party nationwide and are therefore on a short list of friends that the President and our party will be counting on between now and the election.

We have many other responsibilities facing us that will directly benefit the President and our entire ticket on November 3; therefore, we officially release you from your Bush-Quayle '92 responsibilities effective immediately.

Again Phil, you have our sincerest thanks and respect for a job well done.

Sincerely,

Ted

Ted Welch
General Finance Chairman

Peter

Peter Terpeluk
Finance Chairman

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EXHIBIT B

February 5, 1992

# MEMORANDUM

TO: All Consultants, Employees, and Volunteers of Bush-Quayle 92

FROM: Bobby R. Burchfield, BRB General Counsel

RE: Standards of Conduct

==========

The attached Standards of Conduct for Consultants, Employees, and Volunteers of Bush-Quayle 92 must be reviewed and signed by all personnel. As you know, it is the policy of Bush-Quayle 92 to comply fully with the letter and spirit of all laws, and to conduct the campaign in an ethical and professional manner. ***Failure to adhere to any of these Standards will be grounds for immediate dismissal.***

Unauthorized disclosures to the press are misleading to the public and damaging to the campaign. Accordingly, contacts between the campaign and the news media will be conducted through and coordinated by the Press Office. Standards II and III prohibit contacts with the media and dissemination of campaign papers unless authorized by those offices.

The Hatch Act prohibits virtually all federal employees from actively participating in fundraising activities for a political candidate, actively managing the campaign of a candidate for public office, initiating or circulating a nominating petition or soliciting votes for a candidate for a public office, serving as a delegate, alternate, or proxy to a political party convention, or otherwise managing or participating in a political campaign. To avoid inadvertent violations of the Hatch Act, Standard IV prohibits campaign personnel from contacting federal employees unless those contacts have been cleared through procedures issued by the White House Chief of Staff.

1030 15th Street, N.W., Washington, DC 20005
Phone: 202-336-7080

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# STANDARDS OF CONDUCT FOR CONSULTANTS, EMPLOYEES, AND VOLUNTEERS OF BUSH-QUAYLE 92

All consultants, employees, and volunteers of Bush-Quayle 92 are to render their services in a manner conducive to the best interests of the campaign in accordance with the following policies:

I. All consultants, employees, and volunteers shall at all times -- both on and off the job -- conduct themselves according to the highest moral, ethical, and professional standards and in strict compliance with all applicable laws and regulations. All such persons shall avoid not only illegal or unethical conduct, but also conduct that gives rise to the appearance of impropriety.

II. Under no circumstances shall a consultant, employee, or volunteer communicate any information to the news media or any possible conduit to the media without prior approval from the Press Office.

III. Memos and documents prepared for internal campaign use shall not now or in the future be dispersed to, nor their contents shared with, any individual not associated with Bush-Quayle 92.

IV. Consultants, employees, and volunteers shall not initiate communications with the White House or any federal official or employee on behalf of the campaign for any purpose unless specifically authorized to do so by a member of the senior staff after securing legal clearance.

V. Unless expressly authorized to do so, consultants, employees, and volunteers shall not accept any contributions or incur any expenses on behalf of Bush-Quayle 92. All contributors shall be referred to the fundraising office. All expenses and contracts must be cleared in advance by the Treasurer.

VI. Finally, it is considered an illegal "in kind" contribution for a business to allow its employees to perform campaign work in lieu of their normal duties at no charge to the campaign. Volunteers may perform campaign work only on personal time, not employer time. Consultants to the campaign should perform campaign work only pursuant to consulting agreements cleared by the campaign General Counsel's office.

AGREED AND ACCEPTED:

February 5, 1992 _____ Name _____ Date

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The Federal Election Campaign Act imposes a number of restrictions on campaign fundraising activity and expenditures. The Fundraising Office is fully apprised of these rules insofar as they relate to contributions, and the Treasurer's Office is fully apprised of these rules insofar as they relate to expenses. Accordingly, Standard V requires all contributions to be cleared with the Fundraising Office, and all expenses and contracts to be cleared through the Treasurer's Office. The Federal Election Campaign Act also prohibits "in-kind" contributions to the campaign; this matter is addressed in Standard VI.

When you have reviewed and signed your copy of the Standards, please return it to your supervisor for filing.

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EXHIBIT C

January 14, 1992

# MEMORANDUM

TO: Chairs of State Republican Committees and State Bush-Quayle '92 Committees

FROM: Stan Huckaby, Treasurer

RE: Clearance of Financial Activities by State Organizations

---

The federal election laws strictly limit the type and amount of contributions that Bush-Quayle '92 can receive from any individual; contributions from corporations, labor unions, and trusts are strictly forbidden. Similarly, the federal election laws limit the amount of money Bush-Quayle '92 can spend in the primary and general election cycles. The regulations governing contributions and expenditures also apply to in-kind contributions and expenditures as well as those in cash.

Bush-Quayle '92 has taken appropriate steps to assure full compliance with all applicable laws and regulations. Our efforts to comply will be successful, however, only if we receive the full cooperation of state and local organizations. Accordingly, please refer all contributors to one of the campaign's designated fundraisers, or to the campaign fundraising office in Washington D.C. (202-336-7080). Further, no expenditure will be reimbursed or contract honored on behalf of Bush-Quayle '92 without prior written approval from my office and the office of campaign General Counsel.

cc: Mary Matalin

1030 15th Street, N.W., Washington, DC 20005
Phone: 202-336-7080

Paid For By Bush-Quayle '92 Primary Committee, Inc.

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EXHIBIT D

## DECLARATION OF ROBERT ADAMS

I, Robert Adams, do hereby declare as follows:

1. During the fall of 1992, I served as the State Director of Bush-Quayle '92 General Committee, Inc. ("Bush-Quayle '92") for the state of South Carolina during the general election campaign for the office of the President of the United States.

2. As State Director, I was aware of and followed the policy issued by the national headquarters of Bush-Quayle '92 of clearing all expenses with the treasurer in the national office before they were incurred.

3. I understand that the Federal Election Commission is investigating a complaint filed by the South Carolina Democratic Party concerning the hiring of an airplane by Phil Roof and James Harrison to tow a banner over two Clinton campaign events.

4. In early September 1992, R. Phil Roof, the individual from whom the state campaign offices were leased, mentioned in passing that he had decided to hire an airplane to tow a banner over two Clinton campaign events. He asked for, and I gave him, the name of an airplane flying service. I did not participate in the formation of Mr. Roof's plans and did not comment on the wisdom or the details of his plans. Neither in this conversation nor in any other communication did I, or to my knowledge any other representative of Bush-Quayle '92, arrange, coordinate, or direct the airplane fly-bys. More specifically, Bush-Quayle '92 did not arrange the logistics for the fly-bys.

5. In providing Mr. Roof with the name of an airplane flying service, I did not consider myself to be approving Mr. Roof's plans, arranging for the use of that flying service, coordinating his activities, directing Mr. Roof's activities, or committing the campaign to an expenditure.

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

Executed in Columbia, S.C., on this 12th day of January 1994.

Robert Adams

Robert Adams

9404356076 4

EXHIBIT E

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
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CABLE COVLING

LEDDRINGTON HOUSE
CURZON STREET
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ENGLAND
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TELEFAX 071-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32 2 512 6660
TELEFAX 32 2 502 1598

THOMAS O. BARNETT
DIRECT DIAL NUMBER
(202) 662-5407

December 14, 1993

VIA HAND DELIVERY

Tony Buckley, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby

Dear Mr. Buckley:

The notice of the "reason to believe" finding in the above-captioned matter under review ("MUR") refers on page 3 to a "statement, under oath" by R. Phil Roof. We understand this statement to have been included in an affidavit submitted to the Commission by Mr. Roof. As counsel to the Bush-Quayle '92 General Committee, Inc., and J. Stanley Huckaby, as Treasurer, (collectively, the "Committee"), I request that the Commission provide the Committee access to this affidavit as well as other materials in the Commission's possession relevant to MUR 3608.

The Commission clearly relied upon this information in making its reason-to-believe determination, and it would be fundamentally unfair to require the Committee to respond to the allegations against it without knowledge of the relevant evidence. As a further consideration, the Commission has proposed an early resolution to the matter through a conciliation agreement that would include, among other things, a significant civil penalty. Access to the evidence upon which the Commission is relying in this matter would greatly enhance the Committee's ability to evaluate the Commission's proposed resolution.

We appreciate your consideration of this request.

Sincerely,

Thomas O. Barnett

Thomas O. Barnett

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EXHIBIT F

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C.

DECEMBER 16, 1993

Thomas O. Barnett, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Barnett:

This is in response to your letter dated December 14, 1993, which we received on December 15, 1993, requesting an extension until January 13, 1994 to respond to the reason to believe notification in the above-captioned 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 January 13, 1994. Please be advised that the time period for pre-probable cause conciliation remains at 30 days, and expires by the close of business on January 19, 1994.

With respect to your request to obtain a copy of the statement under oath of R. Phil Roof, which is referenced in the Commission's Factual and Legal Analysis, as well as any other materials relevant to this matter, please be advised that the Commission is under no obligation to release any portion of its investigative files at this time. Therefore, we will not provide you with a copy. However, in an effort to effectuate settlement of this matter, this Office will make Mr. Roof's statement available for you to review in our offices.

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

Sincerely,

Tony Buckley
Attorney

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BEFORE THE FEDERAL ELECTION COMMISSION

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| In the Matter of | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer | ) | MUR 3608 |
| | ) | |

SENSITIVE

GENERAL COUNSEL'S REPORT

## I. STATEMENT OF THE CASE

This matter arose from allegations suggesting that an official of the Bush-Quayle general election campaign assisted R. Phil Roof, an official of the Bush-Quayle primary campaign, in hiring an airplane to fly a banner with the message "No Draft Dodger for President" over rallies on behalf of Democratic presidential candidate Bill Clinton. On October 26, 1993, the Commission found reason to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

Along with reason to believe findings, this Office had recommended an investigation. The Commission declined, and instead, desiring to resolve this matter expeditiously, returned it to this Office for drafting of an appropriate conciliation agreement.

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An extension of time was granted which extended the filing deadline for a response to the Commission's reason to believe finding until January 13, 1994.

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On January 13, 1994, the Bush-Quayle treasurer submitted a response to the Commission's reason to believe findings. Attachment 1. Respondents argue several points:

With respect to their argument that they have not violated the Act, Respondents concede that Robert Adams, the campaign official who advised Mr. Roof, was the Committee's State Director for South Carolina. Respondents suggest, however, that because Mr. Adams was not what they term "an active participant," no violation resulted. However, the standard enunciated in the Commission's regulations for an expenditure to be considered independent is that it not be made "with the cooperation . . . of, . . . or in consultation with, . . . a candidate or any agent . . . of such candidate." See 11 C.F.R. § 109.1(a). Here, Mr. Roof informed Mr. Adams of his planned attack on the opposing candidate and, by Mr. Adams' own admission, asked for his assistance. See Attachment 1 at 16. Mr. Adams pointed Mr. Roof to the vendor to use in the attack. Id. Clearly, Mr. Adams cooperated with Mr. Roof, and any assertion that this activity was independent of the campaign is false.

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With respect to Respondents' due process argument, a reason to believe finding only requires that the Commission notify a respondent of the legal and factual basis for the finding. See 2 U.S.C. § 437g(a)(2). There is no requirement in section 437g for the Commission to turn over its investigatory file to a respondent at this stage of a matter, and it is settled law that due process is not violated when a federal administrative agency such as the Commission conducts an investigation and does not advise the target of that investigation of the evidence gathered. See SEC v. Jerry T. O'Brien, Inc., 467 U.S. 735, 742 (1983). Because this Office allowed respondents to view Mr. Roof's affidavit in-house in an effort to encourage quick settlement, and because the Commission's substantive position and its factual basis in this matter are clear, Respondents' complaint rings especially hollow.[1]

This Office recommends that the Commission reject Respondents' request to take no further action. Because Respondents have not evidenced a serious desire to resolve the matter at this stage, this Office will inform them of the

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1. Indeed, in spite of their complaint that they did not have "an adequate opportunity to confront the evidence against them, in their response Respondents quote directly from Mr. Roof's affidavit, see Attachment 1 at 6, and fault the Commission's Factual and Legal Analysis with respect to its interpretation of that same affidavit. See Attachment 1 at 6, fn. 2.

Commission's action and advise them that we will advance this matter to the next stage of the enforcement process.

## II. RECOMMENDATIONS

1. Reject the request of Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, to take no further action against them.

2. Approve the appropriate letter.

1/26/94
Date

LM Noble (JH)
Lawrence M. Noble
General Counsel

Attachment
Response

Staff Assigned: Tony Buckley

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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: JANUARY 31, 1994

SUBJECT: MUR 3608 - GENERAL COUNSEL'S REPORT DATED JANUARY 26, 1994.

The above-captioned document was circulated to the Commission on Thursday, January 27, 1994 at 4:00 p.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, February 8, 1994.

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

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CEC

**BEFORE THE FEDERAL ELECTION COMMISSION**

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| In the Matter of | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. | ) | MUR 3608 |
| and J. Stanley Huckaby, as treasurer. | ) | |

CERTIFICATION

I, Delores Hardy, recording secretary for the Federal Election Commission executive session on February 8, 1994, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3608:

1. Reject the request of Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, to take no further action against them.

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

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

Attest:

2-9-94
Date

Delores Hardy
Delores Hardy
Administrative Assistant

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**SENSITIVE**

February 15, 1994

Thomas O. Barnett, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Barnett:

On October 26, 1993, the Federal Election Commission found reason to believe that your clients, the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), and 26 U.S.C. § 9003(b)(2). On January 13, 1994, your clients responded to the Commission's findings, and requested that the Commission take no further action against them. On February 8, 1994, the Commission rejected this request.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred. The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the

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Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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 Tony Buckley, 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 | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. | ) | MUR 3608 |
| and J. Stanley Huckaby, as treasurer | ) | |

**GENERAL COUNSEL'S BRIEF**

## I. STATEMENT OF THE CASE

The South Carolina Democratic Party filed a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by the Bush-Quayle '92 General Committee, Inc. ("the Committee") and J. Stanley Huckaby, as treasurer (collectively "Respondents"), and others. The complaint alleged that R. Phil Roof and James H. Harrison paid for an airplane to fly over rallies on behalf of Democratic presidential candidate Bill Clinton, trailing banners which read "No Draft Dodger for President." The complaint further alleged that officials of the Committee encouraged and assisted in these activities. The activity which gave rise to the complaint occurred during the first week of September 1992. The complaint was based on a New York Times article, which quoted Mr. Roof as stating that local Bush campaign officials "helped me get the logistics set up." See Berke, "Democrats Charge 'Dirty Tricks' Over Draft Issue," N.Y. Times, Sept. 9, 1992.

On October 26, 1993, the Commission found reason to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A). On January 13, 1994,

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Respondents submitted a request that the Commission take no further action against them. The Commission rejected this request on February 8, 1994.

## II. FACTUAL AND LEGAL ANALYSIS

### A. Applicable Law

Pursuant to 26 U.S.C. § 9003(b)(2), in order to be eligible to receive payments from the Presidential Election Campaign Fund, the candidates of a major party in a presidential election shall certify to the Commission that neither they nor their authorized campaign committees will accept contributions to defray qualified campaign expenses. Pursuant to 26 U.S.C. § 9002(11)(A)(iii), the term "qualified campaign expense" includes an expense incurred by an authorized committee of the candidates of a political party for President and Vice President, to further the election of either or both of such candidates to such offices, and which is incurred within the expenditure report period. An expense is incurred by an authorized committee if it is incurred by a person authorized by such committee to incur such expense on behalf of such committee. See 26 U.S.C. § 9002(11)(C). For purposes of the Committee, the "expenditure reporting period" ran from August 21, 1992 to December 2, 1992. See 26 U.S.C. § 9002(12)(A).

An independent expenditure is an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with,

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or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate. See 11 C.F.R. § 109.1(a). Such an expenditure is "made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate" if it involves any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. See 11 C.F.R. 109.1(b)(4)(i). An expenditure will be presumed to be so made when it is made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, or the candidate's committee or agent. See 11 C.F.R. § 109.1(b)(4)(i)(B). Pursuant to 11 C.F.R. 109.1(c), an expenditure not qualifying as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

Pursuant to 2 U.S.C. § 434(b)(3)(A), a political committee's periodic report of receipts and disbursements shall contain the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contributions have an aggregate amount or value in excess of $200 within the calendar year. Pursuant to 2 U.S.C. § 434(b)(5)(A), each report shall also contain the name and address of each person

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to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

B. Facts

President George Bush and Vice President Dan Quayle were the presidential and vice-presidential candidates, respectively, of the Republican Party in the 1992 general election. The Bush-Quayle '92 Primary Committee, Inc. is a political committee within the meaning of 2 U.S.C. § 431(4), and was an authorized committee of President George Bush and Vice President Dan Quayle in the 1992 primary election campaign. The Bush-Quayle '92 General Committee, Inc. ("the General Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was an authorized committee of President George Bush and Vice President Dan Quayle in the 1992 presidential election campaign. The Primary and General Committees are affiliated committees. See 11 C.F.R. § 100.5(g). Robert Adams served as State Director of the Primary and General Committees in South Carolina.

R. Phil Roof served as the Finance Chairman in South Carolina for the Primary Committee. Mr. Roof raised funds for the Primary Committee in his capacity as Finance Chairman. Mr. Roof also rented office space to the Primary and General Committees in the building in which he maintained his principal place of business.

On August 20, 1992, President Bush and Vice President Quayle certified to the Commission that, inter alia, their authorized

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committee would not accept contributions to defray qualified campaign expenditures. On August 21, 1992, the Commission determined that President Bush and Vice President Quayle had submitted the appropriate agreements and certifications to entitle them to receive public funding. Accordingly, the Commission certified to the Department of the Treasury that President Bush and Vice President Quayle were entitled to receive $55,240,000 from the Presidential Election Campaign Fund.

On August 25, 1992, the Primary Committee sent a letter to R. Phil Roof informing him that he was "officially release[d]" from his "Bush-Quayle '92 responsibilities effective immediately." This letter was received by Mr. Roof at his principal place of business on August 31, 1992.

Within five days of R. Phil Roof receiving the letter from the Primary Committee, Mr. Roof told Robert Adams of his desire to hire an airplane to trail a banner reading "No Draft Dodger for President" over two South Carolina campaign appearances by Democratic presidential candidate Bill Clinton, and requested Mr. Adams' assistance in locating someone to perform the banner flying. Mr. Adams advised Mr. Roof that Bermuda High Soaring in Lancaster, South Carolina could provide the banner flying services. Mr. Roof and James H. Harrison hired Bermuda High Soaring to trail such a banner over Clinton campaign appearances on September 5 and 6, 1992. The cost of hiring the airplane was $600.

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**C. Analysis**

R. Phil Roof informed Robert Adams, an official of the General Committee, about his planned activity, and requested Mr. Adams' assistance. Mr. Adams provided Mr. Roof with the information he required to carry out his planned activity. As a result, Mr. Roof's activity was directly coordinated with the General Committee, and Respondents accepted an in-kind contribution to defray a qualified campaign expense, in violation of 26 U.S.C. § 9003(b)(2). Furthermore, Respondents failed to properly report this activity, in violation of 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

Respondents put forth several reasons as to why there are no violations in this matter. First, they erroneously argue that the Commission's reason to believe finding was based solely on facts which "created the presumption that the fly-by was not an 'independent expenditure'." Response to Reason to Believe Finding at 4. Indeed, the Commission's reason to believe finding was based on the fact that Mr. Roof had asked Mr. Adams for the name of a company to perform banner flying services, and Mr. Adams complied. This did not create the presumption of coordination; this was direct coordination in fact. Factual and Legal Analysis at 4. In addition, other factors existed that triggered the presumption of coordination under the Commission's regulations. These factors include Mr. Roof's status as Finance Chairman for the Primary Committee, the fact that Mr. Roof raised funds for the

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Primary Committee, and the fact that Mr. Roof received payment in the form of rent from the Primary and General Committees. Id.

The Committee next argues that the uncontested facts do not demonstrate that violations have occurred. Response at 5-7. Respondents concede that Robert Adams, the campaign official who advised Mr. Roof, was the Committee's State Director for South Carolina. Respondents suggest, however, that no violations occurred because Mr. Adams was not what they term "an active participant." Id. at 4. However, the standard enunciated in the Commission's regulations for an expenditure to be considered independent is that it not be made "with the cooperation . . . of, . . . or in consultation with, . . . a candidate or any agent . . . of such candidate." See 11 C.F.R. § 109.1(a). Indeed, the Commission has previously advised that cooperation no greater than at the level in this matter renders a proposed expenditure an in-kind contribution to and expenditure by the cooperating candidate's committee. See Advisory Opinion 1983-12 (candidate who provides film footage to political committee for proposed ad, where substance, broadcast schedule and all other features of the ad are outside control of the candidate); see also Advisory Opinion 1988-22 (candidate who provides political committee with schedule of campaign events to be published in committee's newsletter). Here, Mr. Roof informed Mr. Adams of his planned attack on the opposing candidate and, by Mr. Adams' own admission under oath, asked for his assistance. Mr. Adams pointed Mr. Roof

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to the vendor to use in the attack. Clearly, Mr. Adams cooperated with Mr. Roof, and any assertion that this activity was independent of the campaign is false.

Respondents have attempted to trivialize the seriousness of the violations, stating that, "[e]ven if the Commission were to conclude that Mr. Adams stepped over a line, the violation was isolated, inadvertent, and de minimis." Response at 9. (Emphasis in original). Indeed, while it is not known whether this violation was isolated, it is clear it was not de minimis, with the gravity of this matter not adequately represented by the modest amount of money expended. First, the acceptance of the in-kind contribution constituted a violation of the candidates' certifications which allowed them to receive over $55 million in public funds. Such a violation undermines the very core of the public financing laws. Second, one of the events over which the banner was flown was the Southern 500 race in Darlington, a Winston Cup NASCAR race, which provided massive exposure to the anti-Clinton message. Finally, by coordinating with Messrs. Roof and Harrison and having them purchase the services of the airplane, and not reporting this activity, the Committee was able to advance the re-election of George Bush while denying the public its right to know of the Committee's involvement in this effort.

Therefore, there is probable cause to believe that Respondents accepted an in-kind contribution to defray a qualified campaign expense, in violation of 26 U.S.C. § 9003(b)(2); that Respondents failed to report the acceptance of this in-kind contribution, in violation of 2 U.S.C. § 434(b)(3)(A); and that

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Respondents failed to report this in-kind contribution as an expenditure, in violation of 2 U.S.C. § 434(b)(5)(A).

## III. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

2/15/94
Date

Lawrence M. Noble
General Counsel

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DIRECT DIAL NUMBER
(202) 662-5350

FEDERAL ELECTION COMMISSION
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March 7, 1994

**VIA HAND DELIVERY**

The Honorable Trevor Potter
Chairman
Federal Election Commission
999 E. Street, N.W.
Washington, D.C. 20463

**Re: MUR 3608 -- Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby**

Dear Mr. Potter:

This letter is submitted on behalf of Bush-Quayle '92 General Committee, Inc. and its Treasurer, J. Stanley Huckaby (collectively, "Respondents") to explain why the Commission should decline to find probable cause to believe that a violation has occurred with respect to the above-captioned MUR. The underlying complaint was filed by the South Carolina Democratic Party ("Complainant") in September 1992 alleging that James H. Harrison and R. Phil Roof hired for $600 a single-engine plane that flew over events sponsored by the campaign of Bill Clinton in South Carolina with a message in tow reading "No Draft Dodger for President." The General Counsel's Office asserts that there is probable cause to believe that these activities constituted an in-kind contribution to the Bush-Quayle campaign and that, if the evidence were to bear out that assertion, Respondents would have violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

On January 13, 1994, Respondents submitted a letter to the General Counsel's Office setting forth three reasons for dismissing the complaint. See Attachment A. First, Respondents have not violated the federal election campaign laws. The evidence cited by the General Counsel shows, at most, that a state Bush-Quayle '92 campaign official had knowledge of Mr. Roof's plans, not that any representative of Bush-Quayle '92 was in any way an active participant. Second, even if the Commission were to deem the evidence sufficient to attribute the $600 expenditure to Respondents, the expenditure

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received 3/8/94

would have been incurred contrary to procedures clearly established by Respondents.

Finally, the Commission's refusal to allow Respondents complete access to relevant materials violates fundamental principles of due process.[1]

The General Counsel of the Commission recently informed Respondents that it will recommend that the Commission find probable cause to believe that a violation has occurred. Respondents attach and incorporate their letter of January 13, 1993, explaining why the Commission should dismiss the complaint. Respondents also address below new issues raised by the General Counsel's Brief.

**DISCUSSION**

The expenditure of Messrs. Roof and Harrison cannot comprise an in-kind contribution unless there was "arrangement, coordination, or direction by the candidate . . .." 11 C.F.R. § 109.1(b)(4)(1). In the absence of concerted action with a campaign, the First Amendment protects the right of an individual to make direct expenditures in political campaigns. As the Supreme Court observed in Buckley v. Valeo, "[t]he First Amendment affords the broadest protection to such political expression in order to 'assure [the] unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'"[2]

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[1]

[2] 424 U.S. 1, 14 (1976) (quoting Roth v. United States, 354 U.S. 476, 484 (1957))

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The General Counsel argues that the record contains direct evidence of coordination, asserting that Mr. Roof sought the "assistance" of the campaign in hiring an airplane to tow the "No Draft Dodger for President" sign. However, this assertion misconstrues the conversation between Mr. Roof and Mr. Adams and elevates a passing conversation to a level of importance not intended by the participants, the statute, or the regulations. To constitute circumvention of the public campaign financing laws, the actions of the campaign must include some active participation.

Mr. Roof stated emphatically under oath that he conceived and carried out the plan to hire an airplane to tow the "No Draft Dodger for President" message. He did not ask for or receive any approval of or comment on the plan from any Bush-Quayle '92 campaign official. Robert Adams, the campaign director for the state, confirmed this fact in a sworn statement. See Attachment A. Mr. Adams' mention of the name of an airplane service did not constitute participation in the decisionmaking process or render any material aid to Mr. Roof; it simply saved Mr. Roof the time of looking in a phone book.

The General Counsel incorrectly suggests that the Commission has previously advised that cooperation "no greater than at the level in this matter renders a proposed expenditure an in-kind contribution . . . ." Gen. Counsel Br. at 7. However, both of the cited advisory opinions involved far more active participation by the candidate in the expenditure at issue. In Advisory Opinion 1983-12, the proposed expenditure concerned the creation of television commercials using either existing videotape obtained with the consent of candidates and/or new videotape taken of the candidates. In Advisory Opinion 1988-22, the independent group sought to publish a newsletter listing, "in coordination with candidates[,] . . . substantive statements generally favoring a candidate or criticizing his opponent" and listing campaign events provided by candidates on a regular basis. In both instances, the candidates would have been providing material aid -- in videotape and scheduling information respectively -- to the independent group that could not have been obtained elsewhere.

Here the campaign did not participate in the planning or execution of the airplane fly-by. Mr. Adams merely saved Mr. Roof the trouble of opening a phone book. He did not provide any "campaign materials" or information

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particular to the campaign.[3] Nor does Mr. Adams' mere knowledge of the airplane fly-by constitute coordination of activity. Mr. Roof had decided to hire the airplane prior to his conversation with Mr. Adams, and, as noted above, did not seek or receive any comments on his plans. Nor is there any suggestion that Mr. Roof's expenditure displaced planned expenditures by the campaign.

The Commission has declined in the past to find coordination where the inference was stronger than in the present case. For example, in Common Cause v. Federal Election Commission,[4] the court affirmed the Commission's finding that expenditures made by a number of independent groups were not "coordinated" with the Reagan-Bush campaign notwithstanding: "interlocking membership of persons at the policy making levels of the committees and prior alliances with the official committees; indirect communication of strategy by Reagan's committees through the media; [and] the use of common vendors." 655 F. Supp. at 624. The court approved the General Counsel's position that "'absent a showing of an actual agreement to sue the media for purposes of coordinating activity, it would be very difficult to sustain a finding of cooperation and coordination based on the press releases.'" Id. (emphasis added).[5]

---

[3] In Advisory Opinion 1983-12, the Commission observed that the proposed commercials would not constitute an in-kind contribution to the candidate if the film footage were obtained and used without the participation of the candidate. 1 Fed. Elec. Camp. Guide (CCH) ¶ 5718 at 10,979.

[4] 655 F. Supp. 619 (1986), rev'd in part, vacated in part on other grounds, 842 F.2d 436 (1988).

[5] Similarly, in Stark v. Federal Election Commission, 683 F. Supp. 839 (D.D.C. 1988), the court upheld a Commission decision, on a tie vote, not to find reason-to-believe a violation had occurred and therefore not even to initiate an investigation. In Stark, an independent group had sent out mailings setting forth the candidate's position on certain issues along with a solicitation of funds for the candidate, complete with envelopes pre-addressed to the candidate's campaign and pledge cards by which the contributors could notify the independent group of their contribution. Id. at 839. In this case, the inference of direct coordination between Mr. Roof and the campaign with respect to the hiring of an airplane to tow a banner is far weaker.

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In upholding the Commission's refusal to infer coordination, the court observed that Congress intended to limit the circumstances under which an expenditure by a third party would be attributed to a political candidate:

> In the House Report which accompanied the 1976 House bill amending the Federal Election Campaign Act, the definition of 'at the suggestion of' in the definition of independent expenditure was intended to include direct suggestions. H. Rep. No. 917, 94th Cong., 2d Sess., 5 (1976).

655. F. Supp. at 624 (emphasis in original). Exhortations to a group to do "everything possible . . . to defeat the opponent" are not "suggestions" where the candidate does not control the group. H. Rep. No. 917 at 5. Congress recognized that the limitations on independent expenditures were "prophylactic measures" and that failure to curb their scope would undermine the "full enjoyment of the First Amendment right of individuals and groups to make expenditures for political expression." Id.[6] In this matter, Mr. Roof has stated under oath that he was not under the control or direction of the campaign and that he was not coordinating his activity with the campaign. He was simply exercising his right to express his views during the campaign.

The General Counsel also argues that Mr. Roof's former position as a campaign official during the primary triggers a presumption that his expenditures were made in coordination or consultation with Respondents. However, the affidavits of Mr. Roof and Mr. Adams flatly contradict and rebut any presumption of coordination.[7] Mr. Roof conceived

---

[6] Courts have been reluctant to limit expenditures by independent groups because of these serious First Amendment implications. Cf. Federal Election Commission v. Survival Education Fund, Inc., 1994 U.S. Dist. LEXIS 210 at *2 (S.D.N.Y 1994) ("It is clear from the cases that expressions of hostility to the positions of an official, implying that that official should not be reelected - even when that implication is quite clear - do not constitute express advocacy which runs afoul of the statute. Obviously, the courts are not giving a broad reading to this statute.").

[7] Cf. Stark, 683 F. Supp. at 840 (three Commissioners relied in part on "unequivocal denials" by participants that

(continued...

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and executed the airplane fly-bys. He did not seek the agreement, approval, or even acknowledgement of Mr. Adams.

Finally, the General Counsel asserts that the alleged violation is far more serious than the "modest amount of money expended" and states that the alleged actions "undermine the very core of the public financing laws." Gen. Counsel Br. at 8. As discussed in Respondents' January 13 letter, the Bush-Quayle '92 leadership had adopted a policy of clearing expenditures through national headquarters to ensure compliance with applicable laws and regulations. However, because Mr. Roof believed at the time -- and continues to believe now -- that the expenditures were made independently of the campaign, the national headquarters did not learn of the event until after the fact. Thus, even if the Commission were to find that the airplane fly-bys constitute an in-kind contribution, the circumstances make clear that any violation was inadvertent and against written campaign policy. The melodramatic rhetoric of in the General Counsel's Brief is wholly unwarranted in this matter. If anything, the "core" interest most threatened by this proceeding is our societal interest in an "'uninhibited, robust and wide-open'" debate of public issues. Buckley v. Valeo, 424 U.S. at 14 (quoting New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964)).

CONCLUSION

For the reasons set forth above and in Attachment A, the Commission should dismiss this matter with no further action.

Respectfully submitted,

Bobby R. Burchfield /TOB

Bobby R. Burchfield

cc: Tony Buckley

---

[2] (...continued)
they collaborated in declining to find reason-to-believe a violation had occurred).

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COVINGTON & BURLING

**DECLARATION**

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed in Washington, D.C., on this 7th day of March 1994.

Bobby R. Burchfield

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# DECLARATION OF ROBERT ADAMS

I, Robert Adams, do hereby declare as follows:

1. During the fall of 1992, I served as the State Director of Bush-Quayle '92 General Committee, Inc. ("Bush-Quayle '92") for the state of South Carolina during the general election campaign for the office of the President of the United States.

2. As State Director, I was aware of and followed the policy issued by the national headquarters of Bush-Quayle '92 of clearing all expenses with the treasurer in the national office before they were incurred.

3. I understand that the Federal Election Commission is investigating a complaint filed by the South Carolina Democratic Party concerning the hiring of an airplane by Phil Roof and James Harrison to tow a banner over two Clinton campaign events.

4. In early September 1992, R. Phil Roof, the individual from whom the state campaign offices were leased, mentioned in passing that he had decided to hire an airplane to tow a banner over two Clinton campaign events. He asked for, and I gave him, the name of an airplane flying service. I did not participate in the formation of Mr. Roof's plans and did not comment on the wisdom or the details of his plans. Neither in this conversation nor in any other communication did I, or to my knowledge any other representative of Bush-Quayle '92, arrange, coordinate, or direct the airplane fly-bys. More specifically, Bush-Quayle '92 did not arrange the logistics for the fly-bys.

5. In providing Mr. Roof with the name of an airplane flying service, I did not consider myself to be approving Mr. Roof's plans, arranging for the use of that flying service, coordinating his activities, directing Mr. Roof's activities, or committing the campaign to an expenditure.

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

Executed in Columbia, S.C., on this 12th day of January 1994.

Robert Adams

Robert Adams

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SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of )
)
Bush-Quayle '92 General Committee, Inc. ) MUR 3608 **SENSITIVE**
and J. Stanley Huckaby, as treasurer )

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On October 26, 1993, the Commission found reason to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A). On January 13, 1994, Respondents submitted a request that the Commission take no further action against them. The Commission rejected this request on February 8, 1994.

On February 15, 1994, this Office sent a General Counsel's Brief notifying Respondents that this Office was prepared to recommend that the Commission find probable cause to believe in this matter. Respondents submitted a reply brief on March 7, 1994. Attachment 1.

II. ANALYSIS (The General Counsel's Brief is incorporated herein by reference)

This Office maintains that R. Phil Roof, an official of the Bush-Quayle campaign during the primary election period and the individual from whom Bush-Quayle's South Carolina headquarters were rented during the 1992 election cycle, coordinated his purchase of airplane fly-bys with Robert Adams, the State Director of the Bush-Quayle campaign in South Carolina, by informing Mr. Adams of his intent and by seeking Mr. Adams' assistance in locating the vendor necessary to performing the fly-bys.

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Respondents once again seek to argue that the contact and exchange of information between Messrs. Roof and Adams did not constitute "active participation." See Attachment 1 at 3. The Commission has already found these arguments unconvincing.[1]

Respondents next argue that, although Mr. Roof's history with the campaign is long and extensive, any presumption of coordination has been rebutted by the claims by Messrs. Roof and Adams that they subjectively did not intend for coordination to occur. In this effort, Respondents misconstrue two court cases as demonstrating situations where "[t]he Commission has declined in the past to find coordination where the inference was stronger than in the present case." Attachment 1 at 4. These cases, however, turned on situations where presumptions of coordination existed because of relationships between the parties, with no evidence that any contact had been made with respect to the issue at hand, and where coordination on that particular issue was subsequently denied by all respondents. See Stark v. FEC, 683 F. Supp. 836, 839-840 (D.D.C. 1988); see also Common Cause v. FEC,

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1. In making this argument, Respondents address the two advisory opinions cited in the General Counsel's Brief, and assert that, "[i]n both instances, [Advisory Opinions 1983-12 and 1988-22,] the candidates would have been providing material aid -- in videotape and scheduling information respectively -- to the independent group that could not have been obtained elsewhere." Attachment 1 at 3. (Emphasis added). However, Respondents also admit that, "[i]n Advisory Opinion 1983-12, the Commission observed that the proposed commercials would not constitute an in-kind contribution to the candidate if the film footage were obtained and used without the participation of the candidate." Id. at 4, fn. 3. Thus, contrary to Respondents' representations, Advisory Opinion 1983-12 stands for the proposition that coordination occurs where a person seeks information from a candidate or campaign, regardless of the character of that information.

655 F. Supp. 619, 624 (D.D.C. 1986), rev'd in part, vacated in part on other grounds, 842 F.2d 436 (D.C. Cir. 1988). Here, the presumption which would normally apply is rendered moot by the admitted direct coordination of the activity.

Accordingly, this Office recommends that the Commission find probable cause to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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## IV. RECOMMENDATIONS

1. Find probable cause to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

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

3/18/94
Date

Lawrence M. Noble
General Counsel

Attachment
1. Respondents' Brief
2. Proposed Conciliation Agreement

Staff assigned: Tony Buckley

9404356079 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**MEMORANDUM**

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: MARCH 24, 1994

SUBJECT: MUR 3608 - GENERAL COUNSEL'S REPORT DATED MARCH 18, 1994.

The above-captioned document was circulated to the Commission on Monday, March 21, 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 | XXX |
| Commissioner Elliott | XXX |
| Commissioner McDonald | |
| Commissioner McGarry | |
| Commissioner Potter | |
| Commissioner Thomas | XXX |

This matter will be placed on the meeting agenda for Tuesday, April 5, 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 3608 |
| Bush-Quayle '92 General Committee, | ) | |
| Inc., and J. Stanley Huckaby, as | ) | |
| treasurer | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 5, 1994, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3608:

1. Find probable cause to believe that Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

2. Approve the conciliation agreement and the appropriate letter as recommended in the General Counsel's report dated March 18, 1994.

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

Attest:

4-7-94
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APRIL 13, 1994

Bobby R. Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Burchfield:

On April 5, 1994, the Federal Election Commission found that there is probable cause to believe your clients, Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), provisions of the Federal Election Campaign Act of 1971, as amended, and 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code, in connection with the hiring of an airplane to fly a banner over two South Carolina campaign rallies by then-Democratic presidential candidate Bill Clinton in September 1988.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement.

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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 Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9404356080 3

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

May 2, 1994

Bobby R. Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Burchfield:

On April 13, 1994, you were notified that the Federal Election Commission found that there is probable cause to believe your clients, Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), provisions of the Federal Election Campaign Act of 1971, as amended, and 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code. On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter. As of this date, we have heard nothing from you.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. If we have not received a response from you by May 11, 1994, and if your response does not suggest that substantial progress can be made toward resolving this matter by May 18, 1994, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel.

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

Sincerely,

Tony Buckley
Attorney

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SENSITIVE
JUN 2 2 1994
EXECUTIVE SESSION

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. | ) | MUR 3608 |
| and J. Stanley Huckaby, as treasurer | ) | |

**GENERAL COUNSEL'S REPORT**

## I. BACKGROUND

On April 5, 1994, the Commission found that there is probable cause to believe Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), and 26 U.S.C. § 9003(b)(2), and approved a conciliation agreement

Respondents were notified of the Commission's action and the opportunity to conciliate this matter in a letter dated April 13, 1994.

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## III. RECOMMENDATIONS

1.

2. Approve the attached conciliation agreement as the Commission's final conciliation offer in this matter.

3. Authorize the Office of the General Counsel to file a civil suit for relief in United States District Court against Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, should they not accept the Commission's final conciliation offer.

4. Approve the attached letter.

6/13/94
Date

Lawrence M. Noble
General Counsel

Attachments
1. Respondents' submission
2. Proposed conciliation agreement
3. Proposed letter

Staff Assigned: Tony Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | MUR 3608 |
| Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer | ) | |

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on June 22, 1994, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 3608:

1.

2. Approve the conciliation agreement recommended in the General Counsel's June 13, 1994 report as the Commission's final conciliation offer in this matter.

3. Authorize the Office of the General Counsel to file a civil suit for relief in the United States District Court against Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, should they not accept the Commission's final conciliation offer.

(continued)

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4. Approve the letter recommended in the General Counsel's report dated June 13, 1994.

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

Attest:

6/23/94
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 24, 1994

**HAND DELIVERED**

Bobby R. Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Burchfield:

On June 22, 1994,

the Commission has authorized the General Counsel to institute a civil action for relief in the United States District Court.

The Commission has, however, approved one final agreement in an effort to resolve this matter short of litigation.

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The enclosed agreement is the Commission's final attempt at conciliating this matter. No changes to its terms or conditions will be considered. While I am hopeful that this matter can be settled through this conciliation agreement, please be advised that in the absence of your clients' acceptance of the enclosed agreement within 10 days, the conciliation process will be terminated, and a civil suit will be filed.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9404356081 6

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX (202) 662-6291
TELEX 89-593 (COVLING WSH)
CABLE COVLING

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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LORIMER HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE 071-495-5655
TELEFAX 071-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE 32-2-512-9890
TELEFAX 32-2-502-1598

BOBBY R. BURCHFIELD
DIRECT DIAL NUMBER
(202) 662-5350

July 5, 1994

**VIA HAND DELIVERY**

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

Re: MUR 3608

Dear Mr. Noble:

In view of all circumstances, including legal costs, Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, Treasurer, have executed the Conciliation Agreement forwarded with your letter dated June 24, 1994.

Checks for the amounts indicated will be forwarded pursuant to the terms of the Agreement.

Sincerely,

Bobby R. Burchfield

Enclosure

cc: J. Stanley Huckaby

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COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

JUL 7 3 51 PM '94

In the Matter of )
)
Bush-Quayle '92 General Committee, Inc. ) MUR 3608
and J. Stanley Huckaby, as treasurer )

SENSITIVE

## GENERAL COUNSEL'S REPORT

### I. BACKGROUND

Attached is a conciliation agreement which has been signed by Stan Huckaby, the treasurer of Bush-Quayle '92 General Committee, Inc. Attachment 1.[1]

The attached agreement contains no changes from the agreement approved by the Commission on June 22, 1994. No check for the civil penalty has been received.

### II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer.

2. Approve the appropriate letters.

3. Close the file.

7/7/94
Date

Lawrence M. Noble
General Counsel

Attachment
Conciliation Agreement

Staff Assigned: Tony Buckley

1. This Office received two separate signed agreements. The first was signed by Mr. Huckaby on June 30, 1994; the second was signed by Mr. Huckaby on July 5, 1994. Only the agreement signed on July 5, 1994 contained an original signature page. However, the agreement signed on June 30, 1994 arrived with the letter from counsel for Respondents, Bobby Burchfield. With the consent of Mr. Burchfield, this Office has substituted the copy of the agreement with the original signature page for the one which originally accompanied his letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer. | ) | MUR 3608 |

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 13, 1994, the Commission decided by a vote of 5-1 to take the following actions in MUR 3608:

1. Accept the conciliation agreement with the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, as recommended in the General Counsel's Report dated July 7, 1994.

2. Approve the appropriate letters, as recommended in the General Counsel's Report dated July 7, 1994.

3. Close the file.

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

Attest:

7-13-94
Date

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

| | | | |
|---|---|---|---|
| Received in the Secretariat: | Thurs., | July 07, 1994 | 3:51 p.m. |
| Circulated to the Commission: | Fri., | July 08, 1994 | 12:00 p.m. |
| Deadline for vote: | Wed., | July 13, 1994 | 4:00 p.m. |

bjr

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 15, 1994

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Albert McAlister
South Carolina Democratic Party
2730 Devine Street
Columbia, SC 29205

RE: MUR 3608

Dear Mr. McAlister:

This is in reference to the complaint you filed with the Federal Election Commission on September 15, 1992, concerning the hiring of an airplane to fly certain banners over campaign rallies by then-presidential candidate Bill Clinton.

The Commission found that there was probable cause to believe the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), provisions of the Federal Election Campaign Act of 1971, as amended, and 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code. On July 13, 1994, a conciliation agreement signed by the respondents was accepted by the Commission, thereby concluding the matter. Accordingly, on that same date, the Commission closed the file in this matter. A copy of this agreement is enclosed for your information.

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

Sincerely,

Tony Buckley
Attorney

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 15, 1994

James H. Harrison
4210 Wilmont
Columbia, SC 29205

RE: MUR 3608

Dear Mr. Harrison:

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

Sincerely,

Tony Buckley
Attorney

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 15, 1994

R. Phil Roof
P.O. Box 11348
Columbia, SC 29211

RE: MUR 3608

Dear Mr. Roof:

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

Sincerely,

Tony Buckley
Attorney

9404356082 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 15, 1994

Bobby R. Burchfield, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

RE: MUR 3608
Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer

Dear Mr. Burchfield:

On July 13, 1994, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A), provisions of the Federal Election Campaign Act of 1971, as amended, and 26 U.S.C. § 9003(b)(2), a provision of Chapters 95 and 96 of Title 26, U.S. Code. Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that all

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requirements of Paragraph VI of the agreement must be met within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUL 5 4 01 PM '94

**BEFORE THE FEDERAL ELECTION COMMISSION**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| Bush-Quayle '92 General Committee, Inc. | ) | MUR 3608 |
| and J. Stanley Huckaby, as treasurer | ) | |

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by Albert McAlister, Chairman of the South Carolina Democratic Party. The Federal Election Commission ("Commission") found probable cause to believe that the Bush-Quayle '92 General Committee, Inc. and J. Stanley Huckaby, as treasurer ("Respondents"), violated 26 U.S.C. § 9003(b)(2) and 2 U.S.C. §§ 434(b)(3)(A) and 434(b)(5)(A).

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

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

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

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

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

Participants

1. President George Bush and Vice President Dan Quayle were the presidential and vice-presidential candidates, respectively, of the Republican Party in the 1992 general election.

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FROM COVINGTON & BURLING 06.24.1994 15:48 P.04

2. The Bush-Quayle '92 Primary Committee, Inc. ("the Primary Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was an authorized committee of President George Bush and Vice President Dan Quayle in the 1992 primary election campaign.

3. The Bush-Quayle '92 General Committee, Inc. ("the General Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and was an authorized committee of President George Bush and Vice President Dan Quayle in the 1992 presidential election campaign. The General Committee succeeded the Primary Committee.

4. J. Stanley Huckaby is the treasurer of the General Committee.

5. Robert Adams served as State Director of the Primary and General Committees in South Carolina.

6. R. Phil Roof served as the Finance Chairman in South Carolina for the Primary Committee. Mr. Roof raised funds for the Primary Committee in his capacity as Finance Chairman. Mr. Roof also rented office space to the Primary and General Committees in the building in which he maintained his principal place of business.

Applicable Law

7. Pursuant to 26 U.S.C. § 9003(b)(2), in order to be eligible to receive payments from the Presidential Election Campaign Fund, the candidates of a major party in a presidential election shall certify to the Commission that, inter alia, their

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FROM COVINGTON & BURLING 06.24.1994 15:49 P.05

authorized campaign committee will not accept contributions to defray qualified campaign expenses.

8. An independent expenditure is an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, any agent or authorized committee of a candidate. See 11 C.F.R. § 109.1(a). Such an expenditure is made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, any agent or authorized committee of such candidate if it involves any coordination by the candidate's agent prior to the display of the communication. See 11 C.F.R. 109.1(b)(4)(i).

9. Pursuant to 11 C.F.R. 109.1(c), an expenditure not qualifying as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted. An in-kind contribution to a presidential committee amounts to a qualified campaign expenditure by that committee.

10. Pursuant to 2 U.S.C. § 434(b)(3)(A), a political committee's periodic report of receipts and disbursements shall contain the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contributions exceed $200 within the calendar year.

11. Pursuant to 2 U.S.C. § 434(b)(5)(A), a political committee shall also report the name and address of each person to whom an expenditure in excess of $200 within the calendar year is

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FROM COVINGTON & BURLING 06.24.1994 15:49 P.06

made to meet a candidate or committee operating expense, together with the date, amount, and purpose of such expenditure.

Events

12. Through its Standards of Conduct for Consultants, Employees, and Volunteers of Bush-Quayle '92 issued on February 5, 1992, and in a separate memorandum to Chairs of state Republican Committees and State Bush-Quayle '92 Committees issued on January 14, 1992, the national headquarters advised its consultants, employees and volunteers not to accept independent contributions or expenditures.

13. On August 20, 1992, President George Bush and Vice President Dan Quayle certified to the Commission that, inter alia, their authorized committee would not accept contributions to defray qualified campaign expenditures.

14. On August 21, 1992, the Commission determined that President Bush and Vice President Quayle had submitted the appropriate agreements and certifications to entitle them to receive public funding. Accordingly, the Commission certified to the Department of the Treasury that President Bush and Vice President Quayle were entitled to receive $55,240,000 from the Presidential Election Campaign Fund.

15. On or about August 25, 1992, the Primary Committee sent letters to all members of its fundraising committee, including R. Phil Roof, informing them that they were officially released from their Bush-Quayle '92 responsibilities "effective immediately." Mr. Roof received this letter at his principal place of business on August 31, 1992.

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FROM COVINGTON & BURLING 06.24.1994 15:59 P.07

16. Within five days of R. Phil Roof receiving the letter from the Primary Committee, Mr. Roof told Robert Adams, the Bush campaign's State Director for South Carolina, of his desire to hire an airplane to trail a banner reading "No Draft Dodger for President" over two South Carolina campaign appearances by Democratic presidential candidate Bill Clinton. Mr. Adams advised Mr. Roof that Bermuda High Soaring in Lancaster, South Carolina could provide the banner flying services.

17. An airplane hired by Mr. Roof and James H. Harrison trailed such a banner over Clinton campaign appearances on September 5 and 6, 1992. One of the appearances was at the Southern 500 NASCAR race in Darlington, which was attended by tens of thousands of people. The cost of hiring the airplane was $600.

18. The national headquarters of Bush-Quayle '92 was not informed of any of the actions detailed in paragraphs 16 and 17 above prior to their occurrences; however, because Robert Adams was the Bush-Quayle '92 State Director for South Carolina, and was charged with overseeing the Bush-Quayle campaign in that state, his role in facilitating the display of the banner is fully chargeable to the national campaign.

Conclusion

19. Mr. Roof's informing an official of the General Committee about his planned activity, and his receipt of a suggestion from that official about a vendor to carry out that activity, constitute coordination with the General Committee, and result in the acceptance of an in-kind contribution by the General Committee.

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FROM COVINGTON & BURLING 06.24.1994 15:58 P.08

V. 1. Respondents accepted an in-kind contribution to defray a qualified campaign expense, in violation of 26 U.S.C. § 9003(b)(2).

2. Respondents failed to report the acceptance of this in-kind contribution, in violation of 2 U.S.C. § 434(b)(3)(A).

3. Respondents failed to report this in-kind contribution as an expenditure, in violation of 2 U.S.C. § 434(b)(5)(A).

VI. 1. Respondents will repay to the United States Treasury the amount of the expenditure of Six Hundred Dollars ($600), and will pay a civil penalty to the Federal Election Commission in the amount of Ten Thousand Dollars ($10,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will amend their reports currently on file to include the omitted information.

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

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

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and

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FROM COVINGTON & BURLING 06.24.1994 15:50 P.09

implement the requirements contained in this agreement and to so notify the Commission.

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 7/14/94

FOR THE RESPONDENTS:

(Name)
(Position)

Date 7/5/94

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3608

DATE FILMED 7-29-94 CAMERA NO. 2

CAMERAMAN JMH

9404356083 2

FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

Date: 9/1/94

✓ Microfilm

_____ Public Records

_____ Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3608

9404355651103

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

AUG 15 1 29 PM '94

August 15, 1994

Mr. Jonathan Bernstein
Office of General Counsel
Federal Election Commission
999 E Street NE
6th Floor
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
ACCOUNTING OFFICE

AUG 15 4 18 PM '94

Dear Mr. Bernstein:

In accordance with the Conciliation Agreement for MUR 3608, enclosed please find the following:

1. Bush-Quayle '92 General Committee, Inc. check to the U.S. Treasury for $ 600.00

2. Bush-Quayle '92 General Committee, Inc. check to the U.S. Treasury for $ 10,000.00.

3. Amended FEC reports for the Bush-Quayle '92 General Committee, Inc. for September 1992, October 1-14, 1992, October 15-November 23, 1992, and November 24-January 31, 1992.

Sincerely:

Keith A. Davis, Assistant Treasurer
Bush-Quayle '92 General Committee, Inc.

encls.

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1029 15th St. NW, Washington, DC 20005 228 S. Washington St., #200
Alexandria, VA 22314
Paid for by Bush-Quayle '92 General Committee, Inc.
Printed on Recycled Paper

FEC FORM 3P, Page 1
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

# REPORT OF RECEIPTS AND DISBURSEMENTS BY AN AUTHORIZED COMMITTEE OF A CANDIDATE FOR THE OFFICE OF PRESIDENT

**NOTE:** *This report is to be used by an authorized committee of a candidate seeking nomination or election to the Office of President or Vice President of the United States whether or not public funds are used.*

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full): Bush - Quayle '92 General Committee, Inc.

2. IDENTIFICATION NUMBER: C00273516

ADDRESS (number and street) [ ] Check if different than previously reported: 228 South Washington Street, Suite 200

CITY, STATE and ZIP CODE: Alexandria, Virginia 22314

3. IS THIS REPORT OF RECEIPTS AND DISBURSEMENTS FOR: [ ] Primary [XX] General

4. TYPE OF REPORT ("X" appropriate box and complete, if applicable)

- [X] Amendment for (Report) September 1992
- [ ] Monthly Report (month) _____
- [ ] April 15 Quarterly Report
- [ ] July 15 Quarterly Report
- [ ] October 15 Quarterly Report
- [ ] January 31 Year-end Report
- [ ] Termination Report
- [ ] Twelfth Day Before Election
- [ ] Thirtieth Day After Election

TYPE OF ELECTION

STATE | ELECTION DATE

## COMMITTEE SUMMARY OF RECEIPTS AND DISBURSEMENTS

5. COVERING PERIOD: FROM 9/1/92 THROUGH 9/30/92

| | | |
|---|---|---|
| SUMMARY | 6. CASH ON HAND AT BEGINNING OF THE REPORTING PERIOD | 54,289,131.32 |
| | 7. TOTAL RECEIPTS THIS PERIOD (From Line 22 Column A) | 49,425.81 |
| | 8. SUBTOTAL (Add Line 6 and 7) | 54,338,557.13 |
| | 9. TOTAL DISBURSEMENTS THIS PERIOD (From Line 30 Column A) | 18,285,144.71 |
| | 10. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (Subtract Line 9 from 8) | 36,053,412.42 |
| | 11. DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE (Itemize All on Schedule C or Schedule D) | NONE |
| | 12. DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE (Itemize All on Schedule C or Schedule D) | 260,000.00 |
| | 13. EXPENDITURES SUBJECT TO LIMITATION (From FEC Form 3P, Page 4) | -0- |
| NET YEAR-TO-DATE CONTRIBUTIONS AND EXPENDITURES | 14. NET CONTRIBUTIONS (Other than Loans) (Subtract Line 28d Column B from 17e Column B) | -0- |
| | 15. NET OPERATING EXPENDITURES (Subtract Line 20a Column B from 23 Column B) | 19,187,187.58 |

*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: Keith A. Davis, Assistant Treasurer

SIGNATURE OF TREASURER: Keith A. Davis | DATE: 8/15/94

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

All previous versions of FEC Form 3P are obsolete and should no longer be used.

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 376-3120

FEC FORM 3P (2/83)

2404356519

# DETAILED SUMMARY OF RECEIPTS AND DISBURSEMENTS
(Page 2, FEC FORM 3P)

NAME OF COMMITTEE (in Full): Bush - Quayle '92 General Committee, Inc.

REPORT COVERING THE PERIOD: From: 9/1/92 Through: 9/30/92

| | COLUMN A Total This Period | COLUMN B Calendar Year-to-Date | |
|---|---|---|---|
| **I. RECEIPTS** | | | |
| 16. FEDERAL FUNDS (Itemize on Schedule A-P) | -0- | 55,240,000.00 | 16 |
| 17. CONTRIBUTIONS (other than loans) FROM: | | | |
| (a) Individuals/Persons Other Than Political Committees | 600.00 | 600.00 | 17(a) |
| (b) Political Party Committees | -0- | -0- | 17(b) |
| (c) Other Political Committees | -0- | -0- | 17(c) |
| (d) The Candidate | -0- | -0- | 17(d) |
| (e) TOTAL CONTRIBUTIONS (other than loans) (Add 17(a), 17(b), 17(c) and 17(d)) | 600.00 | 600.00 | 17(e) |
| 18. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 18 |
| 19. LOANS RECEIVED: | | | |
| (a) Loans Received From or Guaranteed by Candidate | -0- | -0- | 19(a) |
| (b) Other Loans | -0- | -0- | 19(b) |
| (c) TOTAL LOANS (Add 19(a) and 19(b)) | -0- | -0- | 19(c) |
| 20. OFFSETS TO EXPENDITURES (Refunds, Rebates, etc.): | | | |
| (a) Operating | 48,825.81 | 48,825.81 | 20(a) |
| (b) Fundraising | -0- | -0- | 20(b) |
| (c) Legal and Accounting | -0- | -0- | 20(c) |
| (d) TOTAL OFFSETS TO EXPENDITURES (Add 20(a), 20(b) and 20(c)) | 48,825.81 | 48,825.81 | 20(d) |
| 21. OTHER RECEIPTS (Dividends, Interest, etc.) | -0- | -0- | 21 |
| 22. TOTAL RECEIPTS (Add 16, 17(e), 18, 19(c), 20(d) and 21) | 49,425.81 | 55,539,425.81 | 22 |
| **II. DISBURSEMENTS** | | | |
| 23. OPERATING EXPENDITURES | 18,285,144.71 | 19,236,013.39 | 23 |
| 24. TRANSFERS TO OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 24 |
| 25. FUNDRAISING DISBURSEMENTS | -0- | -0- | 25 |
| 26. EXEMPT LEGAL AND ACCOUNTING DISBURSEMENTS | -0- | -0- | 26 |
| 27. LOAN REPAYMENTS MADE: | | | |
| (a) Repayments of Loans Made or Guaranteed by Candidate | -0- | -0- | 27(a) |
| (b) Other Repayments | -0- | -0- | 27(b) |
| (c) TOTAL LOAN REPAYMENTS MADE (Add 27(a) and 27(b)) | -0- | -0- | 27(c) |
| 28. REFUNDS OF CONTRIBUTIONS TO: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | -0- | 28(a) |
| (b) Political Party Committees | -0- | -0- | 28(b) |
| (c) Other Political Committees | -0- | -0- | 28(c) |
| (d) TOTAL CONTRIBUTION REFUNDS (Add 28(a), 28(b) and 28(c)) | -0- | -0- | 28(d) |
| 29. OTHER DISBURSEMENTS | -0- | -0- | 29 |
| 30. TOTAL DISBURSEMENTS (Add 23, 24, 25, 26, 27(c), 28(d) and 29) | 18,285,144.71 | 19,486,013.39 | 30 |
| **III. CONTRIBUTED ITEMS (Stock, Art Objects, Etc.)** | | | |
| 31. ITEMS ON HAND TO BE LIQUIDATED (Attach List) | -0- | -0- | 31 |

**SCHEDULE A-P**

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

# ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the detailed summary page

PAGE 1 OF (total pages) 1

LINE NUMBER 17a

NAME OF COMMITTEE (in Full)
Bush-Quayle '92 General Committee, Inc.

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, ADDRESS, CITY, STATE, ZIP CODE | NAME OF EMPLOYER / OCCUPATION / AGGREGATE YEAR-TO-DATE | RECEIPT FOR (specify other) | DATE (MONTH, DAY, YEAR) | AMOUNT OF EACH RECEIPT THIS PERIOD |
|---|---|---|---|---|
| R. Phil Roof<br>500 Rivermont Road<br>Columbia, SC 29210 | RPR & Associates, Inc.<br>President<br>500.00 | [ ] Primary<br>[X] General<br>[ ] | 9/5/92 | 500.00<br>(in-kind) |
| James H. Harrison<br>4210 Wilmot Avenue<br>Columbia, SC 29205 | self-employed<br>attorney<br>100.00 | [ ] Primary<br>[X] General<br>[ ] | 9/5/92 | 100.00<br>(in-kind) |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |
| | | [ ] Primary<br>[ ] General<br>[ ] | | |

SUBTOTAL OF RECEIPTS THIS PAGE (optional) .....

TOTAL THIS PERIOD (last page this line number only) ..... 600.00

2404356510 7

**SCHEDULE B-P**

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

# ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the detailed summary page

PAGE 403A OF (total pages) 403A

LINE NUMBER 23

NAME OF COMMITTEE (in Full)
Bush-Quayle '92 General Committee, Inc.

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, ADDRESS, CITY, STATE, ZIP CODE | PURPOSE OF DISBURSEMENT / DISBURSEMENT FOR | DATE (MONTH, DAY, YEAR) | AMOUNT OF EACH DISBURSEMENT THIS PERIOD |
|---|---|---|---|
| R. Phil Roof<br>500 Rivermont Road<br>Columbia, SC 29210 | aircraft rental (in-kind)<br>☐ Primary ☒ General ☐ Other (specify) | 9/5/94 | 500.00 |
| James H. Harrison<br>4210 Wilmot Road<br>Columbia. SC 29205 | aircraft rental (in-kind)<br>☐ Primary ☒ General ☐ Other (specify) | 9/5/94 | 100.00 |
| Memo-entry (for in-kinds above):<br>Bermuda High Soaring<br>Lancaster. SC | ☐ Primary ☐ General ☐ Other (specify) | | |
| | ☐ Primary ☐ General ☐ Other (specify) | | |
| | ☐ Primary ☐ General ☐ Other (specify) | | |
| | ☐ Primary ☐ General ☐ Other (specify) | | |
| | ☐ Primary ☐ General ☐ Other (specify) | | |
| | ☐ Primary ☐ General ☐ Other (specify) | | |

SUBTOTAL OF DISBURSEMENTS THIS PAGE (optional) ..... 600.00

TOTAL THIS PERIOD (last page this line number only) ..... 18,285,144.71

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FEC FORM 3P, Page 1
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

# REPORT OF RECEIPTS AND DISBURSEMENTS BY AN AUTHORIZED COMMITTEE OF A CANDIDATE FOR THE OFFICE OF PRESIDENT

**NOTE:** *This report is to be used by an authorized committee of a candidate seeking nomination or election to the Office of President or Vice President of the United States whether or not public funds are used.*

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full): Bush - Quayle '92 General Committee, Inc.

ADDRESS (number and street) [ ] Check if different than previously reported: 228 South Washington Street, Suite 200

CITY, STATE and ZIP CODE: Alexandria, Virginia 22314

2. IDENTIFICATION NUMBER: C00273516

3. IS THIS REPORT OF RECEIPTS AND DISBURSEMENTS FOR: George Bush

[ ] Primary [X] General

4. TYPE OF REPORT ("X" appropriate box and complete, if applicable)

[X] Amendment for (Report): Pre-General
[ ] Monthly Report (month)
[ ] April 15 Quarterly Report
[ ] July 15 Quarterly Report
[ ] October 15 Quarterly Report
[ ] January 31 Year-end Report
[ ] Termination Report
[ ] Twelfth Day Before Election
[ ] Thirtieth Day After Election

TYPE OF ELECTION: General
STATE: National
ELECTION DATE: 11/3/92

## COMMITTEE SUMMARY OF RECEIPTS AND DISBURSEMENTS

5. COVERING PERIOD FROM 10/1/92 THROUGH 10/14/92

| | | |
|---|---|---|
| SUMMARY | 6. CASH ON HAND AT BEGINNING OF THE REPORTING PERIOD | 36,053,412.42 |
| | 7. TOTAL RECEIPTS THIS PERIOD (From Line 22 Column A) | 24,402.84 |
| | 8. SUBTOTAL (Add Line 6 and 7) | 36,077,815.26 |
| | 9. TOTAL DISBURSEMENTS THIS PERIOD (From Line 30 Column A) | 12,337,115.77 |
| | 10. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (Subtract Line 9 from 8) | 23,740,699.49 |
| | 11. DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE (Itemize All on Schedule C or Schedule D) | NONE |
| | 12. DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE (Itemize All on Schedule C or Schedule D) | 260,000.00 |
| | 13. EXPENDITURES SUBJECT TO LIMITATION (From FEC Form 3P, Page 4) | -0- |
| NET YEAR-TO-DATE CONTRIBUTIONS AND EXPENDITURES | 14. NET CONTRIBUTIONS (Other than Loans) (Subtract Line 28d Column B from 17e Column B) | -0- |
| | 15. NET OPERATING EXPENDITURES (Subtract Line 20a Column B from 23 Column B) | 31,499,900.51 |

*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: Keith A. Davis, Assistant Treasurer

SIGNATURE OF TREASURER: Keith A. Davis

DATE: 8/15/92

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

All previous versions of FEC Form 3P are obsolete and should no longer be used.

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 376-3120

FEC FORM 3P (2/83)

2404356509

# DETAILED SUMMARY OF RECEIPTS AND DISBURSEMENTS
(Page 2, FEC FORM 3P)

NAME OF COMMITTEE (in Full): Bush - Quayle '92 General Committee, Inc.

REPORT COVERING THE PERIOD: From: 10/1/92 Through: 10/14/92

| | COLUMN A Total This Period | COLUMN B Calendar Year-to-Date | |
|---|---|---|---|
| **I. RECEIPTS** | | | |
| 16. FEDERAL FUNDS (Itemize on Schedule A-P) | -0- | 55,240,000.00 | 16 |
| 17. CONTRIBUTIONS (other than loans) FROM: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | 600.00 | 17(a) |
| (b) Political Party Committees | -0- | -0- | 17(b) |
| (c) Other Political Committees | -0- | -0- | 17(c) |
| (d) The Candidate | -0- | -0- | 17(d) |
| (e) TOTAL CONTRIBUTIONS (other than loans) (Add 17(a), 17(b), 17(c) and 17(d)) | -0- | 600.00 | 17(e) |
| 18. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 18 |
| 19. LOANS RECEIVED: | | | |
| (a) Loans Received From or Guaranteed by Candidate | -0- | -0- | 19(a) |
| (b) Other Loans | -0- | -0- | 19(b) |
| (c) TOTAL LOANS (Add 19(a) and 19(b)) | -0- | -0- | 19(c) |
| 20. OFFSETS TO EXPENDITURES (Refunds, Rebates, etc.): | | | |
| (a) Operating | 24,402.84 | 73,228.65 | 20(a) |
| (b) Fundraising | -0- | -0- | 20(b) |
| (c) Legal and Accounting | -0- | -0- | 20(c) |
| (d) TOTAL OFFSETS TO EXPENDITURES (Add 20(a), 20(b) and 20(c)) | 24,402.84 | 73,228.65 | 20(d) |
| 21. OTHER RECEIPTS (Dividends, Interest, etc.) | -0- | -0- | 21 |
| 22. TOTAL RECEIPTS (Add 16, 17(e), 18, 19(c), 20(d) and 21) | 24,402.84 | 55,563,828.65 | 22 |
| **II. DISBURSEMENTS** | | | |
| 23. OPERATING EXPENDITURES | 12,337,115.77 | 31,573,129.16 | 23 |
| 24. TRANSFERS TO OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 24 |
| 25. FUNDRAISING DISBURSEMENTS | -0- | -0- | 25 |
| 26. EXEMPT LEGAL AND ACCOUNTING DISBURSEMENTS | -0- | -0- | 26 |
| 27. LOAN REPAYMENTS MADE: | | | |
| (a) Repayments of Loans Made or Guaranteed by Candidate | -0- | -0- | 27(a) |
| (b) Other Repayments | -0- | -0- | 27(b) |
| (c) TOTAL LOAN REPAYMENTS MADE (Add 27(a) and 27(b)) | -0- | -0- | 27(c) |
| 28. REFUNDS OF CONTRIBUTIONS TO: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | -0- | 28(a) |
| (b) Political Party Committees | -0- | -0- | 28(b) |
| (c) Other Political Committees | -0- | -0- | 28(c) |
| (d) TOTAL CONTRIBUTION REFUNDS (Add 28(a), 28(b) and 28(c)) | -0- | -0- | 28(d) |
| 29. OTHER DISBURSEMENTS | -0- | -0- | 29 |
| 30. TOTAL DISBURSEMENTS (Add 23, 24, 25, 26, 27(c), 28(d) and 29) | 12,337,115.77 | 31,823,129.16 | 30 |
| **III. CONTRIBUTED ITEMS (Stock, Art Objects, Etc.)** | | | |
| 31. ITEMS ON HAND TO BE LIQUIDATED (Attach List) | -0- | -0- | 31 |

9 4 0 4 3 5 6 5 1 1 0

FEC FORM 3P. Page 1
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

# REPORT OF RECEIPTS AND DISBURSEMENTS BY AN AUTHORIZED COMMITTEE OF A CANDIDATE FOR THE OFFICE OF PRESIDENT

NOTE: *This report is to be used by an authorized committee of a candidate seeking nomination or election to the Office of President or Vice President of the United States whether or not public funds are used.*

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full): Bush - Quayle '92 General Committee, Inc.

2. IDENTIFICATION NUMBER: C00273516

ADDRESS (number and street) [ ] Check if different than previously reported: 228 South Washington Street, Suite 200

CITY, STATE and ZIP CODE: Alexandria, Virginia 22314

3. IS THIS REPORT OF RECEIPTS AND DISBURSEMENTS FOR: [ ] Primary [X] General

4. TYPE OF REPORT ("X" appropriate box and complete, if applicable)

- [X] Amendment for (Report): Post-General
- [ ] Monthly Report (month)
- [ ] April 15 Quarterly Report
- [ ] January 31 Year-end Report
- [ ] July 15 Quarterly Report
- [ ] Termination Report
- [ ] October 15 Quarterly Report
- [ ] Twelfth Day Before Election
- [ ] Thirtieth Day After Election

TYPE OF ELECTION: General

STATE: National

ELECTION DATE: 11/3/92

## COMMITTEE SUMMARY OF RECEIPTS AND DISBURSEMENTS

5. COVERING PERIOD: FROM 10/15/92 THROUGH 11/23/92

| | | |
|---|---|---|
| SUMMARY | 6. CASH ON HAND AT BEGINNING OF THE REPORTING PERIOD | 23,740,699.49 |
| | 7. TOTAL RECEIPTS THIS PERIOD (From Line 22 Column A) | 140,495.39 |
| | 8. SUBTOTAL (Add Line 6 and 7) | 23,881,194.88 |
| | 9. TOTAL DISBURSEMENTS THIS PERIOD (From Line 30 Column A) | 20,106,655.99 |
| | 10. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (Subtract Line 9 from 8) | 3,774,538.89 |
| | 11. DEBTS AND OBLIGATIONS OWED TO THE COMMITTEE (Itemize All on Schedule C or Schedule D) | 27,424.00 |
| | 12. DEBTS AND OBLIGATIONS OWED BY THE COMMITTEE (Itemize All on Schedule C or Schedule D) Letters of Credit | 89,329.75<br>260,000.00 |
| | 13. EXPENDITURES SUBJECT TO LIMITATION (From FEC Form 3P, Page 4) | -0- |
| NET YEAR-TO-DATE CONTRIBUTIONS AND EXPENDITURES | 14. NET CONTRIBUTIONS (Other than Loans) (Subtract Line 28d Column B from 17e Column B) | -0- |
| | 15. NET OPERATING EXPENDITURES (Subtract Line 20a Column B from 23 Column B) | 51,716,061.11 |

*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: Keith A. Davis, Assistant Treasurer

SIGNATURE OF TREASURER: Keith A. Davis

DATE: 8/15/94

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 376-3120

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

All previous versions of FEC Form 3P are obsolete and should no longer be used.

FEC FORM 3P (2/83)

P 40435651 1

# DETAILED SUMMARY OF RECEIPTS AND DISBURSEMENTS
(Page 2, FEC FORM 3P)

NAME OF COMMITTEE (in Full): Bush - Quayle '92 General Committee, Inc.

REPORT COVERING THE PERIOD: From: 10/15/92 Through: 11/23/92

| | COLUMN A Total This Period | COLUMN B Calendar Year-to-Date | |
|---|---|---|---|
| **I. RECEIPTS** | | | |
| 16. FEDERAL FUNDS (Itemize on Schedule A-P) | -0- | 55,240,000.00 | 16 |
| 17. CONTRIBUTIONS (other than loans) FROM: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | 600.00 | 17(a) |
| (b) Political Party Committees | -0- | -0- | 17(b) |
| (c) Other Political Committees | -0- | -0- | 17(c) |
| (d) The Candidate | -0- | -0- | 17(d) |
| (e) TOTAL CONTRIBUTIONS (other than loans) (Add 17(a), 17(b), 17(c) and 17(d)) | -0- | 600.00 | 17(e) |
| 18. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 18 |
| 19. LOANS RECEIVED: | | | |
| (a) Loans Received From or Guaranteed by Candidate | -0- | -0- | 19(a) |
| (b) Other Loans | -0- | -0- | 19(b) |
| (c) TOTAL LOANS (Add 19(a) and 19(b)) | -0- | -0- | 19(c) |
| 20. OFFSETS TO EXPENDITURES (Refunds, Rebates, etc.): | | | |
| (a) Operating | 140,495.39 | 213,724.04 | 20(a) |
| (b) Fundraising | -0- | -0- | 20(b) |
| (c) Legal and Accounting | -0- | -0- | 20(c) |
| (d) TOTAL OFFSETS TO EXPENDITURES (Add 20(a), 20(b) and 20(c)) | 140,495.39 | 213,724.04 | 20(d) |
| 21. OTHER RECEIPTS (Dividends, Interest, etc.) | -0- | -0- | 21 |
| 22. TOTAL RECEIPTS (Add 16, 17(e), 18, 19(c), 20(d) and 21) | 140,495.39 | 55,704,324.04 | 22 |
| **II. DISBURSEMENTS** | | | |
| 23. OPERATING EXPENDITURES | 20,106,655.99 | 51,679,785.15 | 23 |
| 24. TRANSFERS TO OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 24 |
| 25. FUNDRAISING DISBURSEMENTS | -0- | -0- | 25 |
| 26. EXEMPT LEGAL AND ACCOUNTING DISBURSEMENTS | -0- | -0- | 26 |
| 27. LOAN REPAYMENTS MADE: | | | |
| (a) Repayments of Loans Made or Guaranteed by Candidate | -0- | -0- | 27(a) |
| (b) Other Repayments | -0- | -0- | 27(b) |
| (c) TOTAL LOAN REPAYMENTS MADE (Add 27(a) and 27(b)) | -0- | -0- | 27(c) |
| 28. REFUNDS OF CONTRIBUTIONS TO: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | -0- | 28(a) |
| (b) Political Party Committees | -0- | -0- | 28(b) |
| (c) Other Political Committees | -0- | -0- | 28(c) |
| (d) TOTAL CONTRIBUTION REFUNDS (Add 28(a), 28(b) and 28(c)) | -0- | -0- | 28(d) |
| 29. OTHER DISBURSEMENTS | -0- | -0- | 29 |
| 30. TOTAL DISBURSEMENTS (Add 23, 24, 25, 26, 27(c), 28(d) and 29) | 20,106,655.99 | 51,929,785.15 | 30 |
| **III. CONTRIBUTED ITEMS (Stock, Art, Objects, Etc.)** | | | |
| 31. ITEMS ON HAND TO BE LIQUIDATED (Attach List) | -0- | -0- | 31 |

2 4 0 4 3 5 6 5 1 1 2

FEC FORM 3P, Page 1
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

# REPORT OF RECEIPTS AND DISBURSEMENTS BY AN AUTORIZED COMMITTEE OF A CANDIDATE FR THE OFFICE OF PRESIDENT

NOTE: *This report is to be used by an authoriz ommittee of a candidate seeking nomination or election to the Office of President or Vice President of the Unit ates whether or not public funds are used.*

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME OF COMMITTEE (in full): Bush - Quayle '92 Genera mittee, Inc.

☐ different than previously reported

ADDRESS (number and street): 228 South Washington Str uite 200

CITY, STATE and ZIP CODE: Alexandria, Virginia 2

2. IDENTIFICATION NUMBER: C00273516

3. IS THIS REPORT OF RECEIPTS AND DISBURSEMENTS FOR: ☐ Primary ☒ General

4. TYPE OF REPORT ("X" appropriate box and complete, if applicable)

- ☒ Amendment for (Repo 1/31/93 Year
- ☐ April 15 Quarterly Re
- ☐ July 15 Quarterly Re
- ☐ October 15 Quarterl
- ☐ Monthly Report (month)
- ☐ January 31 Year-end Report
- ☐ Termination Report
- ☐ Twelfth Day Before Election
- ☐ Thirtieth Day After Election

TYPE OF ELECTION

STATE | ELECTION DATE

## COMMITTEE F RECEIPTS AND DISBURSEMENTS

5. COVERING PERIOD 11/24/92 THROUGH 12/31/92

| SUMMARY | | |
|---|---|---|
| | 6. CASH ON NING OF THE REPORTIN | 3,774,538.89 |
| | 7. TOTAL RE IOD (From Line | 348,687.43 |
| | 8. SUBTOTA (Add Line | 4,123,226.32 |
| | 9. TOTAL D IS PERIOD (From Lin | 1,805,691.55 |
| | 10. CASH ONF THE REPORTING PERIOD (Subtract | 2,317,534.77 |
| | 11. DEBTS WED TO THE COMMITTEE (Itemize edule D) | 27,424.00 |
| | 12. DEBTS WED BY THE COMMITTEE (Itemize edule D) Letters of Credit | 7,785.45<br>130,000.00 |
| | 13. EXPEN IMITATION (From F | -0- |
| NET YEAR-TO-DATE CONTRIBUTIONS AND EXPENDITURES | 14. NET CO n Loans) (Subtra 17e Column B) | -0- |
| | 15. NET OF S (Subtra 23 Column B) | 52,923,065.23 |

*I certify that I have examined this Re owledge and belief it is true, correct and complete.*

TYPE OR PRINT NAME OF TREASURE: Keith A. Davis, Assista

SIGNATURE OF TREASURER: Keith A. L

DATE: 8/15/94

NOTE: Submission of false, erroneous, the person signing this Report to the penalties of 2 U.S.C. § 4

All previous versions of FEC Form 3P ar

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 376-3120

FEC FORM 3P (2/83)

# DETAILED SUMMARY OF RECEIPTS AND DISBURSEMENTS
(Page 2, FEC FORM 3P)

NAME OF COMMITTEE (in Full): Bush - Quayle '92 General Committee, Inc.

REPORT COVERING THE PERIOD: From: 11/24/92 Through: 12/31/92

| | COLUMN A Total This Period | COLUMN B Calendar Year-to-Date | |
|---|---|---|---|
| **I. RECEIPTS** | | | |
| 16. FEDERAL FUNDS (Itemize on Schedule A-P) | -0- | 55,240,000.00 | 16 |
| 17. CONTRIBUTIONS (other than loans) FROM: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | 600.00 | 17(a) |
| (b) Political Party Committees | -0- | -0- | 17(b) |
| (c) Other Political Committees | -0- | -0- | 17(c) |
| (d) The Candidate | -0- | -0- | 17(d) |
| (e) TOTAL CONTRIBUTIONS (other than loans) (Add 17(a), 17(b), 17(c) and 17(d)) | -0- | 600.00 | 17(e) |
| 18. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 18 |
| 19. LOANS RECEIVED: | | | |
| (a) Loans Received From or Guaranteed by Candidate | -0- | -0- | 19(a) |
| (b) Other Loans | -0- | -0- | 19(b) |
| (c) TOTAL LOANS (Add 19(a) and 19(b)) | -0- | -0- | 19(c) |
| 20. OFFSETS TO EXPENDITURES (Refunds, Rebates, etc.): | | | |
| (a) Operating | 348,687.43 | 562,411.47 | 20(a) |
| (b) Fundraising | -0- | -0- | 20(b) |
| (c) Legal and Accounting | -0- | -0- | 20(c) |
| (d) TOTAL OFFSETS TO EXPENDITURES (Add 20(a), 20(b) and 20(c)) | 348,687.43 | 562,411.47 | 20(d) |
| 21. OTHER RECEIPTS (Dividends, Interest, etc.) | -0- | -0- | 21 |
| 22. TOTAL RECEIPTS (Add 16, 17(e), 18, 19(c), 20(d) and 21) | 348,687.43 | 56,053,011.47 | 22 |
| **II. DISBURSEMENTS** | | | |
| 23. OPERATING EXPENDITURES | 1,805,691.55 | 53,485,476.70 | 23 |
| 24. TRANSFERS TO OTHER AUTHORIZED COMMITTEES | -0- | 250,000.00 | 24 |
| 25. FUNDRAISING DISBURSEMENTS | -0- | -0- | 25 |
| 26. EXEMPT LEGAL AND ACCOUNTING DISBURSEMENTS | -0- | -0- | 26 |
| 27. LOAN REPAYMENTS MADE: | | | |
| (a) Repayments of Loans Made or Guaranteed by Candidate | -0- | -0- | 27(a) |
| (b) Other Repayments | -0- | -0- | 27(b) |
| (c) TOTAL LOAN REPAYMENTS MADE (Add 27(a) and 27(b)) | -0- | -0- | 27(c) |
| 28. REFUNDS OF CONTRIBUTIONS TO: | | | |
| (a) Individuals/Persons Other Than Political Committees | -0- | -0- | 28(a) |
| (b) Political Party Committees | -0- | -0- | 28(b) |
| (c) Other Political Committees | -0- | -0- | 28(c) |
| (d) TOTAL CONTRIBUTION REFUNDS (Add 28(a), 28(b) and 28(c)) | -0- | -0- | 28(d) |
| 29. OTHER DISBURSEMENTS | -0- | -0- | 29 |
| 30. TOTAL DISBURSEMENTS (Add 23, 24, 25, 26, 27(c), 28(d) and 29) | 1,805,691.55 | 53,735,476.70 | 30 |
| **III. CONTRIBUTED ITEMS (Stock, Art Objects, Etc.)** | | | |
| 31. ITEMS ON HAND TO BE LIQUIDATED (Attach List) | -0- | -0- | 31 |

2404855114

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

8/15/94

**TWO WAY MEMORANDUM**

TO: OGC, Docket

FROM: Rosa Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Bush-Quayle '92 Gen Cmte Inc, check number 576050, dated 8/12/94, and in the amount of $ 600.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

---

TO: Rosa Swinton
Accounting Technician

FROM: OGC, Docket Byaa

In reference to the above check in the amount of $ 600.00, the MUR number is 3608 and in the name of Bush-Quayle '92 General Cmte Inc. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

__ Civil Penalties Account, 95-1099.160

✓ Other: 95-3220 (Re-pymt to US. Treasury)

Anita Alexander
Signature

8-15-94
Date

9404356515

576051

**BUSH-QUAYLE '92 GENERAL COMMITTEE, INC.**
IMPREST ACCOUNT # 5
P.O. BOX 18998
WASHINGTON, D.C. 20036

15-154/540

August 12 19 94

PAY TO THE ORDER OF U.S. Treasury $ 10,000.00

Ten-Thousand and 00/100********* DOLLARS

FRANKLIN NATIONAL BANK
OF WASHINGTON, D.C.
1722 EYE STREET, N.W.
WASHINGTON, D.C. 20006

Conciliation Agreement-MUR 3608

Lisa R. Lisker

⑈576051⑈ ⑆054001547⑆ 10080438⑈12

576050

**BUSH-QUAYLE '92 GENERAL COMMITTEE, INC.**
IMPREST ACCOUNT # 5
P.O. BOX 18998
WASHINGTON, D.C. 20036

15-154/540

August 12 19 94

PAY TO THE ORDER OF U.S. Treasury $ 600.00

Six-Hundred and 00/100********** DOLLARS

FRANKLIN NATIONAL BANK
OF WASHINGTON, D.C.
1722 EYE STREET, N.W.
WASHINGTON, D.C. 20006

Repayment - MUR 3608

Lisa R. Lisker

⑈576050⑈ ⑆054001547⑆ 10080438⑈12

2404355 Change 116

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

8/15/94

**TWO WAY MEMORANDUM**

TO: OGC, Docket

FROM: Rosa Swinton
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Bush-Quayle '92 Gen Cmte Inc, check number 576051, dated 8/12/94, and in the amount of $10,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

---

TO: Rosa Swinton
Accounting Technician

FROM: OGC, Docket By aa

In reference to the above check in the amount of $10,000.00 the MUR number is 3608 and in the name of Bush-Quayle '92 General Cmte Inc. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

✓ Civil Penalties Account, 95-1099.160

__ Other: _____

Anita Alexander
Signature

8-15-94
Date

94043565117