FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3787

DATE FILMED 7/7/95 CAMERA NO. 2

CAMERAMAN E.E.S.

9504365547767

AR-92-65

AB001181

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 24, 1992

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: FINAL AUDIT REPORT ON GEORGIA REPUBLICAN PARTY ("the Committee)

Attached for your review and analysis is the subject audit report. In addition, a copy of the narrative portion of the Committee's response to the interim audit report has been included at Attachment I. The Committee also submitted as part of its response two notebooks which contained amendments and other documentation in response to the interim audit report.

Included at Exhibit A, Apparent Excessive Contributions from Individuals; Exhibit B, Apparent Prohibited Contributions; Exhibit C, Victory '88 Program and Exhibit D, Failure to Maintain Receipt Records, are matters addressed in the interim audit report which the Audit staff recommends, based on the Commission's approved Materiality Thresholds, be referred to your Office.

Should you have any questions, or wish to review a copy of the amendments or documentation filed by the Committee please contact Alex Boniewicz or Rick Halter at 219-3720

Attachments:

Report of the Audit Division on Georgia Republican Party

Exhibit A - Apparent Excessive Contributions from Individuals (with attachment)

Exhibit B - Apparent Prohibited Contributions (with attachments)

Exhibit C - Victory '88 Program (with attachment)

Exhibit D - Failure to Maintain Receipt Records

Attachment I - Committee Response (Narrative Portion Only)

9504365476 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AB000736

A89-36

REPORT OF THE AUDIT DIVISION ON THE GEORGIA REPUBLICAN PARTY

I. Background

A. Overview

This report is based on an audit of the Georgia Republican Party ("the Committee"), undertaken by the Audit Division of the Federal Election Commission in accordance with the provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The audit was conducted pursuant to section 438(b) of Title 2 of the United States Code, which states, in part, that the Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this title. Prior to conducting any audit under this section, the Commission shall perform an internal review of reports filed by selected committees to determine whether the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act.

The Committee registered with the Federal Election Commission on February 23, 1982. The Committee maintains its headquarters in Atlanta, Georgia. The audit covered the period January 1, 1987 through December 31, 1988. The Committee reported a cash balance on January 1, 1987 of $131,223.79; total receipts of $1,497,571.88; total disbursements of $1,496,022.56; and a cash balance on December 31, 1988 of $132,773.11.

This audit report is based on documents and workpapers which support each of its factual statements. They form part of the record upon which the Commission based its decisions on the matters in the report and were available to the Commissioners and appropriate staff for review.

B. Key Personnel

The Treasurer of the Committee during the period covered by the audit was Marvin H. Smith, who continues to serve as the current Treasurer.

95043654769

C. Scope

The audit included such tests as verification of total receipts and disbursements and individual transactions; review of required supporting documentation; analysis of Committee debts and obligations; and such other audit procedures as deemed necessary under the circumstances; with the exception that although the Committee's recordkeeping with respect to receipt records (for the period January 1, 1987 through June 30, 1988) and disbursement records (for the period January 1, 1987 through December 31,1987) appeared to be in compliance with the requirements of 2 U.S.C. §432(c), bank accounts and supporting documentation were not maintained in a manner that allowed for the separation of federal and non-federal financial activity in accordance with the requirements of 11 C.F.R. §102.5, thereby limiting substantive testing of: total reported receipts and expenditures; proper disclosure of receipts/disbursements; and limitations/prohibitions on contributions. Further, the Committee did not appear to be in compliance with the provisions of 11 C.F.R §§102.9(a) and (b) which require, in part, that the treasurer keep an account of committee receipts and disbursements by any reasonable accounting procedure.

II. Audit Findings and Recommendations

A. Separation of Federal/Non-Federal Activity and Misstatement of Financial Activity

Sections 434(b)(2) and (4) of Title 2 of the United States Code require that each report disclose, for the reporting period and calendar year, the total amount of all receipts and the total amount of all disbursements.

Sections 102.5(a)(1)(i) and (ii) of Title 11 of the Code of Federal Regulations state, in part, that a political committee shall establish a separate federal account in a depository and that such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act; or establish a political committee which shall receive contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections.

In addition, Sections 102.9(a) and (b) of Title 11 of the Code of Federal Regulations provide, in relevant parts, that the treasurer of a political committee shall keep an account by any reasonable accounting procedure of all contributions received by or on behalf of the political committee, and of all disbursements made by or on behalf of the political committee.

During fieldwork, the Audit staff determined that, for 1987, the Committee maintained four accounts with respect to federal activity. Two accounts appeared to contain solely federal

9504365477 0

activity. The two remaining accounts were shared accounts with the non-federal committee, one used for payment of payroll and the other used for payment of operating and other expenditures. Since the shared payroll account was used solely for this purpose, the Audit staff is of the opinion that the Committee would be required to report each transfer from its federal account which reimburses this non-federal account. Therefore, the shared payroll account activity was not considered in the Audit staff's bank reconciliation to determine correct reportable activity for 1987. With respect to the shared operating account, from which disbursements appear to have been made for other than allocable costs, the Audit staff is of the opinion that this is a separate federal account as described at 11 C.F.R. §102.5(a)(1)(i), which shall comply with the reporting requirements of 11 CFR part 104. Additionally, only funds subject to the prohibitions and limitations of the Act shall be deposited to such account.*/ The Audit staff has included this account as part of the 1987 bank reconciliation to determine correct reportable activity.

In addition, Committee records with respect to contributions from individuals and disbursements were maintained in such a manner as to preclude the Audit staff from distinguishing which transactions were associated with the federal committee as opposed to those associated with the non-federal committee.

The Committee did not provide all 1987 bank statements until after the exit conference. The Audit staff performed a limited reconciliation of Committee bank accounts to its disclosure reports filed for 1987. Based upon the adjusted bank activity for all four accounts, the Committee's beginning cash was overstated by $367.23, receipts were understated by $184,355.43, disbursements were understated by $175,973.08, and the cash balance at December 31, 1987 was understated by $8,015.12. The Audit staff could not perform an in-depth analysis of the differences; it is our opinion that these differences reflect the non-federal activity within the shared accounts.

The Audit staff performed a reconciliation of the Committee's bank activity to reported financial activity for 1988 based upon the most recent reports filed by the Committee prior to notification of the impending audit. The reconciliation revealed a $92,172.35 overstatement of receipts, a $33,605.20 understatement of disbursements, and the cash balance at December 31, 1988 was overstated by $125,378.82. The Audit staff did not perform an in-depth analysis relative to the above difference since the Committee had filed an amended report on January 9, 1990 which corrected in all material aspects, the misstatements of financial activity for 1988 as detailed above.

---

*/ Under the Campaign Finance Law of Georgia, corporate contributions are permitted.

9 5 0 4 3 6 5 4 7 7 1

Additionally, the Audit staff was unable to perform any substantive tests with respect to the Committee's receipts (for the period 1-1-87 to 6-30-88) and disbursements (for the period 1-1-87 to 12-31-87) as a result of the difficulties noted above with respect to the bank reconciliations, as well as the inability to distinguish federal from non-federal activity. The Committee's receipt documentation, for the above noted period, consisted of photocopies of contributor checks maintained separately from deposit slips. The deposit slips only noted total dollars by fundraising code. Further, there was no indication on the copy of the check as to whether it was deposited to a federal or a non-federal account; nor does it appear that the check copies were annotated with a fundraising code. For disbursements made during 1987 from the shared payroll account described above, documentation or worksheets, from which the Audit staff could identify the federal from the non-federal payroll, were not available to the Audit staff. Also, documentation for the shared operating account, for 1987, was maintained by vendor and the attached invoices contained no notations as to whether the disbursement was federal or non-federal in nature.

At the exit conference, Committee representatives were advised of the above matters.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee organize its financial records for 1987 and its receipt records through 6-30-88, so federal and non-federal activity could be separated. Alternatively, the Committee could amend their disclosure reports for 1987, adjusting for the misstatements mentioned above, and filing amended Schedules A and B for 1987, correctly itemizing receipt and disbursement activity. In addition, based upon the corrective action taken by the Committee with respect to this matter, the Audit staff recommended that the Committee make available for the Audit staff's review appropriate receipt documentation for the period 1-1-87 through 6-30-88 as well as disbursement documentation for 1987. For 1988, except as noted above, the Audit staff recommended no further action at that time. The Audit staff also noted that further recommendations may be forthcoming.

The Committee's response included receipt documentation and amended disclosure reports. Within the narrative portion of its response, the Committee states that all transfers from its federal accounts to its non-federal operating account have also been included on the amended reports and "strenuously objects to the classification by the Audit Report of the operating account as a federal account." The Committee notes that "the function and operation of this account was to serve as the account out of which allocable expenditures were made, following receipt of transfers from the federal account, using both federal and non-federal funds in proportion under the ballot composition method. The account was not used to pay non-allocable federal expenditures, and the

9504365477 2

activity from this account was not reportable under FEC regulations then in place."

The Audit staff notes that the fieldwork review of available disbursement documentation showed no federal activity with respect to the operating account other than the three payments described in Finding II.C.. In addition, there were no federal or state-level elections held in Georgia during 1987. Finally, for 1988, the Committee discontinued its practice of using a joint operating account, conforming to the regulations then in effect. The Audit staff is of the opinion the Committee has substantively complied with the recommendation with respect to this matter.

Recommendation #1

The Audit staff recommends no further action with respect to this matter.

B. Disclosure of Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code requires that each report under this section disclose 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 to meet a candidate or committee operating expense, together with the date, amount and purpose of such operating expenditure.

As discussed in Finding II.A. above, Committee disbursement records for 1987 were such that federal activity could not be distinguished from non-federal activity. The Audit staff was able to perform a limited review of expenses incurred during 1987 utilizing a partial check register and bank statements for accounts containing federal activity provided after the close of fieldwork. By comparing the check register entries to bank statements for the joint operating account, and disbursements disclosed on Schedule B of reports filed by the Committee, the Audit staff determined there were 46 disbursements totaling $44,628.97 that were not itemized on the Committee's disclosure reports, for which the payee could also be determined. The Audit staff then accounted for the remaining disbursements in excess of $200 on the bank statements and identified an additional 148 disbursements totaling $160,547.19 which were not itemized on Committee reports. Since these 148 disbursements were identified using only bank statements provided subsequent to the close of fieldwork, only check number and amount are available for these disbursements. Altogether, the Audit staff noted 194 disbursements, totaling $205,176.16, made during 1987, for which records maintained by the Committee did not allow for a determination of the federal or non-federal nature of these

9 5 0 4 3 6 5 4 7 7 3

disbursements; and for which there were not itemized entries on Schedule B of the Committee's disclosure reports.

In addition, the Audit staff notes that transfers from the Committee's federal account to the shared payroll account, totaling $105,400.00, representing the federal portion of allocable payroll costs, appear not to have been reported on Committee disclosure reports for 1987. It should be noted that the Committee reported $117,585.32 in Other Disbursements on its 1987 Year-End report; however, this amount was not supported by itemized entries on Schedules B. Further, absent Committee workpapers detailing the source of its reported figures, the Audit staff was unable to determine which disbursements were included as Other Disbursements.

For 1988, the Audit staff performed a sample review of Committee disbursements. The results indicated that a material number of disbursements were not itemized as required on the most recent reports filed prior to notification of the impending audit. On January 9, 1990, as part of a comprehensive amendment filed by the Committee, Schedules B were submitted which materially corrected the itemization problem identified for 1988.

At the exit conference, Committee representatives were made aware of the problems associated with the 1988 disbursements.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report, contingent upon the corrective action taken with respect to Finding II.A.(Separation of Federal/Non-Federal Activity and Misstatement of Financial Activity) for 1987, the Committee file appropriate Schedules B disclosing disbursements not itemized as noted above. For 1988, the Audit staff recommended no further action.

As part of the Committee's response received May 4, 1992, amendments were filed to correct the reporting of federal activity for 1987 which included Schedules B disclosing disbursements requiring itemization.

The Audit staff's review of these amendments indicated the Committee has materially corrected the disclosure of disbursements.

Recommendation #2

The Audit staff recommends no further action with respect to this matter.

9 5 0 4 3 6 5 4 7 7 4

C. Contributions to Federal Candidates from the Non-Federal Account

Section 102.5(a)(1)(i) of Title 11 of the Code of Federal Regulations states, in part, that all disbursements, contributions, expenditures and transfers by a committee in connection with any federal election shall be made from its federal account.

The Audit staff's limited review of disbursements noted that the Committee made three contributions totalling $2,300 to federal candidates from its State Operating account.

At the Exit Conference, a Committee representative was provided with copies of the checks in question. In its 1990 April Quarterly Report, filed with the Commission on April 17, 1990, the Committee reported the transfer of $2,300*/, the amount of the aforementioned contributions, to its State Account, and provided copies of the bank memoranda.

Recommendation #3

The Audit staff recommends no further action with respect to this matter.

D. Reporting of Interest Income Received

Sections 434(b)(2)(J) and (3)(G) of Title 2 of the United States Code provide, in relevant parts, that each report under this section shall disclose for the reporting period and calendar year the total amount of all dividends, interest and other forms of receipts, as well as the identification of each person who provides any dividend, interest or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt.

Section 431(13)(B) of Title 2 of the United States Code defines the term "identification" to be, in the case of any person, to be the full name and address of such person.

Section 431(11) of Title 2 of the United States Code defines the term "person" to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

---

*/ In the Audit staff's opinion, this action obviates the need for the non-federal account to register as a political committee.

9504365477 5

The Audit staff's review of available bank statements for the Committee's federal money market and Victory '88 accounts, determined that all 28 transactions involving receipt of interest income, totaling $13,230.79, were not itemized as required.

In addition, the Detailed Summary Pages filed as part of the Committee's 1987 and 1988 Year-End disclosure reports disclose a total of only $10,209.35 in Other Receipts. The Audit staff noted that the Committee appears to have understated other receipts by $2,775.78 for 1987; and, understated other receipts by $245.66 for 1988.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee file appropriate Schedules A disclosing interest income not itemized as noted above.

On May 4, 1992, as part of its response to the interim audit report, the Committee submitted amended reports that included Schedules A which materially disclosed interest income received.

Recommendation #4

The Audit staff recommends no further action with respect to this matter.

E. Disclosure of Contributions from Individuals

Section 434(b)(3)(A) of Title 2 of the United States Code requires that each report disclose the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such contribution.

Section 431(13) of Title 2 of the United States Code defines the term "identification" to be, in the case of any individual, the name, mailing address, and the occupation of such individual, as well as the name of his or her employer.

The Audit staff was unable to perform any substantive testing for the period from January 1, 1987 to June 30, 1988 since federal and non-federal contributor records could not be separated, as detailed at Finding II.A.. The Audit staff was able to perform a limited review of contributions received from individuals during the period July 1, 1988 through December 31, 1988. This review, performed on a sample basis, identified a material number of itemization and disclosure errors. The disclosure errors appear to be attributable to data input errors. Specifically, dollar amounts had been entered incorrectly or, for contributions made from joint accounts, the contribution had been attributed to the husband when the wife signed the check. The

9504365477 6

disclosure errors were confined to the 1988 October Quarterly reporting period. This is the first reporting period in which the Committee utilized computer-generated Schedules A.

At the exit conference, a Committee spokesperson stated that the itemization problem may have been due to a computer-programming error. The Committee spokesperson also was aware of the data entry problem of attributing checks signed by the wife to the husband.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee file amended Schedules A to correct the problems noted above. Based upon the review of documentation submitted by the Committee in response to Finding II.A., the Audit staff also noted that further recommendations may be forthcoming.

In its response to the interim audit report, the Committee notes that it "has compared its computer records with the deposit records and amended its October 1988 quarterly report as necessary."

The Audit staff's review of the amended report indicated that the Committee had materially corrected the problems noted above.

Recommendation #5

The Audit staff recommends no further action with respect to this matter.

F. Matters Referred to the Office of General Counsel

Certain matters noted during the audit have been referred to the Commission's Office of General Counsel.

9504365477 7

9504365477 8

Apparent Excessive Contributions from Individuals

Section 441a(a)(1)(C) of Title 2 of the United States Code states that no person shall make contributions to any other political committee in any calendar year, which in the aggregate, exceed $5,000.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, in part, that contributions which exceed the contribution limitation may be either deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the treasurer may request reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(k). If a reattribution is not obtained, the treasurer shall, within sixty days of receipt of the contribution, refund the contribution to the contributor.

Sections 110.1(k)(3)(ii)(A) and (B) of Title 11 of the Code of Federal Regulations state, in parts, that a contribution shall be considered reattributed to another contributor if the treasurer of the recipient committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person and informs the contributor that he or she may request the return of the excessive portion if it is not intended to be a joint contribution; and within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

The Audit staff's limited review of contributions from individuals identified contributions from four individuals, the excessive portions of which totaled $17,850.00*/, that do not appear to have been resolved timely nor resolved in accordance with the above cited regulations (see Attachment 1). The Committee deferred until 65 to 169 days after the date of deposit to transfer the excessive portions to the Committee's non-federal account. There was no evidence that the contributors were noticed with respect to this transfer.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee

---

*/ Of these excessive contributions, none were received prior to April 8, 1987, the effective date of the above regulations.

provide evidence that the contributions in question are not excessive, or provide an explanation, including an account of any mitigating circumstances, as to why the excessives were not resolved in a timely manner. The Audit staff also noted that further recommendations may be forthcoming.

In response to the interim audit report, the Committee states that it "made a diligent effort to monitor all contributors' aggregate totals as required. All excessive amounts from these four donors were transferred, in each case, as soon as the problem was discovered." In addition, the Committee references attached memos from "the staff responsible for doing deposits during the time these errors took place" and notes that letters were written to these donors explaining the situation and to query from them whether they wanted a refund or whether the funds could be transferred to the state account on their behalf.

The Committee's response stated that though not all letters were copied to the file, there were notes which indicated that letters had been written to all contributors and were annotated with phone numbers. The Committee states that "Kim Fleming remembers specifically calling A.L. Williams regarding his excessive contribution. The audit staff from the FEC had access, and are believed to have reviewed these letter copies and notes."

Finally, the Committee details a transfer of $25,000 from a federal to a non-federal account on August 4, 1988, which "though this was unrelated to the excessive funds problems, were it taken into consideration by the FEC, it could be construed to shorten, or in some cases eliminate the number of days it took to resolve these excessive contributions."

Only the November 6, 1988 memo prepared by Kim Flemming specifically addresses excessive contributions. Ms. Flemming states that after "completion of the 2nd quarter FEC report, I submitted a contract upon which I accepted the task of doing all the preparation work, including receipts and disbursements. I received the signed contract at my home. The postmark was 8-1-88. I began entering donor information shortly after that." The memo continues by noting that in late October, while preparing the Post General 1988 report and after contacting the Committee's Treasurer, she compiled a listing of discrepancies with respect to the $5,000 limitation. " Upon realizing the magnitude of the problem," she contacted the Treasurer and the Executive Director of the Committee and all parties agreed that both federal accounts should be "frozen" until further investigation. This took place November 1, 1988. Finally, the memo notes that on November 4, 1988, letters to the contributors were prepared for signature by the Treasurer.

The Audit staff finds the Committee's arguments to be

9 5 0 4 3 6 5 4 7 7 9

without merit. The Audit staff agrees that the transfer ($25,000) noted by the Committee is unrelated to the excessives noted above. Not only did the ($25,000) transfer occur well before most of the excessive contributions were received or identified by the Committee; but also, as noted by the Audit staff, the Committee reported other transfers made specifically to resolve these excessive items.

The Committee's response with respect to another matter addressed in the interim audit report noted an additional excessive contribution ($2,500) from an individual which was not resolved timely. Therefore, the Audit staff determined that apparent excessive contributions from five individuals, the excessive portions of which total $20,350, were not resolved timely by the Committee (see Attachment 1).

Recommendation

Based upon the Commission approved Materiality Thresholds, the Audit staff recommends this matter be referred to the Office of General Counsel.

9504365478 0

Georgia Republican Party
Apparent Excessive Contributions

Contributor Name	Contribution Amount and Date	Excess Portion	Number of Days to Resolve*/
Bernard W. Abrams	$1,500 (1/27/88)		
	1,500 (2/26/88)		
	2,000 (3/25/88)		
	1,000 (6/28/88)	$ 1,000	169
A. Russell Chandler	$5,000 (6/21/88)		
	1,000 (8/30/88)	1,000	101
John H. Parker, Jr.	$ 250 (2/6/88)		
	100 (2/26/88)		
	250 (4/1/88)		
	250 (6/6/88)		
	5,000 (6/24/88)	850	178
	250 (10/8/88)	**/	
Arthur L. Williams	$5,000 (9/29/88)		
	7,500 (10/17/88)	7,500	65
	7,500 (10/17/88)	7,500	73
Ronald S. Leventhal	$5,000 (10/20/87)		
	2,500 (11/5/87)	2,500 ***/	1,609
		$ 20,350	

*/This represents the number of days from date of deposit to the date of the tranfers to the non-federal committee.

**/This amount in excess of the limitation was resolved timely.

***/ This excessive was not addressed in the Interim Audit Report but rather identified by the Committee in its response to that report.

9504365478 1

9 5 0 4 3 6 5 4 7 8 2

Apparent Prohibited Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation to make a contribution or expenditure in connection with any election to any political office, or for any political committee to accept or receive any contribution prohibited by this section.

Based on the condition of the available records as detailed in the interim audit report at Finding II.A., the Audit staff was able to perform a limited review to identify apparent prohibited contributions received by the Committee during the period July 1, 1988 through December 31, 1988. Our review identified 13 contributions totaling $4,900 received from prohibited sources, for which the Committee took no action to resolve as of the close of fieldwork. These contributions were received during the months of August, September and October and appeared to have been deposited into the Committee's Victory '88 account. According to the Committee prohibited contributions were deposited in non-federal accounts during 1987.

At the Exit Conference, a Committee representative was provided with photocopies of the above noted items.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee either: demonstrate that these contributions are not prohibited; or, refund the prohibited contributions and provide evidence of the refunds (front and back of the cancelled checks); or, transfer the prohibited funds to the non-federal account subject to notifying the contributor of the proposed transfer and extending to the contributor the option of receiving a refund. Further recommendations may be forthcoming based upon the Audit staff's review of documentation submitted as part of the corrective action taken by the Committee in response to Finding II.A. of the interim audit report.

The Committee's response addresses four of the noted contributions, stating two were in fact deposited into a non-federal account and two, which were initially deposited into a federal account, were, within two days, transferred to a non-federal account. Documentation is provided to support these assertions. The response notes that, based upon the Audit staff's recommendation, the full amount ($4,900) was transferred to the non-federal account.*/ Finally, the Committee notes that "upon receipt of check copies from the bank, certain other contributions inadvertently deposited into the federal account

---

*/ The response notes that this transfer was incorrectly described on its 1990 April Quarterly report as a transfer of allocable costs.

were transferred to the non-federal account." According to the Committee, these contributions totaled $12,303.72 and appropriate transfers were made to the non-federal account during April, 1992.

It should be noted that the transfers to the non-federal account totaled $12,253.72, the Committee total appears to be overstated by $50 ($12,303.72 - $12,253.72). Included in the Committee's total is one excessive ($2,500) which the Audit staff has included as part of Exhibit A, Excessive Contributions from Individuals. Further, for one contribution ($50), the Audit staff has determined the contributor was not incorporated at the time the contribution was made. Finally, one contribution ($1,000) is noted as having been transferred 10/11/88 and has been excluded from the Committee's total ($12,303.72). Therefore, the prohibited contributions identified by the Committee total $10,703.72 ($12,303.72 - $50 - $2,500 + $1,000 - $50).

The Audit staff concurs that the four prohibited contributions addressed by the Committee, totaling $2,200, appear to have been handled timely. However, based upon the remaining prohibited contributions ($2,700) addressed in the interim audit report and those identified by the Committee ($10,703.72) in its response to the interim audit report, the Audit staff notes that prohibited contributions totaling $13,403.72 appear not to have been resolved timely.

Recommendation

Based upon the Commission approved Materiality Thresholds, the Audit staff recommends this matter be referred to the Office of General Counsel.

9 5 0 4 3 6 5 4 7 8 3

GEORGIA REPUBLICAN PARTY
Apparent Prohibited Contributions

Account Holder Per Check	Check Date	Amount of Contribution	DOI*/
1. Wright Farms	7-15-88	$ 1,000	7-15-82
2. B & J Dairy Queen, Inc.	9-9-88	100	11-17-82
3. Brown,Wright & Co.	8-23-88	1,000	12-8-80
4. Atlanta Diabetes Association	9-23-88	100	3-27-84
5. Rodrigo Cabezas, MD	9-8-88	50	12-4-79
6. Gregory S. Baer, MD, PC.	9-7-88	100	6-3-86
7. Athens Surgical Group PC.	9-6-88	100	7-23-79
8. Charles M. Mendenhall, MD, PC.	9-1-88	200	7-20-84
9. Barry Koffler, MD, PC	9-7-88	50	6-9-82
	TOTAL	$ 2,700	

*/ Date of Incorporation, as provided by the Georgia Secretary of State via telephone.

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

GEORGIA REPUBLICAN PARTY
Apparent Prohibited Contributions Identified By The Committee In Response to the Interim Audit Report

	Account Holder Per Committee	Deposit Date	Amount of Contribution	DOI
1.	Educational Record Center, Inc.	3-2-87	$100	8-25-81
2.	Rowe Supply Co.,Inc.	3-2-87	100	4-29-82
3.	Accounting Management,Inc.	3-2-87	100	7-25-83
4.	David L. Tinker, D.C.P.C.	3-2-87	100	6-24-85
5.	R S E Grading Co.,Inc.	3-2-87	100	1-7-85
6.	Richard L. Benson, MD	3-23-87	50	9-9-85
7.	GA I. V. Service,Inc.	3-23-87	100	1-9-86
8.	78 Rental Center,Inc.	4-9-87	100	3-4-80
9.	Kaufmann Diagnostic Clinic, Inc.	4-9-87	200	7-1-70
10.	Peachtree Supply, Inc.	4-20-87	100	6-25-79
11.	Robert F. Cunningham Insurance-All Forms	5-1-87	50	12-29-86
12.	Mann Construction,Inc.	5-1-87	185	10-1-84
13.	Cyrus Harden, Inc.	5-1-87	50	1-4-31
14.	William J. White Attorney at Law	5-1-87	72.50	2-15-79
15.	The Le Craw Company	6-5-87	50	2-18-81
16.	Ralph M. Howse, MD	6-5-87	100	4-7-59
17.	Hails Construction Co. of GA Inc.	6-9-87	100	1-4-73
18.	Spectro-Tech Sales Co.	7-28-87	50	5-15-86
19.	Grover R. Hinsdale GA Tech Atheletic Assn.	10-26-87	25	4-14-34
20.	Avail-Ability, Inc.	11-13-87	250	3-30-76
21.	Dr. Frank L. Wilson	1-12-87	50	6-26-81

95043654785

GEORGIA REPUBLICAN PARTY
Apparent Prohibited Contributions Identified By The Committee In Response to the Interim Audit Report

Account Holder Per Committee	Deposit Date	Amount of Contribution	DOI
22. Marshall M. Bandy, Jr.,PC Attorney at Law	2-2-88	1,000	5-11-61
23. Cotton States Mutual Ins. Co.	2-2-88	2,500	11-1-41
24. Kenneth A. Hoose, Jr.,MD	2-8-88	50	11-30-72
	2-16-88	500	
25. The Improvers Strike Again, Inc.	2-24-88	100	8-19-82
26. Milton B. Satcher, M.D.	6-6-88	50	11-2-71
27. George J. Schuette, D.D.S.P.C.	3-3-88	50	8-11-80
28. 1987 Legislative Auction	11-18-87	466.22	
29. Builders Political Action Committee	2-25-88	500	
30. Citizens & Southern Georgia Corporation Better Government Committee II	2-16-88	1,000	
	4-21-88	500	
31. First Union Corp. of Georgia Employees Good Gov't Fund	3-1-88	100	
32. Georgia Political Action Comm. Coca Cola PAC	5-10-88	1,000*/	
33. Chesley V. Morton, State**/ Rep., Dist. 47	5-31-88	400	
34. R.T. Phillips - SEN **/	5-31-88	400	
35. Kil Townsend Re-election Fund **/	5-1-87	55	
	TOTAL	$10,703.72 ***/	

*/ The Committee's response notes that this contribution was transferred to the non-federal account on 10-11-88.

**/ This appears to be a non-federal, state candidate committee.

***/ These contributions were all transferred to the non-federal account on either 4-2-92 or 4-21-92, with the one noted exception.

9504365547786

9504365547787

Victory '88 Program

1. Overview

The Committee was one of many state party committees to participate in the Victory '88 program according to a memorandum dated May 5, 1988 from E. Mark Braden, Chief Counsel, RNC, to Republican State Chairmen. This program was initiated in an effort to assist and encourage state and county committees to utilize volunteer activities in cooperation with, and on behalf of, Republican federal candidates. This program included volunteer materials, mass mailings and phone banks. The focus of the program was to utilize the volunteer exemptions provided for in Sections 100.8(b)(16) and (18) of Title 11 of the Code of Federal Regulations.

2. Volunteer Activity

Section 441a(d)(1) of Title 2 of the United States Code states that notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection. Section 441a(d)(2) of Title 2 of the United States Code states that the national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States as certified.

Sections 100.8(b)(18)(i), (ii), (v) and (vii) of Title 11 of the Code of Federal Regulations state, that the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party is not an expenditure for the purpose of influencing the election of such candidates provided that the following conditions are met:

- Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of this section, the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

- The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

- Payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not an expenditure when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 C.F.R. section 104.3.

- Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather such funds shall be subject to the limitations of 2 U.S.C. 441a(d) and 11 C.F.R. 110.7.*/

During the period September 14, through November 14, 1988, the Committee made disbursements totaling $304,764.46 to Campaign Telecommunications and Southern Research Services, Inc. for telemarketing services. The disbursements were made from both the Committee's Victory '88 Federal and non-federal accounts. The purposes of these disbursements included, but were not limited to, telephone and voter identification, GOTV calls and turn-out calls.

In addition, the Committee maintained its own phone bank which initially included 10 telephone lines. Individuals were paid by the Committee to perform telemarketing services. An additional 30 telephone lines were added by the Committee for Victory '88 use.

The Committee provided the auditors with seven scripts used in connection with the phone bank. Two of the scripts asked about voting preference for both Federal and State candidates. Two other scripts state in the comments "We are not trying to convince anyone to vote for any candidate, the calls should be made in an unbiased manner. This is very important". In these

---

*/ The Audit staff is aware of an in-kind receipt ($12,661.26) from the RNC to the Committee, as well as deposits ($131,600) from the RNC to the Committee's non-federal accounts.

9504365478 8

scripts, if the individual responds that they intend to vote for George Bush, the caller is to say, "[t]he election will be on Tuesday, November 8th. Please be sure to mark your calendar to vote." No response is provided for the caller if the individual indicates that he/she intends to vote for Michael Dukakis. Two of the final three scripts identify the caller as calling on behalf of Vice President Bush. These scripts were annotated to indicate that they were used by volunteers. The remaining script identifies the caller as calling on behalf of George Bush for President to remind the individual that "Tuesday is election day".

Disbursements made from the Victory '88 Federal account as well as those made with respect to the telemarketing services were reported as operating expenditures on Committee disclosure reports.

Based upon the limited information available, the Audit staff is of the opinion that the Committee's use of paid telephone callers would void the exemption provided under 11 C.F.R. §100.8(b)(18).

The Committee representatives present at the exit conference were not involved in the Victory '88 program and therefore did not feel qualified to answer questions about the program.

Finally, the Audit staff noted a memorandum, dated October 31, 1988, from Jay Morgan to the Georgia Victory '88 staff which advises that " Due to overpayment by our Louisiana Victory '88 program to our mail vendor [Direct Mail Systems], we are able to reduce the Georgia program payment. Likewise, we will raise the payment to the phone vendor so that all of this balances out." A subsequent memorandum, dated November 7, 1988 requests issuance of a check to Campaign Technology by the Committee "from monies deposited on 11/8" followed by a handwritten annotation that indicates these monies are "from Louisiana". The Audit staff was unable to identify any payments or deposits between the Louisiana and Georgia programs and the source of these funds remains unclear.

In the interim audit report, the Audit staff recommended that, within 30 calendar days of service of that report, the Committee provide documentation (both internal and commercial), to include but not be limited to, memoranda, contracts, invoices, vendor account statements, phone bills, and a detailed description of the program plan to demonstrate that the Victory '88 telemarketing operations are exempt from the expenditure limitations accorded to volunteer activities. Also, the Committee should specify which expenditures were made for the phone banks operated by the Committee. The Committee should also explain why the deposits of RNC money to the non-federal account

9 5 0 4 3 6 5 4 7 8 9

as well as the in-kind contribution noted above does not void the exemption.

Finally, the Committee was requested to provide documentation with respect to the Georgia and Louisiana programs, such as copies of contracts, invoices, and statements of account from Direct Mail Systems, Campaign Technology and the unnamed phone vendor noted in the 10/31/88 memorandum from Jay Morgan detailed above. Further, the Committee was requested to provide receipts documentation, to include microfilm copies of the 11/8 deposit slip and instruments deposited as noted above, and an explanation of the relationship between the Louisiana and Georgia Victory '88 programs as well as the source of the funds in question. The Audit staff also noted that additional recommendations may be forthcoming.

In its narrative response, the Committee states that "[e]nclosed are all available scripts in the [C]ommittee's files regarding the phone banks (sic) operation of Victory '88. The Audit Report references seven scripts, but there were only six actual scripts (all enclosed). There is no question that paid phoners were used in the voter identification and voter turnout phoning efforts. However, Bush-Quayle '88 paid for its share of the phone bank by making a payment to [C]ampaign Telecommunications. Documentation will be delivered to you directly by Bush-Quayle '88. Bush-Quayle '88 also reimbursed to Georgia Victory '88 a portion of the rent for the office space used, and for equipment used in the amount of $1,965.17."

The Committee's response continues by stating that "[t]he individuals paid directly from the committees (sic) payroll account were employed for telemarketing fundraising efforts, and were not part of the voter identification and voter turnout effort."

With respect to the request for documentation detailing the relationship between the Georgia and Louisiana programs, the Committee stated that the report "seeks documentation that never existed." The Committee explained that, "[s]imply, Louisiana Victory '88 had overpaid a vendor, Direct Mail Systems, also used by Georgia Victory '88. Direct Mail Systems was not to perform any additional services for Louisiana Victory '88. Campaign Telecommunications (a/k/a Campaign Technology, the phone vendor) was also a common vendor. Georgia Victory '88 paid an additional amount to Campaign Telecommunications, equal to the amount overpaid by Louisiana Victory '88 to Direct Mail Systems. There is nothing else in the way of ' ... an explanation of the relationship between the Louisiana and Georgia Victory '88 programs...'."

9504365479 0

The Committee also included copies of the checks which comprise the November 8, 1988, deposit, noting that these contributions were from individuals and were deposited into the Committee's non-federal account.

Finally, the Committee's response noted that the transfers from the RNC were deposited into its non-federal account, thereby eliminating any possibility that national party transferred funds were used to fund the federal portion of exempt activities. In addition, the in-kind from the RNC was for the production of fundraising letters, a permissible administrative expense. Victory '88 federal funds paid for the postage of these letters.

As part of its response, the Committee submitted additional materials with respect to its GOTV program. Included in this documentation was a September 10, 1988 memorandum from Jay Morgan and Chip Felkel, the subject of which was "FINALIZED PLAN FOR GEORGIA". With respect to voter iendification, it states that "calls will be conducted by Campaign Technology, Inc., the vendor responsible for calls in Georgia during both the '84 and '86 cycle. Campaign Tech will call all 48 counties on the target list. The 49th county, Cobb, will be called by Southern Research (Jim Lovejoy). Southern Research's voter lists in Cobb are far superior to any list we could have developed on our own. Campaign Tech calls begin Sept. 15 and will be completed by October 1 in Level one counties; the remainder will be completed by October 10. Southern Research will begin Cobb calls on Sept. 15 and will complete them by October 5." It further notes that Campaign Tech is slated to complete 345,000 voter identification calls and Southern research is slated to complete 35,000 such calls. Also, "[p]hone numbers for all white households which did not vote in the GOP Super Tuesday Primary will be provided on 3x5 cards to the vendor for calling by Direct Mail Systems, Inc., in St. Petersburg, FL."

Subsequently, the memo notes that this plan calls for 300,000 turnout calls to be made by Campaign Technology.

With respect to volunteer activities, the memorandum later notes that "volunteer phone banks should be set up in all 49 target counties. These banks should be in operation on or about October 10. Their first project will be making advocacy calls to voters identified by the vendor as being 'undecided.' These calls should be completed by October 31. In addition, we will use these volunteer phone banks to make voter turnout calls from November 1 - 8."

The Committee provided samples of the six phone bank scripts noted above. Three of the scripts are similar in that the caller states he/she is calling from National Research Services and each inquires, "If the election for PRESIDENT OF

9504365479 1

THE UNITED STATES were being held tomorrow, who would you most likely vote for ?". Beneath this question appears the following choices, presumably given to the respondent, "George Bush: the Republican or Michael Dukakis: the Democrat". Only, if the responent indicates George Bush would the caller state, "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote." In addition, two of the three scripts contained similiar question(s) with respect to candidates for local office (state senator, in one instance; and, county commissioner/various state representatives in the other).

The fourth script, entitled George Bush Advocacy Script, advises the respondent that the call is on behalf of Vice President Bush, a conservative candidate who "believes in a strong defense and is tough on crime" and inquires, "Can Vice President Bush count on your vote this year ?" In addition, the script has provisions to address why the respondent should vote for George Bush, as well a request to allow placement of a small yard sign. This script also contains a hand written notation that this script was used for calls made by volunteers.

The fifth script, entitled GEORGE BUSH TURNOUT SCRIPT, begins by noting the call is on behalf of George Bush and reminds the respondent that "Tuesday is election day" and asking if "Vice-President Bush can count on your vote." The script ends with instructions on how to "punch" the ballot for Bush and other Republican candidates.

Script number six, entitled ELECTION DAY CALL, states the caller is from Vice President Bush's campaign and invites the respondent to a victory party as well as inquiring if the respondent has had an opportunity to vote yet. If the respondent has not yet voted, the caller states the race is close and "[y]our vote is very important". This script is also annotated as being used by volunteers.

Although not acknowledged by the Committee in the narrative portion of its response, another script is included as part of the information supplied with respect to the GOTV program in a separate section called volunteer phone bank. The script advises the respondent that the caller is a volunteer for George Bush and reminds the respondent to vote next Tuesday. The script goes on to determine if the respondent requires a ride to the polls and thanks them for their vote.

The Audit staff's review of the materials provided with respect to the GOTV phone bank program notes that the Committee did not provide specific information associating costs with any phase of the program, nor does it provide information attributing these costs with any of the scripts provided. The payment the Committee describes as being made by Bush-Quayle for

9504365479 2

its share does not appear to be accurate. The letter forwarded by the Bush-Quayle committee notes its "authorization for the Republican National Committee to make the following payment on behalf of Bush-Quayle '88, Inc. from the coordinated funds" to Campaign Technology. The Audit staff's review of RNC disclosure reports indicated that a payment in the amount of $419,519.33, which included the share paid on behalf of Bush-Quayle, was reported on Schedule F for line 23A, Coordinated Expenditures Made By Party Committees, as a 2 U.S.C. §441a(d) expenditure. The Committee itself acknowledges that "[t]here is no question that paid phoners were used in the voter identification and voter turnout phoning efforts." Further, correspondence associated with funds transferred from the RNC to the non-federal committee indicates the Committee has not received any authorization from the RNC to make 441a(d) expenditures */ and it should be noted that these funds were received during the period the non-federal committee made payments to these phone bank vendors.

The Audit staff is of the opinion that, based upon the above, the exemption granted under 11 C.F.R. §100.8(b)(18)(v) has been voided by the use of paid callers and all payments to Campaign Technologies and Southern Research fall under the definiton of expenditure; and, as such, are subject to limitations detailed in the Act and Regulations. Further, due to the unavailability of complete bank records pertaining to the Committee's non-federal accounts, the Audit staff is unable to determine if national party funds were used with respect to the Victory '88 program.

Absent specific information associating costs with any phase of the program and allowing for a determination of the portion allocable to Federal candidates, the Audit staff has no recourse but to conclude that payments totaling $304,764.46 made to Campaign Telecommunications and Southern Research Services, Inc. are impermissible expenditures made on behalf of a Presidential candidate.

The Audit staff is satisifed with the Committee's representations relative to the Louisiana Victory '88 program.

Recommendation

Based upon the Commission approved Materiality Thresholds, the Audit staff recommends this matter be referred to the Office of General Counsel.

---

*/ The Audit staff reviewed reports filed during 1989-90. Based upon the its 1989 November Monthly Report, the RNC has used $8,282,158.87 of its $8,291,454.00 limitation.

9504365479 3

Failure to Maintain Receipt Records

Sections 432(c)(1), (2), (3) and (d) of Title 2 of the United States Code state that the treasurer of a political committee shall keep an account of all contributions received by or on behalf of such political committee; the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person; and, the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution. The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed.

Section 431(13) of Title 2 of the United States Code states that the term "identification" means: in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and in the case of any other person, the full name and address of such person.

Section 431(8)(A)(i) of Title 2 of the United States Code states that the term "contribution" includes any gift, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.

During fieldwork, the Audit staff was unable to perform any substantive tests with respect to the Committee's receipts for the period 1-1-87 to 6-30-88 as a result of the difficulties with respect to the bank reconciliations as well as the inability to distinguish federal from non-federal activity. The Committee's receipt documentation, for the above noted period, consisted of photocopies of contributor checks maintained separately from deposit slips. The deposit slips only noted total dollars by fundraising code. Further, there was no indication on the copy of the check as to whether it was deposited to a federal or a non-federal account; nor does it appear that the check copies were annotated with a fundraising code.

At the exit conference, this matter was discussed with Committee representatives.

In the interim audit report, the Audit staff recommended that within 30 calendar days of service of that report the Committee organize its financial records for 1987 and its receipt records through 6-30-88, so federal and non-federal activity could be separated. In addition, the Audit staff recommended that the Committee make available for the Audit staff's review appropriate receipt documentation for the period 1-1-87 through 6-30-88.

9504365479 4

In response to the interim audit report, the Committee provided the Audit staff with photocopies of contributor checks and deposit slips. As part of its response, the Committee submits a letter to the bank requesting " copies of deposit slips, deposit adjustments and supporting check copies which make up each deposit which are $50 and higher."

For 1987, the Committee provided sufficient documentation for all categories of reported receipts except for contributions from individuals. The Committee's amended reports disclose $263,079.42 in contributions from individuals. Documentation was only provided for contributions totaling $63,863.72, or, 24.3% of reported contributions from individuals. The Audit staff's limited review of the records made available for contributions from individuals indicated that those contributions required to be itemized were. Problems were noted with respect to prohibited contributions and maintaining/obtaining a record of occupation/name of employer.

For the period January thru June of 1988, the Committee reported contributions from individuals totaling $ 296,290.94. For this period, the Committee provided photocopies of contributor checks totaling $ 164,976.64. These contributor checks represent only 55.7% of reported receipts for the period. The Audit staff's limited review of these records indicated there were no material problems.

<u>Recommendation</u>

The Audit staff recommends this matter be referred to the Commission's Office of General Counsel.

9504365479 5

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

LRA #378/AR-92-65
STAFF MEMBER: Mary Tabor

SOURCE:	INTERNALLY GENERATED
RESPONDENTS:	Georgia Republican Party Committee and Marvin H. Smith, as treasurer Arthur L. Williams
RELEVANT STATUTE/ REGULATIONS:	2 U.S.C. §§ 432(c)(1), (2) and (3) 2 U.S.C. § 432(d) 2 U.S.C. § 441a(a)(1)(C) 2 U.S.C. § 441a(d) 2 U.S.C. § 441a(f) 2 U.S.C. § 441b(a) 11 C.F.R. § 100.7(b)(17) 11 C.F.R. § 100.8(b)(18) 11 C.F.R. § 103.3(b)(1) 11 C.F.R. § 103.3(b)(3) 11 C.F.R. § 110.1(d)(1) 11 C.F.R. § 110.7 11 C.F.R. § 110.9(a)
INTERNAL REPORTS CHECKED:	Audit Documents
FEDERAL AGENCIES CHECKED:	None

9504365479 6

I. GENERATION OF MATTER

This matter was generated by an audit of the Georgia Republican Party Committee ("the Committee"), and Marvin H. Smith, as treasurer, undertaken in accordance with 2 U.S.C. § 438(b) for the period of January 1, 1987 through December 31, 1988. The Committee registered with the Commission on February 23, 1982.

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive Contributions

Individuals are prohibited from making contributions to political committees, such as state party committees, in any calendar year which in the aggregate exceed $5,000. 2 U.S.C. § 441a(a)(1)(C); 11 C.F.R. § 110.1(d)(1). By the same token, state party committees are prohibited from accepting any contributions in excess of that limitation. 2 U.S.C. § 441a(f); 11 C.F.R. § 110.9(a). Under 11 C.F.R. § 103.3(b)(3), a treasurer has 60 days from the date of receipt to refund an excessive contribution if a redesignation or reattribution is not obtained.

The Committee accepted a total of $20,350 in excessive contributions from five individuals and did not resolve them in a timely manner. Contributions from four of these individuals totaling $17,850 were identified in the Interim Audit Report. The Committee's response to the Interim Audit Report revealed another $2,500 excessive contribution received from an individual in November of 1987. One contributor, Arthur L. Williams, wrote three separate checks, totaling $20,000, payable to "Victory 88 - GA" including one in the amount of $5,000 on September 21, 1988, and two in the amount of $7,500 on October 14, 1988. Apparently, all three checks were deposited into the Committee's federal operating account.

In its response to the Interim Audit Report, the Committee maintained that it made a diligent effort to monitor contributors' aggregate totals, and that Committee staff members

transferred the excessive amounts to a non-federal account as soon as they discovered the discrepancies. However, the Committee took between 65 and 1,609 days to transfer the excessive amounts to its non-federal account. The Committee stated that letters were written to donors who had exceeded their $5,000 limit "explaining the situation and to query whether they wanted a refund or whether we could transfer funds from the federal to the state account on their behalf." The Committee further stated:

> Though not all letters were copied to the file, there were notes which indicated that letters had been written to all contributors who [exceeded their contribution limitation] and the notes also indicated phone numbers, and Kim Fleming remembers specifically calling A.L. Williams regarding his excessive contribution. The audit staff from the FEC had access, and are believed to have reviewed these letter copies and notes.

The documents described by the Committee were not discovered during the Commission's audit. The Committee, however, reported transferring Mr. Williams' excessive contributions to its non-federal account in four separate transactions: $625 on December 9, 1988; $5,500 on December 24, 1988; $5,000 on December 21, 1988; and $3,875 on December 29, 1988. Therefore, the entire excessive amount was not resolved until 73 days after it was received on October 17, 1988. Moreover, it is apparent from the Committee's federal account statements that Mr. Williams' contributions were used for Committee disbursements. See 11 C.F.R. § 103.3(b)(4). During the period from October 17, 1988, until December 29, 1988, the

9 5 0 4 3 6 5 4 7 9 8

balance in the Committee's federal operating account remained consistently well below $15,000, indicating that the Committee actually spent the contributions made by Mr. Williams. For instance, on October 18, the day after the deposit of Mr. Williams' contributions, the account balance fell below $4,000.

The Committee also asserted that a $25,000 transfer from a federal to a non-federal account on August 4, 1988 "could be construed to shorten, or in some cases eliminate the number of days it took to resolve these excessive contributions." According to the Committee's response, an error by the bank caused $25,000 to be transferred from the Committee's Victory '88 federal account to its state money market account. The Committee had intended the money to be transferred from its Victory '88 state account. The Committee argues that due to this error more federal funds were ultimately transferred to the non-federal account than were legally required. However, the Committee admitted that the transfer was "unrelated to the excessive funds problem."

The Committee's $25,000 transfer did not correct the untimely resolution of the excessive contributions under 11 C.F.R. § 103.3(b)(3) because the unrelated transfer took place before most of the excessive contributions were received or identified by the Committee. Moreover, we note that the Committee received the excessive contributions from Mr. Williams in the critical fundraising period before the November election, but failed to make the transfers until after the election. Therefore, this Office recommends that the Commission find

9 5 0 4 3 6 5 4 7 9 9

reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f) by accepting a total of $20,350 in excessive contributions from five individuals.

Moreover, it appears from the Committee's attempts to contact Mr. Williams regarding the transfer of his $15,000 in excessive contributions that those funds had been intended to influence federal elections. The Committee's response stated that contributors were contacted so that they could be given the option of a refund in lieu of the Committee transferring the excessive funds to a nonfederal account. No such contact would have been necessary if the Committee had believed that the donors, including Mr. Williams, originally intended to contribute to the Committee's state efforts only. Therefore, this Office recommends that the Commission find reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C) by contributing $15,000 in excess of the $5,000 limit to the Committee's federal account. This Office also recommends that the Commission offer to enter into conciliation with Mr. Williams prior to a finding of probable cause to believe. Attached for the Commission's approval is a proposed conciliation agreement. Attachment 5.

B. Prohibited Contributions

Under 2 U.S.C. § 441b(a), corporations are prohibited from making contributions in connection with any federal election and

9 5 0 4 3 6 5 4 8 0 0

political committees, including state party committees, are not allowed to knowingly accept or receive any contributions prohibited under this section. Under 11 C.F.R. § 103.3(b)(1), a treasurer has 30 days from the date of receipt to refund a prohibited contribution if he or she has not been able to determine that the contribution was legal.

The Committee accepted $13,403.72 in prohibited contributions between January 1, 1987 and December 31, 1988, which were not resolved in a timely manner. The Interim Audit Report contained a recommendation that the Committee demonstrate that 13 contributions totaling $4,900 were not prohibited under 2 U.S.C. § 441b(a) or refund the illegal amounts. In response, the Committee provided documentation showing that $2,200 in prohibited contributions were either initially deposited into a non-federal account or timely transferred out of the federal account. However, the Committee's response also indicated that another $10,703.72 in prohibited funds were deposited into the federal account from March 1987 to June 1988 and not transferred to a non-federal account until April 1992. Five of these contributions totaling $3,566.22 were from political committees not registered with the Commission. See Attachment 1 at 19. A $1,000 contribution from the Georgia Political Action Committee Coca Cola PAC was transferred to the Committee's non-federal account, but not in a timely fashion. Id. The Audit referral also notes that $855 of the total prohibited contributions were from state candidate committees. Id. Georgia's state campaign finance law permits corporate contributions. See Georgia State

9 5 0 4 3 6 5 4 8 0 1

Campaign and Financial Disclosure Commission Advisory Opinion No. 77-7. Therefore, there is no assurance that these funds are from permissible sources. See MUR 3523 (On May 14, 1992, the Commission found reason to believe federal political committee violated 2 U.S.C. § 441b(a) by accepting transfers from non-federal account which could accept corporate and labor contributions under California state law.).

Therefore, this Office recommends that the Commission find reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441b(a) by accepting $13,403.72 in prohibited contributions.

C. Victory '88 Program

State party committees may spend unlimited funds to support their presidential ticket through activities that are exempt from the definitions of contributions and expenditures under 11 C.F.R. §§ 100.7(b)(17) and 100.8(b)(18). For instance, such a committee may conduct voter registration or get-out-the-vote ("GOTV") activities on behalf of the party's presidential and vice presidential nominees without the payments being considered contributions, so long as certain conditions are met. One of these conditions is that phone banks be operated by volunteer callers, though paid professionals may design the system, develop calling instructions and train supervisors. 11 C.F.R. §§ 100.7(b)(17)(v); 100.8(b)(18)(v). Moreover, payments from funds donated by a national party committee to the state committee do not qualify under the exemption. 11 C.F.R. §§ 100.7(b)(17)(vii); 100.8(b)(18)(iv). Rather, such funds are

9 5 0 4 3 6 5 4 8 0 2

subject to the coordinated party expenditure limitations of 2 U.S.C. § 441a(d) and 11 C.F.R. § 110.7. Under 11 C.F.R. §§ 110.7(a)(1) and (4), state parties may not make coordinated party expenditures on behalf of the presidential ticket without prior written authorization from the national party committee.

The Committee participated in a Republican National Committee ("RNC") program called Victory '88 that encouraged state parties to utilize exempt party activities on behalf of the Bush-Quayle '88 Committee. The Committee paid two telemarketing firms, Campaign Telecommunications, Inc. and Southern Research Services, a total of $304,764.46 from its federal and non-federal accounts during the period from September 14, 1988 to November 14, 1988 for voter identification and GOTV calls. The Committee also maintained its own bank of 10 phones, with 30 more added for the Victory '88 effort. It appears that the Committee paid individuals to perform telemarketing services.1/

The Committee's non-federal accounts received deposits totaling $131,600 from the RNC, and the Committee's federal account received an in-kind contribution of $12,661.26 from the

9 5 0 4 3 6 5 4 8 0 3

1/ The Audit staff reviewed seven scripts used in connection with the Committee's phone banks. Two of the scripts inquired into voting preferences for both state and federal candidates. Three of the scripts, including two annotated to indicate use by volunteers, identified the caller as phoning on behalf of George Bush for President and reminding them that Tuesday was election day. The final two scripts instructed callers to make calls in an unbiased manner, but to remind individuals of election day only if they intended to support George Bush.

RNC, according to the Audit referral.2/ In the Interim Audit Report, the Audit Division recommended that the Committee document that the Victory '88 telemarketing operations qualify under 11 C.F.R. § 100.8(b)(18) for exemption from the limitations on expenditures of 2 U.S.C. § 441a(d). The Audit Division also asked the Committee to specify which expenditures were made for phone banks operated by the Committee. Additionally, the Audit staff recommended that the Committee explain why the funds from the RNC should not void the exemption.

The Committee responded that "there is no question that paid phoners were used in the voter identification and voter turnout phoning efforts." See Attachment 2 at 2. In addition, a memorandum submitted by the Committee entitled "Finalized Plan for Georgia" from the Bush-Quayle campaign's Victory '88 state coordinators to Georgia Republican officials Fred Cooper and

9504365480 4

2/ The Committee reported receipt of the in-kind contribution as direct mail fundraising pieces and also reported disbursement of $12,661.26 to the RNC to offset receipt of the in-kind contribution in its 1988 post-general election reports.

Paul Coverdell indicates that the telephone calls were to be made by the paid vendors. The memorandum stated:

> Voter identification calls will be conducted by Campaign Technology, Inc., the vendor responsible for calls in Georgia during both the '84 and '86 cycle. Campaign Tech will call all 48 counties on the target list. The 49th county, Cobb, will be called by Southern Research (Jim Lovejoy). Southern Research's voter lists in Cobb are far superior to any list we could have developed on our own. Campaign Tech calls will begin Sept. 15 and will be completed by Oct. 1 in Level One counties; the remainder will be completed by October 10. Southern Research will begin Cobb calls on Sept. 15 and will complete them by Oct. 5. . . . Campaign Tech is slated to complete 345,000 voter identification calls. . . . Southern Research is slated to complete 35,000 voter identification calls with capacity to go up to 50,000 calls. Early results will guide the decision whether to make an additional 15,000 calls in Cobb. We expect East Cobb to be very strong for Bush; if that is the case we will shift focus to voter turnout without identification in that area thus, lifting some of the early call load. . . . Phone numbers for all white households which did not vote in the GOP Super Tuesday Primary will be provided on 3X5 cards to the vendor for calling by Direct Mail Systems, Inc., in St. Petersburg, FL.

The Committee, however, maintains that its payments to the two vendors were exempt from the definition of expenditure because the Bush-Quayle '88 Committee covered its share of the phone banks with a payment to Campaign Telecommunications. But a separate letter forwarded by the Bush-Quayle '88 Committee stated only its authorization for the RNC to make payments on behalf of the presidential ticket from coordinated funds. The Committee also responded that transfers from the RNC were deposited into the state party's non-federal account, rebutting the suggestion that the national party funded exempt federal election activities. Moreover, the Committee stated that the

9504365480 5

in-kind contribution from the RNC was for the permissible administrative expense of producing fundraising letters.

The Committee's $304,764.46 in expenditures to Campaign Telecommunications and Southern Research Services do not appear to qualify as payments for exempt party activities. Because the Committee failed to provide specific information associating costs with a particular phase of the program or a particular calling script, the presumption is that the use of paid callers voided the exemption for the entire amount. Moreover, because the Audit staff did not have access to complete bank records for the Committee's non-federal account, the question remains whether the use of national party funds also voided the exemption. If the RNC donated the funds for the Victory '88 program, the Committee's expenditures are subject to the limitations of 2 U.S.C. § 441a(d) and 11 C.F.R. § 110.7. In addition, it appears that the RNC did not authorize the Committee to make expenditures under section 441a(d).

Therefore, this Office recommends that the Commission find reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f) by making $304,764.46 in expenditures in connection with the general election campaign of the party's presidential candidate without prior written authorization from the RNC.

D. <u>Failure to Maintain Receipt Records</u>

The treasurer of a political committee, including a state party committee, is required to keep an account of all contributions received by or on behalf of the committee, as well

9 5 0 4 3 6 5 4 8 0 6

as the name and address of any person who makes any contribution in excess of $50, together with the date and amount of any such contribution. 2 U.S.C. §§ 432(c)(1) and (2). The treasurer also must keep an account of the identification of any person who makes contributions in excess of $200 during a calendar year, together with the date and amount of any such contribution. 2 U.S.C. § 432(c)(3). The treasurer is required to preserve these records and copies of the Committee's reports for three years after the report is filed. 2 U.S.C. § 432(d). Identification is defined as the name, mailing address, occupation, and employer's name for individual contributors. 2 U.S.C. § 431(13)(A).

The Committee apparently has failed to maintain adequate receipt records. In response to the Interim Audit Report, the Committee provided the Commission with copies of contributor checks and deposit slips, and submitted a letter showing a request to the bank for copies of deposit slips and supporting check copies for checks in the amount of $50 or higher. The Audit Division found that the Committee provided receipt documentation for only 24% of the $263,079.42 in individual contributions received in 1987 and 55% of the $296,290.94 in individual contributions received during the first half of 1988.

The Committee does not appear to have satisfied the recordkeeping requirements of the Act. Therefore, this Office recommends that the Commission find reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C.

9504365548807

§§ 432(c) and (d) by failing to maintain sufficient receipt records.

III. PLAN FOR FURTHER INVESTIGATION

Provided that the Commission finds reason to believe as recommended by this report, this Office will need to obtain additional information to fully assess the Committee's expenditures in connection with the Victory '88 program. This Office intends to issue subpoenas to the Committee, and possibly Campaign Telecommunications, Inc. and Southern Research Services, to request information attributing specific expenditures to scripts used by volunteer callers. This Office notes that such documentation was requested in the Interim Audit Report, but was not included in the Committee's response. Therefore, this Office requests that the Commission approve the attached subpoenas to be issued to the Committee and telemarketing vendors. Attachment 3.

IV. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. §§ 432(c) and (d).

3. Find reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C), and approve the attached conciliation agreement.

4. Approve the attached subpoenas.

9504365480 8

5. Approve appropriate letters and attached Factual and Legal Analyses.

Lawrence M. Noble
General Counsel

6-1-93
Date

BY: Kim Bright-Coleman
Kim L. Bright-Coleman
Associate General Counsel

Attachments:

1. Final Audit Report and Referral
2. Committee's Response to Interim Audit Report, dated April 30, 1992
3. Subpoenas (3)
4. Factual and Legal Analyses (2)
5. Proposed Conciliation Agreement for Arthur L. Williams, Jr.

9504365480 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republican Party Committee and Marvin H. Smith, as treasurer; Arthur L. Williams.	)	(LRA #378/AR-92-65) MUR 3787

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 10, 1993, the Commission decided by a vote of 4-0 to take the following actions in the above captioned matter:

1. Open a MUR.

2. Find reason to believe that the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. §§ 432(c) and (d).

3. Find reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C), and approve the conciliation agreement, as recommended in the General Counsel's Report dated June 1, 1993.

(continued)

9504365481 0

4. Approve the subpoenas, as recommended in the General Counsel's Report dated June 1, 1993.

5. Approve the appropriate letters and Factual and Legal Analyses, as recommended in the General Counsel's Report dated June 1, 1993.

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

Attest:

6-10-93
Date

for Delores Hardy
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Tues.,	June 01, 1993	12:38 p.m.
Circulated to the Commission:	Tues.,	June 01, 1993	4:00 p.m.
Deadline for vote:	Fri.,	June 04, 1993	4:00 p.m.
Received Objection:	Fri.,	June 04, 1993	10:48 a.m.
Placed on Agenda for:	Tues.,	June 15, 1993	
Objection Withdrawn:	Thurs.,	June 10, 1993	12:05 p.m.
Withdrawn from Agenda			

bjr

9504365481

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1993

Arthur L. Williams, Jr.
3120 Breckenridge Blvd
Duluth, GA 31036

RE: MUR 3787

Dear Mr. Williams:

On June 10, 1993, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(a)(1)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. 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 any additional information demonstrating that no further action should be taken against you, 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 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

9504365481 2

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

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Tabor, the attorney assigned to this matter, at (202) 219-3690 or (800)424-9530.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

95043654813

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Arthur L. Williams, Jr. MUR 3787
3120 Breckinridge Blvd
Duluth, GA 30136

I. GENERATION OF MATTER

This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). 2 U.S.C. § 437g(a)(2). The information is based on contributions made to the Georgia Republican Party ("the Committee").

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive Contributions

1. Statutory and Regulatory Provisions

Individuals are prohibited from making contributions to political committees, such as state party committees, in any calendar year, which in the aggregate, exceed $5,000. 2 U.S.C. § 441a(a)(1)(C); 11 C.F.R. § 110.1(d)(1). Under 11 C.F.R. § 103.3(b)(3), a treasurer has 60 days to refund an excessive contribution if a redesignation or reattribution is not obtained.

9504365481 4

2. **Audit Findings**

The Audit staff found that the Committee accepted $15,000 in excessive contributions from one contributor. Arthur L. Williams, Jr. wrote three separate checks payable to "Victory 88 - GA" including one in the amount of $5,000 on September 21, 1988, and two in the amount of $7,500 on October 14, 1988. According to the Audit Division, all three checks were deposited into the Committee's federal account.

In its response to the Interim Audit Report, the Committee maintained that it made a diligent effort to monitor contributors' aggregate totals, and that Committee staff members transferred the excessive amounts to a non-federal account as soon as they discovered the discrepancies. The Committee stated that letters were written to donors who had exceeded their $5,000 limit "explaining the situation and to query whether they wanted a refund or whether we could transfer funds from the federal to the state account on their behalf." The Committee further stated:

> Though not all letters were copied to the file, there were notes which indicated that letters had been written to all contributors who [exceeded their contribution limitation] and the notes also indicated phone numbers, and Kim Fleming remembers specifically calling A.L. Williams regarding his excessive contribution. The audit staff from the FEC had access, and are believed to have reviewed these letter copies and notes.

The Audit staff did not discover the documents described by the Committee. The Committee, however, reported transferring Mr. Williams' excessive contributions to its non-federal account

9 5 0 4 3 6 5 4 8 1 5

on December 9, 1988; $5,500 on December 24, 1988; $5,000 on December 21, 1988; and $3,875 on December [illegible] 1988. Therefore, the entire excessive amount was not resolved until 73 days after it was received on October 17, 1988. Moreover, it is apparent from the Committee's federal account statements that Mr. Williams' contributions were used for Committee disbursements. See 11 C.F.R. § 103.3(b)(4). During the period from October 17, 1988, until December 29, 1988, the balance in the Committee's federal operating account remained consistently well below $15,000, indicating that the Committee actually spent the contributions made by Mr. Williams. For instance, on October 18, the day after the deposit of Mr. Williams' contributions, the account balance fell below $4,000.

It appears from the Committee's attempts to contact Mr. Williams regarding the transfer of his $15,000 in excessive contributions that those funds had been intended for the federal Victory '88 account. Committee representatives stated that contributors were contacted so that they could be given the option of a refund in lieu of the Committee transferring the excessive funds to a nonfederal account. No such contact would have been necessary if the Committee had believed that Mr. Williams originally intended to contribute to the Committee's state efforts only. Therefore, there is reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C) by contributing $15,000 in excess of the $5,000 limit to the Committee's federal account.

9 5 0 4 3 6 5 4 8 1 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Georgia Republican Party
Marvin H. Smith, Treasurer
3091 Maple Drive, N.E.
Suite 315
Atlanta, GA 30305

RE: MUR 3787

Dear Mr. Smith:

On June 10, 1993, the Federal Election Commission found that there is reason to believe the Georgia Republican Party Committee ("the Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. § 432(c) and (d), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you and the Committee. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Statements should be submitted under oath. All responses to the enclosed Order to Submit Written Answers and Subpoena to Produce Documents must be submitted within 20 days of your receipt of this order and subpoena. Any additional materials or statements you wish to submit should accompany the response to the order and subpoena.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel, 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 or other communications from the Commission.

In the absence of any additional information which demonstrates that no further action should be taken against the Committee and you, as treasurer, the Commission may find

9504365481 7

probable cause to believe that a violation has occurred and proceed with conciliation.

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

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Mary Tabor, the attorney assigned to this matter, at (202) 219-3690 or (800)424-9530.

Sincerely,

Scott E. Thomas
Chairman

Enclosures
Order and Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

95043654818

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 3787
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Georgia Republican Party
Marvin H. Smith, as Treasurer
3091 Maple Drive, N.E.
Suite 315
Atlanta, GA 30305

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions in this Order and subpoenas you to produce the documents requested on this Subpoena.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 20 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of June, 1993.

Scott E. Thomas, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504365481 9

I. INSTRUCTIONS

In answering this Order to Submit Written Answers and Subpoena to Produce Documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from May, 1988 to November, 1988.

The following Order to Submit Written Answers and Subpoena to Produce Documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9504365482 0

II. DEFINITIONS

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

"You" shall mean the person to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

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

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

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

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

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

9 5 0 4 3 6 5 4 8 2 1

III. REQUEST FOR PRODUCTION OF DOCUMENTS/ORDER TO SUBMIT WRITTEN ANSWERS

You are required to produce the following documents and written answers within 20 days of service of this request:

1. Documents demonstrating that volunteer callers were used for any of the Victory '88 telemarketing operations, including but not limited to, memoranda, contracts, invoices, vendor account statements, volunteer work schedules, and phone bills.

2. Please specify which expenditures were made for each particular script provided to the Commission. Provide the dates of operation of all Victory '88 phone banks, and specify which scripts were used during which time periods and whether each phone bank was operated by volunteer callers.

3. Correspondence or other documentation from the Republican National Committee ("RNC") regarding its October 19, 1988 check for $50,000 to the Committee, and bank records showing any additional deposits from the RNC, along with related correspondence or other documentation.

4. Disbursement records, including but not limited to, canceled checks, check registers, and invoices related to the Committee's voter registration and get-out-the-vote activity on behalf of the 1988 Republican presidential ticket.

5. Documents related to three contributions from Arthur L. Williams, one in the amount of $5,000 dated September 21, 1988, and two in the amount of $7,500 dated October 14, 1988, including but not limited to, solicitation letters, other correspondence, documentation accompanying the checks, contemporaneous notes or memoranda.

9 5 0 4 3 6 5 4 8 2 2

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Georgia Republican Party MUR: 3787
Marvin H. Smith, as Treasurer
3091 Maple Drive, N.E.
Suite 315
Atlanta, GA 30305

I. GENERATION OF MATTER

This matter was generated by information obtained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act"). 2 U.S.C. § 437g(a)(2). The information is based on contributions made to and expenditures made by the Georgia Republican Party ("the Committee").

II. FACTUAL AND LEGAL ANALYSIS

A. Excessive Contributions

Individuals are prohibited from making contributions to political committees, such as state party committees, in any calendar year which in the aggregate exceed $5,000. 2 U.S.C. § 441a(a)(1)(C); 11 C.F.R. § 110.1(d)(1). By the same token, state party committees are prohibited from accepting any contributions in excess of that limitation. 2 U.S.C. § 441a(f); 11 C.F.R. § 110.9(a). Under 11 C.F.R. § 103.3(b)(3), a treasurer has 60 days from the date of receipt to refund an

95043654823

excessive contribution if a redesignation or reattribution is not obtained.

The Committee accepted a total of $20,350 in excessive contributions from five individuals and did not resolve them in a timely manner. Contributions from four of these individuals totaling $17,850 were identified in the Interim Audit Report. The Committee's response to the Interim Audit Report revealed another $2,500 excessive contribution received from an individual in November of 1987. One contributor, Arthur L. Williams, wrote three separate checks, totaling $20,000, payable to "Victory 88 - GA" including one in the amount of $5,000 on September 21, 1988, and two in the amount of $7,500 on October 14, 1988. According to the Audit Division, all three checks were deposited into the Committee's federal account.

In its response to the Interim Audit Report, the Committee maintained that it made a diligent effort to monitor contributors' aggregate totals, and that Committee staff members transferred the excessive amounts to a non-federal account as soon as they discovered the discrepancies. However, the Committee took between 65 and 1,609 days to transfer the excessive amounts to its non-federal account. The Committee stated that letters were written to donors who had exceeded their $5,000 limit "explaining the situation and to query whether they wanted a refund or whether we could transfer funds

9 5 0 4 3 6 5 4 8 2 4

from the federal to the state account on their behalf." The Committee further stated:

> Though not all letters were copied to the file, there were notes which indicated that letters had been written to all contributors who [exceeded their contribution limitation] and the notes also indicated phone numbers, and Kim Fleming remembers specifically calling A.L. Williams regarding his excessive contribution. The audit staff from the FEC had access, and are believed to have reviewed these letter copies and notes.

The documents described by the Committee were not discovered during the Commission's audit. The Committee, however, reported transferring Mr. Williams' excessive contributions to its non-federal account in four separate transactions: $625 on December 9, 1988; $5,500 on December 24, 1988; $5,000 on December 21, 1988; and $3,875 on December 29, 1988. Therefore, the entire excessive amount was not resolved until 73 days after it was received on October 17, 1988. Moreover, it is apparent from the Committee's federal account statements that Mr. Williams' contributions were used for Committee disbursements. See 11 C.F.R. § 103.3(b)(4). During the period from October 17, 1988, until December 29, 1988, the balance in the Committee's federal operating account remained consistently well below $15,000, indicating that the Committee actually spent the contributions made by Mr. Williams. For instance, on October 18, the day after the deposit of Mr. Williams' contributions, the account balance fell below $4,000.

The Committee also asserted that a $25,000 transfer from a federal to a non-federal account on August 4, 1988 "could be

9 5 0 4 3 6 5 4 8 2 5

construed to shorten, or in some cases eliminate the number of days it took to resolve these excessive contributions." According to the Committee's response, an error by the bank caused $25,000 to be transferred from the Committee's Victory '88 federal account to its state money market account. The Committee had intended the money to be transferred from its Victory '88 state account. The Committee argues that due to this error more federal funds were ultimately transferred to the non-federal account than were legally required. However, the Committee admitted that the transfer was "unrelated to the excessive funds problem."

The Committee's $25,000 transfer did not correct the untimely resolution of the excessive contributions under 11 C.F.R. § 103.3(b)(3) because the unrelated transfer took place before most of the excessive contributions were received or identified by the Committee. Moreover, the Committee received the excessive contributions from Mr. Williams in the critical fundraising period before the November election, but failed to make the transfers until after the election. Therefore, there is reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f) by accepting a total of $20,350 in excessive contributions from five individuals.

B. <u>Prohibited Contributions</u>

Under 2 U.S.C. § 441b(a), corporations are prohibited from making contributions in connection with any federal election and political committees, including state party committees, are not allowed to knowingly accept or receive any contributions

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

prohibited under this section. Under 11 C.F.R. § 103.3(b)(1), a treasurer has 60 days from the date of receipt to refund a prohibited contribution if he or she has not been able to determine that the contribution was legal.

The Committee accepted $13,403.72 in prohibited contributions between January 1, 1987 and December 31, 1988, which were not resolved in a timely manner. The Interim Audit Report contained a recommendation that the Committee demonstrate that 13 contributions totaling $4,900 were not prohibited under 2 U.S.C. § 441b(a) or refund the illegal amounts. In response, the Committee provided documentation showing that $2,200 in prohibited contributions were either initially deposited into a non-federal account or timely transferred out of the federal account. However, the Committee's response also indicated that another $10,703.72 in prohibited funds were deposited into the federal account from March 1987 to June 1988 and not transferred to a non-federal account until April 1992. Five of these contributions totaling $3,566.22 were from political committees not registered with the Commission. A $1,000 contribution from the Georgia Political Action Committee Coca Cola PAC was transferred to the Committee's non-federal account, but not in a timely fashion. Another $855 of the total prohibited contributions were from state candidate committees. Georgia's state campaign finance law permits corporate contributions. See Georgia State Campaign and Financial Disclosure Commission Advisory Opinion No. 77-7. Consequently, there is no assurance that these funds are from permissible sources. Therefore, there

9504365482 7

is reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441b(a) by accepting $13,403.72 in prohibited contributions.

C. Victory '88 Program

State party committees may spend unlimited funds to support their presidential ticket through activities that are exempt from the definitions of contributions and expenditures under 11 C.F.R. §§ 100.7(b)(17) and 100.8(b)(18). For instance, such a committee may conduct voter registration or get-out-the-vote ("GOTV") activities on behalf of the party's presidential and vice presidential nominees without the payments being considered contributions, so long as certain conditions are met. One of these conditions is that phone banks be operated by volunteer callers, though paid professionals may design the system, develop calling instructions and train supervisors. 11 C.F.R. §§ 100.7(b)(17)(v); 100.8(b)(18)(v). Moreover, payments from funds donated by a national party committee to the state committee do not qualify under the exemption. 11 C.F.R. §§ 100.7(b)(17)(vii); 100.8(b)(18)(iv). Rather, such funds are subject to the coordinated party expenditure limitations of 2 U.S.C. § 441a(d) and 11 C.F.R. § 110.7. Under 11 C.F.R. §§ 110.7(a)(1) and (4), state parties may not make coordinated party expenditures on behalf of the presidential ticket without prior written authorization from the national party committee.

The Committee participated in a Republican National Committee ("RNC") program called Victory '88 that encouraged state parties to utilize exempt party activities on behalf of

9 5 0 4 3 6 5 4 3 2 8

the Bush-Quayle '88 Committee. The Committee paid two telemarketing firms, Campaign Telecommunications, Inc. and Southern Research Services, a total of $304,764.46 from its federal and non-federal accounts during the period from September 14, 1988 to November 14, 1988 for voter identification and GOTV calls. The Committee also maintained its own bank of 10 phones, with 30 more added for the Victory '88 effort. It appears that the Committee paid individuals to perform telemarketing services.1/

The Committee's non-federal accounts received deposits totaling $131,600 from the RNC, and the Committee's federal account received an in-kind contribution of $12,661.26 from the RNC, according to the Audit referral.2/ In the Interim Audit Report, the Audit Division recommended that the Committee document that the Victory '88 telemarketing operations qualify under 11 C.F.R. § 100.8(b)(18) for exemption from the limitations on expenditures of 2 U.S.C. § 441a(d). The Audit Division also asked the Committee to specify which expenditures were made for phone banks operated by the Committee.

9 5 0 4 3 6 5 4 8 2 9

1/ The Audit staff reviewed seven scripts used in connection with the Committee's phone banks. Two of the scripts inquired into voting preferences for both state and federal candidates. Three of the scripts, including two annotated to indicate use by volunteers, identified the caller as phoning on behalf of George Bush for President and reminding them that Tuesday was election day. The final two scripts instructed callers to make calls in an unbiased manner, but to remind individuals of election day only if they intended to support George Bush.

2/ The Committee reported receipt of the in-kind contribution as direct mail fundraising pieces and also reported disbursement of $12,661.26 to the RNC to offset receipt of the in-kind contribution in its 1988 post-general election reports.

Additionally, the Audit staff recommended that the Committee explain why the funds from the RNC should not avoid the exemption.

The Committee responded that "there is no question that paid phoners were used in the voter identification and voter turnout phoning efforts." In addition, a memorandum submitted by the Committee entitled "Finalized Plan for Georgia" from the Bush-Quayle campaign's Victory '88 state coordinators to Georgia Republican officials Fred Cooper and Paul Coverdell indicates that the telephone calls were to be made by the paid vendors. The memorandum stated:

> Voter identification calls will be conducted by Campaign Technology, Inc., the vendor responsible for calls in Georgia during both the '84 and '86 cycle. Campaign Tech will call all 48 counties on the target list. The 49th county, Cobb, will be called by Southern Research (Jim Lovejoy). Southern Research's voter lists in Cobb are far superior to any list we could have developed on our own. Campaign Tech calls will begin Sept. 15 and will be completed by Oct. 1 in Level One counties; the remainder will be completed by October 10. Southern Research will begin Cobb calls on Sept. 15 and will complete them by Oct. 5. . . . Campaign Tech is slated to complete 345,000 voter identification calls. . . . Southern Research is slated to complete 35,000 voter identification calls with capacity to go up to 50,000 calls. Early results will guide the decision whether to make an additional 15,000 calls in Cobb. We expect East Cobb to be very strong for Bush; if that is the case we will shift focus to voter turnout without identification in that area thus, lifting some of the early call load. . . . Phone numbers for all white households which did not vote in the GOP Super Tuesday Primary will be provided on 3X5 cards to the vendor for calling by Direct Mail Systems, Inc., in St. Petersburg, FL.

The Committee, however, maintains that its payments to the two vendors were exempt from the definition of expenditure because the Bush-Quayle '88 Committee covered its share of the

9504365483 0

phone banks with a payment to Campaign Telecommunications. But a separate letter forwarded by the Bush-Quayle '88 Committee stated only its authorization for the RNC to make payments on behalf of the presidential ticket from coordinated funds. The Committee also responded that transfers from the RNC were deposited into the state party's non-federal account, rebutting the suggestion that the national party funded exempt federal election activities. Moreover, the Committee stated that the in-kind contribution from the RNC was for the permissible administrative expense of producing fundraising letters.

The Committee's $304,764.46 in expenditures to Campaign Telecommunications and Southern Research Services do not qualify as payments for exempt party activities. The Committee failed to provide specific information associating costs with a particular phase of the program or a particular calling script. Because the Committee failed to provide specific information associating costs with a particular phase of the program or a particular calling script, the presumption is that the use of paid callers voided the exemption for the entire amount. Moreover, because the Audit staff did not have access to complete bank records for the Committee's non-federal account, the question remains whether the use of national party funds also voided the exemption. If the RNC donated the funds for the Victory '88 program, the Committee's expenditures are subject to the limitations of 2 U.S.C. § 441a(d) and 11 C.F.R. § 110.7. In addition, it appears that the RNC did not authorize the Committee to make expenditures under section 441a(d).

9 5 0 4 3 6 5 4 8 3 1

Therefore, there is reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f) by making $304,764.46 in expenditures in connection with the general election campaign of the party's presidential candidate without prior written authorization from the RNC.

D. Failure to Maintain Receipt Records

The treasurer of a political committee, including a state party committee, is required to keep an account of all contributions received by or on behalf of the committee, as well as the name and address of any person who makes any contribution in excess of $50, together with the date and amount of any such contribution. 2 U.S.C. §§ 432(c)(1) and (2). The treasurer also must keep an account of the identification of any person who makes contributions in excess of $200 during a calendar year, together with the date and amount of any such contribution. 2 U.S.C. § 432(c)(3). The treasurer is required to preserve these records and copies of the Committee's reports for three years after the report is filed. 2 U.S.C. § 432(d). Identification is defined as the name, mailing address, occupation, and employer's name for individual contributors. 2 U.S.C. § 431(13)(A).

The Committee provided receipt documentation for only 24% of the $263,079.42 in individual contributions received in 1987 and 55% of the $296,290.94 in individual contributions received during the first half of 1988. The Committee has not satisfied the recordkeeping requirements of the Act. Therefore, there is reason to believe that the Committee and Marvin H. Smith, as

9504365483 2

treasurer, violated 2 U.S.C. §§ 432(c) and (d) by failing to maintain sufficient receipt records.

95043654853

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim Lovejoy
Southern Research Services, Inc.
291 Pat Mell Road, Suite 101
Marietta, GA 30060

RE: MUR 3787

Dear Mr. Lovejoy:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached Subpoena to Produce Documents and Order to Submit Written Answers, which require you to provide certain information in connection with an investigation it is conducting. The Commission does not consider Southern Research Services, Inc., a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 20 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Mary Tabor

Mary Tabor
Attorney

Enclosure
Subpoena and Order

9 5 0 4 3 6 5 5 4 8 3 4

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR # 3787
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Southern Research Services, Inc.
291 Pat Mel Road
Suite 101
Marietta, GA 30060

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions in this Order and subpoenas you to produce the documents requested on this Subpoena.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 20 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd, day of June, 1993.

Scott E. Thomas, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9504365483 5

I. INSTRUCTIONS

In answering this Order to Submit Written Answers and Subpoena to Produce Documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from May, 1988 to November, 1988.

The following Order to Submit Written Answers and Subpoena to Produce Documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9504365483 6

II. DEFINITIONS

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

"You" shall mean the person to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

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

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

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

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

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

9 5 0 4 3 6 5 4 8 3 7

III. REQUEST FOR PRODUCTION OF DOCUMENTS/ORDER TO SUBMIT WRITTEN ANSWERS

You are required to produce the following documents and written answers within 20 days of service of this request:

1. Documents describing the services provided to the Georgia Republican Party during the 1988 general election campaign, including but not limited to, memoranda, contracts, invoices, vendor account statements, and phone bills.

2. Telephone scripts used on behalf of the Georgia Republican Party, from May 1988 until November 1988. Please identify each script, on which dates each script was used, and what services you provided in connection with each phone bank, including, but not limited to, payroll records for all paid callers.

3. Please specify how much of the cost of your telemarketing services incurred by the Georgia Republican Party from May 1988 until November 1988 was in connection with phone banks utilizing volunteer callers.

9 5 0 4 3 6 5 4 8 3 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 23, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Goldberg
Campaign Telecommunications
1556 Third Ave., Suite 209
New York, NY 10128

RE: MUR 3787

Dear Mr. Goldberg:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, United States Code. The Commission has issued the attached Subpoena to Produce Documents and Order to Submit Written Answers, which require you to provide certain information in connection with an investigation it is conducting. The Commission does not consider Campaign Telecommunications a respondent in this matter, but rather a witness only.

Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 20 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath. If you have any questions, please contact me at (800) 424-9530.

Sincerely,

Mary Tabor

Mary Tabor
Attorney

Enclosure
Subpoena and Order

9 5 0 4 3 6 5 4 8 3 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR # 3787
)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Campaign Telecommunications
1556 Third Ave., Suite 209
New York, NY 10128

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions in this Order and subpoenas you to produce the documents requested on this Subpoena.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 20 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 22nd day of June, 1993.

Scott E. Thomas, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Marjorie W. Emmons
Secretary to the Commission

9504365840

I. INSTRUCTIONS

In answering this Order to Submit Written Answers and Subpoena to Produce Documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

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

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

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

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

Unless otherwise indicated, the discovery request shall refer to the time period from May, 1988 to November, 1988.

The following Order to Submit Written Answers and Subpoena to Produce Documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

9 5 0 4 3 6 5 4 8 4 1

II. DEFINITIONS

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

"You" shall mean the person to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

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

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

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

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

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

9 5 0 4 3 6 5 4 8 4 2

III. REQUEST FOR PRODUCTION OF DOCUMENTS/ORDER TO SUBMIT WRITTEN ANSWERS

You are required to produce the following documents and written answers within 20 days of service of this request:

1. Documents describing the services provided to the Georgia Republican Party during the 1988 general election campaign, including but not limited to, memoranda, contracts, invoices, vendor account statements, and phone bills.

2. Telephone scripts used on behalf of the Georgia Republican Party, from May 1988 until November 1988. Please identify each script, on which dates each script was used, and what services you provided in connection with each phone bank, including, but not limited to, payroll records for all paid callers.

3. Please specify how much of the cost of your telemarketing services incurred by the Georgia Republican Party from May 1988 until November 1988 was in connection with phone banks utilizing volunteer callers.

9504365483

OGC 9430

KAMBERMAN & SONIKER P.C.
COUNSELORS AT LAW
500 FIFTH AVENUE
NEW YORK, N.Y. 10110
TELEPHONE 212-719-1120
TELECOPIER 212-391-4238

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM
JUL 13 1 33 PM '93

July 12, 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUL 13 PM 3:25

9 5 0 4 3 6 5 4 8 4 4

Express Mail

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

Re: In the Matter of ?
Docket No. MUR #3787

Dear Sir/Madam:

In response to the Subpoena/Order dated June 22, 1993 in the captioned matter, directed to Campaign Telecommunications in New York City, we are transmitting on behalf of our client the enclosed written answers and copies of documents.

If you have any questions, please do not hesitate to contact the undersigned. Thank you.

Very truly yours,

Michael A. Schwartz

MAS:cl
encl.
3100S3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR #3787
)

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUL 13 PM 3:25

RESPONSE TO SUBPOENA TO PRODUCE DOCUMENTS AND ORDER TO SUBMIT WRITTEN ANSWERS.

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

Steven Goldberg, being duly sworn, deposes and states as follows:

I am an officer of Campaign Telecommunications, the recipient of a certain Subpoena To Produce Documents/Order to Submit Written Answers in the captioned matter, dated June 22, 1993, and received on or about June 25, 1993, and on behalf of Campaign Telecommunications, respond to the aforementioned Subpoena/Order as follows:

1. Documents describing the services provided to the Georgia Republican Party during the 1988 general election campaign, including but not limited to, memoranda, contracts, invoices, vendor account statements, and phone bills.

Response to No. 1:

The only documents that we have been able to locate after examining all of our files are the following:

(1) memorandum from Steven Goldberg to Bob Teeter dated October 7, 1988;

(2) telefax sheet from Steve Goldberg to Bob Teeter dated October 7, 1988 (references to states other than Georgia have been redacted);

(3) invoice dated October 25, 1988;

9 5 0 4 3 6 5 4 8 4 5

(4) telefax cover sheet to Chip Felkeo from Steve Goldberg/Caryn Codkind dated October 25, 1988; and

(5) invoice dated November 2, 1988 to Georgia Republican Party;

(6) check from Georgia Republican Party in the amount of $90,000 dated November 2, 1988;

(7) telefax cover sheet dated November 2, 1988 to Lee Raudonis from Steve Goldberg/Caryn Codkind; and

(8) copy of Georgia Republican Party checks dated November 3, 1988 in the amount of $10,000 and $80,000.

We have been unable to locate any other memoranda, contracts, vendor account statements or phone bills or any other documents in response to Request No. 1. Please note that this Request covers a period approximately five years from this date. Normally, in the ordinary course of business, documents that are more than four years old are discarded. In some cases, documents less than four years old are also discarded due to lack of storage facilities.

2. Telephone scripts used on behalf of the Georgia Republican Party, from May 1988 until November 1988. Please identify each script, on which dates each script was used, and what services you provided in connection with each phone bank, including, but not limited to, payroll records for all paid callers.

Response to No. 2:

After searching our records, we have been unable to locate any payroll records, or other documents, including but not limited to telephone scripts used on behalf of the Georgia Republican Party from May, 1988 to November, 1988. In the ordinary course of business, we usually discard old scripts and other documents that are at least four years old. In some cases, documents less than four years old are also discarded due to lack of storage facilities.

9 5 0 4 3 6 5 4 8 4 6

3. Please specify how much of the cost of your telemarketing services incurred by the Georgia Republican Party from May 1988 until November 1988 was in connection with phone banks utilizing volunteer callers.

Response to No. 3:

To the best of our knowledge and belief, none of our phone banks utilized volunteer callers between May, 1988 through November, 1988 in connection with telemarketing services provided to the Georgia Republican Party.

Respectfully submitted,

CAMPAIGN TELECOMMUNICATIONS

By: _____
Steven Goldberg

Sworn to before me this
12th day of July, 1993

_____
Notary Public

MICHAEL A. SCHWARTZ
NOTARY PUBLIC, State of New York
No. 31-4603353
Qualified in New York County
Certificate filed in Kings County
Commission Expires 10/31/94

3099S3/cl

9 5 0 4 3 6 5 4 8 4 7

MEMORANDUM

TO: Bob Teeter

FROM: Steve Goldberg

DATE: October 7, 1988

RE: Pre and Post V.P. Debate Phone Results

Over the last 3 days we made calls into 13 states. In general, we only put out selected counties on a given night. We take our instruction from the political field people and have tried to be consistent over these last 3 nights.

In cases where the numbers concern you, I suggest that you call the political person in that state to understand where we were calling. The numbers that jump out at me are: New Jersey, Georgia, Louisiana and Tennessee.

9504365548 48

CAMPAIGN

TELECOMMUNICATIONS

DATE: 10/7/88

TO: Bob Teeter

FAX #: 202-638-6316

TEL #:

FROM: Steve Goldberg

FAX #: 212-410-9705

TEL #: 212-410-3714

PAGES: 1 (including cover page)

RE: Pre & Post VP Debate Phone Results.

COMMENTS:

9504365484 9

GEORGIA	10/4	10/5	10/6	TOT./AVG.
D BUSH	2,091	1,615	2,008	5,714
L BUSH	989	784	743	2,496
D DUKAKIS	1,117	965	1,695	3,777
L DUKAKIS	485	445	545	1,475
UNDECIDED	1,338	1,315	1,694	4,347
DECISIONS	6,000	5,124	6,685	17,809
% D BUSH	35%	32%	30%	32%
% L BUSH	16%	15%	11%	14%
% D DUKAKIS	19%	19%	25%	21%
% L. DUKAKIS	8%	9%	8%	8%
% UNDECIDED	22%	26%	25%	24%

9 5 0 4 3 6 5 4 8 5 0

October 25, 1988

VICTORY '88 - Georgia

INVOICE

G.O.T.V. PHONE PROGRAM

226,000 Completed Calls @ .42 per call . . . . . $[illegible]

Total Amount Due November 3rd

Please remit to: Campaign Telecommunications Inc.
1556 Third Avenue, Suite 209
New York, New York 10128

Thank You

[VICTORY]

95043654951

12,600

79,400

Received 90,000 11/4

Balance 38,840 KAP 5 Jan

CAMPAIGN 2000

TELECOMMUNICATIONS

DATE: 10/25/88 Georgia

TO: Chip Felker

FAX #: 404-240-0338

TEL #:

FROM: Steve Goldberg / Carson Cardwell

FAX #: 212-410-9705

TEL #: 212-410-3714

PAGES: 2 (including cover page)

RE: Invoice - GOTV Phone Program

COMMENTS:

9504365485 2

November 2, 1988

GEORGIA REPUBLICAN PARTY

INVOICE

GENERIC G.O.T.V. CALLS

G.O.T.V. Calls / Non-Candidates Specific

AMOUNT DUE $90,000.00

Total Amount Due November 3rd, 1988.

Received 11/4/88

Please remit to: Campaign Telecommunications Inc.
1556 Third Avenue, Suite 209
New York, New York 10128

Thank You.

[1GOTVGA]

9504365485 3

9 5 0 4 3 6 5 4 8 5 4

GEORGIA REPUBLICAN PARTY

001308

INVOICE NO.	DATE	AMOUNT	DISCOUNT	NET AMT.

DATE November 2, 1988

CHECK NUMBER 1308

75,000 towards ID - LA
17,000 towards GOTV - GA

LA

GEORGIA REPUBLICAN PARTY
BOOKKEEPING ACCOUNT
1776 PEACHTREE ROAD, NE, SUITE 200-S
ATLANTA, GA 30309

001308

PAY TO THE ORDER OF

Chase Manhattan Bank, N.A.
1666 Pine Street
Harrisburg, Pennsylvania 17105

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET, SUITE 500 S
ATLANTA, GA 30309

368

11-3 19 88

PAY TO THE ORDER OF [illegible] $ 10,000.00

[illegible] NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

GEORGIA REPUBLICAN PARTY
VICTORY 88 STATE ACCOUNT
PHONE 404-879-2888
1776 PEACHTREE ST. SUITE 500-S
ATLANTA, GA 30309

105

11-3 19 88

PAY TO THE ORDER OF [illegible] $ 30,000.00

[illegible] NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

FOR [illegible] GOTV

[redacted]

9 5 0 4 3 6 5 4 8 5 5

CAMPAIGN

TELECOMMUNICATIONS

DATE: November 2, 1988

TO: Lee Raudonis

FAX #: 404-876-2810

TEL #:

FROM: Steve Goldberg / Carryn Cadlund

FAX #: 212-410-9705

TEL #: 212-410-3714

PAGES: 2 (including cover page)

RE: GETV invoice - Georgia

COMMENTS:

9504365485 6

OGC 9505

FEDERAL ELECTIONS COMMISSION RECEIVED
93 JUL 21 PM 3:42

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL RD. SUITE 102
MARIETTA, GA 30060
(404) 431-0861

July 15, 1993

Ms. Mary Tabor
Office of the General Counsel
Federal Elections Commission
999 E Street, NW
Washington, DC 20463

RE: MUR 3787

Dear Ms. Tabor;

With respect to your request for production of documents/order to submit written answers, I respond as follows.

In regards to article 1 of your request for "Documents describing the services provided to the Georgia Republican Party during the 1988 general election campaign, including but not limited to, memoranda, contracts, invoices, vendor account statements, and phone bills" I have provided all original documentation on hand. These documents include:

1) Original phone bills
2) Proposal/Contract with Victory 88
3) Supplementary Agreement
4) Victory 88 Ledger sheets showing financial transactions
5) Seven phone scripts
6) All Checks to Hayden Stanley-Volunteer Coordinator for Victory 88
7) All Payroll Checks to employees of Southern Research Services who made phone calls for Victory 88
8) All Checks to Temporary Service companies who provided employees to make calls for Victory 88
9) One invoice billed to Victory 88

These documents represent all records in my possession.

In regards to article 2 of your request for "Telephone scripts used on behalf of the Georgia Republican Party, from May 1988 until November 1988. Please identify each script, on which dates each script was used, and what services you provided in connection with each phone bank, including, but not limited to, payroll records for all paid callers." I have provided as listed above, all phone scripts in my possession with notations on each for all known dates of use, or presumed range of dates they may have been used to the best of my recollection. I have also noted on these scripts district identification, candidate position sought, any volunteers names I recalled. All scripts and calls made were to Cobb County Voters.

Paid phoners were used on all ID Scripts (The scripts considered ID Scripts are titled "Ballot Code 31, 61, 71 Phone bank Script", "Ballot Code 21 Phone Bank Script" and Ballot Code 20, 30, 70 Phone Bank Script". The ID calls were made between the dates of

9504365485 7

9/15/88 to 10/13/88.

All other scripts were written for volunteers. These scripts are titled "George Bush Advocacy Script", "George Bush Turnout Script 1", George Bush Turnout Script 2" and "Election Day Call".

The "George Bush Advocacy Script" was to be used Saturdays from 9/17/88 to 10/15/88, and every day from 10/16/88 to 11/7/88, though I cannot determine specifically which days it was used, there was a substantial use of volunteers during those dates.

The other 3 scripts were clearly used during the last week prior to the general election. The "George Bush Turnout Script 1" to the best of my recollection was used by volunteers to call the East Cobb voters. No paid caller were used to call East Cobb voters.

The "George Bush Turnout Script 2" was originally written for volunteers for West Cobb favorable voters. A favorable voter was defined as a voter likely to vote for Republican candidates and no local Democrat candidates. It is likely that this script was written prior to the supplemental agreement with Victory 88 for paid turnout calls. I cannot confirm that this was the script used by paid callers for turnout calls under the supplemental contract. It is possible that I was given another script to use for the paid turnout calls, but I cannot say that for sure.

The "Election Day Call" script was used on election day, and I had noted on the script in 1988 that is was used by volunteers. I do recall that Jack Vaughan (a local candidate running for State Representative District 20, Post 1) and some of his family members did make volunteer calls using my phone bank on Election day. It is possible that this script was used by other volunteers.

The services I provided to Victory 88 were 20 phone lines, accessible by volunteers 29 days ranging from 9/17/88 to 11/8/88 and paid callers for voter identification/list development for 20 days ranging from 9/16/88 to 10/13/88, a volunteer coordinator to recruit volunteers for phone banks and other volunteer activities, scripts for all callers, keypunching all voter identification information for list development, targeted lists for volunteers, labels and mailing lists for volunteer mailings. All these services were included in the costs outlined in the contract.

The paid callers were used primarily for the purpose of producing lists identifying Republican voters for anticipated volunteer activities, and were targeted specifically to promote 5 local candidates races. The lists of identified Republican voters was used heavily by these candidates, as well as Victory 88 volunteers. Additionally, later, these lists were used by the Georgia Republican Party for membership recruitment mailings, and by the Republican Party candidate for the 1990 governor's race.

In regards to article 3 of your request for me to "Please specify how much of the cost of your telemarketing services incurred by the Georgia Republican Party from May 1988 until November 1988 was in connection with phone banks utilizing volunteer callers", I respond as follows:

All costs incurred by Southern Research Services, Inc. in conjunction with Victory 88 was to gather data for subsequent volunteers or local candidate use, provide a location and telephones for Victory 88 volunteers to make calls and to recruit

9504365488

volunteers.

The identification calls and key punching were done to develop lists from which volunteers could make calls. No identification calls were made after 10/13/88, as the phones were intended to be used by volunteers only after that date. These lists were later given to the Georgia Republican Party for their use, and to Johnny Isakson to use for his race for Governor. These lists were also used heavily by local Republican candidates and their volunteer organizations. All costs were considered to be included in the cost of the calls and was not necessarily itemized except as noted on the Victory 88 ledger sheets.

I have produced all documentation in my possession, and have answered all questions truthfully and to the best of my recollection. Should anything further be discovered, I will forward it immediately.

Jim Lovejoy
President

In accordance with the instructions, I am informing you that Kim Flemming provided assistance in answering this subpoena. JL

Verification by Oath

State of Georgia
County of Cobb

I, Jim Lovejoy, being duly sworn depose and say that the information contained herein is complete, true and correct.

Jim Lovejoy
Signature of respondent

Sworn to and subscribed before me on

July 16, 1993

Gwen Wakes
Notary Public

My Commission expires Notary Public, Cobb County, Georgia My Commission Expires Feb. 26, 1994

9504365485 9

950436548 60 (1) 954

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

9-29 19 88 64-124/611

PAY TO THE ORDER OF Southern Bell $ 1410.06

one thousand four hundred ten + 06/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR 9/16 bill [redacted]

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1024

10-28 19 88 64-124/611

PAY TO THE ORDER OF Southern Bell $ 1481.38

one thousand four hundred eighty one + 38/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR 10/16 bill [redacted]

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1089

November 22 19 88 64-124/611

PAY TO THE ORDER OF Southern Bell $ 220.28

two hundred twenty and 28/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR 11/16 service 12/15 [redacted]

0105015 1553 2402 12278 D4310861032035

BF 110941

2 7 DEC 1988

PAID

FOR DEPOSIT ONLY
SOUTHERN BELL TEL & TELCO
ATLANTA, GA.

DE '88 27

BANK SOUTH
1075 LOOP RD.
ATLANTA, GA.

0610 ▲ 00078 ▲ 0610

OCT 1988

NOV 1988

PAID

FOR DEPOSIT ONLY
SOUTHERN BELL TEL & TELCO
ATLANTA, GA.

NO 08 02

BANK SOUTH
1075 LOOP RD.
ATLANTA, GA.

0610 ▲ 00078 ▲ 0610

05 OCT

5 OCT

FOR DEPOSIT ONLY
SOUTHERN BELL TEL & T.
ATLANTA GA

9 5 0 4 0 3 6 4 8 6 1

PROPOSAL FOR JAY MORGAN
VICTORY 88
LEGISLATIVE REPUBLICAN TRUST
FUND FOR LOCAL REPUBLICAN CANDIDATES

BY JIM LOVEJOY
SOUTHERN RESEARCH SERVICES

9504365482

Southern Research on Cobb County presently has a Compaq 386 of Cobb County registered voters with phone numbers and carrier route codes. Past Republican Primary voters, including all Super Tuesday voters are coded on the file.

Currently, the file has 57,933 households with phone numbers that were not Republican Super Tuesday or black voters. 32,842 of these households are in the Eastern District of Cobb County and 25,091 are in the Western District of Cobb County. All voters in several precincts were called during the 1988 Republican Primary, and several thousand wrong numbers and disconnects have been removed from the active phone number file. The computer will not print mailing labels or letters to these households.

Southern Research has a twenty phone phone bank and four terminals to key punch updates to the voters list on the Compaq 386. Two laser printers and one high speed dot matrix printer are attached to the 386. Southern Research can print personal letters, labels, and lists at great speed.

Southern Research has a stable of ten regular phoners hired directly by Southern Research. Additional phoners are secured from temporary agencies.

The Fund For Local Republican Candidates, Georgia's largest partisan PAC and a new PAC, the Legislative Republican Trust chaired by Johnny Gresham, will raise funds for funding the local candidates share of the cost of the voter ID program.

Jay Morgan has the responsiblity of providing one speaker for a mid October fundraiser for the LRT.

9 5 0 4 3 3 6 5 4 8 6 3

be completed by October 15. Southern Research will operate four four hour shifts and one eight hour shift per week which can complete a minimum of 34,000 phone calls during the alloted period. (25 four hour shifts with average of 17 phones at 20 completed calls per hour.)

Phone calls will be made to white non Republican Super Tuesday voters, only.

2. Victory 88 will pay $.60 per completed call where we talk to a voter in the household, and $.07 per completed call to update the computer file. Lists needed by Victory 88 will be $.03 per record printed and gummed labels will be $.04 per label printed.

3. No charge will be made to Victory 88 for computer or phone bank set up, or for use of the phone list. These charges are normally charged by Southern Research.

4. Volunteers may use the Southern Research phones on Saturday afternoons through October 15, and each evening, and Saturday and Sunday afternoons after October 15. These volunteers will be supervised by Southern Research personnel.

5. Local Republican Candidates in West Cobb may be added to the Southern Research phone bank. They will pay a pro rata charge for phone bank use according to the following formula:

Total phone call charge = $.20 per question
Candidates portion is the total charge less $.60

If only one or two candidates participate, then $.10 total will be added to the $.60 base.

If there are four West Cobb candidates, then the total completed call charge is $1.00. Victory 88 will pay $.60, and each candidate will pay $.10.

6. Hugh Ragan, Republican Senate candidate in Senate District 32, may be added to the East Cobb portion of his Senate District. His additonal phone charge will be $.10 per call.

7. The Fund For Local Republican Candidates and the Legislative Republican Trust will subsidize the local candidates cost to participate in the program. The subsidy will be, $5,000 for set up and $4,000 per West Cobb candidate using the program. Hugh Ragan's subsidy will be $3,000.

9. Southern Research or the Fund For Local Republican Candidates will pay $1,000 for a full time Victory 88 volunteer coordinator.

9 5 0 4 3 6 5 4 8 6 4

Research Data Base and Phone Bank

1. Set up	$5,000 total, $3,028 paid already by FFLRC, $1,972 to be paid by FFLRC Each participating candidate will be charged $500 additional set up.
2. Use of phone list	$.03 per number, each candidate, one half normal SR price.
3. Completed call	see formula or $.10 for Hugh Ragan.
4. Keypunch phone bank update	$.035 per update, each candidate, one half normal SR price.
5. Cheshire label	$.035 each
6. Gummed label	$.04 each
7. Walk list	$.045 each
8. Personal letter	$.20 each plus $25 set up per letter run

9 5 0 4 3 6 5 4 8 6 5

35,000 paid completed calls @ $.60	2,450
35,000 key punch updates @ $.07	600
20,000 turnout list @$.03	450
15,000 undecided list @$.03	800
20,000 turnout labels $.04	
Total	$25,300

Additional mailing labels will increase these costs, and be added to the bill.

If more than 35,000 total ID calls can be made, SR will get permission from Jay Morgan before continuing with the calls.

Payment:	Sept. 15	$5,000
	Sept. 22	$5,000
	Sept. 29	$5,000
	Oct. 6	$5,000
	Oct. 13	$5,000
	Oct. 20	Balance

West Cobb's Candidate Cost

Set up		$ 500
List use	25,091 @ $.035	878
Phone calls	20,000 @ $.10	2,000
Key punch	20,000 @ $.035	700
Undecided list	10,000 @ $.03	300
Total cost of ID program		$4,378

Agreed:

Date:

Jim Lovejoy
Southern Research Services

Jay Morgan
Victory 88 COBB

9 5 0 4 3 6 5 4 8 6 6

Southern Research Services, Inc.
291 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

404 431-0861

3

Supplementary Agreement 11/1/88

Southern Research will make turnout calls using 15-20 paid phoners from

1:30 - 9:30 PM Sunday
5:30 - 9:30 PM Monday

The price will be a flat fee of $3,000 in addition to the Southern Research charges under the previous agreement.

$1,500 from Guy Gebhart's PAC will be credited toward the turnout fee.

Agreed
J. Morgan

Jim Lazy

VICTORY '88
George Bush
PRESIDENT

9504365548867

Bush / Victory '88

4

DATE	DESCRIPTION	DEBIT	CREDIT	BAL
1010	ID CALLS [10/9] BC30/30 1048 x .60	62880		<339734>
1010	KEYPUNCH 1048 x.07	7336		<332398>
1010	ID CALLS [10/9] BCAL 1211 x.60	72660		<259738>
1010	KEYPUNCH 1211 x.07	8477		<251261>
1011	ID CALLS [10/10] 1504 x.60	90240		<161021>
1011	KEYPUNCH 1504 x.07	10528		<150493>
1013	ID CALLS [10/11] 1266 x.60	75960		<74533>
1013	KEYPUNCH 1266 x.07	8862		<65671>
1013	ABSENTEE BALLOT TAPE PREPARATION			
	TAPE	2500		<63171>
	CONSULTANT 3½ hrs x 35	12250		<50921>
	12,367 records x.03	37101		<13820>
1013	"UNO" LIST 3344 x.03	10032		<3788>
1013	PAYMENT		500000	<503788>
1013	"HANDED STANLEY"	25000		<478788>
1014	ID CALLS [BCAL] 1162 x .60	69720		<409068>
1014	ID CALLS [BC30] [10/13] 882 x.60	52920		<356148>
1014	KEYPUNCH 1162 x.07	8134		<348014>
1014	KEYPUNCH 882 x.07	6174		<341840>
1014	"UNO" LIST 289 x.03	867		<340973>
1015	FAVORABLE LIST 13,039 x.03	39087		<301886>
1019	"UNO" LABELS 3572 x.04	14288		<287598>
1021	LABELS 15,282 x.04	61128		<226470>
1021	LABELS 22,498 x.3½	78743		<147727>
1024	10/13 "STANLEY" CHARGE IN ERROR		250 00	<147727>
1028	"UNO" LIST 3068 x .03	9204		<163523>
1026	"FAV" LIST 1124 x .03	3372		<160151>
1026	KEYPUNCHING 1818 x .07	12726		<147425>
11 1	"FAV LIST" & ECOBB 8277 x.03	24831		<122594>
11 2	UNO KEYPUNCHING 664 x.07	4648		<117946>
11 2	"FAV LIST" 664 x.03	1992		<115954>
11 6	Turnout Program	300000		184046
11 8	Cobb Republican Party		1500	34046
11 22	Payment Victory 89		34046	0

9 5 0 4 3 6 5 4 8 6 8

Bush / Victory '88

DATE	DESCRIPTION	DEBIT	CREDIT	BAL
9 15	PAYMENT		5000-	<5000->
9 16	ID CALLS 1380 x .60	88800		<417200>
9 16	KEYPUNCHING 1380 x .07	9660		<407540>
9 19	KEYPUNCHING [9/18] 3673 x.07	25711		<381829>
9 19	ID CALLS [9/18] 3673 x.60	220380		<161449>
9 21	ID CALLS [9/18] 1611 x.60	96660		<64789>
9 21	KEYPUNCH 1611 x.07	11277		<53512>
9 21	ID CALLS [9/20] 1823 x.60	109380		55868
9 21	KEYPUNCH 1823 x.07	12761		68929
9 22	ID CALLS [9/21] 1624 x. 60	97440		166369
9 22	KEYPUNCH 1624 x.07	11368		177737
9 23	PAYMENT		500000	<322263>
9 23	ID CALLS [9/22] 1588 x.60	95280		<226983>
9 23	KEYPUNCH 1588 x.07	11116		<238099>
9 27	ID CALLS [9/25] [BC 70] 429 x .60	25740		<213359>
9 27	ID CALLS [9/25] [BC 21] 45 x .60	2700		<209659>
9 27	KEYPUNCH 474 x.07	3318		<206341>
9 28	ID CALLS [9/26] 1141 x .60	68460		<137881>
9 28	KEYPUNCH 1141 x .07	7987		<189894>
9 28	UNDP phone list 1033 x .03	3099		<33959>
9 29	ID CALLS [9/27] 1599 x .60	95940		<2874>
9 29	KEYPUNCH 1599 x .07	11193		<11568>
9 30	PAYMENT		500000	<511568>
10 2	ID CALLS [9/28] 1438 x .60	86280		<425288>
10 2	KEYPUNCH 1438 x .07	10066		<415222>
10 2	ID CALLS [9/29] 1199 x .60	71940		<343282>
10 2	KEYPUNCH 1199 x .07	8393		<334889>
10 4	ID CALLS [10/2] 1552 x. 60	93120		<241769>
10 4	KEYPUNCH 1552 x .07	10864		<230905>
10 5	ID CALLS [10/3] [BC 20] 92 x .60	5520		<225385>
10 5	KEYPUNCH [10/3] [BC 20] 92 x .07	644		<224741>
10 5	ID CALLS [10/3] [BC 21] 963 x .60	57780		<166961>
10 5	KEYPUNCH 963 x .07	6741		<160220>
10 5	ID CALLS [10/4] 1455 x .60	87300		<72920>
10 5	KEYPUNCH 1455 x .07	10185		<62735>
10 7	PAYMENT		500000	<562735>
10 7	ID CALLS [10/5] 1002 x .60	60120		<502615>
10 7	KEYPUNCH 1002 x .07	7014		<495601>
10 7	UNDP CALLS 1078 x .04	4312		<491289>
10 7	ID CALLS [10/6] 1325 x .60	79500		<411789>
10 7	KEYPUNCH 1325 .07	9875		<402614>

9 5 0 4 3 6 5 4 8 6 9

BALLOT CODE 31, 61, [illegible] PHONE BANK SCRIPT Eas[illegible]066 ID Script 5

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THE RESPONSE IS GEORGE BUSH, SAY]: "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

9504364870

Paid callers - Sept 16 - Oct 14
Probable dates of use 9/16/88
9/18/88 - 9/22/88
9/29/88
10/2/88
10/4/88 - 10/6/88
10/10/88 - 10/11/88

BALLOT CODE 21, PHONE BANK SCRIPT

ID calls Hugh Ragan's District

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE SENATOR, were being held tomorrow, who would you most likely vote for?"

HUGH RAGAN: the Republican St. Senate District 32
or
KEN PARRIS: the Democrat

RAGAN: circle HR.
PARRIS: circle KP.
Undecided or does not respond: circle U.
Refused: circle R.

[IF VOTING FOR GEORGE BUSH, SAY]: "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

Paid callers Sept 16 - Oct 14
per Victory 88 ledger calls were made
on 9/25/88, 10/3/88, 10/9/88, 10/13/88

9504364871

BALLOT CODE 20, 30, [illegible] PHONE BANK SCRIPT West Cobb ID Script

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for COUNTY COMMISSIONER, were being held tomorrow, who would you most likely vote for?"

R.L. JACOBS: the Republican Cobb County Commission
or
HARVEY PASCAL: the Democrat

JACOBS: circle RJ.
PASCAL: circle HP.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE REPRESENTATIVE: POST 1: were being held tomorrow, who would you most likely vote for?"

JACK VAUGHAN: the Republican St. Representative
or District 20 Post 1
IRMA GLOVER: the Democrat

VAUGHAN: circle JV.
GLOVER: circle IG.
Undecided or does not respond: circle U.
Refused: circle R.

Paid calls
Sept 16 - Oct 14
Per Victory 88 ledger calls were made 10/9/88, BC. 20 only 10/3/88, BC. 30 only 10/13/88, BC 70 only 9/25/88 BC = Ballot code

9504364872

"If the election for STATE REPRESENTATIVE: POST 2: were being held tomorrow, who would you most likely vote for?"

GRESHAM HOWREN: the Republican St. Representative District 20 Post 2
or
SAM HENSLEY: the Democrat

HOWREN: circle GH.
HENSLEY: circle SH.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE REPRESENTATIVE: POST 5: were being held tomorrow, who would you most likely vote for?"

EARL EHRHART: the Republican St. Representative
or
JOE MACK WILSON: the Democrat District 20, Post 5

EHRHART: circle EE.
WILSON: circle JW.
Undecided or does not respond: circle U.
Refused: circle R.

[IF VOTING FOR GEORGE BUSH, SAY]: "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

Jacobs gummed labels for targeted precincts

Peggs

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

9 5 0 4 3 6 0 4 8 7 3

GEORGE BUSH ADVOCACY SCRIPT

Script: [FOLLOW EXACTLY, IF NO ANSWER AFTER FIVE RINGS, HANG UP.]

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on bejalf of Vice President Bush. We hope that you will consider voting for Vice President Bush who is the conservative Candidate for President. He believes in a strong defense and is tough on crime. Can Vice President Bush count on your vote this year. ?"

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

this script - calls made by volunteers. Saturdays from Sept 15 - Oct 14, each evening from Oct 15 — Nov. 7.

[IF THEY INDICATE WHO THEY ARE VOTING FOR, CIRCLE]

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THEY ASK YOU WHY BUSH, SAY.]

"I think that his experience makes him more qualified, and he will carry on President Reagan's programs. We don't need to go back to the policies that gave us high interest rates and inflation.

Can Vice President Bush count on your support?"

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THE RESPONSE IS BUSH, SAY]:

"Thank you very much. The election will be TUESDAY, NOVEMBER 8.

"The Vice President needs to do some advertising in your neighborhood. Can we put a small Bush yard sign up in your yard?"

[IF YES, WRITE "YS" ON RIGHT HAND SIDE OF VOTER ID CODES]

[THEN SAY]:

"Thank you very much for your time, Bye Bye."

[IF THEY HAVE A QUESTION FOR BUSH, WRITE IT DOWN ON A SEPARATE SHEET WITH NAME, ADDRESS, AND PHONE #.]
[MAKE NO OTHER MARKS ON SHEET, GO THROUGH SHEETS ONLY ONE TIME.]

9504365 4874

GEORGE BUSH TURNOUT SCRIPT

Script: [FOLLOW EXACTLY, IF NO ANSWER AFTER FIVE RINGS, HANG UP.]

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on behalf of George Bush for President just to remind you that this Tuesday is election day. The election may be close in Georgia so your vote is very important to Vice President Bush. Please put voting on top of your TUESDAY to do list."

WAIT FOR A RESPONSE

"Thank you very much. You need to punch #8 on your ballot to vote for Vice President Bush. In order to vote for the other Republican candidates, you need to punch #23."

Thank you again. Bye, Bye."

[CIRCLE "GB" IN LAST COLUMN, WHEN CALL IS COMPLETED]

[WRONG NUMBER, WRITE "WN" NEXT TO THE PHONE NUMBER. WRITE IN CORRECT NUMBER AND STRIKE THROUGH THE WRONG NUMBER.]

[DISCONNECTED, WRITE "D" NEXT TO PHONE NUMBER.]

[IF THEY HAVE A QUESTION ABOUT WHERE THEY SHOULD VOTE, WHAT PRECINCT THEY ARE IN, ETC. ASK THEM TO CALL 423-2300 FOR THE ANSWER.]

I believe this script was used by volunteers calling East Cobb Republican ~~Bush~~ favorables on Sat, Sun, Monday before election on Nov. 8.

No paid people were used to call East Cobb favorables.

9504360487/5

GEORGE BUSH TURNOUT SCRIPT

Script: [FOLLOW EXACTLY, IF NO ANSWER AFTER FIVE RINGS, HANG UP.]

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on behalf of George Bush for President just to remind you that this Tuesday is election day."

[CONTINUE IF THE PERSON DOESN'T SEEM ANXIOUS TO TERMINATE THE CALL]

The election may be close in Georgia so your vote is very important. We were calling to see if Vice- President Bush can count on your vote."

WAIT FOR A RESPONSE

"Thank you very much. You need to punch #8 on your ballot to vote for Vice President Bush. In order to vote for the other Republican candidates, you need to punch #23."

Thank you again. Bye, Bye."

[CIRCLE "GB" IN LAST COLUMN, WHEN CALL IS COMPLETED]

[WRONG NUMBER, WRITE "WN" NEXT TO THE PHONE NUMBER. WRITE IN CORRECT NUMBER AND STRIKE THROUGH THE WRONG NUMBER.]

[DISCONNECTED, WRITE "D" NEXT TO PHONE NUMBER.]

[IF THEY HAVE A QUESTION ABOUT WHERE THEY SHOULD VOTE, WHAT PRECINCT THEY ARE IN, ETC. ASK THEM TO CALL 423-2300 FOR THE ANSWER.]

Paid callers to West Cobb Republican ~~Bush~~ favorables on Sat, Sun, Monday before Nov. 8, although I am not sure this is the script used. It may be my original draft and I was given another script. It was originally written for volunteers.

9504365 8/6

ELECTION DAY CALL

"Hello, THEIR NAME, This is YOUR NAME from VICE PRESIDENT BUSH'S campaign. We realize you have been called before, but we wanted to invite you to our victory party tonight and ask you if you had had a chance to vote yet?

If answer is	Reply
Yes	That's great. Thank you very much.
No	The news about turnout is exciting. We can win GEORGIA if we our supporters continue to vote. WE MAY BE IN A CLOSE RACE. Your vote is very important. The polls close at 7:00 o'clock.

The victory party will be in the Waverly Hotel Ballroom starting 7:00 P.M. tonight. Bye, Bye."

AFTER THE CALL IS COMPLETED (YOU HAVE TALKED TO SOMEONE) CIRCLE GB.

This script used by volunteers on Nov 8.

West Cobb Republicans were called.

Jack Vaughan and some of his family made calls.

9504360 48877

9 5 0 4 3 6 5 4 8 7 8

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

405-11-4847-4 KS D.L.
9-6-65 990

6

10-13 19 88 64-124 611

PAY TO THE ORDER OF Hayden Stanley $ 250 00

two hundred fifty + 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR VOLUNTEER SUPERVISION

[redacted]

BHO TOP
SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

88 OCT 21 PM 1:52

KENTUCKY I.D. # 405-11-4847-4
EXP. 09-87 DOB 09-06-65 1014
ISS 12-26-85

10-20 19 88 64-124 611

PAY TO THE ORDER OF Hayden Stanley $ 250 00

two hundred fifty + 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR CONSULTANT

[redacted]

6

Charles Hayden Stanley II

Charles Hayden Stanley II

9 5 0 4 3 6 5 4 8 7 9

OCT 21 '88

061000104

OCT 25 '88

3332 7 5 6 6

→061000104←

TRUST COMPANY BANK,
Atlanta, Georgia

→061000104←

14 OCT '88

061000104

9 5 0 4 3 6 5 4 8 8 0

Kent.
408 11 4847 4
9 89 9 065
Citibank
4128 4005998 61

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1023

TCC 002 019

1988 NOV -3 PM 1:52

10/27 19 88 64-124/611

PAY TO THE ORDER OF Hayden Stanley $ 250.00

Two Hundred and Fifty & 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR Consulting

[redacted]

Kent
408 11 4847 4
9 89 9 065
Citibank
4128 4005998 61

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1046

TCC 002 019

1988 NOV -3 PM 1:52

11-3 19 88 64-124/611

PAY TO THE ORDER OF HAYDON STANLEY $ 250.00

two hundred fifty & 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR CONSULTING FEE

[redacted]

Charles H. Stanley II

Charles H. Stanley II

⑈ 4441 1520 ⑈

⑆ 061000104 ⑆

TRUST COMPANY BANK

⑈ 250 Piedmont Ave. ⑈

Atlanta, Georgia

⑆ 061000104 ⑆

04 NOV 8

⑈ 4441 1519 ⑈

⑆ 061000104 ⑆

TRUST COMPANY BANK

⑈ 250 Piedmont Ave. ⑈

Atlanta, Georgia

⑆ 061000104 ⑆

04 NOV 8

9 5 0 4 3 6 5 4 8 8 1

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

924

9-23 1986 64-124/611

PAY TO THE ORDER OF Caldwell Temporary $ 302 43

three hundred two + 43/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

FOR #38010, 38011, 38012, 38013

[redacted]

9504365482

Pay Bank of the South, N.A.
MAIN OFFICE
-1- FOR DEPOSIT ONLY -1-
E. P. ENTERPRISES CORPORATION
D/B/A CALDWELL SERVICES, INC.
35-452-92
COLLATERAL ACCOUNT

9 5 0 4 3 6 5 4 8 8 3

SE 07 20 0610
00078
BANK SOUTH
1075 LOOP RD.
ATLANTA, GA.

CALDWELL
Temporary Services

INVOICE 9 5 0 4 3 6 5 4 8 8 4

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/18/88			

SOUTHERN RESEARCH

PD 9/23
#924

07/10	C038010			34.20
07/31	C038012			8.55
09/18	C038012			201.60
09/19	C038013			58.08
			[redacted]	302.43

CALDWELL
Temporary Services

9 5 INVOICE 3 6 5 4 8 8 5
ATLANTA GA 30309
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/18/88		C038010	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
2001 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS !!!

10	CHARGE DAIL WORLD	RE	4.00	8.55	34.20
				[redacted]	34.20

CALDWELL
Temporary Services

9 5 INVOICE 6 5 4 8 8 6

ATLANTA GA 30309
404-555-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/18/88		C038011	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS !!!

7/31	SHARON GAIL WORLEY	RG	1.00	8.55	8.55
				[redacted]	8.55

JULY 25, 1988 5:30-6:30

SOUTHERN RESEARCH SERVICES
291 PAT MELL ROAD
SMYRNA, GA. 30060

[redacted]

SHARON G. WORLEY

Anne Smallings
(for Betty Chartier)
" Debbie Peggs
8/17/88

9504365488 7

CALDWELL
Temporary Services

INVOICE

9 5 REMIT TO 3 6 5 6 8 BOX 8728
ATLANTA GA 30357
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/18/88	[redacted]	C038012	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
2001 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS !!!

[redacted]

710	SHERI M. KEMP	DEBBIE PEGGS	RD	21.00	9.60	201.60
					[redacted]	201.60

404 431-0861

Southern Research Services, Inc.
291 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

RE: Sheri Kemp

HOURS WORKED:

9/12	11:00 - 5:00	=	6
9/13	9:00 - 5:00	=	8
9/14	9:00 - 5:00 [LUNCH = 1hr]	=	7

TOTAL HOURS = 21

D J Peppo
MANAGER

9 5 0 4 3 6 5 4 8 8 9

CALDWELL
Temporary Services

INVOICE

9 5 ORDERED BY: 5. 4. 8[illegible]
ATLANTA GA 30349
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/18/88		C038013	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
[illegible] PAT MELL ROAD
ATTN JIM LOVELE[illegible]
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS !!!

/19	CHRISTINE STYLE	DEBBIE PEGGS	RG	5.75	10.10	58.08
					[redacted]	58.08

404 431-0861

Southern Research Services, Inc.
221 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

9-19-88

Re: Chris Style

Hours worked: 10:00 - 3:45 = 5 3/4

L J Rapp

9504365481 9

9 5 0 4 3 6 5 4 8 9 2

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

984

10-7 19 88 54-124/611

PAY TO THE ORDER OF Caldwell Temporary $ 1255 64

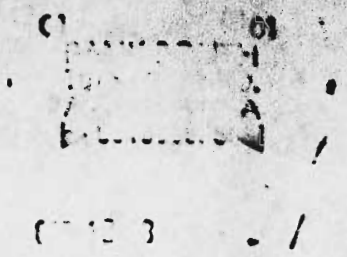
one thousand two hundred fifty five + 64/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1206

FOR INV # 38491 38265 -67 [redacted] 291 Boom [redacted]

Pay Bank of the South, N.A.
MAIN OFFICE
-1- FOR DEPOSIT ONLY -1-
E. P. ENTERPRISES CORPORATION
D/B/A CALDWELL SERVICES, INC.
35-452-92
COLLATERAL ACCOUNT



9 5 0 4 3 6 5 4 8 9 3

9 5 0 4 3 6 5 4 8 9 4

INVOICE MIT TO: P. O. BOX 724654
ATLANTA GA 30339
404-955-1767

CUSTOMER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	10/02/88		C03R491	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
NATIONAL TEMP HELP WEEK
OCTOBER 9 - 15

10/02	YEON JU KIM	OK	DEBBIE PEGGS	RG	23.50	9.69	227.[illegible]
10/02	MARY JO LEASTMAN		DEBBIE PEGGS	RG	29.50	11.63	343.[illegible]

PO 10/7
#984
$1255 64

[redacted] 570.8[illegible]

9 5 0 4 3 6 5 4 8 9 5

CALDWELL
Temporary Services

INVOICE

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/25/88		C038265	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 Pat MELL RD
MARIETAA GA 30060

TERMS: NET 10 DAYS

[redacted]

07/24	[redacted] C038265			34.20
09/04	C038266			29.93
09/25	C038267			623.06
				687.19
	Credit C. Styles			- 2.36
			[redacted]	684.83

9 5 0 4 3 6 5 4 8 9 6

CALDWELL
Temporary Services

INVOICE

REMIT TO: P. O. BOX 724634
ATLANTA GA 30339
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/25/88		C038267	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
NATIONAL TEMP HELP WEEK
OCTOBER 9 - 15

09/25	MARY JO LEASTMAN	DEBBIE PEGGS	RG	28.50	11.63	331.[illegible]
09/25	ANGELA DENISE SELF	DEBBIE PEGGS	RG	27.00	10.00	291.[illegible]

[redacted] 623.06

404 431-0861

Southern Research Services, Inc.
291 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

RE: DENISE SELF

9/19 = 11½ hrs
9/20 = 7½ hrs
9/21 = 8 hrs

TOTAL: 27 hrs

Gy Peapp
MGR

9504365489 7

9 5 0 4 3 6 5 4 8 9 8

CALDWELL
Temporary Services

INVOICE
REMIT TO: P. O. BOX 724484
ATLANTA GA 30339
404-955-1767

CUSTOMER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	09/25/88		C038266	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT NELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
NATIONAL TEMP HELP WEEK
OCTOBER 9 - 15

09/04	KAREN D. ANAPOLLE	RG	3.50	8.55	29.93

9 5 0 4 3 6 5 4 8 9 9

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1032

10-28 19 88 64-124/611

PAY TO THE ORDER OF Caldwell Temporary $ 633.84

six hundred thirty three + 84/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1140
Smyrna, Georgia 30081

06 1266

FOR 38925 + 38926

[redacted]

Pay Bank of the South, N.A.
MAIN OFFICE
-1- FOR DEPOSIT ONLY -1-
E. P. ENTERPRISES CORPORATION
D/B/A CALDWELL SERVICES, INC.
35-452-92
COLLATERAL ACCOUNT

01 01
BANK SOUTH
ATLANTA

0610
00078
NO. 01
BANK SOUTH
3575 LENOX RD.
ATLANTA, GA.
02000
0120

9 5 0 4 3 6 5 4 9 0 0

9 5 0 4 3 6 5 4 9 0 1

CALDWELL
Temporary Services

INVOICE

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	10/16/88			

SOUTHERN RESEARCH

10/09	INVOICE C038925			331[redacted]
10/16	INVOICE C038926	PO 10/28 #1032		302[redacted]
				633.84

9 5 0 4 3 6 5 4 9 0 2

CALDWELL
Temporary Services

INVOICE

REMIT TO: P. O. BOX 724654
ATLANTA GA 30339
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	10/16/88		C038925	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS!!!

[redacted]

10/07	MARY JO LEASTMAN	DEBBIE PEGGS	48	28.50	11.63	331.44
					[redacted]	331.44

9 5 0 4 3 6 5 4 9 0 3

CALDWELL
Temporary Services

INVOICE
REMIT TO: P. O. BOX 724634
ATLANTA GA 30339
404-955-1767

CUSTOMER NUMBER	INVOICE DATE	INVOICE GROUP	INVOICE NUMBER	PAGE
[redacted]	10/16/88		C038926	1

SOUTHERN RESEARCH
ACCOUNTS PAYABLE
291 PAT MELL ROAD
ATTN JIM LOVEJOY
MARIETTA GA 30060

TERMS : NET 10 DAYS
WE SINCERELY APPRECIATE
YOUR BUSINESS!!!

10/14	MARY JO LEASTMAN	DEBBIE PEGGS	HO	26.00	11.63	302.38
					[redacted]	302.38

9 5 0 4 3 6 5 4 9 0 4

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1029

10-28 19 88 64-124 611

PAY TO THE ORDER OF Kelly Services 113501625 3144 3162 12 $ 279.01

two hundred seventy nine + 01/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1286

FOR # 41100892 + 40103657

[redacted] D. Rapp [redacted]

9 5 0 4 3 6 5 4 9 0 5

NAT. BANK OF DETROIT, DET. MI--><07200032b<-- NOV-04-88

061000146
061000146
1135016 75 11-07-88

NO 07
PAID

NOV-04-88 82803045

NOV 04 '88

PAY NAT'L BK OF DETROIT
DETROIT, MICH. OR ORDER

NO 148.70 NO
KELLY SERVICES, INC.

KELLY SERVICES

KELLY SERVICES, INC.

KELLY GIRL • MARKETING • INDUSTRIAL • TECHNICAL

INVOICE DATE 101188 [redacted] 41100892

SOUTHERN RESEARCH SVCS
291 PAT MELL RD
MARIETTA GA 30064

PLEASE SEND PAYMENT WITH REMITTANCE COPY TO:

KELLY SERVICES, INC.
P.O. BOX 32068
DETROIT, MICHIGAN 48232-0068

P.O. NUMBER	BRANCH LOCATION: ATLANTA MARIETTA GA
RELEASE NO.	BRANCH PHONE NO.: 404-952-2551
DEPT. CHARGED	ORDER NO.: 2216 X1042
DEPT. USING	CUSTOMER NO.: [redacted]

CORPORATE TAX I.D.: 38-1510782
DUN & BRADSTREET I.D.: 00-696-6316

Customer Copy

FRACTIONS OF AN HOUR ARE SHOWN IN DECIMALS AS FOLLOWS: .25 = 15 MIN.; .50 = 30 MIN.; .75 = 45 MIN.

EMPLOYEE	SERVICE CODE*	WEEK ENDING	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	AMOUNT
PN FEDERICZ-BA	783	1016	400	1105			44.20
EA FRIEDLY	783	1016	400	1105			44.20

TERMS-NET 6 DAYS UPON RECEIPT

TOTAL AMOUNT DUE $ 88.40

* SERVICE CODE CLASSIFICATIONS:

SERIES (001) - (099) ....PC ADMINISTRATIVE SUPPORT
(100) - (199) .....CLERICAL
(200) - (299) .....TYPING
(300) - (399) .....SECRETARIAL
SERIES (400) - (499) .....ACCOUNTING FUNCTIONS
(500) - (599) ....INFORMATION PROCESSING
(600) - (699) .....MISCELLANEOUS
SERIES (700) - (799) .....MARKETING
(800) - (899) .....LIGHT INDUSTRIAL
(900) - (999) ...TECHNICAL/TECHNICAL SUPPORT

SEE REVERSE SIDE FOR INDEMNITY AGREEMENT.

9504365490 6

KELLY SERVICES

KELLY GIRL • MARKETING • INDUSTRIAL • TECHNICAL

INVOICE DATE 10/08/[redacted] 40103657

SOUTHERN RESEARCH SVCS
291 PAT MELL RD
MARIETTA GA 30064

PLEASE SEND PAYMENT WITH REMITTANCE COPY TO:

KELLY SERVICES, INC.
P.O. BOX 32668
DETROIT, MICHIGAN 48232-0668

P.O. NUMBER	
RELEASE NO.	
DEPT. ORDERING	
DEPT. USING	
BRANCH LOCATION	ATLANTA MARIETTA GA
BRANCH PHONE NO.	404-952-2551
ORDER NO.	2116 X1042
CUSTOMER NO.	[redacted]

CORPORATE TAX I.D.: 38-1616[illegible]
DUN & BRADSTREET I.D.: [illegible]

Customer Copy

FRACTIONS OF AN HOUR ARE SHOWN IN DECIMALS AS FOLLOWS: .25 = 15 MIN.; .50 = 30 MIN.; .75 = 45 MIN.

EMPLOYEE	SERVICE CODE*	WEEK ENDING	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	AMOUNT
PM FEDERICI-DA	783	1009	1000	1105			110.50
EM FRIEDLY	783	1009	725	1105			80.11

PO 10/28
H 1039
$279.01

TERMS-NET 5 DAYS UPON RECEIPT [redacted] $ 190.61

* SERVICE CODE CLASSIFICATIONS:

SERIES (001) - (099) ....PC ADMINISTRATIVE SUPPORT
(100) - (199) ....CLERICAL
(200) - (299) ....TYPING
(300) - (399) ....SECRETARIAL
SERIES (400) - (499) ....ACCOUNTING FUNCTIONS
(500) - (599) ....INFORMATION PROCESSING
(600) - (699) ....MISCELLANEOUS
SERIES (700) - (799) ....MARKETING
(800) - (899) ....LIGHT INDUSTRIAL
(900) - (999) ....TECHNICAL/TECHNICAL SUPPORT

SEE REVERSE SIDE FOR INDEMNITY AGREEMENT.

9 5 0 4 3 6 5 4 9 0 7

9 5 0 4 3 6 5 4 9 0 8

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

986

10-7 19 88 64-124/611

PAY TO THE ORDER OF Temp Force $ 259 00

two hundred fifty nine + 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR #235531 + 236213

⑆101200022⑈ 40001712013

[redacted]

9 5 0 4 3 6 5 4 9 0 9

9 5 0 4 3 6 5 4 9

TEMP FORCE TEMPORARIES

TALENT FORCE TEMPORARIES

ATLANTA

CHARLOTTE – MEMPHIS – TAMPA –

INVOICE

No. 235531-003

REMIT TO

TEMP FORCE

P.O. BOX 56806
ATLANTA, GEORGIA 30343
(404) 577-7770

09/28/88 [redacted] 003

TERMS: PAYABLE UPON RECEIPT

Thank You

TO

SOUTHERN RESEARCH SERV., INC.
291 PAT MELL RD.S/101
MARIETTA, GA. 30060

JOEL LEE JOHNSON	TELEPHONE	09/25/88	20.00	9.250	185.00

PO 10/7
#986

PLEASE RETURN YELLOW COPY

ORIGINAL

9 5 0 4 3 6 5 4 9 1 1

TEMP FORCE

REMIT TO:
P.O. Box 56606
Atlanta, Georgia 30343
(404) 577-7770

PLEASE DETACH AND ENCLOSE WITH REMITTANCE

P.O. Box 56606
Atlanta, Georgia 30343
(404) 577-7770

TEMP FORCE

STATEMENT

PAGE 1

SOUTHERN RESEARCH SERV., INC.
291 PAT MELL RD.S/101
MARIETTA, GA. 30060

ACCOUNT NUMBER	DATE
[redacted]	9/29/88

ACCOUNT NUMBER	DATE
[redacted]	9/29/88

TERMS: PAYABLE UPON RECEIPT

PLEASE CHECK INVOICES BEING PAID

INVOICE DATE MO.	INVOICE DATE DAY	INVOICE NUMBER	CHARGE	PAYMENT AND ADJUSTMENTS TYPE OF TRANSACTION	PAYMENT DATE MO.	PAYMENT DATE DAY	AMOUNT	AMOUNT DUE
09	26	235531	185.00	INVOICE				185.00

CURRENT	31 TO 60	61 TO 90	OVER 90	BALANCE DUE
185.00				185.00

DATE MO.	DATE DAY	INVOICE NUMBER	AMOUNT DUE
09	28	235531	185.00

BALANCE DUE 185.00

9 5 0 4 3 6 5 4 9

INVOICE

TEMP FORCE TEMPORARIES

TALENT FORCE TEMPORARIES

ATLANTA

CHARLOTTE – MEMPHIS – TAMPA –

No. 236213-003

REMIT TO

TEMP FORCE

P.O. BOX 56606
ATLANTA, GEORGIA 30343
(404) 577-7770

10/05/88	[redacted]	003

TERMS: PAYABLE UPON RECEIPT

Thank You

SOUTHERN RESEARCH SERV., INC.
291 PAT NELL RD.S/101
MARIETTA, GA. 30060

FOR SERVICES RENDERED BY			HOURS	RATE	
JOEL LEE JOHNSON OK	TELEPHONE	09/18/88	8.00	9.250	74.00

PLEASE RETURN YELLOW CO... TOTAL ⟶

ORIGINAL

9 5 0 4 3 6 5 4 9 1 4

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1019

10-21 19 85 64-124 611

PAY TO THE ORDER OF Temp Force $ 268.25

two hundred sixty eight + 25/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

⑆024880224⑈0001712013

FOR # 236702-3, 238038-3 237778 D. L. Rempp

[redacted]

9 5 0 4 3 6 5 4 9 1 5

9245 3 5 7 0

▶ 031000227 ◀
FIRST UNION NAT
BANK OF GEORG
4695 NEWTON PK
ATLANTA GEORGIA
031000227

24 OCT 95

OOTRANS 2

PAID 33

146300515 10-24-95

91859116

9 5 0 4 3 6 5 4 9 1 6

TEMP FORCE TEMPORARIES

ATLANTA

TALENT FORCE TEMPORARIES

CHARLOTTE – MEMPHIS
– TAMPA –

INVOICE

No. 238028-003

REMIT TO

TEMP FORCE

P.O. BOX 56808
ATLANTA, GEORGIA 30343
(404) 577-7770

10/12/88	[redacted]	0

TERMS: PAYABLE UPON RECEIPT

Thank You

TO

SOUTHERN RESEARCH SERV., INC.
291 PAT NELL RD.S/101
MARIETTA, GA. 30060

	FOR SERVICES RENDERED BY				
STEPHANIE D MITCHELL	TELEPHONE	10/09/88	11.00	9.250	101.75

PO 10/21
#1019
$268.25

PLEASE RETURN YELLOW COPY WITH PAYMENT — TOTAL →

ORIGINAL

9 5 0 4 3 6 5 4 9 1 7

TEMP FORCE TEMPORARIES

ATLANTA

TALENT FORCE TEMPORARIES

CHARLOTTE – MEMPHIS – TAMPA –

INVOICE

No. 237778-003

REMIT TO:

TEMP FORCE

P.O. BOX 56808
ATLANTA, GEORGIA 30343
(404) 677-7770

10/12/88	[redacted]

TERMS: PAYABLE UPON RECEIPT

Thank You

TO

SOUTHERN RESEARCH SERV., INC.
291 PAT NELL RD.S/101
MARIETTA, GA. 30060

ROBERT K SEEBORF ✓	LITE LABOR	10/09/88	10.00	9.250	92.50

ORIGINAL

9 5 0 4 3 6 5 4 9 1 8

TEMP FORCE TEMPORARIES

ATLANTA

TALENT FORCE TEMPORARIES

CHARLOTTE – MEMPHIS – TAMPA –

INVOICE

No. 236702-003

REMIT TO

TEMP FORCE

P.O. BOX 56808
ATLANTA, GEORGIA 30343
(404) 577-7770

10/05/88	[redacted]	003

TERMS: PAYABLE UPON RECEIPT

Thank You

TO

SOUTHERN RESEARCH SERVICE, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA. 30060

FOR SERVICES RENDERED BY		WEEK ENDING	HOURS	RATE	AMOUNT
JOEL LEE JOHNSON	TELEPHONE	10/02/88	8.00	9.250	74.00
941-7170 ← MARK CAROL MULLINS					
PLEASE RETURN YELLOW COPY WITH PAYMENT			TOTAL →		74.00

ORIGINAL

9 5 0 4 3 6 5 4 9 1 9

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1031

10-28 1988 64-124 611

PAY TO THE ORDER OF Temp Force $ 117.94

one hundred seventeen + 94/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1286

⑆101880022⑈0001712013

FOR #239075-003

[redacted]

9 5 0 4 3 6 5 4 9 2 0

0219 1906

01 MAY 95

NO. 00 00

▶ 061000227 ◀
SUNT UNION NAT'L
BANK OF GEORGIA
499 AVIATION PKWY
ATLANTA, GEORGIA
▶ 061000227 ◀

231500346 11-01-95

9 5 0 4 3 6 5 4 9 2 1

TEMP FORCE TEMPORARIES

ATLANTA

TALENT FORCE TEMPORARIES

CHARLOTTE – MEMPHIS – TAMPA –

INVOICE

No. 239075-003

REMIT TO:

TEMP FORCE

P.O. BOX 56606
ATLANTA, GEORGIA 30343
(404) 577-7770

10/19/88	[redacted]	00

TERMS: PAYABLE UPON RECEIPT

Thank You

TO

SOUTHERN RESEARCH SERV., INC.
291 PAT MELL RD.S/101
MARIETTA, GA. 30060

FOR SERVICES RENDERED BY					
ROBERT K SEEDORF	LTE LABOR	10/16/88	12.75	9.250	117.94
PO 10/88 #1031					
PLEASE RETURN YELLOW COPY WITH PAY				TOTAL →	11

ORIGINAL

9 5 0 4 3 6 5 4 9 2 2

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

919

64-124 / 611

_____ 19 ____

PAY TO THE ORDER OF TRC TEMPORARY $ 156.63

ONE hundred fifty six 63/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1286

FOR #290648

[redacted]

9 5 0 4 3 6 5 4 9 2 3

TRC TEMPORARY SERVICES®

INVOICE

ORIGINA

		INVOICE DATE	INVOICE NO	PAGE
01 ATL	[redacted]	09/18/88	290648	1

SOUTHERN RESEARCH
DEBBIE PEGGS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER 88524
ATLANTA, GEORGIA 30356-0524

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
09/18	REITER/ROBERT L.	4.00	8.95				TELEMKTG	35.8
09/18	SMITHART/DEBORAH C.	8.00	8.95				TELEMKTG	71.6
09/18	SWANSON/WILLIAM FRANKIN	5.50	8.95				TELEMKTG	49.2

PO 9/23 #919

TERMS: NET UPON RECEIPT

156.

9 5 0 4 3 6 5 4 9 2 4

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

985

10-7 19 88 64-124 611

PAY TO THE ORDER OF TRC TEMPORARY $ 711.52

SEVEN HUNDRED ELEVEN + 52/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1288

FOR # 29 8102 [redacted] D. Rapp [redacted]

FOR DEPOSIT ONLY
TRC TEMPORARY SERVICES, INC.

9 5 0 4 3 6 5 4 9 2 5

9 5 0 4 3 6 5 4 9 2 6

TRC TEMPORARY SERVICES®

INVOICE

ORIGINAL

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO	PAGE
01 ATL [redacted]	09/25/88	292102	1

SOUTHERN RESEARCH
DEBOIL PRESS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER 888524
ATLANTA, GEORGIA 30356-0524

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
09/25	DAVIS/DONNA A.	8.00	8.95				TELEMKTG	71.60
09/25	PRICE/KATHY J BEARDEN	11.75	8.95				TELEMKTG	105.16
09/25	KEITER/ROBERT L.	16.00	8.95				TELEMKTG	143.20
09/18	SMITH/CAROL [illegible]	4.75	8.95				TELEMKTG	[illegible].56
09/25	SMITH/CAROL [illegible]	21.25	8.95				TELEMKTG	1[illegible].19
09/25	SMITHART/DEBORAH C.	18.75	8.95				TELEMKTG	167.81

PO 1017
#985

TERMS: NET UPON RECEIPT

DO NOT PAY THIS AMOUNT 717

9 5 0 4 3 6 5 4 9 2 7

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1000

10-14 19 88 64-124 611

PAY TO THE ORDER OF TRC $ 317.73

three hundred seventeen + 23/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR # 293535

[redacted]

9 5 0 4 3 6 5 4 9 2 8

OCT 17
PAID
OCT '88 18
PAID

9 5 0 4 3 6 5 4 9 2 9

TRC
TEMPORARY SERVICES®

INVOICE

ORIGINAL

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO	PAGE
01 ATL [redacted]	10/02/88	293535	1

SOUTHERN RESEARCH
DEBBIE PEGGS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER 888624
ATLANTA, GEORGIA 30358-0624

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
09/18	LAMBERT/VERNELL MCMEANS	7.50	8.95				TELEMKTG	67.13
10/02	PRICE/KATHY J BEARDEN	8.00	8.95				TELEMKTG	71.60
10/02	REITER/ROBERT L.	16.00	8.95				TELEMKTG	143.20
10/02	SMITHART/DEBORAH C.	4.00	8.95				TELEMKTG	35.80

PO 10/14 # 1060

TERMS: NET UPON RECEIPT

TOTAL AMOUNT 317.73

9 5 0 4 3 6 5 4 9 3 0

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MILL ROAD SUITE 101
MARIETTA, GA 30060

1020

10-21 19 88

PAY TO THE ORDER OF TRC Temporary $ 492.25

four hundred ninety two 25/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1296

FOR #295020 291 Pompo

[redacted]

9 5 0 4 3 6 5 4 9 3 1

OT '88 24

9 5 0 4 3 [redacted] 4 9 3 2

ORIGINAL

TRC [redacted]
TEMPORARY SERVICES®

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO.	PAGE
01 ATL [redacted]	10/09/88	295020	1

SOUTHERN RESEARCH
[illegible] PEGGS
201 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER [illegible]
ATLANTA, GEORGIA 30384-0524

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
09/18	DAVIS/DONNA A.	4.00	8.95				TELEMKTG	35.80
09/25	DAVIS/DONNA A.	4.00	8.95				TELEMKTG	35.80
10/02	DAVIS/DONNA A.	16.00	8.95				TELEMKTG	143.20
10/09	DAVIS/DONNA A.	15.00	8.95				TELEMKTG	134.25
10/09	REITER/ROBERT L.	16.00	8.95				TELEMKTG	143.20
								492.25

PO 10/31
#1030

TERMS: NET UPON RECEIPT

9 5 0 4 3 6 5 4 9 3 3

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 161
MARIETTA, GA 30060

1030

10-28 19~~88~~ 64-124/611

PAY TO THE ORDER OF TRC Temporary Service $ 118.59

one hundred eighteen + 59/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1288

FOR # 296482 [redacted]

9 5 0 4 3 6 5 4 9 3 4

FOR DEPOSIT ONLY
FRG TEMPORARY SERVICES, INC.

641 NO 01

PAY ANY BANK P.E.G.
TO FIRST NATIONAL BANK OF ATLANTA
ATLANTA, GA 641

NO 01

⑆ 1 3 4 9 3 4 1 ⑆ ⑈ 4 4 7 9 0 0 4 ⑈

9 5 0 4 3 6 5 4 9 3 5

INVOICE

ORIGINAL

TRC TEMPORARY SERVICES®

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO.	PAGE
01 ATL [redacted]	10/16/88	296482	1

SOUTHERN RESEARCH
DEBBIE BEGGS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER [illegible]
ATLANTA, GEORGIA [illegible]

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
10/16	REITER/ROBERT L. ✓	13.25	8.95				TELEMKTG	118.59

PO 10/88
#1030

TERMS: NET UPON RECEIPT

PAY THIS AMOUNT 118.59

9 5 0 4 3 6 5 4 9 3 6

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

1081

November 18, 19 88 84-124 611

PAY TO THE ORDER OF TRC Temporary Services $ 205.85

Two Hundred - Five and 85/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1286

FOR #301695 and #302175

[redacted]

9 5 0 4 3 6 5 4 9 3 7

PAID

FOR DEPOSIT ONLY
PRO TEMPORARY SERVICES, INC.

9 5 0 4 3 6 5 4 9 3 8

INVOICE

ORIGINAL

TRC TEMPORARY SERVICES

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO.	PAGE
01 ATL [redacted]	11/13/88	302175	1

SOUTHERN RESEARCH
DEBBIE PEGGS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER [illegible]
ATLANTA, GEORGIA [illegible]

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
11/13	MEYER/DEBORAH A	4.00	8.95				TELEMKTG	35.80
11/06	NEWTON/COREY ALLAN	6.75	8.95				TELEMKTG	60.41
11/13	NEWTON/COREY ALLAN	4.25	8.95				TELEMKTG	38.04

paid 11/28/88
ck # 1081

TERMS: NET UPON RECEIPT

NET THIS AMOUNT 134.25

TRC TEMPORARY SERVICES

9 5 0 4 3 6 5 4 INVOICE PLEASE RETURN THIS COPY WITH YOUR REMITTANCE

CUSTOMER NUMBER	INVOICE DATE	INVOICE NO.	PAGE
01 ATL [redacted]	11/06/88	301695	1

SOUTHERN RESEARCH
DEBBIE PEGGS
291 PAT MELL RD
MARIETTA GA 30064

REMIT TO: P.O. BOX NUMBER 888524
ATLANTA, GEORGIA 30356-0524

WEEK ENDING DATE	LAST NAME, FIRST NAME, MIDDLE INITIAL	REGULAR HOURS	REGULAR RATE	OVERTIME HOURS	OVERTIME RATE	REFERENCE	JOB CLASS	AMOUNT
11/06	JEYSR, DEBORAH A	8.00	8.95				TELEMKTG	71.60

pd. 11/18/88
ck # 1081

TERMS: NET UPON RECEIPT

PAY THIS AMOUNT 71.60

9 5 0 4 3 6 5 4 9 4 0

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

955

9-29 19 88 64-124/611

PAY TO THE ORDER OF Unique Placement $ 264 00

two hundred sixty four + 00/100 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1146
Smyrna, Georgia 30081

06 1286

FOR #999 [redacted]

For deposit only
payroll Ref. Unique
Placement Serv
Ref # 0104448

0001 195 4 4

07 30 03

9 5 0 4 3 6 5 4 9 4 1

UNIQUE PLACEMENT SERVICES, INC.
941 Concord Road
Smyrna, Georgia 30080
(404) 431-0067

INVOICE # 999

September 26, 1988

BILL TO:

Southern Research
290 Pat Mell Rd.
Suite 201 Colonial Bldg.
Marietta, Ga.

Attn: Debbie Peggs

For Temporary Employee Donna Edgerly

9-18-88	8 hrs.	Sun.
9-19-88	4 hrs.	Mon.
9-20-88	4 hrs.	Tue.
9-21-88	4 hrs.	Wed.
9-22-88	4 hrs.	Thur.

Rate: $ 11.00 per hr.

Total Hrs.: 24 hrs.

Total Amount Due: $ 264.00

THANK YOU FOR USING OUR SERVICE.

DO 9/29
#955

9504365494 2

Unique Placement Services, Inc.
941 CONCORD ROAD
SMYRNA, GA 30080
(404) 431-0087

	Mon.	Tue.	Wed.	Thur.	Fri.	Sat.	Sun.
Fill In Date	9/19	9/20	9/21	9/22	9/23	9/24	9/25
Time Started	5:30	5:30	5:30	5:30			
Time Finished	9:30	9:30	9:30	9:30			
Less Lunch							
Hours Worked	4	4	4	4			

Total Hours Worked.

16 Hours 0 Minutes

COMPANY NAME

COMPANY ADDRESS

EMPLOYEE SIGNATURE: Dora Edgerly

SUPERVISOR'S SIGNATURE D J Bopp

9 5 0 4 3 6 5 4 9 4 3

9/18/93

	MON.	TUES.	WED.	THUR.	FRI.	SAT.	SUN.
HRS							8
LUNCH							

SIGNATURE Betty Chartier

EMPLOYER Southern Research

Unique Placement Services, Inc.
941 CONCORD ROAD
SMYRNA, GEORGIA 30080
(404) 431-0067

Introduces...

9 5 0 4 3 6 5 4 9 4 4

Unique Placement Services, Inc.

Introduces:

Verna Edgerly

For the position of:

Telemarketing Temp.

Referred by:

Judy Wheeler

This individual has been referred to match your specifications as closely as possible. All applicants are referred based solely upon information supplied by them and in accordance with all applicable laws.

Attn: Betty Martin

Company Martin Research

Address [illegible]

Date [illegible] Time [illegible]

9504365494 5

9 5 0 4 3 6 5 4 9 4 6

SOUTHERN RESEARCH SERVICES, INC.
291 PAT MELL ROAD SUITE 101
MARIETTA, GA 30060

987

10-7 19 88 64-124 611

PAY TO THE ORDER OF Unique Placement $ 297.00

two hundred ninety seven + 00 DOLLARS

Trust Company Bank of Cobb County, N.A.
P.O. Box 1148
Smyrna, Georgia 30081

06 1286

FOR #88SRS004 + 8808050005 Al Rapp

[redacted]

For deposit only - Unique Payment Services, Inc. Acct. #01 0444 8

0002 13337

9 5 0 4 3 6 5 4 9 4 7

Unique Placement Services, Inc.
941 CONCORD ROAD
SMYRNA, GA 30080
(404) 431-0067

DATE OF BILLING: 10/03/88

INVOICE NO.: 8808BS005

BILL TO:

Souther Research

290 Pat Mell Rd.

Suite 201 Colonial Bldg.

Marietta, Georgia

TEMPORARY EMPLOYEE NAME: Donna Edgerly

HOURS: 19 Hours

RATE PER HOUR: $11.00

TOTAL DUE: $209.00

TERMS: ~~NET 30~~

DATE DUE: Due upon receipt

PO 1017
#987

THANK YOU FOR USING OUR SERVICE!

UNIQUE PLACEMENT SERVICE

Unique Placement Services, Inc.
941 CONCORD ROAD
SMYRNA, GA 30080
(404) 431-0067

	Mon.	Tue.	Wed.	Thur.	Fri.	Sat.	Sun.
Fill In Date	9/26	9/27	9/28	9/29			9/25
Time Started	5:30		5:30	5:30			1:30
Time Finished	9:30		9:30	9:30			8:30
Less Lunch							
Hours Worked	4	0	4	4			7

Total Hours Worked.

19 Hours

0 Minutes

COMPANY NAME _____

COMPANY ADDRESS _____

EMPLOYEE SIGNATURE: Doris Odgerly

SUPERVISOR'S SIGNATURE Betty Charter

Unique Placement Services, Inc.
941 CONCORD ROAD
SMYRNA, GA 30080
(404) 431-0067

DATE OF BILLING: 10/03/88

INVOICE NO.: 88SRS004

BILL TO:

Southern Research
2900 Paul Mell Rd.
Suite 201 Colonial Bldg.
Marietta, Georgia

TEMPORARY EMPLOYEE NAME Bonnell Cox

HOURS: 8 Hours

RATE PER HOUR: $11.00

TOTAL DUE: $88.00 Due upon receipt

TERMS: ~~NET30DAYS~~

DATE DUE: Due Upon Receipt

THANK YOU FOR USING OUR SERVICE!

UNIQUE PLACEMENT SERVICE

404-431-0861

Southern Research Services, Inc.
281 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

9/18

[UNIQUE] BONNELL COX WORKED
1:40 - 9:30 = 7 3/4

TOTAL HOURS = 7 3/4

LY Reppo

.9504365495

404 431-0861

Rewa

9.

Southern Research Services, Inc.

291 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

11/11 note this is a bill as well

INVOICE

4,100 additional turnout calls in West Cobb county for Victory '88	$2,050.00
Printing of list of favorables from phone bank for volunteer calling	340.46
TOTAL	$2,390.46

Allocated to 4 W'cently candidates

* who here?

Hayden Stanley
Staff Rep Idaho To head up
volunteer Telephone bank

9504365495 2

OGC 9514

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3787

NAME OF COUNSEL: Kevin S. King, Esq.
Jeanney M. Kutner, Esq.

ADDRESS: 34 Old Ivy Road
Atlanta, GA 30342

TELEPHONE: 404-240-2020

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUL 22 PM 1:45

The above-named individuals ~~is~~ are 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.

July 19, 1993
Date

Signature

RESPONDENT'S NAME: Arthur L. Williams, Jr.

ADDRESS: c/o Mr. James E. Kelly
2351-D Henry Claver Boulevard
Snellville, GA 30278

HOME PHONE:

BUSINESS PHONE:

9504365495 3

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3787

NAME OF COUNSEL: Myles V. Lynk, Esq.
Stephen A. Klein, Esq.

ADDRESS: Dewey Ballantine
1775 Pennsylvania Avenue, N.W.
2nd Floor
Washington, D.C. 20006

TELEPHONE: 202-862-1047
202-429-2336

The above-named individuals ~~is~~ are 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.

July 19, 1993
Date

Signature

RESPONDENT'S NAME: Arthur L. Williams, Jr.

ADDRESS: c/o Mr. James E. Kelly
2351-D Henry Claver Boulevard
Snellville, GA 30278

HOME PHONE:

BUSINESS PHONE:

RECEIVED
FEDERAL ELECTION COMMISSION
93 JUL 22 PM 1:45

9504365495 4

#9540

DEWEY BALLANTINE

1775 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-4605
TELEPHONE 202 862-1000 FACSIMILE 202 862-1093

93 JUL 2 10:2

JUL 27 4 42 PM '93

July 27, 1993

BYLES V. LYNK
202 862-1047

Mary Tabor, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3787

Dear Ms. Tabor:

We are representing Mr. Arthur L. Williams in the above-referenced matter. We understand that he received the Commission's notification letter in this MUR on Monday, June 28, 1993. I called you twice yesterday and left messages with your receptionist, but did not receive a reply.

9504365495 5

Therefore, we request that the Commission extend the time of Mr. Williams to respond to your offer of preprobable cause conciliation until Friday, August 6, 1993, for him to complete his review of his records.

Please call me to discuss this matter. I look forward to receiving your response.

Sincerely,

Myles V. Lynk

Myles V. Lynk

9504365495 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JULY 30, 1993

Myles V. Lynk, Esq.
Dewey Ballantine
1775 Pennsylvania Ave. N.W.
Washington, D.C. 20006-4605

RE: MUR 3787
Arthur L. Williams

Dear Mr. Lynk:

This is in response to your letter dated July 27, 1993, requesting an extension until August 6, 1993 to respond to the Commission's reason to believe finding. After considering the circumstances presented in your letter, the Office of General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on August 6, 1993.

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

Sincerely,

Lorenzo Holloway
Attorney

2504365549957

OGC 9620

LAW OFFICES
WILSON, STRICKLAND & BENSON, P.C.
ONE MIDTOWN PLAZA, SUITE 1100
1360 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3214
(404) 870-1800
FAX (404) 870-1808

WARREN R. WILSON, JR.
FRANK B. STRICKLAND
EARL B. BENSON, JR.
R. NELSON GROUCH
N. SANDY EPSTEIN
MARY M. BROOKINGTON
L. LOU ALLEN
ANNE W. LEWIS
SAMUEL T. BRANNAN
LYDIA E. BARKER

OF COUNSEL
JOHN C. PENNINGTON
ROBERT G. MCCAULEY, P.C.
ROBERT G. WELLON
DANIEL I. MACINTYRE
EDWARD H. SAUNDERS

August 3, 1993

93 AUG -6 PM 3:04
RECEIVED
FEDERAL ELECTION COMMISSION

By Facsimile (202) 219-3923 and U.S. Mail

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

Re: MUR 3787

Dear Mr. Holloway:

This will confirm our telephone conference today. We represent Marvin H. Smith and the Georgia Republican Party. A designation of counsel form signed by Mr. Smith was enclosed in our letter to Mary Tabor dated July 9, 1993.

By letter dated July 15, 1993, the Office of General Counsel granted an extension of time for response to the Commission's Subpoena to Produce Documents and Order to Produce Written Answers, which extension expires on August 4, 1993.

As stated in our letter of July 9, the information requested in the subpoena is several years old. It has been necessary to retrieve records from storage in order to examine them and determine which documents may be responsive to the subpoena. We have made substantial progress toward the completion of our document production, but the process is simply not finished. We presently anticipate being able to complete the document retrieval and production within the next 20 days.

Accordingly, we respectfully request an additional 20 day extension which, according to our calculations, would expire at the close of business on August 24, 1993. We would appreciate written confirmation of the approval of the extension requested herein.

Thank you for your cooperation.

Sincerely,

Frank B. Strickland

FBS:lww

9504365498

OGC 9664

LAW OFFICES
WILSON, STRICKLAND & BENSON, P.C.
ONE MIDTOWN PLAZA, SUITE 1100
1360 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3214
(404) 870-1800
FAX (404) 870-1808

WARNER R. WILSON, JR.
FRANK B. STRICKLAND
EARL B. BENSON, JR.
R. MILTON CROUCH
N. SANDY EPSTEIN
MARY M. BROCKINGTON
L. LOU ALLEN
ANNE W. LEWIS
SAMUEL T. BRANNAN
LYDIA E. BARKER

OF COUNSEL
JOHN C. PENNINGTON
ROBERT G. MCCAULEY, P.C.
ROBERT G. WELLON
DANIEL I. MACINTYRE
EDWARD H. SAUNDERS

August 5, 1993

RECEIVED
FEDERAL ELECTION COMMISSION
93 AUG 10 PM 3:12

By Facsimile (202) 219-3923 and U.S. Mail

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

Re: MUR 3787

Dear Mr. Holloway:

This will confirm our telephone conference today. As additional grounds for a further extension of time of at least 20 days for responding to the subpoena, we may want to obtain affidavits from volunteers who worked in the Victory '88 effort in order to explain events which occurred five years ago and to see if we can find any additional documents. At present we are attempting to locate these volunteers.

We would appreciate your presenting this request to the Commission so that we will have adequate time in which to respond to the subpoena.

Thank you for your cooperation.

Sincerely,

Frank B. Strickland

FBS:lww

95043654959

FEDERAL ELECTION COMMISSION
MAIL ROOM
AUG 10 2 10 PM '93

RECEIVED
F.E.C.
SECRETARIAT
93 AUG 13 AM 9:43

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 12, 1993 **SENSITIVE**

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Kim Bright-Coleman KBC
Associate General Counsel

SUBJECT: MUR 3787 -- Request for Extension of Time

By letters dated August 3, 1993 and August 5, 1993, counsel for the Georgia Republican Party and Marvin H. Smith, as treasurer ("Respondents"), requests an extension of time until August 24, 1993, to respond to the Commission's finding that there was reason to believe that Respondents had violated the Federal Election Campaign Act of 1971, as amended and to respond to the Commission's Subpoena to Produce Documents and Order to Submit Written Answers. Attachments 1 and 2. The original responses were due on July 15, 1993. In a letter dated July 15, 1993, an extension of time was granted until August 4, 1993 to respond. Attachment 3. However, counsel contends that more time is needed to retrieve the records from storage and to examine the documentation. Attachment 1. Counsel further notes that the additional time will be used to obtain affidavits from volunteers who can explain certain events that are in question. Attachment 2.

The Office of General Counsel recommends that the Commission approve the Respondents' request for an extension of time until August 24, 1993. The Committee is requesting additional time to retrieve the documents and obtain affidavits explaining events that occurred during the 1988 election cycle. Furthermore, this extension of time will not prejudice the investigation because the Office of General Counsel must review documentation already received from another respondent and from other entities that were subpoenaed.

9504365496 0

RECOMMENDATIONS

1. Grant the Georgia Republican Party and Marvin H. Smith, as treasurer, an extension until August 24, 1993 to submit their response to the reason to believe finding and the Subpoena to Produce Documents and Order to Submit Written Answers and

2. Approve the appropriate letter.

Attachments

1. Letter from counsel, Frank B. Strickland, Re: MUR 3787, dated August 3, 1993.

2. Letter from counsel, Frank B. Strickland, Re: MUR 3787, dated August 5, 1993.

3. Letter from the Office of General Counsel, dated July 15, 1993, granting an extension until August 4, 1993

9504365496 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republican Party and	)	MUR 3787
Marvin H. Smith, as treasurer --	)	
Request for Extension of Time.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 18, 1993, the Commission decided by a vote of 4-0 to take the following actions in MUR 3787:

1. Grant the Georgia Republican Party and Marvin H. Smith, as treasurer, an extension until August 24, 1993 to submit their response to the reason to believe finding and the Subpoena to Produce Documents and Order to Submit Written Answers.

2. Approve the appropriate letter, as recommended in the General Counsel's Memorandum dated August 12, 1993.

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

Attest:

8-18-93
Date

for Delores Hardy
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Fri., Aug. 13, 1993 9:43 a.m.
Circulated to the Commission: Fri., Aug. 13, 1993 12:00 p.m.
Deadline for vote: Wed., Aug. 18, 1993 4:00 p.m.

bjr

95043654962

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUGUST 19, 1993

Frank B. Strickland, Esq.
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, GA 30309-3214

RE: MUR 3787
Georgia Republican Party
Marvin H. Smith

Dear Mr. Strickland:

This is in response to your letters dated August 3, 1993 and August 5, 1993, requesting an extension until August 24, 1993 to respond to the Commission's reason to believe finding and to respond to the Commission's Subpoena to Produce Documents and Order to Submit Written Answers. After considering the circumstances presented in your letter, the Commission has granted the requested extension. Accordingly, your response is due by the close of business on August 24, 1993.

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

Sincerely,

Lorenzo Holloway

Lorenzo Holloway

9 5 0 4 3 6 5 4 9 6 3

OGC# 9796

LAW OFFICES
WILSON, STRICKLAND & BENSON, P.C.
ONE MIDTOWN PLAZA, SUITE 1100
1360 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3214
(404) 870-1500
FAX (404) 870-1506

WARREN R. WILSON, JR.
FRANK B. STRICKLAND
EARL B. BENSON, JR.
R. NELSON GROUCH
N. SANDY EPSTEIN
MARY M. BROCKINGTON
L. LOU ALLEN
ANNE W. LEWIS
SAMUEL T. BRANNAN
LYDIA E. BARRER

OF COUNSEL
JOHN C. PENNINGTON
ROBERT G. MCCAULEY, P.C.
ROBERT G. WELLON
JAMES I. MACINTYRE
EDWARD H. SAUNDERS

RECEIVED
F.E.C.
SECRETARIAT
93 AUG 26 PM

August 24, 1993

The Honorable Scott E. Thomas
Chairman
Federal Election Commission
Washington, D.C. 20463

Re: MUR 3787

Dear Chairman Thomas:

The Georgia Republican Party ("Party") and Marvin H. Smith, as treasurer, Respondents in the above-captioned matter, wish to pursue pre-probable cause conciliation pursuant to 11 C.F.R. § 111.18(d). As this submission demonstrates, the Party did make mistakes in the 1988 election cycle. However, the Factual and Legal Analysis raises a number of allegations about activities that do not violate the Federal Election Campaign Act ("the Act") or the Federal Election Commission's ("Commission") Regulations ("Regulations") and should not be pursued by the Commission. The Respondents urge the Commission, after reviewing the facts of this case, to enter into conciliation as outlined herein.

In addition to this letter concerning the Factual and Legal Analysis, please find enclosed the Commission's Response to the Production of Documents/Order to Submit Written Answers.

25043654964

INTRODUCTION

This matter stems from the 1988 election cycle in Georgia. The ballot for that election included the Presidential contest, no election for United States Senate and no contested congressional elections (the winning candidates in the state's 10 congressional districts received 67 percent, 61.7 percent, 100 percent, 60.3 percent, 78.2 percent, 58.9 percent, 64.8 percent, 100 percent, 62.9 percent and 64 percent). In state races, voters chose new members of the powerful statewide Public Service Commission, new members of the state house and senate, a number of which were hotly contested, and numerous local officials.

The Factual and Legal Analysis centers on four areas -- excessive contributions, prohibited contributions, the Victory '88 program and the failure to maintain proper written records. In order to end the now five-year-old 1988 election cycle, the Party is willing to conciliate on those matters where, after a painstaking audit by the Commission, it agrees it violated the letter of the Act. Those do exist, but there are also allegations in the Factual and Legal Analysis of activities that do not violate the Act or Regulations and should not be pursued by the Commission.

As an initial matter, the Party has been hampered by the passage of time. The simple fact is that a complete set of records and scripts cannot be found. The work that is the subject of the Commission's inquiry was performed in 1988 for the most part by volunteers or persons who volunteered at least part of their time. As a result, not all the relevant people can be found and, if

2504365496 5

found, their recollections and records are not always complete. The Commission's audit showed that the Party's records were spotty, and that is reflected in parts of this response.

Unfortunately, the Party has also come to believe after the Commission's audit and this enforcement proceeding that it can no longer involve volunteers in many of the ways the Party traditionally has used them. The degree of inquiry the Commission is now undertaking combined with the complexity of regulation combined with a vagueness in application (see section on Victory '88 programs) makes it prohibitive to now use volunteers rather than paid professionals.

The Commission's approach seems to be to force politics on the state party level to be run by trained professionals who do little but concentrate on federal election law. Enforcement matters such as this one shatter the notion that a state party can or should use volunteers for such key jobs as Treasurer, bookkeepers or political operatives. The Party believes that this is an extremely unfortunate path for it to have to take. Parties such as the Georgia Republican Party have always relied on volunteers -- obviously as a matter of financial necessity but more importantly in the belief that American politics should be fueled by volunteers.

Yet the Commission's dogged five-year pursuit to find violations that the Party perpetrated in 1988 is forcing it to reconsider its historical use of volunteers for key roles. The

9504365499 66

result may well be to relegate volunteers to less significant positions than they have assumed in the past. The Party believes this is very unfortunate and urges the Commission, as a matter of policy, to consider ways to deal with this counterproductive situation brought on by its enforcement policies and the complexities of its regulations.

EXCESSIVE CONTRIBUTIONS

The Factual and Legal Analysis charges the Party with accepting a total of $20,350 in excessive contributions from five individuals and not resolving them in a timely manner. The Party has admitted error and is willing to pursue conciliation as outlined below.

In the Party's defense, this is a prime example of volunteers and non-professionals not being able to meet the exacting standards the Commission is now applying. There was clearly no intent by the Party to violate the law -- mistakes were made. While the Factual and Legal Analysis dwells on the length of time taken to transfer the excessive contributions out of the federal accounts, it fails to recognize that the Party took this action as soon as it discovered the errors. Indeed, the Commission's audit found only four contributions totaling $17,500. The fifth contribution was discovered by the Party itself, which brought it to the attention of the Commission's auditors.

The facts demonstrate the Party's good faith efforts to

2504365496 7

comply with the law. For example, the 1987 contribution from Ronald S. Leventhal was discovered by the Party in the course of its own internal audit in the spring of 1992. A transfer out of the federal account occurred on April 2, 1992, within a few days of discovery. However, the Factual and Legal Analysis chose to focus on the time from deposit to refund. Indeed, the complaint from the Commission is not with any delay once the excessive contributions were discovered, but rather with the length of time it took to discover the volunteers' mistakes.

In addition, the Analysis does not tell the full story of the A.L. Williams excessive contributions, and does not include a full explanation of the Party's federal account structure. By way of background, a bank error caused $25,000 to be transferred from the Party's Victory '88 federal account to a non-federal account on August 4, 1988. Due to this error, more federal funds were transferred out of the federal account and into the state account than was required. In other words, the Victory '88 federal account balance would have been significantly higher when the alleged violations took place if this mistake had not been made.

The Analysis is in error on one crucial point concerning the use of the Williams contribution for Party disbursements. The $15,000 Williams contribution was improperly deposited in the Victory '88 federal account and not the Party's Operating Account. This operating account, which the Analysis states was consistently below $15,000, was only used as a clearing account and thus

2504365496 8

maintained with only a minimal balance. In reality, the majority of the Party's federal funds were kept in the Victory '88 federal account and the federal Money Market Account. The Victory '88 federal account, which in fact received the Williams contribution, never dropped below $15,000 until November 7, 1988. That, in addition to the erroneous $25,000 transfer to the state account, means that the federal accounts' balance (as opposed to the operating account) never fell below $15,000 until well after the date alleged in the Analysis.

In summation, it is true that the Committee did not comply fully with the Act and the Commission's Regulations. The Party believes that there are mitigating facts and circumstances, including that it transferred the funds at issue out of the federal account four-and-a-half years ago. The Party asks the Commission to take these facts into account when considering conciliation on this issue.

2504365496 9

PROHIBITED CONTRIBUTIONS

The Factual and Legal Analysis charges that the Party violated 2 U.S.C. § 441b(a) by accepting $13,403.72 in prohibited contributions. The Party admits making mistakes in this matter and is willing to pursue conciliation on this issue. It is important to remember the key role of volunteers in this operation. A large portion of the prohibited contributions were checks with the designation "P.C.". The volunteers mistakenly believed "P.C." to

be a professional designation and not notice that the donors had incorporated their business.

In the Party's defense, it is also important to remember that it transferred the $4,900.00 in alleged prohibited contributions noted in the Analysis immediately following the FEC auditors' exit interview on March 29, 1990. This transfer was yet another good faith effort on the Party's part and was based on the auditor's recommendation. It was later discovered by the Party's own efforts that only $2,700.00 of the $4,900.00 was in fact prohibited contributions. The Party explained this in its April 1992 response to the Commission.

Additional prohibited contributions were discovered by the Party itself and brought to the attention of the Commission in its 1992 response, again showing a good faith effort to comply with the law. The prohibited contributions totaling $12,253.72 were transferred upon discovery in April 1992. The Party urges the Commission to take these mitigating factors into account.

2504365497 0

VICTORY '88 PROGRAM

The Factual and Legal Analysis alleges reason to believe that the Respondents violated 2 U.S.C. § 441a(f) by spending $304,764.46 on phone banks in connection with the presidential general election campaign without prior written authorization from the RNC. This is incorrect. The Party conducted its phone bank program, with one possible minor exception, in accordance with the Act and its

Regulations. This one possible violation, which involves an issue that has not been addressed directly by the Commission, amounts to less than 8 percent of the Victory '88 phone bank program.

The Analysis states: "The Committee failed to provide specific information associating costs with a particular phase of the program or a particular calling script. Because the Committee failed to provide specific information associating costs with a particular phase of the program or a particular calling script, the presumption is that the use of paid callers voided the exemption for the entire amount." Analysis at 9 (emphasis added). The Analysis offers no authority (because none exists) for either the proposition that the Committee now somehow bears the burden of this presumption, or for the strikingly overbroad conclusion that the use of paid callers for one portion of a state party's phone bank program somehow voids the exemption and renders all other phone bank programs that the state party participates in or runs allocable to a candidate.

The Analysis is based on the faulty premise that all phone banks are alike. Under the Act and Regulations a state party's phone bank program can include different kinds of phone banks with different types of scripts and callers without the entire phone bank program becoming allocable to a candidate. In this instance, the State Party ran or participated in a series of phone banks, each of which complied (with one possible exception) with federal election law. The Analysis acknowledges the legal existence of

2504365497/1

each type of phone bank, but then reaches the erroneous conclusion that if the same state party runs or is involved in the different types of phone banks, there must be a violation.

The Party during the 1988 general election campaign ran or participated in these phone operations, each of which complies with the Act and Regulations:

- paid voter identification and advocacy phone banks, with the costs of a question or statement mentioning a candidate in a non-incidental manner allocable to the candidates mentioned in each script. A federal candidate's share can be paid for either directly by the candidate or by the national party committees using 2 U.S.C. § 441a(d) money. The Act permits 2 U.S.C. § 441a(d) funds from the national party committees to be paid directly to a vendor to cover the presidential candidate's share of such a phone bank in a state. (Campaign Telecommunications)

- volunteer phone banks with a get-out-the-vote advocacy message on behalf of the presidential ticket. See 11 C.F.R. § 100.7(b)(17) and C.F.R. § 100.8(b)(18). State candidates may also be mentioned in the course of these scripts, with that cost born by the state party under Georgia law. (Victory '88 Headquarters)

- generic get-out-the-vote phone banks with a ticket-wide message in which no candidate is mentioned. These are not allocable to any candidate because no candidate is mentioned. Their cost is divided between the State Party's federal and non-federal accounts according (under the Commission's rules in 1988) to a "good faith reading" of the ballot's composition. (Although failing to demonstrate its relevancy to this matter, the Analysis is in error -- there is nothing in the law that bars funds transferred from a

7504365549972

national party committee's non-federal account to a state party's non-federal account from paying for the non-federal portion of such a script.) (Campaign Telecommunications)

- phone banks designed to identify Republican voters with paid callers and then turn them out with volunteer callers for candidates in state races. These phone banks may have used a presidential candidate identifier question, but their purpose was to affect state races. Callers who supported President Bush but only Democrat non-federal candidates did not receive turnout calls. (Southern Research Services, Inc.).

- state party telemarketing phone bank used exclusively for fund-raising purposes. This operation did not participate in anything but telemarketing fund-raising for the Party. It had no role in any "political" operations, including the Victory '88 program. (Party).

The payments to Campaign Telecommunications, Inc. and Southern Research Services, Inc. ("SRS") were for these phone banks. While five years after the fact, it has not been possible to determine exactly which script was used on which day, the exhibits attached to the Commission's Production Request and the affidavits of Charles Lee Raudonis, Sue Lancaster, Steve Goldberg and Jim Lovejoy demonstrate this was the State Party's phone bank program.

Despite not being able to recreate exactly which script was used on each day during the 1988 cycle, the State Party has located seven phone bank scripts used at the SRS bank by both paid and volunteer callers, Exhibits 2-B-3 and 2-B-4, and one used at the Victory '88 headquarters phone bank, Exhibit 2-C-1. No scripts from the Campaign Telecommunications phone banks have been located.

9504365497 3

No other scripts have been found.

The passage of time and the lack of records also render it impossible to recreate in full detail the expenditures for each individual script. The State Party has made a good faith effort to recreate the phone bank activity on each date and, where possible, the script used at the SRS and Victory '88 headquarter's phone banks. Exhibit 2-A. Information on the cost of each phone bank is also provided. Exhibits 2-B-2, 2-C-3, 2-D-1 and 2-D-3.

As best as can be recreated, the Party's 1988 phone bank operation consisted of:

SRS: The records indicate that the State Party spent a total of $25,340.46 at SRS for Victory '88 phone banks designed to benefit non-federal candidates. Exhibits 2-B-1 and 2-B-2. This included both paid voter identification calls and volunteer and paid get-out-the-vote calls using the phones at SRS. Exhibits 2-B-3, 2-B-4; Affidavit of Jim Lovejoy ("Lovejoy Aff.") at 1.

Both the voter identification and get-out-the-vote phone banks were developed to target state legislative races in Cobb County. Affidavit of Charles Lee Raudonis ("Raudonis Aff.") at 5; Lovejoy Aff. at 4. Paid callers conducted the voter identification program between September 15, 1988 and October 13, 1988, Exhibits 2-A and 2-B-1; Lovejoy Aff. at 2, and did ask a question about the presidential race. Raudonis Aff. at 7; Exhibit 2-B-3; Lovejoy Aff. at 4. This presidential question was asked as a means to identify generic Republican voters and the "principal intent of

2504365497 4

this program was to influence the outcome of several local races." Raudonis Aff. at 7; Lovejoy Aff. at 4. The State Party paid SRS $18,607.20 for this phase of the program. Exhibits 2-B-1 and 2-B-2.

Volunteers used the SRS phone bank to make turnout calls between October 16 and Election Day based on the identification calls. Exhibit 2-A; Lovejoy Aff. at 3. The volunteers contacted voters identified as "likely Republicans" because they indicated they would vote for "at least one Republican candidate and no Democrat candidates." Raudonis Aff. at 8; Lovejoy Aff. at 4. The available scripts and evidence that volunteers made the calls are attached as Exhibits 2-B-4 and 2-B-5. Lovejoy Aff. at 4. The State Party paid SRS for this portion of the program to cover the costs of using the phone bank. Exhibits 2-A and 2-B-2. In addition, the party signed a $3,000 contract with SRS (but paid only $1,500 thereon) for paid turnout calls on the Sunday and Monday before the 1988 election. Exhibit 2-B-2. No script for this can be found, although this turnout operation was designed primarily to benefit local races. Raudonis Aff. at 5; Lovejoy Aff. and 4. The understanding with SRS was that the paid callers would use only a generic message not mentioning a candidate. Raudonis Aff. at 10.

Accordingly, it appears that paid phoners did mention the presidential candidate's name in the identification portion of the SRS phone bank, and, perhaps, in a portion of the turnout effort.

9504365497 5

However, those running the phone bank believed any such mention to be "incidental" to the overall script and its purpose, which was to turn out Cobb County voters primarily for local races. Raudonis Aff. at 7; Lovejoy Aff. at 4. The names produced by this phone bank were later used by the Georgia Republican Party for membership recruitment mailings after the 1988 election and by the Party's 1990 nominee for Governor. Lovejoy Aff. at 5. While the Party believes it acted within the Act and Regulations, the state of the law on the use of paid callers in phone banks that include the "incidental" mention of a presidential candidate is not clear. However, in the interest of ending this five-year proceeding, the Party will consider conciliation on those portions of the SRS phone bank in which paid callers were used.

Victory '88 Headquarters: The volunteer phone bank at Victory '88 headquarters operated on 30 phone lines installed specially for the phone bank. Exhibit 2-C-2. State Party funds paid for these lines. Exhibit 2-C-3. Volunteers for this ticket-wide turnout phone bank were drawn from the list attached as Exhibit 2-C-5. Photos of the volunteers are attached as Exhibit 2-C-4. An example of a script believed to have been used is Exhibit 2-C-1. It contained a presidential message as permitted by 11 C.F.R. §§ 100.7(b)(17) and 100.8(b)(18). There is no evidence that national party funds paid for this phone bank.

Campaign Telecommunications: Campaign Telecommunications ran two separate types of phone banks, neither of them volunteer. See

2504365497 6

Affidavit of Steven Goldberg ("Goldberg Aff.") at 3. There is no evidence offered, but the Factual and Legal Analysis suggests that national party funds paid for the Campaign Telecommunications program. It is clear that national party funds cannot pay for a phone bank under 11 C.F.R.
§ 100.7(b)(17) and 100.8(b)(18). But these were <u>not</u> such phone banks. Rather, there was an identification bank allocated to and paid for by the parties mentioned (with funds from 2 U.S.C.
§ 441a(d) for the presidential campaign) and a separate generic get-out-the-vote phone bank that was not allocable because no candidate was mentioned. There is nothing in the law that would stop 2 U.S.C. § 441a(d) funds from paying an allocable portion of a phone bank. And there is nothing in the law that would prohibit non-federal transfers from paying a state Party's non-federal share of a generic turnout phone bank. There is no evidence that national party money paid a federal share of operating a volunteer presidential phone bank.

The first type was a voter identification phone bank. While no scripts of that phone bank can be found, the Goldberg and Raudonis Affidavits both indicate that a portion of the costs of the phone bank were allocated directly to the Presidential campaign since Mr. Bush's name was mentioned in the script. Goldberg Aff. at 5; Raudonis Aff. at 2. The Party's cost of this portion of the phone bank was $119,600. Exhibit 2-D-1. The records show that all parties knew that since George Bush's name was mentioned, the

7504365497 7

Bush/Quayle campaign would be allocated a portion of the cost. Accordingly, the Bush/Quayle Campaign requested the Republican National Committee to pay $69,600 in 2 U.S.C. § 441a(d) funds to Campaign Telecommunications to cover this cost. Exhibit 2-D-2. While the script is missing, there was no United States Senate race in Georgia in 1988, and the Goldberg and Raudonis Affidavits indicate no questions about congressional races were asked. Raudonis Aff. at 3; Goldberg Aff. at 6. Since no other federal candidates were mentioned in the script, the State Party could pay the remaining costs to cover the other generic party identifier questions on the script. See Raudonis Aff. at 3.

Campaign Telecommunications also conducted a voter "turnout" phone bank for the State party. Exhibits 2-D-3, 2-D-4, 2-D-5, 2-D-6; Raudonis Aff. at 2, 4; Goldberg Aff. at 3, 7. This turnout program was "generic" and "non-candidate specific". Exhibits 2-D-4 and 2-D-6, Raudonis Aff. at 4, Goldberg Aff. at 7. To receive a turnout call, a voter had to voice support for three of the four Republican candidates in the ID script. Raudonis Aff. at 4. The owner of Campaign Telecommunications also recalls that the scripts were "generic" and the invoices indicate that. Goldberg Aff. at 7. While he has no specific recollection of the text of the Georgia script, Goldberg defines generic as meaning "the callers do not mention the name of any specific candidate, but rather urge people to go to the polls to vote for the Republican ticket." Goldberg Aff. at 7. The State Party paid $129,099 for this portion of the

2504365497 8

phone bank. Exhibit 2-D-3. According to documents, invoices and checks, the State Party paid for this portion of the phone banks with a combination of federal and non-federal funds based on the composition of Georgia's 1988 ballot. Exhibit 2-D-4.

Accordingly, the Campaign Telecommunications phone banks were operated in accordance with the Act and Regulations, as was the Victory '88 headquarters' phone bank. The Party believes the mention of the presidential candidate in parts of the SRS phone bank was "incidental" to the overall script, which was aimed at local races. However, recognizing that incidental mention of a candidate is not settled law and wishing to conclude this nearly five-year-old matter, the Party is willing to conciliate on portions of the SRS bank.

FAILURE TO MAINTAIN RECEIPT RECORDS

The Factual and Legal Analysis alleges that the Party has not satisfied the Act's record keeping requirements. To the limited extent this allegation is true, it demonstrates that it is practically impossible for well-meaning and dedicated volunteers to meet the standards the Commission imposes in an after-the-fact full-scale audit.

The Analysis is mistaken in several respects, as well. It is false to state that the Party did not keep an account of all contributions. In fact, it kept copies of all contribution checks, but they were not differentiated according to the account into

2504365499 79

which they were deposited. Matters were also confused by the fact that the majority of funds deposited into the federal accounts came in response to the Party's fund-raising mail and telemarketing programs. Since the average contribution was about $35.00, there was a belief that there was no requirement to keep a running record of these contributions or contributors since each was below $50. This explains the low percentages of receipt documentation contained in the Analysis, but fails to note the reason why.

The Party concedes a failure to comply fully with the Act and Regulations, is willing to conciliate on this issue and hopes the Commission will take into account the mitigating circumstances as described.

CONCLUSION

This matter is now four-and-a-half years old. With the aid of an extensive audit, the Commission has dissected the Party's 1988 operations. Using principally volunteers or those who volunteered a large part of their time, the Party made mistakes. There were technical violations of the Act which the Party would prefer to conciliate rather than drag out the 1988 elections any further.

2504365498 0

Thank you for your attention.

Sincerely,

Frank B. Strickland

2504365498 1

DISTRICT OF COLUMBIA

CITY OF WASHINGTON

AFFIDAVIT

Personally appeared before me, the undersigned officer, CHARLES LEE RAUDONIS, who, being duly sworn according to law, deposes and says on oath as follows:

1.

My name is Charles Lee Raudonis. During the 1988 general election campaign, I was Executive Director of the Georgia Republican Party. In that capacity I was familiar with Victory '88 activities, including telephone programs.

2.

Campaign Telecommunications, Inc. was the principal vendor of telephone services to the Georgia Republican Party's Victory '88 program. The telephone program implemented by Campaign Telecommunications, Inc. consisted of two phases: (1) a voter identification ("ID") phase; and (2) a get-out-the-vote ("GOTV") phase. The telephone program implemented by Campaign Telecommunications, Inc. was designed so that paid telephone callers could be used for both phases of the program. Knowing that federal election law required allocation if a specific candidate was mentioned in the script, Bush-Quayle '88, through a

2504365499 02

payment from the Republican National Committee under 2 U.S.C. § 441a(d), was allocated certain costs of the voter ID phase of the program.

3.

I recall that during the voter ID phase of the telephone program implemented by Campaign Telecommunications, Inc., callers identified voters by asking and recording the response to questions concerning: (1) the presidential contest between George Bush, the Republican, and Michael Dukakis, the Democrat; (2) their preference in the 1984 election between Ronald Reagan, and Walter Mondale and, (3) their preference for the Republican or Democratic candidate for Georgia Public Service Commission. In some instances voters were also asked their preferences in elections in their area for the state legislature.

Since one of the questions asked by paid callers related to the Presidential campaign, Bush-Quayle '88 paid for its share of the cost of the ID program by direct payment to Campaign Telecommunications, Inc. In some instances only three questions were asked, so the Bush-Quayle campaign, in order to insure compliance, paid at least 33% of the total cost. Since no other federal candidates were mentioned, the Georgia Republican Party paid for the remaining cost of the telephone bank.

2504365493

During the GOTV phase of the telephone program implemented by Campaign Telecommunications, Inc., callers contacted voters who had been identified as supporting Republican candidates and urged them to vote on Election Day. For purposes of the GOTV program, a likely Republican voter was identified as one who selected the Republican choice in at least three of four questions listed above in paragraph 3. The script for the GOTV program was generic; it did not mention the name of any candidate. Therefore, the Georgia Republican party, through its Victory '88 program, paid the full cost of the GOTV program.

5.

Southern Research Services, Inc. was a secondary telephone vendor, providing services to the Georgia Republican Party in Cobb County only. Southern Research Services, Inc. was owned by Jim Lovejoy, a Cobb County political consultant specializing in local campaigns. The services provided by Southern Research Services, Inc. were provided under a proposal to Victory '88 and two local Cobb County political committees. The proposal was developed because the the Georgia Republican Party had targeted several state legislative races in Cobb County.

2504365492 4

6.

The telephone program implemented by Southern Research Services, Inc. initially consisted of two parts: (1) a voter identification ("ID") program; and (2) a get-out-the-vote ("GOTV") program. The voter ID program was implemented by paid callers. The GOTV program was originally designed to utilize volunteers only.

7.

Under the voter ID program implemented by Southern Research Services, Inc., paid callers identified Cobb County voters by asking and recording their responses to questions about the President's race and several local legislative races. Several scripts were used. While voters were questioned on their preference in the President's race, this preference was asked solely to identify generic Republican voters for the overall ID and GOTV program conducted by Southern Research Services, Inc. The principal intent of this program was to influence the outcome of several local races, and mention of the presidential candidate's name was incidental to the overall scripts.

8.

Under the GOTV program with which Southern Research Services, Inc. was involved, Southern Research Services, Inc. provided its telephone bank facilities to volunteers of the

2504365495

Georgia Republican Party for the purpose of making get-out-the-vote telephone calls. Get-out-the-vote calls were placed to likely Republican voters. For purposes of this program, a likely Republican voter was defined as a voter who answered during the ID phase of the program that he or she was voting for at least one Republican candidate and no Democrat candidates. The script for these calls by volunteers mentioned Vice President Bush's name. Also under the proposal, Southern Research Services, Inc. hired a volunteer coordinator who recruited, scheduled and organized said volunteers.

9.

During the general election campaign, I received regular reports from Southern Research Services, Inc. that volunteers were making GOTV telephone calls. I visited the volunteer telephone bank prior to the general election in October and November 1988, in which I observed a number of volunteers making telephone calls.

10.

Approximately one week before Election Day on November 8, 1988, the state party discussed with Jim Lovejoy a proposal to use an overpayment by Victory '88 to Southern Research Services, Inc. to hire paid callers for making GOTV calls. It was agreed that these calls would be generic, that is, the GOTV script must be modified so that Vice President Bush's name was not mentioned.

0 5 0 4 3 6 5 4 9 0 6

11.

In addition to the telephone services contracted from Campaign Telecommunications, Inc. and Southern Research Services, Inc., the the Georgia Republican Party also maintained 30 telephone lines at the Victory '88 headquarters for use by volunteers in making get-out-the-vote calls. Out of the Victory '88 headquarters, volunteers called voters in the Metro Atlanta area who were not called by volunteers at the Cobb County telephone bank.

12.

I occasionally visited the Victory '88 headquarters and observed a substantial number of volunteers making get-out-the-vote calls in the weeks leading up to Election Day on November 8, 1988.

13.

The Party also maintained a telemarketing operation at Party headquarters. This operation's sole function was to raise funds for the Party and it did not participate in any voter identification, turnout or other "political" programs.

2504365498 7

That this Affidavit is made and given in conjunction with the Federal Election Commission MUR 3787 Georgia Republicans and Marvin E. Smith, as Treasurer; and the affiant declares that he has examined this Affidavit, and, that to the best of the affiant's knowledge and belief, it is true, correct and complete.

CHARLES LEE RAUDONIS

Sworn to and subscribed before me
this 23rd day of August, 1993.

Margaret E. Barnes
Notary Public

My Commission Expires:

My Commission Expires September 14, 1995

9504365498 8

STATE OF FLORIDA

COUNTY OF SEMINOLE

AFFIDAVIT

Personally appeared before me, the undersigned officer, SUE E. LANCASTER, who, being duly sworn according to law, deposes and says on oath as follows:

1.

My name is Sue E. Lancaster. From July 1988 until approximately November 15, 1988, I was employed by the Georgia Republican Party in its Victory '88 program. The office of the Victory '88 program was located at 3400 Wooddale Drive, Atlanta, Georgia.

2.

I was in charge of recruiting, organizing and managing volunteers for the Victory '88 program. Volunteers were utilized to answer a heavy volume of incoming telephone calls, to staff the office, to coordinate the activities of other volunteers and to recruit additional volunteers for other campaign tasks, including telephone banks. During the course of the Victory '88 program in 1988, several hundred volunteers were involved in all phases of the Victory '88 program.

3.

Several photographs of volunteers working at the Victory '88 headquarters are included in the documents being

7 5 0 4 3 6 5 4 9 8 9

produced by the Georgia Republican Party and Marvin H. Smith, Treasurer, in response to a subpoena from the Federal Election Commission. These photographs were taken either by me or volunteers working under my direction at the Victory '88 headquarters.

4.

Included in the same documents is a list of several hundred volunteers labeled "Sue's Worker Bees." The names on this list are substantially all of the volunteers who were recruited and actually worked in the Victory '88 program. There is a shorter list of 20 volunteers, beginning with the name Dell James and ending with the name Laura Beverly, who were considered by me as "super volunteers," meaning that they were the most dependable of the total volunteer group working in the Victory '88 program.

5.

Also included in the documents is a series of pages showing daily schedules of volunteers staffing the office at the times indicated on the schedules.

6.

That this Affidavit is made and given in conjunction with the Federal Election Commission MUR 3787 Georgia Republicans and Marvin H. Smith, as Treasurer; and the affiant declares that

2504365499 0

she has examined this Affidavit, and, that to the best of affiant's knowledge and belief, it is true, correct and complete.

Sue E. Lancaster
SUE E. LANCASTER

Sworn to and subscribed before me
this 23rd day of August, 1993.

Betty L. Newell
Notary Public BETTY L. NEWELL
456 OAK HAMMOCK DR.
ALTAMONTE SPGS, FL 32701

My Commission Expires:

OFFICIAL NOTARY SEAL
BETTY L. NEWELL
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC176816
MY COMMISSION EXP. FEB. 9 1996

7564365499 91

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

AFFIDAVIT

Steven Goldberg, being duly sworn, deposes and states as follows:

1. I am submitting this Affidavit at the request of the Georgia Republican Party.

2. I am an officer of Campaign Telecommunications, Inc. and held that position in 1988, during the general elections, when Campaign Telecommunications performed various phone bank services for the Georgia Republican Party's Victory '88 program.

3. Campaign Telecommunications' telemarketing program for the Georgia Republican Party consisted of two parts -- 1) voter identification, and 2) get-out-the-vote ("GOTV"). All programs conducted by my company used paid employees. Volunteers would not have been used for either part of this program.

4. Although I have been unable to locate any of the scripts used by Campaign during the 1988 programs in connection with calls made to residents of the State of Georgia, to the best of my recollection, the voter identification portion of the program in Georgia was typical of similar programs performed by my company. To the best of my recollection, residents of Georgia were called and asked a series of questions designed to identify their likely votes on election day. Typically, the scripts used mentioned individual candidates, and to the best of my recollection, the script also mentioned Vice-President George Bush.

5. To the best of my recollection, the cost of the voter identification portion of the phone bank was allocated among the candidates mentioned in the script, and consequently, an appropriate portion of costs of the phone bank were allocated to the Presidential campaign.

6. I do not believe that any questions concerning candidates for the United States Senate or House were included in the telemarketing program that is the subject of this Affidavit.

9 5 0 4 3 6 5 4 9 9 2

7. The second phase of the 1988 phone bank for Georgia consisted of a GOTV or voter turnout phone bank for the Georgia Republican Party. Based on invoices to the Georgia Republican Party, and to the best of my recollection, I am confident that the script used for this second phase of the 1988 phone bank was generic or "non-candidate specific". Specifically, the callers did not mention the name of any specific candidate during this portion of the program, but rather simply urged people to go to the polls to vote for the Republican ticket.

8. I have examined this Affidavit and, to the best of my knowledge and belief, it is true and correct.

Steven Goldberg

Sworn to before me this
25 day of August, 1993

Notary Public

My Commission Expires:

NELSON SCHNEIER
Notary Public, State of New York
No. 02-4705856
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires 9/30/95

2344h2
cl

2504365499 93

STATE OF GEORGIA

COUNTY OF COBB

AFFIDAVIT

Personally appeared before me, the undersigned officer, JIM LOVEJOY, who, being duly sworn according to law, deposes and says on oath as follows:

1. My name is Jim Lovejoy. I am President of Southern Research Services, Inc. ("SRS"). During the 1988 general election, my company performed a contract for the Georgia Republican Party which consisted of a voter identification program and the use of SRS facilities for a volunteer program.

2. The voter identification calls were made between September 15, 1988 and October 13, 1988 by paid callers. To the best of my recollection, the scripts used for this portion of the phone bank included those entitled Ballot Code 31, 61, 71 Phone Bank Script; Ballot Code 21 Phone Bank Script, and Ballot Code 20, 30 and 70 Phone Bank Script. All of the calls SRS made for the Georgia Republican Party were to voters in Cobb County, Georgia.

3. To the best of my recollection, Georgia Republican Party volunteers were to have used the SRS phone bank on Saturdays between September 17, 1988 and October 15, 1988 and every day from October 16, 1988 to November 8, 1988. I cannot

2504365499 4

remember which specific days they used the phone banks, but I do remember a substantial use of volunteers during that time period. Scripts that to the best of my recollection were used in this phase of the program included the George Bush Advocacy Script; George Bush Turnout Script 1; George Bush Turnout Script 2, and Election Day Call. In addition a supplemental contract was executed between the Georgia Republican Party and SRS under which paid callers were used to make GOTV calls to voters in West Cobb County for hotly contested local races. The State Party paid $1,500 toward the cost of the supplemental contract. I cannot recall which script was used.

4. The turnout scripts were used to turn out persons identified as voters likely to vote for at least one local Republican candidate and no local Democrat candidates. In other words, the primary purpose of the phone bank was to turn out likely Republican voters for local races in Cobb County. George Bush was mentioned in the identification scripts primarily because, as the head of the Republican ticket 1988, asking about him was thought to provide an accurate indicator of whether the person was a reliable Republican voter.

5. I received a payment from the Georgia Republican Party of $28,000 under the primary and supplemental agreements. The two-part phone program was designed for the local Cobb County elections, but the list generated in the identification part of the program also provided volunteers to

2504365499 5

the State Party and were used by the Party for membership recruitment mailings following the 1988 election. The names were also used by the Republican candidate for Governor in 1990.

6. The affiant declares that he has examined this Affidavit, and, that to the best of affiant's knowledge and belief, it is true, correct and complete.

JIM LOVEJOY

Sworn to and subscribed before me
25 day of August, 1993.

Notary Public

My Commission Expires:

Notary Public, Fayette County, Georgia
My Commission Expires November 12, 1996

JANE M. ABRAHAMSON
NOTARY PUBLIC
FAYETTE COUNTY, STATE OF GEORGIA

95043654996

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Georgia Republican Party	)	MUR 3787

RECEIVED
FEDERAL ELECTION COMMISSION
93 AUG 26 PM 4:12

RESPONSE TO SUBPOENA TO PRODUCE DOCUMENTS
AND ORDER TO SUBMIT WRITTEN ANSWERS

STATE OF GEORGIA)

COUNTY OF FULTON)

Marvin H. Smith, being duly sworn, deposes and states as follows:

I am treasurer of the Georgia Republican Party ("Party"), the recipient of a Subpoena to Produce Documents/Order to Submit Written Answers in the above-captioned matter. The documents responsive to the Subpoena that the Respondents have been able to locate are attached. In addition, the Party responds to the aforementioned Subpoena/Order as follows:

9504365 9997

1. Documents demonstrating that volunteer callers were used for any of the Victory '88 telemarketing operations, including but not limited to, memoranda, contracts, invoices, vendor account statements, volunteer work schedules, and phone bills.

Response to No. 1:

There were no "Victory '88 telemarketing operations". The Party itself had a telemarketing operation, but its sole function was to raise funds for the Party's operations. It did not engage in any voter identification or voter turnout or "political" operations. Victory '88 did not have a telemarketing program, although both Victory '88 and the Party did have political phone bank operations that were not telemarketing operations. Information on these phone banks and all memoranda, contracts, invoices, vendor account statements, volunteer work schedules and phone bills relevant to their operation are discussed and submitted in response to Question 2 below.

2. Please specify which expenditures were made for each particular script provided to the Commission. Provide the dates of operation of all Victory '88 phone banks, and specify which scripts were used during which time periods and whether each phone bank was operated by volunteer callers.

Response to No. 2:

The passage of time and incomplete records of the five-year-old 1988 election cycle make it impossible to recreate completely the details surrounding each phone bank script. In order to be as responsive as possible, the Party has compiled all the requested information it can find for the three phone bank locations involved -- Southern Research Services, Inc. ("SRS"),

2504365998

which called voters only in Cobb County, Ga.; the Victory '88 headquarters volunteer phone bank, and the Campaign Telecommunications, Inc., voter identification and get-out-the-vote ("GOTV") phone banks. (The accompanying letter from Frank B. Strickland responds to the Commission's Factual and Legal Analysis and discusses the legal aspects of the phone banks' operation). To comply with the Production Request/Order, the Party submits the following:

2-A -- The most complete day-to-day listing of the activity and scripts used in the phone bank operations that can be compiled from the records that can be found;

2-B -- Information pertaining to the SRS phone banks, including:

(1) the daily ledger for SRS' phone bank work for the Party's Victory '88 program;

(2) copies of the Party's checks to SRS for the phone banks, and a supplementary contract for turnout calls;

(3) those scripts that could be found used by SRS callers for the voter identification portion of the program;

(4) those scripts that could be found used by Victory '88 volunteers calling from SRS for the get-out-the-vote program;

(5) attendance sheets for GOTV volunteers at the SRS phone bank and lists used to recruit those volunteer callers; and

(6) notes indicating partial results of the volunteer phone bank calls.

2504365 4999

2-C -- Information pertaining to the Victory '88 headquarters volunteer phone bank, including:

(1) the phone script used by volunteers at the Victory '88 headquarters phone bank (dates unknown);

(2) the phone numbers of the lines installed for the volunteer callers;

(3) the phone bills for the volunteer phone bank;

(4) photographs of volunteer callers at the Victory '88 headquarters;

(5) partial lists of volunteers and schedules for the Victory '88 phone bank, and

(6) receipt for food and drinks for the volunteers on one day.

2-D -- Information pertaining to the Campaign Telecommunications phone banks, including:

(1) a summary of the expenditures for the voter identification portion of the Campaign Telecommunications phone bank;

(2) documents demonstrating that the Bush/Quayle campaign's share of the cost of the voter identification phone bank was paid for by the Republican National Committee with 2 U.S.C. § 441a(d) funds and that the remaining share of the voter identification phone bank was paid for by the Party;

(3) a summary of the expenditures for the generic voter turnout portion of the Campaign Telecommunications phone bank;

(4) memoranda setting forth the federal-non-federal shares of the turnout phone bank, specifically the non-federal dollars that could be spent by the Party;

9504365 5000

(5) Party payments for this portion of the phone bank, and

(6) invoices from Campaign Telecommunications for the generic GOTV portion of the phone bank.

3. Correspondence or other documentation from the Republican National Committee ("RNC") regarding its October 19, 1988 check for $50,000 to the Committee, and bank records showing any additional deposits from the RNC, along with related correspondence or other documentation.

Response to No.3:

All documentation relevant to this response that the Party was able to find is attached, including:

A. correspondence from the Republican National Committee that accompanied the check, as well as a copy of the October 17, 1988 check;

B. a $71,600 check from the Republican National Committee dated October 11, 1988 and the Party's deposit slip;

C. a $10,000 check from the Republican National State Elections Committee's corporate operating account, and,

D. notice of a November 14, 1988 RNC in-kind contribution.

2504365501

4. Disbursement records, including but not limited to, canceled checks, check registers, and invoices related to the Committee's voter registration and get-out-the-vote activity on behalf of the 1988 Republican presidential ticket.

Response to No. 4:

Other than the get-out-the-vote or turnout phone banks described in response to Number 2, above, the Party has been unable to find any evidence that it conducted specific voter registration or get-out-the-vote activity "on behalf of the 1988 Republican presidential ticket". While notations on some invoices indicate that there were "GOTV" activities, they appear to have been conducted on behalf of the entire Republican slate of candidates and not on behalf of the "presidential ticket". However, in order to comply as completely and thoroughly as possible to the Commission's subpoena, the Party submits the following:

A -- a list labeled GOTV volunteers;

B -- an invoice for a "turnout" postcard. The piece itself cannot be found, and it could be either a volunteer mailing or a generic piece for the entire Republican slate of candidates. Accordingly, this item is enclosed in the spirit of full disclosure since it pertains to "turnout", but it does not appear to be activity "on behalf of the 1988 Republican presidential ticket."

2504365 5002

C -- a check to a mail vendor for "GOTV". Although the piece cannot be found, this is believed to be for turnout on behalf of the entire Republican ticket rather than "on behalf of the 1988 Republican presidential ticket."

5. Documents related to three contributions from Arthur L. Williams, one in the amount of $5,000 dated September 21, 1988, and two in the amount of $7,500 dated October 14, 1988, including but not limited to, solicitation letters, other correspondence, documentation accompanying the checks, contemporaneous notes or memoranda.

<u>Response to No. 5</u>:

The Party has been able to find only the $7,500 checks and some of the deposit slips from this contribution given four-and-a-half years ago.

Respectfully submitted,

Georgia Republican Party

By: Marvin H. Smith
Marvin H. Smith, Treasurer

Sworn to before me this
25 day of August, 1993.

Justin F. Duncan II
Notary Public

My Commission Expires: Notary Public, Gwinnett County, Georgia
My Commission Expires April 9, 1996

2504365 5003

EXHIBIT 1

2504365500 4

The Georgia Republican Party did not conduct "Victory'88 telemarketing operations". As a result, no documents responsive to the Commission's request have been found.

2504365505

EXHIBIT 2A

2504365550006

VICTORY '88 PHONE BANKS CALENDAR

Abbreviations:

LOCATIONS

SRS = Southern Research Services, Inc.

V88HQ = Victory '88 Headquarters

CT = Campaign Telecommunications, Inc.

TYPE OF CALLS MADE

ID = Voter Identification Calls

GOTV = Get out the Vote - Voter Turnout calls

2504365500 7

Thursday 9/15/88
SRS ID Calls - Script Unknown

Saturday 9/17/88
SRS Volunteer Phone Bank Available

Sunday 9/18/88
SRS ID Calls - Script Unknown

Monday 9/19/88
SRS ID Calls - Script Unknown

Tuesday 9/20/88
SRS ID Calls - Script Unknown

Wednesday 9/21/88
SRS ID Calls - Script Unknown

Thursday 9/22/88
SRS ID Calls - Script Unknown

Friday 9/23/88
SRS ID Calls - Script Unknown

Saturday 9/24/88
SRS Volunteer Phone Bank Available

Sunday 9/25/88
SRS ID Calls - Script "Ballot Code 21"
SRS ID Calls - Script "Ballot Code 20, 30, 70"

Monday 9/26/88
SRS ID Calls - Script Unknown

Tuesday 9/27/88
SRS ID Calls - Script Unknown

Wednesday 9/28/88
SRS ID Calls - Script Unknown

Thursday 9/29/88
SRS ID Calls - Script Unknown

Friday 9/30/88

Saturday 10/1/88
SRS Volunteer Phone Bank Available

Sunday 10/2/88
SRS ID Calls - Script Unknown

Monday 10/3/88
SRS ID Calls - Script "Ballot Code 20, 30, 70"
SRS ID Calls - Script "Ballot Code 21"

Tuesday 10/4/88
SRS ID Calls - Script Unknown

Wednesday 10/5/88
SRS ID Calls - Script Unknown

Thursday 10/6/88
SRS ID Calls - Script Unknown
V88HQ Phone Bank Service Connected by Southern Bell

Friday 10/7/88
V88HQ Phone Bank Equipment installed by Teleco USA

Saturday 10/8/88
SRS Volunteer Phone Bank Available - Script Unknown

Sunday 10/9/88
SRS ID Calls - Script "Ballot Code 20, 30, 70"
SRS ID Calls - Script "Ballot Code 21"

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Monday 10/10/88
SRS ID Calls - Script Unknown

V88HQ Volunteer Phone Bank Scheduled - Script Unknown
(Calendar says full)

3504365508

Tuesday 10/11/88
SRS ID Calls - Script Unknown

V88HQ Volunteer Phone Bank Scheduled - Script Unknown
(Calendar says full)

Wednesday 10/12/88
V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Thursday 10/13/88
SRS ID Calls - Script "Ballot Code 21"
SRS ID Calls - Script "Ballot Code 20, 30, 70"

V88HQ Volunteer Phone Bank Scheduled - Script Unknown
(Calendar says full)

Friday 10/14/88
V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Saturday 10/15/88
SRS Volunteer Phone Bank Available - Script Unknown

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Sunday 10/16/88
SRS Volunteer Phone Bank - Script Unknown (9 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Monday 10/17/88
SRS Volunteer Phone Bank - Script Unknown (11 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Tuesday 10/18/88
SRS Volunteer Phone Bank - Script Unknown (10 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Wednesday 10/19/88
SRS Volunteer Phone Bank - Script Unknown (16 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Thursday 10/20/88
SRS Volunteer Phone Bank - Script Unknown (19 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Friday 10/21/88
V88HQ Volunteer Phone Bank Scheduled - Script Unknown

9 5 0 4 3 6 5 5 0 0 9

Saturday 10/22/88
SRS Volunteer Phone Bank - Script Unknown (7 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Sunday 10/23/88
SRS Volunteer Phone Bank - Script Unknown (16 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Monday 10/24/88
SRS Volunteer Phone Bank - Script Unknown (10 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Tuesday 10/25/88
SRS Volunteer Phone Bank - Script Unknown (14 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Wednesday 10/26/88
SRS Volunteer Phone Bank - Script Unknown (19 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Thursday 10/27/88
SRS Volunteer Phone Bank - Script Unknown (15 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Friday 10/28/88
SRS Volunteer Phone Bank - Script Unknown (5 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Saturday 10/29/88
SRS Volunteer Phone Bank - Script Unknown (12 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Sunday 10/30/88
SRS Volunteer Phone Bank - Script Unknown (24-29 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Monday 10/31/88
SRS Volunteer Phone Bank - Script Unknown (19 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknow

2504365510

Tuesday 11/1/88
SRS Volunteer GOTV Phone Bank - Script Unknown (27 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Wednesday 11/2/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(27 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

Thursday 11/3/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(16 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

Friday 11/4/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(2-6 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

Saturday 11/5/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(10 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

Sunday 11/6/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(6 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

SRS Paid GOTV calls - Script Unknown

25043655011

Monday 11/7/88
SRS Volunteer GOTV Phone Bank -
Likely Script "George Bush Turnout Script 1 or 2 "
(7 Vols Scheduled)

V88HQ Volunteer GOTV Phone Bank Scheduled
Likely Script "Phone Script Bush\Quayle '88"

SRS Paid GOTV calls - Script Unknown

Tuesday 11/8/88
SRS Volunteer Phone Bank -
Script "Election Day Call" (2-3 Vols Scheduled)

V88HQ Volunteer Phone Bank Scheduled - Script Unknown

Thursday 11/10/88
V88HQ Phone Bank Service disconnected by Southern Bell

2504365 5012

EXHIBIT 2B

9504365501 3

EXHIBIT 2B1

2504365501 4

Bush / Victory 1988

Southern Research Services, Inc.
Ledger Sheets

DATE	DESCRIPTION	DEBIT	CREDIT	BAL
9 15	PAYMENT		5000-	<5000->
✓ 9 16	ID CALLS 1380 x .60 (9/15?)	83800		<417200>
9 16	KEYPUNCHING 1380 x .07	9660		<407540>
9 19	KEYPUNCHING [9/18] 3673 x .07	25711		<381829
✓ 9 19	ID CALLS [9/18] 3673 x .60	220380		<161449>
✓ 9 21	ID CALLS [9/19] 1611 x .60	96660		<64789>
9 21	KEYPUNCH 1611 x .07	11277		<53512>
✓ 9 21	ID CALLS [9/20] 1823 x .60	109380		55868
9 21	KEYPUNCH 1823 x .07	12761		68929
✓ 9 22	ID CALLS [9/21] 1624 x .60	97440		166369
9 22	KEYPUNCH 1624 x .07	11368		177737
9 23	PAYMENT		5000 00	<322263>
✓ 9 23	ID CALLS [9/22] 1588 x .60	95280		<226983>
9 23	KEYPUNCH 1588 x .07	11116		<238099>
✓ 9 27	ID CALLS [9/25] [redacted] 429 x .60	25740		<212359>
✓ 9 27	ID CALLS [9/25] [redacted] 45 x .60	2700		<209659>
9 27	KEYPUNCH 474 x .07	3318		<206341>
✓ 9 28	ID CALLS [9/26] 1141 x .60	68460		<137881>
9 28	KEYPUNCH 1141 x .07	7987		<129894>
9 28	"UNO" PHONE LIST 1033 x .03	3099		<33954>
✓ 9 29	ID CALLS [9/27] 1599 x .60	95940		<2014>
9 29	KEYPUNCH 1599 x .07	11193		<11568>
9 30	PAYMENT		5000 00	<511568>
✓ 10 2	ID CALLS [9/30] 1438 x .60	86280		<425288>
10 2	KEYPUNCH 1438 x .07	10066		<415222>
✓ 10 2	ID CALLS [9/30] 1199 x .60	71940		<343282>
10 2	KEYPUNCH 1199 x .07	8393		<334889>
✓ 10 4	ID CALLS [10/2] 1552 x .60	93120		<241769>
10 4	KEYPUNCH 1552 x .07	10864		<230905>
✓ 10 5	ID CALLS [10/3] [redacted] 92 x .60	5520		<225385>
10 5	KEYPUNCH [10/3] [redacted] 92 x .07	644		<224741>
✓ 10 5	ID CALLS [10/3] [redacted] 963 x .60	57780		<166961>
10 5	KEYPUNCH 963 x .07	6741		<160220>
✓ 10 5	ID CALLS [10/4] 1455 x .60	87300		<72920>
10 5	KEYPUNCH 1455 x .07	10185		<62735>
10 7	PAYMENT		5000 00	<562735>
✓ 10 7	ID CALLS [10/5] 1002 x .60	60120		<502615>
10 7	KEYPUNCH 1002 x .07	7014		<495601>
10 7	UNO LABELS 1078 x .04	4312		<491289>
✓ 10 7	ID CALLS [10/6] 1325 x .60	79500		<411789>
10 7	KEYPUNCH 1325 .07	9275		<402614>

Bush / Victory '88

	DATE	DESCRIPTION	1 DEBIT	2 CREDIT	3 BAL
✓1	10/10	ID CALLS [10/9] [redacted] 1048 x .60	628.80		<339.734>
2	10/10	KEYPUNCH 1048 x.07	73.36		<332.398>
✓3	10/10	ID CALLS [10/9] [redacted] 1211 x.60	726.60		<259.738>
4	10/10	KEYPUNCH 1211 x.07	84.77		<251.961>
✓5	10/11	ID CALLS [10/10] 1504 x.60	902.40		<161.021>
6	10/11	KEYPUNCH 1504 x.07	105.28		<150.493>
✓7	10/12	ID CALLS [10/11] 1266 x.60	759.60		<74.533>
8	10/12	KEYPUNCH 1266 x.607	88.62		<65.671>
9	10/13	ABSENTEE BALLOT TAPE PREPARATION			
10		TAPE	25.00		<63.171>
11		CONSULTANT 3½ hrs x 35	122.50		<50.921>
12		12,367 records x.03	371.01		<138.20>
13	10/13	"UND" LIST 3344 x.03	100.32		<37.88>
14	10/13	PAYMENT		500.00	<503.788>
15	10/13	"HAYDEN STANLEY"	25.00		<478.788>
16	10/14	ID CALLS [redacted] 1162 x .60 (10/13)	697.20		<409.068>
17	10/14	ID CALLS [redacted] [10/13] 882 x.60 (10/13)	529.20		<356.148>
18	10/14	KEYPUNCH 1162 x.07	81.34		<348.014>
19	10/14	KEYPUNCH 882 x.07	61.74		<341.840>
20	10/14	"UND" LIST 289 x.03	8.67		<340.973>
21	10/15	FAVORABLE LIST 13,039 x.03	391.17		<301.886>
22	10/19	"UND" LABELS 3572 x.04	142.88		<287.598>
23	10/21	LABELS 15,282 x.04	611.28		<226.470>
24	10/21	LABELS 22,498 x.3½	787.43		<147.727>
25	10/24	10/13 "STANLEY" CHARGE IN ERROR		250.00	<177.727>
26	10/28	"UND" LIST 3068 x .03	92.04		<163.583>
27	10/28	"FAV" LIST 1124 x .03	33.72		<160.151>
28	10/28	KEYPUNCHING 1818 x .07	127.26		<147.425>
29	11/1	"FAV LIST" [redacted] 8277 x.03	248.31		<122.594>
30	11/2	UND KEYPUNCHING 664 x.07	46.48		<119.146>
31	11/2	"FAV LIST" 664 x.03	19.92		<115.954>
32	11/6	Turnout Program	(300.000)		184.046
33	11/8	Cobb Republican Party		(150.00)	34.046
34	11/22	Payment Victory 88		34.046	0
35					

EXHIBIT 2B2

2504365501 7

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

174

9- 14 19 88 64-6 810

PAY TO THE ORDER OF Southern Research Services $ 5,000.00

Five thousand dollars and NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

FOR VOTER INVESTIGATION

[redacted]

⑆ 0 5 0 4 3 6 5 5 0 1 8 ⑆

204

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

9-23 19 88

PAY TO THE ORDER OF Southern Research Services $ 5,000.00

Five thousand dollars and NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

FOR [redacted]

Rec'd check 9/23/88
Rita Reis

2504365 5 0 1 9

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

228

9-29 19 88

PAY TO THE ORDER OF Southern Research Services $ 5000.00

Five thousand dollars and NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

FOR [redacted]

Rec'd 9-29-88
Rita Reis

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 560 S
ATLANTA, GA 30309

272

10-6 19 88

PAY TO THE ORDER OF Southern Research Services $ 5000.00

Five Thousand Dollars 00/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 560 S
ATLANTA, GA 30309

286

10-13 19 88

PAY TO THE ORDER OF Southern Research Services $ 5000.00

Five Thousand Dollars 00/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

404 431-0861

Southern Research Services, Inc.
291 PAT MELL ROAD
SUITE 101
MARIETTA, GEORGIA 30060

(17)

Supplementary Agreement 11/1/88

Southern Research will make turnout calls using 15-20 paid phoners from

1:30 - 9:30 PM Sunday
5:30 - 9:30 PM Monday

The price will be a flat fee of $3,000 in addition to the Southern Research charges under the previous agreement.

$1,500 from Guy Gebhart's PAC will be credited toward the turnout fee.

Agreed
J Morgan

Jim Lazzy

2504365021

EXHIBIT 2B3

2504365502 2

BALLOT CODE 21, PHONE BANK SCRIPT

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE SENATOR, were being held tomorrow, who would you most likely vote for?"

HUGH RAGAN: the Republican
or
KEN PARRIS: the Democrat

RAGAN: circle HR.
PARRIS: circle KP.
Undecided or does not respond: circle U.
Refused: circle R.

[IF VOTING FOR GEORGE BUSH, SAY]: "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

2504365502 3

BALLOT CODE 20, 30, 70 PHONE BANK SCRIPT

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for COUNTY COMMISSIONER, were being held tomorrow, who would you most likely vote for?"

R.L. JACOBS: the Republican
or
HARVEY PASCAL: the Democrat

JACOBS: circle RJ.
PASCAL: circle HP.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE REPRESENTATIVE: POST 1: were being held tomorrow, who would you most likely vote for?"

JACK VAUGHAN: the Republican
or
IRMA GLOVER: the Democrat

VAUGHAN: circle JV.
GLOVER: circle IG.
Undecided or does not respond: circle U.
Refused: circle R.

0504365502 4

"If the election for STATE REPRESENTATIVE: POST 2: were being held tomorrow, who would you most likely vote for?"

GRESHAM HOWREN: the Republican
or
SAM HENSLEY: the Democrat

HOWREN: circle GH.
HENSLEY: circle SH.
Undecided or does not respond: circle U.
Refused: circle R.

"If the election for STATE REPRESENTATIVE: POST 5: were being held tomorrow, who would you most likely vote for?"

EARL EHRHART: the Republican
or
JOE MACK WILSON: the Democrat

EHRHART: circle EE.
WILSON: circle JW.
Undecided or does not respond: circle U.
Refused: circle R.

[IF VOTING FOR GEORGE BUSH, SAY]: "The election will be on Jacobs gummed labels for targeted precincts Peggs
Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

0504365502 5

BALLOT CODE 31, 61, 71, PHONE BANK SCRIPT

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.] "This is LEE SMITH calling from National Research Services. We are conducting a short one minute survey here in Georgia about the upcoming election.

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE Y

"If the election for PRESIDENT OF THE UNITED STATES, were being held tomorrow, who would you most likely vote for?"

GEORGE BUSH: the Republican

or

MIKE DUKAKIS: the Democrat

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THE RESPONSE IS GEORGE BUSH, SAY]: "The election will be on Tuesday, NOVEMBER 8th. Please be sure to mark your calendar to vote."

"Thank you for your time. Bye-bye."

[MAKE NO OTHER MARKS ON SHEET.]
[GO THROUGH SHEETS ONLY ONE TIME.]
[WE ARE NOT TRYING TO CONVINCE ANYONE TO VOTE FOR ANY CANDIDATE. THE CALLS SHOULD BE MADE IN AN UNBIASED MANNER. THIS IS VERY IMPORTANT.]
[IF ASKED WHICH CANDIDATES WE WORK FOR, JUST SAY THAT YOU DON'T KNOW.]

2504365550 26

EXHIBIT 2B4

2504365502 7

\BLE SCRIPT

____ _____. MY NAME IS
NTEER CALLING YOU ON BEHALF

:OUNT ON YOUR SUPPORT ON Yes - Yellow
K YOU FOR YOUR TIME. No - Green
GOODBYE." IF YES, CONTINUE.) Undec. - Blue

WILL YOU, OR ANY MEMBER OF YOUR FAMILY NEED A RIDE
TO THE POLLS ON ELECTION DAY? (IF YES: RECONFIRM RIDE - RIDE
ADDRESS")

WILL YOU OR ANY MEMBER OF YOUR FAMILY NEED AN
ABSENTEE BALLOT BEFORE ELECTION DAY? (IF YES:
VERIFY NAME AND ADDRESS")

COULD WE PLACE A YARDSIGN AT YOUR HOME? (IF YES: YARDSIGN - YARD
VERIFY NAME AND ADDRESS")

WOULD YOU LIKE TO VOLUNTEER SOME OF YOUR TIM TO HELP US
ELECT GEORGE BUSH THE NEXT PRESIDENT OF THE U
STATES? (IF YES: VERIFY NAME, PHONE NUMBER
WRITE NAME ON SEPERATE SHEET OF PAPER AND GIV
SUPERVISOR.)

2504365 5028

VA 13
1980-0861

510 Tauber
Way
30064

...SIE. IF YES, CONTINUE.)

Under Blue

WILL YOU, OR ANY MEMBER OF YOUR FAMILY NEED A RIDE TO THE POLLS ON ELECTION DAY? (IF YES: RECONFIRM ADDRESS")

Ride = Ride

~~WILL YOU OR ANY MEMBER OF YOUR FAMILY NEED AN ABSENTEE BALLOT BEFORE ELECTION DAY? (IF YES: VERIFY NAME AND ADDRESS")~~

COULD WE PLACE A YARDSIGN AT YOUR HOME? (IF YES: VERIFY NAME AND ADDRESS")

write Yard next to Name.

WOULD YOU LIKE TO VOLUNTEER SOME OF YOUR TIME TO HELP US ELECT GEORGE BUSH THE NEXT PRESIDENT OF THE UNITED STATES? (IF YES: VERIFY NAME PHONE NUMBER AND ADDRESS

GOODBYE." IF YES, CONTINUE.) Undec.-Blue

WILL YOU, OR ANY MEMBER OF YOUR FAMILY NEED A RIDE TO THE POLLS ON ELECTION DAY? (IF YES: RECONFIRM ADDRESS") RIDE = RIDE

~~WILL YOU OR ANY MEMBER OF YOUR FAMILY NEED AN ABSENTEE BALLOT BEFORE ELECTION DAY? (IF YES: VERIFY NAME AND ADDRESS")~~

COULD WE PLACE A YARDSIGN AT YOUR HOME? (IF YES: VERIFY NAME AND ADDRESS") YARDSIGN = YARD

WOULD YOU LIKE TO VOLUNTEER SOME OF YOUR TIME TO HELP US ELECT GEORGE BUSH THE NEXT PRESIDENT OF THE UNITED STATES? (IF YES: VERIFY NAME, PHONE NUMBER AND ADDRESS

SOOBIE." IF YES, CONTINUE 5 0 3 1 Undec.-Blue

WILL YOU, OR ANY MEMBER OF YOUR FAMILY NEED A RIDE TO THE POLLS ON ELECTION DAY? (IF YES: RECONFIRM ADDRESS") RIDE = RIDE

WILL YOU OR ANY MEMBER OF YOUR FAMILY NEED AN ABSENTEE BALLOT BEFORE ELECTION DAY? (IF YES: VERIFY NAME AND ADDRESS")

COULD WE PLACE A YARDSIGN AT YOUR HOME? (IF YES: VERIFY NAME AND ADDRESS") YARDSIGN = YARD

WOULD YOU LIKE TO VOLUNTEER SOME OF YOUR TIME TO HELP US ELECT GEORGE BUSH THE NEXT PRESIDENT OF THE UNITED STATES? (IF YES: VERIFY NAME, PHONE NUMBER AND ADDRESS

DUE TO THEIR BULK, THE ATTACHMENTS SUBMITTED UNDER "EXHIBIT 2B5" HAVE BEEN REMOVED FROM THE FILE.

2504365503 2

EXHIBIT 2C1

2504365503

Phone Script
Bush\Quayle '88

Good evening\ day\ morning - may I speak to

Mr.\ Mrs. _____, my name is _____ and I'm a
(NAME) (Your Name)

volunteer for George Bush out calling you tonight to remind you to vote next Tuesday. This election may be very close so please don't forget to vote.

Will you be needing a ride to the polls?
(If yes, get name, address, and phone number and were they normal vote.)

Thank you and please remind your family and friends to VOTE.

Foot Note: With all your help we will have a VICTORY in '88

EXHIBIT 2C2

2504365550035

ACTIVE PHONE NUMBERS

Administrative:

Main Line 264-1988

Rollover	240-0336		
Rollover	240-0338	Other	264-1023
Rollover	240-0337	Other	264-1017

Phone bank Lines:

240-0146	240-0297	240-0368
240-0147	240-0298	240-0369
240-0148	240-0299	240-0452
240-0149	240-0361	240-0453
240-0248	240-0362	240-0454
240-0249	240-0363	240-0455
240-0293	240-0364	240-0456
240-0294	240-0365	240-0457
240-0295	240-0366	240-0458
240-0296	240-0367	240-0459

7504365036

EXHIBIT 2C3

2504365503 7

PHONE SERVICE VENDORS

DATE	VENDOR	CK	STATE AMOUNT	FEDERAL AMOUNT
08/04	SOUTHERN BELL	119		$2,400.60
08/04	SOUTHERN BELL	120		$59.40
08/11	TELECO USA	128		$400.00
08/26	TELECO USA	136		$110.00
09/12	TELECO USA	172		$280.00
09/19	SOUTHERN BELL	182		$1,455.50
09/27	SOUTHERN BELL	216		$2,720.00
09/28	TELECO USA	225		$77.00
09/28	SOUTHERN BELL	227		$1,255.61
10/03	SOUTHERN BELL	260		$1,595.00
10/03	SOUTHERN BELL	262		$80.00
10/18	TELECO USA	308		$1,365.00
10/21	SOUTHERN BELL	321		$2,214.63
10/28	TELECO USA	334		$145.00
12/03	TELECO USA	128	$68.00	
1/30/89	SOUTHERN BELL-DEP. REFUND		($1,690.16)	
	TOTAL		($1,622.16)	$14,157.74

0504365058

Southern Bell

Special Accounts Service Center

Room 8-70
5147 Peachtree Industrial Boulevard
Chamblee, Georgia 30341
(404) 451-7900

September 14, 1988

Victory 88 Committee
Attn: Bart Turney
3400 Wooddale Drive N.E.
Atlanta, GA 30326

Dear Mr. Turney:

In order to conform with the established Corporate Policy regarding the provision of communications services used for political activities, this is to confirm our request for an additional deposit of $150.00 on telephone account number 264-1988.

Please send the deposit by September 21, 1988 (7 calendar days from postmark) in order that we may continue to provide your communications services.

Yours very truly,

Gail Holder

Gail Holder
Service Representative

Pam

2504365039

2 5 0 4 3 6 5 5 0 4 0

Southern Bell
A BELLSOUTH Company

Advance Payment Receipt

[illegible] W DOM2 10/03/88 [illegible]
[illegible]7675 B VICTORY 88

Southern Bell
A BELLSOUTH Company

Advance Payment Receipt

GD6 TD6 W DOM0 09/27/88 001115.00 C001
AP AH07647 B VICTORY 88

>5043655041

GEORGE BUSH ADVOCACY SCRIPT

Script: [FOLLOW EXACTLY. IF NO ANSWER AFTER FIVE RINGS, HANG UP.]

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on behalf of Vice President Bush. We hope that you will consider voting for Vice President Bush who is the conservative Candidate for President. He believes in a strong defense and is tough on crime. Can Vice President Bush count on your vote this year. ?"

IF WRONG NUMBER:	CIRCLE W, STRIKE THROUGH THE WRONG PHONE NUMBER AND WRITE IN CORRECT PHONE NUMBER.
IF DISC:	CIRCLE D, STRIKE NUMBER
REFUSE TO TALK AT ALL:	CIRCLE R
IF THEY ANSWER THE QUESTIONS:	CIRCLE V

this script - calls made by volunteers

[IF THEY INDICATE WHO THEY ARE VOTING FOR, CIRCLE]

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THEY ASK YOU WHY BUSH, SAY.]

"I think that his experience makes him more qualified, and he will carry on President Reagan's programs. We don't need to go back to the policies that gave us high interest rates and inflation.

Can Vice President Bush count on your support?"

BUSH: circle GB.
DUKAKIS: circle MD.
Undecided or does not respond: circle U.
Refused: circle R.

[IF THE RESPONSE IS BUSH, SAY]:

"Thank you very much. The election will be TUESDAY, NOVEMBER 8.

"The Vice President needs to do some advertising in your neighborhood. Can we put a small Bush yard sign up in your yard?"

[IF YES, WRITE "YS" ON RIGHT HAND SIDE OF VOTER ID CODES]

[THEN SAY]:

"Thank you very much for your time, Bye Bye."

[IF THEY HAVE A QUESTION FOR BUSH, WRITE IT DOWN ON A SEPARATE SHEET WITH NAME, ADDRESS, AND PHONE #.]
[MAKE NO OTHER MARKS ON SHEET, GO THROUGH SHEETS ONLY ONE TIME.]

2504365042

GEORGE BUSH TURNOUT SCRIPT

Script: [FOLLOW EXACTLY. IF NO ANSWER AFTER FIVE RINGS, HANG UP.]

"May I speak to [voters name.]" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on behalf of George Bush for President just to remind you that this Tuesday is election day."

[CONTINUE IF THE PERSON DOESN'T SEEM ANXIOUS TO TERMINATE THE CALL]

The election may be close in Georgia so your vote is very important. We were calling to see if Vice- President Bush can count on your vote."

WAIT FOR A RESPONSE

"Thank you very much. You need to punch #8 on your ballot to vote for Vice President Bush. In order to vote for the other Republican candidates, you need to punch #23."

Thank you again. Bye, Bye."

[CIRCLE "GB" IN LAST COLUMN, WHEN CALL IS COMPLETED]

[WRONG NUMBER, WRITE "WN" NEXT TO THE PHONE NUMBER. WRITE IN CORRECT NUMBER AND STRIKE THROUGH THE WRONG NUMBER.]

[DISCONNECTED, WRITE "D" NEXT TO PHONE NUMBER.]

[IF THEY HAVE A QUESTION ABOUT WHERE THEY SHOULD VOTE, WHAT PRECINCT THEY ARE IN, ETC. ASK THEM TO CALL 423-2300 FOR THE ANSWER.]

2504365 50043

Not previously submitted

GEORGE BUSH TURNOUT SCRIPT 1

Script: [FOLLOW EXACTL[illegible] IF NO ANSWER AFTER FIVE R[illegible]S, HANG UP.]

"May I speak to (voters name.)" [IF MORE THAN ONE VOTER IS LISTED AT A NUMBER USE THE MAN'S NAME IF A MAN ANSWERS THE PHONE. IF A WOMAN ANSWERS USE THE WOMAN'S.]

"Hello, this is YOUR NAME: I am calling on behalf of George Bush for President just to remind you that this Tuesday is election day. The election may be close in Georgia so your vote is very important to Vice President Bush. Please put voting on top of your TUESDAY to do list."

WAIT FOR A RESPONSE

"Thank you very much. You need to punch #8 on your ballot to vote for Vice President Bush. In order to vote for the other Republican candidates, you need to punch #23."

Thank you again. Bye, Bye."

[CIRCLE "GB" IN LAST COLUMN, WHEN CALL IS COMPLETED]

[WRONG NUMBER, WRITE "WN" NEXT TO THE PHONE NUMBER. WRITE IN CORRECT NUMBER AND STRIKE THROUGH THE WRONG NUMBER.]

[DISCONNECTED, WRITE "D" NEXT TO PHONE NUMBER.]

[IF THEY HAVE A QUESTION ABOUT WHERE THEY SHOULD VOTE, WHAT PRECINCT THEY ARE IN, ETC. ASK THEM TO CALL 423-2300 FOR THE ANSWER.]

I believe this script was used by volunteers calling East Cobb Bush favorables on Sat, Sun, Monday before election on Nov. 8.

No paid people were ever used to call East Cobb

2504365014

ELECTION DAY CALL

"Hello, THEIR NAME, This is YOUR NAME from VICE PRESIDENT BUSH's campaign. We realize you have been called before, but we wanted to invite you to our victory party tonight and ask you if you had had a chance to vote yet?

If answer is	Reply
Yes	That's great. Thank you very much.
No	The news about turnout is exciting. We can win GEORGIA if we our supporters continue to vote. WE MAY BE IN A CLOSE RACE. Your vote is very important. The polls close at 7:00 o'clock.

The victory party will be in the Waverly Hotel Ballroom starting 7:00 P.M. tonight. Bye, Bye."

AFTER THE CALL IS COMPLETED (YOU HAVE TALKED TO SOMEONE) CIRCLE GB.

This script used by volunteers.

2504365 50045

EXHIBIT 2B5

>5043655046

Southern Bell
A BELLSOUTH Company

Deposit Receipt

RF-9040-5
17-4

See Reverse For Deposit Disclaimer

606 LHM W 0011 09/19/88 $$1230.00 CKM
DEP HA83520 B 404264198[illegible]

Southern Bell
A BELLSOUTH Company

Advance Payment Receipt

606 LHM W 0011 09/19/88 [illegible].00 CKM
AP [illegible] B D 2641988

Southern Bell
A BELLSOUTH Company

Payment Receipt

RF-904[illegible]

606 LHM W 0011 09/19/88 $$$140.50 CKMI
PAYM 404-264-1988-988 I

To: Pam Prochnow
From: Mark S. Wagner
Re: Victory 88 Phone Banks
Date: September 27, 1988

Pam we are at a dead stop on getting the 32 line phone bank installed for the 8th of Oct. because Southern Bell requires a check before any work can be started.

Southern Bell needs a check delivered today by 5:00 in order to have the lines in operation by the 8th. The amount is for $2,720.00 and it is broken down into this manner:

$1,605.00 Deposit
$1,115.00 Advance Deposit

I will give you a call later on today to see when I can pick up the check.

Thanks Mark

Philip Tullel

pd
✓# 216

>5043605048

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 300 S
ATLANTA, GA 30309

216

4-27. 19 88

PAY TO THE ORDER OF Southern Bell $ 2720.00

Two thousand seven hundred twenty dollars DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

Southern Bell

[redacted]

[illegible]

[illegible]

[illegible

To: Pam Prochnow
From: Mark E. Wagner - & Chip Felkel
Re: Victory 88 Phone Banks
Date: Oct. 3, 1988

Pam we are at a dead stop on getting the 30 line phone bank installed for the 8th of Oct. again, because Southern Bell requires a second check for an extra month of service. They had forgotten to tell us of this before, when the order was being processed.

Southern Bell needs a check delivered by 5:00 today in order to have the lines in operation by the 8th. The amount is for $1,675.00 and it is broken down into this areas:

$1,595.00 Deposit
$ 80.00 Terminal Block

We will receive a full refund for the $1,595.00 after are account is closed on Nov. 8th.

I will give you a call later on today to see when I can pick up the check.

Chip Felkel
Voter I.D.

2504365050

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 500 S
ATLANTA, GA 30309

262

10-3 19 88

PAY TO THE ORDER OF [illegible] $ 80.00

[illegible] DOLLARS

The Citizens and Southern National Bank
Atlanta, Georgia

[redacted]

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 500 S
ATLANTA, GA 30309

260

10-3 19 88

PAY TO THE ORDER OF [illegible] $ 1,595.00

[illegible] DOLLARS

The Citizens and Southern National Bank
Atlanta, Georgia

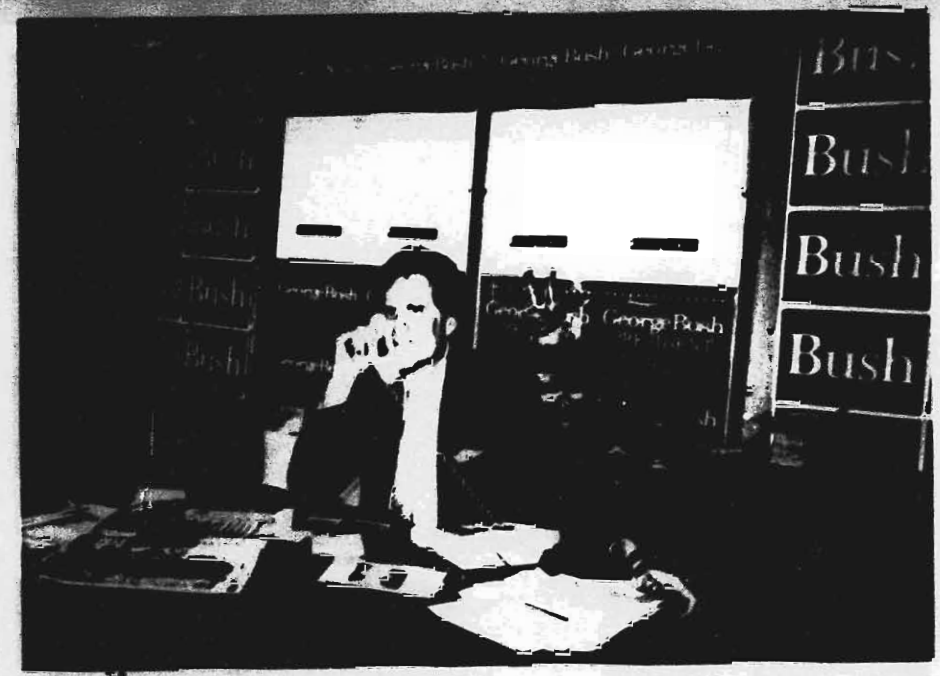
[redacted]

0 5 0 4 3 6 5 5 0 5 1

EXHIBIT 2C4

2 5 0 4 3 6 5 5 0 5 2

Volunteer Dell James and Sue Lancaster-Volunteer Coordinator at Victory '88 Headquarters with the Volunteer Phone bank in the background.



Volunteer Stuart Elder making calls at Victory '88 Headquarters.

Mark Wagner-Volunteer Phone Bank Coordinator at his desk at Victory '88 Headquarters - Note the Volunteer Phone Bank Calendar in background

5043655

Volunteer Julie Davis at Victory '88 Headquarters looking up phone numbers for volunteer phone bank.

9504365504

EXHIBIT 2C5

2504365505 5

DUE TO THEIR BULK, THE ATTACHMENTS SUBMITTED UNDER "EXHIBIT 2C5" HAVE BEEN REMOVED FROM THE FILE.

2504365506

EXHIBIT 2C6

2504365505 7

MEMORANDUM

TO: Pam Prochnow

FROM: Chip Felker

RE: Request for Check

DATE: October 31, 1980

[illegible] ing [illegible]
[illegible] and 10:00 [illegible] pick up
paychecks and expense checks, and it would be most helpful
if we could pick up [illegible] check at the same [illegible]

[illegible] is around $200.00 and shou[illegible] [illegible]ted
[illegible] designed for Vo[illegible]
[illegible] volunteer[illegible]
[illegible] we have 40 to 50 [illegible]
[illegible] for the duration [illegible]

As soon as Mar[illegible] from Sam's we will f[illegible] you the
[illegible] so you [illegible] it for your records.

[illegible] for your help.

Chip Felker
Volunteer Coord.

•••END•••

#208.64

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

349

10-31 19 88 ~~815~~ 810

PAY TO THE ORDER OF Sawhill Club $

PAYROLL

DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

Volunteer Lindy

[redacted]

⑆ 0 4 3 6 7 5 0 5 9

JUICE

DIET COKE

CLASSIC

VITAMIN C

STAIN REMOVER

RAD-RESISTANT

EXHIBIT 2D1

2504365550061

VICTORY '88 PHONE BANK EXPENDITURES
CAMPAIGN TELECOMMUNICATIONS, INC.

DATE	PROGRAM	CHECK #	NON-FEDERAL AMOUNT	FEDERAL AMOUNT	TOTAL $ SPENT
9/30/88	VOTER ID CALLS	WIRE	$69,600.00		
10/20/88	VOTER ID CALLS	318		$50,000.00	
	TOTAL SPENT ON ID CALLS				$119,600.00

****

TOTAL GA VOTER ID PROGRAM COST	$189,200.00
PAID BY VICTORY '88 - GA (SEE ABOVE)	($119,600.00)
BALANCE PAID BY RNC-COORDINATED EXPENDITURE	($69,600.00)

2504365 5062

EXHIBIT 2D2

7504365503

Bush 88 Quayle

733 15th Street, N.W.
Suite 800
Washington, D.C. 20005
202/842-1988

October 14, 1988

RNC ACCT

Mr. Jay Banning
Republican National Committee
310 First Street, SE
Washington, D.C. 20003

Dear Jay;

This letter is authorization for the Republican National Committee to make the following payment on behalf of Bush-Quayle 88, Inc. from the coordinated funds. The payment will be in the form of a wire transfer to the vendor and in the amount listed below.

Campaign Telecommunications, Inc.
Amount of $ 419,519.33

Sincerely:

Stan Huckaby
Treasurer

ACCT # =
BANK - CITI BANK
123 E 86TH ST
NYC 10028
ROUTE # 021000089

SH/pw

2504365550 64

VENDOR NUMBER	VENDOR NAME			CHECK DATE	CHECK NO.
CAM355	Campaign Telecommunications, Inc.			10/14/88	10636
INVOICE NO.	INVOICE AMOUNT	ADJUSTMENT	NET AMOUNT	EXPLANATION	
CA1014	$419,519.33		$419,519.33	telemarketing costs	

Republican National Committee.

310 First Street Southeast, Washington, D.C. 20003.

CHECK NO. 010636

Pay exactly **419,519** dollars and 33 cents

DATE	CHECK NUMBER
10/14/88	10636

PAY TO THE ORDER OF: Campaign Telecommunications, Inc.

AMOUNT $**419,519.33**

WIRE TRANSFER

⑈010636⑈ ⑆056004089⑆ 651⑈7307499⑈

Received Time Aug. 17. 3:28PM Print Time Aug. 17. 3:29PM

CAMPAIGN

TELECOMMUNICATIONS

October 11, 1988

BUSH FOR PRESIDENT
Attention: Jim Wray

Re: Telephone Program

INVOICE

Completed Calls To Date

North Carolina	$ 4,225.00
Florida	50,460.00
New Jersey	24,590.00
Kentucky	33,988.00
Mississippi	32,460.00
Alabama	19,333.33
South Carolina	31,800.00
Tennessee	56,028.00
Georgia	69,600.00
Ohio	44,835.00
Illinois	52,200.00

BALANCE DUE $419,519.33

Total Amount Due Upon Receipt.

Certified or Cashier's Check Requested.

Please remit to: *Campaign Telecommunications Inc.*
1556 Third Avenue, Suite 209
New York, New York 10128

Thank You.

[IBFP1011]

10-12
"IB" 33P27XX

Bush 88 Quayle

STAN HUCKABY, Treasurer

April 30, 1992

Mr. Robert J. Costa
Assistant Staff Director
for the Audit Division
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Mr. Costa:

At the request or Mr. Marvin H. Smith, Treasurer of the Georgia Republican Party, I am enclosing the following items:

1. A copy of the documentation supporting the request dated October 14, 1988 from Stan Huckaby, Bush-Quayle '88 Treasurer, to Jay Banning, Comptroller of the Republican National Committee (RNC), for an RNC disbursement of $ 419,519.33 in co-ordinated funds to Campaign Telecommunications, Inc., of which $ 69,600 is referenced on the invoice for "Completed Calls to Date" for Georgia.

2. A copy of the documentation supporting the Bush-Quayle '88 payment of $ 1,965.17 to Georgia Victory '88 on September 28, 1988.

Sincerely:

Keith A. Davis
Assistant Treasurer
Bush-Quayle '88

encls.

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

The Citizens and Southern Banks

WIRE TRANSFER DEPARTMENT

ADVICE

GA REPUBLICAN PARTY
1776 PEACHTREE STREET
ATLANTA, GA 30309

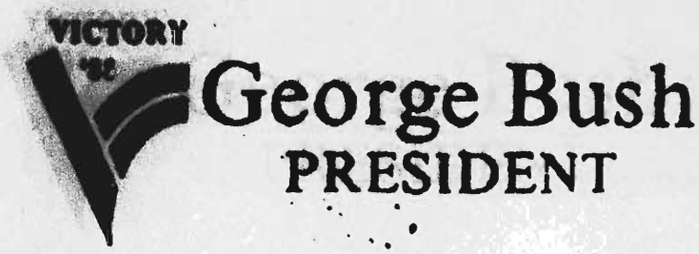
ON THIS DATE 09/30/88 WE HAVE:

DEBITED YOUR ACCOUNT [redacted] $69,600.00 REF NO.88093000127
CS NATL ATL /ORG-GEORGIA REPUBLICAN PARTY
CITIBANK NYC /CTR/BNF=CAMPAIGN TELECOMMUNICATIONS NEW YORK/AC-02039961
BYI=SEQ-880930001272 ATTN STEVE GOLDBERG

09301209 F1T1A 042

0504365508

(5)



MEMORANDUM FOR PAM PROCHNOW
MARVIN SMITH

FROM: JAY MORGAN

SUBJ: PAYMENT OF VENDOR PHONE CALLS

DATE: 9/20/88

As you are aware, our Victory '88 plan calls for vendor completed phone calls. After reviewing Georgia state law and federal election law with our counsel, here is the appropriate payment schedule for those calls whose projected cost is $210,000:

1st Payment - [redacted]

2nd Payment - Oct. 7 [redacted] $70,000 to be drawn from Victory '88 Federal Account

3rd Payment - Oct. 15 $70,000 to be drawn from Bush-Quayle '88

Checks should be made payable to Campaign Technology, Inc.
If you have any questions regarding this payment schedule or the particular accounts to be drawn on, please call me at 264-1988.

Thanks for all your help.

3400 Wooddale Drive
Atlanta, Georgia 30326
[redacted]

7504365 5069

VICTORY '88

George Bush
PRESIDENT

Chip - Fully

(6)

MEMORANDUM FOR PAM PROCHNOW

FROM: JAY MORGAN

SUBJ: PAYMENT FOR PHONE BANKS

DATE: 9/27/88

Per our discussion earlier today, please wire payment from the Victory '88 State Account for $69,600.

This represents approximately half of Victory '88 Georgia's commitment to this program. The budget reflects that each call costs 58¢. With over 120,000 calls already completed, this payment is on time and on schedule.

Attached is the wire transfer procedure that we request you follow which has been prescribed by our attorneys in DC. Thanks for your help.

3400 Wooddale Drive
Atlanta, Georgia 30326
Telephone: (404) 264-1988 FAX: (404) 240-0338

MEMORANDUM

TO: Pam Prochnow

FROM: Chip Felkel

DATE: October 19, 1988

RE: Check for Phone Bank

Please consider this my formal request for you to issue a check in the amount of $50,000 to Goldberg and Associates for our phone bank.

I believe you have all other pertinent information on this invoice, including address to which the check should be mailed, etc. did not

The amount should be debited from the phone bank portion of the budget. Regular

Thanks.

Chip Felkel = Campaign Telecommunications
1555 3rd Ave
S 209

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 580 S
ATLANTA, GA 30309

318

10-20 1988 86-610

PAY TO THE ORDER OF Campaign Telecommunications $ 50,000.00

Fifty Thousand & 00/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

EXHIBIT 2D3

2504365507 2

VICTORY '88 PHONE BANK EXPENDITURES
CAMPAIGN TELECOMMUNICATIONS, INC.

DATE	PROGRAM	CHECK #	NON-FEDERAL AMOUNT	FEDERAL AMOUNT	TOTAL $ SPENT
11/3/88	GOTV CALLS	368		$10,000.00	
11/3/88	GOTV CALLS	105	$80,000.00		
11/7/88	GOTV CALLS	107	$23,099.00		
11/7/88	GOTV CALLS	370		$16,000.00	
TOTAL BY ACCOUNT			$103,099.00	$26,000.00	

TOTAL SPENT ON GOTV CALLS $129,099.00
(ALL CALLS BELIEVED TO BE GENERIC/NON-CANDIDATE SPECIFIC)

****

ALLOCATION
(See attached memo date 11/3/88 titled "State Dollars for Victory '88")

		ACTUAL $ SPENT
TOTAL COST OF GOTV PROGRAM	$129,099.00	
ALLOCATED @ 20% FEDERAL		20% FEDERAL DOLLARS
TOTAL OF GOTV PROGRAM FEDERAL DOLLARS	$25,819.80	$26,000.00
TOTAL OF GOTV PROGRAM NON-FEDERAL DOLLARS	$103,279.20	$103,099.00

2504365503

EXHIBIT 2D4

2504365507/4

November 3, 1988

TO: PAUL COVERDELL, FRED COOPER, JOHN STUCKEY, LEE RAUDONIS, MARVIN SMITH AND RICHARD BELL

FROM: PAM PROCHNOW, FINANCE DIRECTOR

RE: $129,099.00 TO CAMPAIGN TELECOMMUNICATIONS FOR 226,000 GOTV PHONE CALLS

IT IS ABSOLUTELY NECESSARY THAT VICTORY '88-GEORGIA PAY $90,000 OF THIS TOTAL BILL TODAY.

THE PROBLEM ARISES IN THAT IN ORDER TO MAKE THIS $90,000 PAYMENT, $80,000 MUST COME FROM THE VICTORY '88-GEORGIA STATE/CORPORATE ACCOUNT AND THERE ARE LEGAL CONSTRAINTS ON THE USE OF THOSE DOLLARS.

THE PROBLEM COMPOUNDS ITSELF AS I HAVE BEEN UNABLE TO VERIFY THE LEGALITY OF THIS PAYMENT WITH CORPORATE DOLLARS.

MY DECISION TO NOT CUT THE CHECK ON 11-2-88 WAS BASED ON WHAT I SEE AS MY RESPONSIBILITY TO ABIDE BY CAMPAIGN LAWS ON BEHALF OF GEORGE BUSH, PAUL COVERDELL, FRED COOPER, JOHN STUCKEY, LEE RAUDONIS, MARVIN SMITH, RICHARD BELL AND PAM PROCHNOW.

IT IS CORRECT TO ASSUME THAT IN ORDER TO PAY THE TOTAL $129,099.00 WE WILL NEED TO USE ADDITIONAL DOLLARS FROM THE STATE ACCOUNT.

A RESOLUTION OF THIS PROBLEM MUST BE FOUND THIS MORNING. A SOLUTION MIGHT BE TO HAVE IN WRITING BY THE BUSH-QUAYLE CAMPAIGN THE LEGALITY OF THIS PAYMENT.

0504365 5075

George Bush
PRESIDENT

MEMORANDUM FOR PAUL D. COVERDELL
PAMLA PROCHNOW

FROM: JAY MORGAN

SUBJ: CAMPAIGN TECHNOLOGY BILLS

DATE: 11/3/88

This memo is a follow-up to my phone conversation with Sen. Coverdell at 9:52AM today.

Please write the following checks for bills incurred by Victory '88 with Campaign Technology, Inc.

$20,000 from Victory '88 GA Federal

80,000 from Victory '88 GA State

Once you cut these checks, please notify Lindey Fitzgerald in our office, 264-1988. Lindey will be sending these checks by Federal Express to New York today so that our phone programs are not interrupted.

This does not settle our account with Campaign Technology in total. We will cut final checks on Monday, November 7, for approximately $50,000 following a similar mix of federal and state dollars.

Mr. Cooper instructed me NOT to curb programs as outlined by the memo which we reviewed in our meeting at this headquarters with you, Mrs. Prochnow, Mr. Cooper, and Mr. Felkel. Mr. Cooper gave me this instruction on Tuesday, November 1. We are pursuing those plans.

cc: Mr. Fred Cooper
Mr. Chip Felkel

3400 Wooddale Drive
Atlanta, Georgia 30326
Telephone: (404) 264-1988 FAX: (404) 240-0338

PAID FOR BY GEORGIA VICTORY '88

2504365507 6

VICTORY '88

George Bush
PRESIDENT

MEMORANDUM FOR PAUL D. COVERDELL
PAMLA PROCHNOW

FROM: JAY MORGAN

SUBJ: STATE DOLLARS FOR VICTORY '88 PROGRAMS

DATE: 11/3/88

Pursuant to our phone conversation this morning, I thought it would be wise to put our understanding on paper regarding use of state dollars for get out the vote phone banks.

The phone bank program is generic in nature. In other words, it is not candidate specific and therefore does not mention ANY candidate's name. The phone bank script encourages past GOP primary voters, Super Tuesday GOP voters, and past GOP candidate supporters to remember to support the GOP ticket on Tuesday, November 8. Due to the large number of state and local candidates on the ballot in Georgia this year, we have determined that much of this program may be paid for with state dollars. However, since the Presidential campaign and targeted congressional campaigns will also accrue some benefit, a portion of the cost must be paid with federal dollars.

Using the percentage of the ballot as a guide, we have determined that roughly 20% of this program must be paid for with federal dollars. While the ballot varies in every county, we believe the 20% figure is a fair and reasonable amount to be paid for in federal dollars.

In all payments for the get out the vote phone program, please make sure that AT LEAST 20% of the costs are paid with Victory '88 federal dollars.

Thanks for your help and cooperation.

3400 Wooddale Drive
Atlanta, Georgia 30326
Telephone: (404) 264-1988 FAX: (404) 240-0338

PAID FOR BY GEORGIA VICTORY '88

50436550777

EXHIBIT 2D5

2504365507 8

GEORGIA REPUBLICAN PARTY
VICTORY 88 STATE ACCOUNT
[redacted]
1776 PEACHTREE ST. SUITE 500-B
ATLANTA, GA 30309

105

11-3 1988

PAY TO THE ORDER OF Georgia Republican Party $ 80,000.00

Eighty thousand dollars and NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

For Telephone Bank [redacted]

[redacted]

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

368

11-3 19 88

PAY TO THE ORDER OF Congressional Telecommunication $ 10,000.00

Ten thousand dollars and no/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

See Corporate ck. 105 [redacted]

7504365080

George Bush
PRESIDENT

MEMORANDUM FOR PAUL D. COVERDELL
PAMLA PROCHNOW

FROM: JAY MORGAN

SUBJ: CHECKS FOR CAMPAIGN TECHNOLOGY

DATE: 11/7/88

Pursuant to our earlier conversation today, I have confirmed that all get out the vote calls will be made for Georgia. As I noted, if by some outside chance all calls are not completed, a refund will be forthcoming from Campaign Tech.

As such, please process checks for Campaign Tech in the following amounts:

$18,775 from monies deposited on 11/8 From Louisiana

$39,099 from current Victory '88 funds on hand

39,099
16 000
23,099

Thanks for your help. I will have someone pick up the checks between 5:30 and 6:00pm TODAY.

cc: Chip Felkel

GEORGIA REPUBLICAN PARTY
VICTORY [redacted]
1776 PEACHTREE ST. SUITE 500-S
ATLANTA, GA 30309

107

PAY TO THE ORDER OF Campaign Tele[illegible] 11-7 19 88

Twenty-three thousand ninety-nine dollars and no/100 $ 23,099.00

C&S The Citizens and Southern National Bank Atlanta, Georgia

FOR GOTV [illegible]

[redacted]

George Bush
PRESIDENT

MEMORANDUM FOR PAUL D. COVERDELL
PAMLA PROCHNOW

FROM: JAY MORGAN

SUBJ: CHECKS FOR CAMPAIGN TECHNOLOGY

DATE: 11/7/88

Pursuant to our earlier conversation today, I have confirmed that all get out the vote calls will be made for Georgia. As I noted, if by some outside chance all calls are not completed, a refund will be forthcoming from Campaign Tech.

As such, please process checks for Campaign Tech in the following amounts:

$18,775 from monies deposited on 11/8 From Louisiana

$39,099 from current Victory '88 funds on hand

39,099
16 000 Fed
23,099 Sta

Thanks for your help. I will have someone pick up the checks between 5:30 and 6:00pm TODAY.

cc: Chip Felkel

VICTORY 88
GEORGIA REPUBLICAN PARTY
1776 PEACHTREE STREET SUITE 500 S
ATLANTA, GA 30309

370

11-7 19 88

PAY TO THE ORDER OF [illegible] $ 16,000 NO/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[illegible]

EXHIBIT 2D6

2504365508 3

CAMPAIGN

TELECOMMUNICATIONS

October 25, 1988

VICTORY '88 - Georgia

INVOICE

G.O.T.V. PHONE PROGRAM

226,000 Completed Calls @ .48 per call $108,480.00

Total Amount Due November 3rd.

Please remit to: Campaign Telecommunications Inc.
1656 Third Avenue Suite [illegible]
New York, New York 10128

Thank You.

[illegible]

TURNOUT

Gary - GBFP pays 38,666 -

1656 3rd Ave New York 10128

November 2, 1988

GEORGIA REPUBLICAN PARTY

INVOICE

GENERIC G.O.T.V. CALLS

G.O.T.V. Calls / Non-Candidates Specific

AMOUNT DUE $90,000.00

Total Amount Due November 3rd, 1988.

Received 11/4/88

Please remit to: Campaign Telecommunications Inc.
1556 Third Avenue, Suite 209
New York, New York 10128

Thank You,

[IGOTVGA]

0504365 5 0 0 8 5

Republican
National
Committee

Frank J. Fahrenkopf, Jr.
Chairman

October 17, 1988

Mr. John M. Stuckey, Chairman
Georgia Republican Party
1776 Peachtree Street, N.W.
Suite 550
Atlanta, Georgia 30309

Dear John:

The Republican National Committee is pleased to send you a check in the amount of $50,000, payable to the Georgia Republican Party for your party building efforts.

This money should not be used to make contributions or expenditures in support of specific candidates for federal office without the express written approval of the RNC. None of the funds transferred from the RNC shall be used for the cost of volunteer campaign materials used by you on behalf of any candidate for federal office. [See 11CFR 100.7 (b) (15)].

We appreciate the job you are doing in your state and hope that this money will be useful to your efforts.

Very truly yours,

Frank J. Fahrenkopf, Jr.

Enclosure

cc: Regional Political Directors
Carl L. Gillis, Jr.
Carolyn Meadows

25043655086

Dwight D. Eisenhower Republican Center • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8700
Telex: 701144 • FAX: (202) 863-8820

2 5 0 4 3 6 5 5 0 8 7

Republican National Committee.

310 First Street Southeast, Washington, D.C. 20003.

NO 010661

SUNTRUST BANK
8230 GOODS BLVD.
VIENNA VA. 22180

DATE | CHECK NUMBER

Pay exactly **50,000** dollars and zero cents 10/17/88 10661

PAY TO THE ORDER OF Georgia Republican Party

AMOUNT $**50,000.00***

VOID AFTER 90 DAYS

⑈010661⑈ ⑆056004089⑆ 651-7307499⑈

EXHIBIT 3A

2504365508 8

VENDOR NUMBER	VENDOR NAME			CHECK DATE	CHECK NO.
[redacted]	Georgia Republican Party			10/17/88	10661
INVOICE NO.	INVOICE AMOUNT	ADJUSTMENT	NET AMOUNT	EXPLANATION	
GA1017	$50,000.00		$50,000.00	transfer out	

9 5 0 4 3 6 5 0 8 9

EXHIBIT 3B

0 5 0 4 3 6 5 5 0 9 0

GEORGIA REPUBLICAN PARTY

⑈004 18 180 ⑆250000190⑈

PLEASE ENDORSE ALL CHECKS. Checks and other items are received for deposit subject to the rules and regulations of the financial institution. Use reverse side for additional listing or attach tape.

	Dollars	Cents
	71,600	00
	71,600	00

RNC

C&S The Citizens and Southern National Bank Atlanta, Georgia

DATE 10-14-88

	Dollars	Cents
CURRENCY		
COINS		
FRONT SIDE TOTAL		
REVERSE SIDE TOTAL		
TOTAL DEPOSIT	71,600	00

ENTER TOTAL OF CHECKS HERE

GEORGIA REPUBLICAN PARTY

⑈004 18 180 ⑆250000190⑈

⑈010482⑈ ⑆056000108⑆ 551⑈730916992⑈

Republican National Committee

310 First Street Southeast, Washington, D.C. 20003

SUNTRUST BANK
8320 BOONE BLVD.
VIENNA, VA. 22180

Pay exactly **71,600** dollars and zero cents 10/11/88 | 10482

PAY TO THE ORDER OF Georgia Republican Party

71,600.00

Authorized Signature

010482

EXHIBIT 3C

2504365509 2

PLEASE ENDORSE ALL CHECKS. Checks and other items are received for deposit subject to the rules and regulations of this financial institution. Use reverse side for additional listing or attach tape

PLEASE LIST EACH CHECK SEPARATELY

Dollars	Cents
10,000	00
15	00
4070	
4000	

ENTER TOTAL OF CHECKS HERE

The Citizens and Southern National Bank
Atlanta, Georgia

DATE 11-22-88

	DOLLARS	CENTS
CURRENCY		
COINS		
FRONT SIDE TOTAL	10,015	00
REVERSE SIDE TOTAL		
TOTAL DEPOSIT	10,015	00

DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL.

GEORGIA REPUBLICAN PARTY
STATE ACCOUNT

⑆061000052⑆ 081 87 700⑈

SIGNET BANK Virginia

REPUBLICAN NATIONAL STATE ELECTIONS COMMITTEE 4070
CORPORATE OPERATING
310 FIRST STREET, SE.
WASHINGTON, D.C. 20003

5493

November 15, 1988

56-408/560 494

PAY Ten Thousand and xx/100---------- DOLLARS $ 10,000.00
TO THE ORDER OF

Georgia Republican Party
1776 Peachtree Street, NW
Atlanta, GA 30309

[redacted]

⑆5043655093

EXHIBIT 3D

2504365509 4

69

MEMORANDUM

TO: GOP STATE PARTY CHAIRMAN

FROM: JEFF VOGT
FINANCE DIRECTOR, VICTORY '88

DATE: NOVEMBER 14, 1988

SUBJECT: REPUBLICAN NATIONAL COMMITTEE "IN-KIND" CONTRIBUTIONS

As you know, the FEC requires that all In-Kind contributions to state committees be reported on state FEC reports.

I am therefore enclosing a breakdown of the costs incurred by the Republican National Committee on behalf of your state's Victory '88 account. These figures represent the production costs for the Bush and Reagan Victory '88 mailings in September and October.

Bush: 6,968.16

Reagan: 5,693.10

Total: 12,661.26

If you have any questions, please don't hesitate to call me at 202-863-8840.

Thank you.

RNC Paid for production
V88 Paid for Postage (federal)

Republican National Committee • 310 First Street Southeast • Washington, D.C. 20003 • (202) 863-8766
Telex: 701144 • FAX: (202) 863-8820

EXHIBIT 4A

2504365509 6

Sat 9/24
Jeff Douglas 394-123

GOTV - Friday, 9/16

	Laura Lewis	982-0656
✓	Lynn Jordan	395-7785h / 641-7080o
✓	Steven Jones	434-8562h / 768-5689o
	Dave Mucher	634-6449o / 934-0122h
?	John L'Abate	875-1444o / 325-9484h
✓	Allison Walker	355-2778o

2504365 0097

Get Out the Vote Drive - September 17

will be here ✓	3	Betsy Anderson
will be here ✓	1	Nina Roslovick
✓	1	Rebecca Nagel
✓	1	Jeff Douglas
✓	1	Amy Tierney
" ✓	2 ?	Bonnie Pouncey
	5	Laura Lindley
✓	1	Mark Hornsby
✓	1	Mary Ann Mitchell
✓	1 ?	Tom Wall
✓	1	Ken Gilbert
✓	1-3	Kathleen Reittner
		~~Tracy Pfannkuche~~

0 5 0 4 3

9/24 9 A.m. Hdqtrs.

Saturday, 9/17 Get Out the Vote Drive

	Name	phone #
✓ left msg.	Karen Rawls	
✓ " "	Elaine Welch	
	Jason Mara	
✓	Carolyn Rickert	
cannot make it. ✓	Bonnie Gage	
4m	Jerry & Suzanne	
left message ✓	Penny Luck	
left message ✓	Tracey Psannkuc	
	~~Betsy Anderson~~	
✓	Albert Lynn	
	Jason Fenimore	

>50436550999

EXHIBIT 4B

2504365510 0

11801-2 28th Street North
St. Petersburg, Florida 33716
813-579-1885
Tampa 813-879-1899

INVOICE

TO: VICTORY '88
Georgia Republican Party
ATTN: Chip Felkel
3400 Wooddale Drive
Atlanta, GA 30326

DATE: 10/26/88

INVOICE NO: 5361

PO NO:

TERMS: Net payable upon receipt of invoice. On accounts with balance over 30 days, there will be assessed a finance charge of 1½% per month (18% ANNUAL PERCENTAGE RATE).

JOB: Ronald Reagan Turnout Post Card to GOP Primary Voters and Identified Favorables

QTY.: 400,000

JOB SPECIFICATIONS & COSTS:

Printing & production 400,000 @ .06	$ 24,000.00
Non-profit postage 400,000 @ .06	24,000.00
TOTAL	$ 48,000.00
should be	$43,150.00

Payment needed by 10/28/88

IMPORTANT Invoice Number must appear on all correspondence relative to this order

2504365510

EXHIBIT 4C

2504365510 2

VICTORY '88
GEORGIA REPUBLICAN PARTY
1770 PEACHTREE STREET SUITE 550 S
ATLANTA, GA 30309

357

10/31 19 88

PAY TO THE ORDER OF Direct Mail Systems $ 18,254.00

Eighteen thousand two hundred fifty-four 00/100 DOLLARS

C&S The Citizens and Southern National Bank Atlanta, Georgia

[redacted]

250436505103

EXHIBIT 5

2504365510 4

ARTHUR L. WILLIAMS
OR ANGELA H. WILLIAMS

2574

Victory 88 - GA	INVOICE NO.	DATE	AMOUNT	DISCOUNT	NET AMT.
		10/14/88			$7,500.00

DATE

CHECK NUMBER

VICTORY 88 - GA

Jack Smith, Executive Vice Pres.

ARTHUR L. WILLIAMS
OR ANGELA H. WILLIAMS

THE BRAND BANKING COMPANY
LAWRENCEVILLE, GA
64-327/611

2574

****Seven thousand five hundred and 00/100 *********

DATE	AMOUNT
10/14/88	$7,500.00

VICTORY 88 - Georgia

[redacted]

⑆064365510⑆

ARTHUR L. WILLIAMS
OR ANGELA H. WILLIAMS

2573

INVOICE NO.	DATE	AMOUNT	DISCOUNT	NET AMT.
Victory 88 - GA	10/14/88			7,500.00

DATE

CHECK NUMBER

VICTORY 88 - Ga

Jack Smith, Executive Vice Pres.

ARTHUR L. WILLIAMS
OR ANGELA H. WILLIAMS

THE BRAND BANKING COMPANY
LAWRENCEVILLE, GA
64-327/611

2573

*** Seven thousand five hundred and 00/100 **********

DATE	AMOUNT
10/14/88	$7,500.00

PAY TO THE ORDER OF:

VICTORY 88 - Georgia

[redacted]

⑆250436551⑈06

11/16/93

AFFIDAVIT OF DAVID J. SHAFER

Now comes your deponent, David J. Shafer, who, being duly sworn, deposes and says:

1.

My name is David J. Shafer, and I have been the Executive Director of the Georgia Republican Party ("the Party") since February 1, 1991. The offices of the Party are located at 3091 Maple Drive, N.E., Suite 315, Atlanta, Georgia. I have reviewed the records of the Party for the 1988 general election cycle and, in particular, the records of the contributions of Arthur L. and Angela H. Williams.

2.

On October 17, 1988, the Georgia Republican Party received two checks drawn on the joint account of Arthur L. and Angela H. Williams, each in the amount of $7,500, payable to the Party's "Victory '88--Georgia" account. The Party deposited these checks in its federal account.

3.

The Party had already received contributions from Mr. and Mrs. Williams in September 1988 in the form of two checks in the amount of $5,000 each, the maximum annual contribution to a federal multi-candidate political action committee permitted by federal law. The Party deposited each of these two $5,000 individual contributions into its federal account. Moreover, the two $7,500 checks exceeded on their face the $5,000 limit. Therefore, the Party should never have deposited these two checks in its federal account.

4.

Upon being informed by the Party that it had deposited the checks in its federal account, Mr. Williams requested that the Party transfer the contributions from its federal account to its non-federal account. Mr. Williams' request was made within the 60-day period provided by federal law to reallocate contributions.

5.

Through no fault of Mr. Williams, the Party did not complete the transfer of Mr. and Mrs. Williams' contributions from its federal account to its non-federal account within the 60-day period provided by federal law to reallocate contributions. The transfer was completed on December 19, 1988, which was 63 days after the checks were initially deposited to the federal account. However, approximately three-fourths of the

2504365107

Williams' contributions were reallocated to the non-federal account within the 60-day period provided by law.

6.

From my review of the records, all actions concerning the receipt and deposit of the contributions to the party by Mr. and Mrs. Williams were handled entirely by Party staff. If the Party deposited the checks in the incorrect account and did not fully correct the error in a timely manner pursuant to Mr. Williams' request, such action was the responsibility of the Party staff and not that of Mr. Williams.

Further, your deponent sayeth not.

DAVID J. SHAFER

The foregoing was subscribed and sworn to before me on this 27 day of October, 1993.

Notary Public

My commission expires:
Notary Public, Gwinnett County, Georgia
My Commission Expires April 9, 1996

95043655108

OGC 920

DEWEY BALLANTINE

1775 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-4605
TELEPHONE 202 862-1000 FACSIMILE 202 862-1093

MYLES V. LYNK
202 862-1047

April 8, 1994

RECEIVED
FEDERAL ELECTION COMMISSION
94 APR 12 PM 1:53

Holly Baker, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 3787
Arthur L. Williams, Jr.

Dear Ms. Baker:

Enclosed is a Statement of Designation of Counsel form designating two additional attorneys as representatives of the respondent indicated on the form. You may have already received a prior copy of this designation.

Sincerely,

Myles V. Lynk

Myles V. Lynk

MVL:ao
Enclosure

25043655109

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3787

NAME OF COUNSEL: Martha J. Talley, Esq.
Michael Geroe, Esq.

ADDRESS: Dewey Ballantine

1775 Pennsylvania Avenue, N.W.
2nd Floor
Washington, D.C. 20006

TELEPHONE: 202-862-1016 (Martha J. Talley)
202-862-1405 (Michael Geroe)

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

2/3/94
Date

Signature

RESPONDENT'S NAME: Arthur L. Williams, Jr.

ADDRESS: c/o Mr. James E. Kelly

P.O. Box 8348
Amelia Village
Amelia Island, FL 320

HOME PHONE:

BUSINESS PHONE:

95043655110

RECEIVED
FEC
SECRETARIAT
SEP 31 PM 3:25

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of Georgia Republican Party and Marvin H. Smith, as treasurer, and Arthur L. Williams	)))))	MUR 3787

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On June 10, 1993, the Commission found reason to believe that the Georgia Republican Party Committee ("the Committee") and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. §§ 432(c) and (d).1/ Attachment 1. The Commission also found reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C), and approved a proposed conciliation agreement for him. The Commission further opened this enforcement matter and approved the issuance of subpoenas duces tecum to the Georgia Republican Party, Campaign Telecommunications, and Southern Research Services, Inc.

The Committee was given an extension until August 4, 1993, to respond. The Committee actually submitted its response to the Commission on August 24, 1993, and indicated its desire to pursue pre-probable cause conciliation. Attachment 2.

1/ This matter was generated by audit findings referred to this Office.

2504365511

This Office was in the process of continuing both its investigation of the Committee, and its conciliation with Mr. Williams in this matter, when the appellate court decided FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993).

II. FEC V. NRA POLITICAL VICTORY FUND

In light of the recent decision by the U.S. Court of Appeals in NRA, and the Commission's subsequent decisions related to the impact of that case, this Office recommends that the Commission revote its reason to believe findings, the factual and legal analyses, and the conciliation agreement with Mr. Williams.2/

Finally, we recommend that the Commission decline to enter into pre-probable cause conciliation with the Committee pending the completion of our review of the Committee's response.

2/ On November 9, 1993, the Commission revoted the Final Audit Report of this matter. (Agenda Document X93-81). This Office believes that the Commission need not revote other actions, such as issuing subpoenas that have been complied with, and extensions of time.

9504365512

III. RECOMMENDATION

The Office of General Counsel recommends that the Commission:

1. Open a MUR.

2. Find reason to believe that the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. §§ 432(c) and (d).

3. Find reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C).

4. Approve the Factual and Legal Analyses attached to the General Counsel's Report dated June 1, 1993.

5. Approve the Conciliation Agreement attached to the General Counsel's Report dated June 1, 1993

6. Decline to enter into pre-probable cause conciliation with the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, at this time.

7. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

3/31/94
Date

BY: Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

Attachment:
1. Certification of June 10, 1993, Actions
2. Committee Response
3. Arthur L. Williams Response

Staff Assigned: Jane J. Whang

2504365513

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Georgia Republican Party and Marvin H. Smith, as treasurer; Arthur L. Williams.	)	MUR 3787

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 6, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3787:

1. Open a MUR.

2. Find reason to believe that the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); 2 U.S.C. § 441b(a); and 2 U.S.C. §§ 432(c) and (d).

3. Find reason to believe that Arthur L. Williams violated 2 U.S.C. § 441a(a)(1)(C).

4. Approve the Factual and Legal Analyses attached to the General Counsel's Report dated June 1, 1993.

5. Approve the Conciliation Agreement attached to the General Counsel's Report dated June 1, 1993

(continued)

9504365514

6. Decline to enter into pre-probable cause to conciliation with the Georgia Republican Party Committee and Marvin H. Smith, as treasurer, at this time.

7. Approve the appropriate letters, as recommended in the General Counsel's Report dated March 31, 1994.

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

Attest:

4-6-94
Date

for Delores J. Hardy
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., Mar. 31, 1994 3:26 p.m.
Circulated to the Commission: Fri., Apr. 01, 1994 12:00 p.m.
Deadline for vote: Wed., Apr. 06, 1994 4:00 p.m.

bjr

9504365511 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 19, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Myles V. Lynk
Dewey Ballantine
1775 Pennsylvania Ave., N.W.
2nd Floor
Washington, D.C. 20006

RE: MUR 3787
Arthur L. Williams

Dear Mr. Lynk:

On June 10, 1993, the Federal Election Commission found reason to believe that your client, Arthur L. Williams, violated 2 U.S.C. § 441a(a)(1)(C), and subsequently entered into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. A proposed conciliation agreement was mailed to your client

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, 62 U.S.L.W. 3511 (U.S. Jan. 18, 1994)(No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on April 6, 1994, the Commission revoted to find reason to believe that your client violated 2 U.S.C. § 441a(a)(1)(C), and to approve the Factual and

9504365511 6

Legal Analysis previously mailed to you. You should refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Furthermore, the Commission revoted to enter into conciliation negotiations prior to a finding of probable cause to believe, and declined your client's request to take no further action. The Commission also reapproved the conciliation agreement previously mailed to you. Enclosed for your convenience is a duplicate copy of that agreement. If your client agrees with the provisions of the enclosed agreement, please sign and return it to the Commission.

Given the unique circumstances engendered by the NRA decision, conciliation negotiations, prior to a finding of probable cause to believe, will be limited to a maximum of 30 days.

If you have any questions, please contact Jane Whang, the attorney assigned to this matter, at (202) 219-3690, or (800) 424-9530.

For the Commission,

Trevor Potter
Chairman

Enclosure

cc: Kevin S. King, Esq.
Jeanney M. Kutner, Esq.

9504365511 7

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 19, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank B. Strickland
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, GA 30309-3214

RE: MUR 3787
Georgia Republican Party

Dear Mr. Strickland:

On June 10, 1993, the Federal Election Commission found that there is reason to believe your clients, the Georgia Republican Party (the "Committee") and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); and 2 U.S.C. § 441b(a); and 2 U.S.C. § 432(c) and (d).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, 62 U.S.L.W. 3511 (U.S. Jan. 18, 1994)(No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on April 6, 1994, the Commission revoted to find reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); and 2 U.S.C. § 441b(a); and 2 U.S.C. § 432(c) and (d). The Commission also declined to enter into pre-probable cause conciliation with the Committee at this time, and approved

9504365518

the Factual and Legal Analysis previously mailed to your clients. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Your clients may rely on prior submissions, or may submit any additional factual and 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.

If you have any questions, please contact Jane Whang, the attorney assigned to this matter, at (202) 219-3690, or (800) 424-9530.

For the Commission,

Trevor Potter
Chairman

95043655119

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

**VIA TELECOPIER
AND FIRST CLASS MAIL**

Myles V. Lynk
Dewey Ballantine
1775 Pennsylvania Ave., N.W.
2nd Floor
Washington, D.C. 20006

April 28, 1994

RE: MUR 3787
Arthur L. Williams

Dear Mr. Lynk:

Per your request, enclosed is an additional copy of the Factual and Legal Analysis finding reason to believe against your client, Arthur L. Williams, which was previously mailed to your client last year.

As we discussed on the phone, your client may rely on his previous submissions, or may submit any additional factual and legal materials which he believes 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.

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

Sincerely,

Jane J. Whang
Attorney

Encl.

95043655120

OGC 1335

DEWEY BALLANTINE

1775 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006-4605
TELEPHONE 202 862-1000 FACSIMILE 202 862-1093

RECEIVED
FEDERAL ELECTION
COMMISSION
ADMINISTRATIVE DIVISION

MAY 16 9 00 AM '94

MAY 16 10 00 AM '94
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MYLES V. LYNK
202 862-1067

May 13, 1994

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

Re: MUR 3787
Arthur L. Williams, Jr.

Dear Ms. Whang:

I am writing in response to your letter of April 28, 1994, with which you enclosed a copy of the Federal Election Commission's ("the Commission") General Counsel's Factual and Legal Analysis upon which the Commission found reason to believe that Arthur L. Williams, Jr., had violated the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. In your letter you informed us that we had fifteen (15) days within which to submit our comments to this Legal and Factual Analysis ("the Analysis"). We understand that this Analysis is the "staff report" described at 11 C.F.R. § 111.8(b), and is not the report described in 2 U.S.C. § 437g(a)(3); and the fifteen day comment period set forth in your letter is not the comment period referred to in that statute. Herewith are our comments.

The Analysis you sent me on April 28 is the same document as the Factual and Legal Analysis upon which the Commission had based its earlier finding in this MUR that it had reason to believe that Mr. Williams had violated the Act. As you note in your April 28 letter, this Factual and Legal Analysis "was mailed to [Mr. Williams] last year," well before the Commission revoted on April 6, 1994, to find reason to believe that Mr. Williams has violated the Act.

We understand that the effect of the Commission's earlier reason to believe finding was cast in doubt as a result of the October 23, 1993 decision of the United States Court of Appeals for the District of Columbia Circuit in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993). Thereafter, on April 6, 1994, the Commission revoted to find reason to believe that Mr. Williams had violated the Act, and based its decision on the same, previously submitted Factual and Legal Analysis.

95043655121

Yet on November 16, 1993, between the time the Commission originally voted to find reason to believe that Mr. Williams had violated the Act, and the date on which the Commission revoted to find reason to believe, we submitted to the Commission an affidavit from David Shafer, the Executive Director of the Georgia Republican Party, which suggests that the factual basis of the Analysis is incorrect. There is, however, no discussion of this affidavit in the Analysis.

For example, the first two sentences of section II.A.2. of the Analysis, entitled, "Audit Findings," state:

- "The audit staff found that the Committee accepted $15,000 in excessive contributions from one contributor."

- "Arthur L. Williams, Jr., wrote three separate checks payable to 'Victory 88-GA' including one in the amount of $5,000 on September 21, 1988, and two in the amount of $7,500 on October 14, 1988."

These statements are incorrect. As Mr. Shafer makes clear, Mr. Williams and his wife sent <u>four</u>, not three, contribution checks to the Georgia Republican Party in 1988. These checks were drawn on their joint account. The checks were contributed in pairs: Mr. and Mrs. Williams sent two checks in the amount of $5,000 each in September 1988, and two checks, in the amount of $7,500 each, in October 1988. Mr. Shafer testifies in his affidavit that one check in each pair was a contribution from Arthur L. Williams, and one check in each pair was a contribution from Mr. Williams' wife, Angela H. Williams. It is therefore incorrect to attribute, as the Analysis does, both of the October checks to Mr. Williams.

In addition, on page 3 of the Factual and Legal Analysis, the General Counsel states: "It appears from the Committee's attempts to contact Mr. Williams regarding the transfer of his $15,000 in excessive contributions that those funds had been intended for the federal Victory 88 account." We would suggest that Mr. Williams' intent cannot be inferred from the Committee's actions. Rather, the only logical inference which can properly be drawn from the Committee's attempts to contact Mr. Williams regarding the transfer of the October 1988 contributions is that the Committee had improperly placed those funds in its federal account, and wanted to know whether to return those funds to Mr. Williams, or place them in its non-federal account. As Mr. Shafer states in his affidavit, "The Party should never have deposited these two checks in its federal account." Shafer Affidavit, ¶ 3.

2 5 0 4 3 6 5 5 1 2 2

Finally, we note that the Analysis states that the Party completed the transfer of the money from the federal to the non-federal account 73 days after the money was received. Mr. Shafer states:

- "the transfer was completed on December 19, 1988, which was 63 days after the checks were initially deposited to the federal account. However, approximately three-fourths of the Williams' contributions were reallocated to the non-federal account within the 60-day period provided by law."

These statements, made under oath, directly contradict the findings in the General Counsel's Analysis.

In light of the above, we request that the Office of the General Counsel reevaluate the factual basis for the Analysis upon which the Commission's reason to believe finding was made. We would request that the Analysis be amended to address the issues raised by Mr. Shafer, and, if the General Counsel decides not to accept Mr. Shafer's testimony, that the Analysis be amended to explain the basis for the General Counsel's rejection of this sworn testimony.

We thank the Commission for affording us this opportunity to comment on the Factual and Legal Analysis relating to this respondent in this MUR. I am,

Very truly yours,

Myles V. Lynk

Myles V. Lynk

MVL:ao

2504365512 3

OGC#1574

LAW OFFICES
WILSON, STRICKLAND & BENSON, P.C.
ONE MIDTOWN PLAZA, SUITE 1100
1360 PEACHTREE STREET, N.E.
ATLANTA, GEORGIA 30309-3214
(404) 870-1500
FAX (404) 870-1505

WARREN R. WILSON, JR.
FRANK B. STRICKLAND
EARL B. BENSON, JR.
R. MILTON CROCCE
W. SANDY EPSTEIN
DANIEL I. MACINTYRE
MARY M. BRECKINGTON
L. LEE ALLEN
ANNE W. LEWIS
SAMUEL T. BRANNAN
CRAIG H. GOODRICH*
CARMEN V. JORDAN

*ADMITTED IN DISTRICT OF COLUMBIA ONLY

OF COUNSEL
JOHN C. PENNINGTON
ROBERT G. MCCARLEY, P.C.
ROBERT O. WELLON

June 8, 1994

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

Re: **Matter Under Review 3787**
Georgia Republican Party, Marvin H. Smith, as Treasurer

Dear Chairman Potter:

Enclosed is a Motion to Dismiss Matter Under Review ("MUR") 3787, filed on behalf of the Georgia Republican Party and Marvin H. Smith, as Treasurer.

As is set out more completely in the Motion, the United States Court of Appeals for the District of Columbia Circuit's opinion in 3M v. Brouner, No. 91-1126 (March 4, 1994) (attached as Exhibit B to the Motion), addressing the scope of 28 U.S.C. § 2462, requires dismissal of this MUR on statute of limitations grounds. In short, the Commission did not properly initiate this matter until April 6, 1994. See Letter of Chairman Potter, April 19, 1994. Accordingly, the Commission does not have jurisdiction to proceed in this MUR because a properly constituted Commission did not initiate this MUR within five years from the last underlying event cited in the MUR.

Sincerely,

Frank B. Strickland
Counsel, Georgia Republican Party
and Marvin H. Smith, as Treasurer

cc: Commissioner Danny Lee McDonald
Commissioner Joan Aikens
Commissioner Lee Ann Elliott
Commissioner John Warren McGarry
Commissioner Scott E. Thomas

95043355124

BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED FEDERAL ELECTION COMMISSION OFFICE OF GENERAL COUNSEL
JUN 8 4 57 PM '94

In the Matter of	)	
	)	
Georgia Republican Party	)	**MUR 3787**
Marvin H. Smith, as Treasurer	)	

MOTION TO DISMISS

MUR 3787 should be dismissed with prejudice in its entirety because, by its own admission in its April 19, 1994 letter to Frank B. Strickland (Exhibit A), the Federal Election Commission ("Commission") failed take action within the applicable five year statute of limitations, 28 U.S.C. § 2462. The time has run on the Commission's ability to bring an enforcement action for a civil penalty against the Georgia Republican Party. *3M v. Browner*, No. 92-1126, slip op. (March 4, 1994) (Exhibit B). Thus, Respondents hereby move the Commission to dismiss MUR 3787.[1]

A. Introduction

Federal law subjects governmental enforcement actions to a five year statute of limitations. 28 U.S.C. § 2462. The Commission is not exempt from this statute. Therefore, the Commission does not have jurisdiction to proceed in this matter since all of the allegations raised in MUR 3787 relate to events that took place more than five years before a legally constituted Commission found "reason to believe" that any violation occurred. See Exhibit B.

[1] Pursuant to 5 U.S.C. § 555(e), this Motion constitutes a "written application, petition, or other request of an interested party made in connection with *any* agency proceeding" (emphasis added). Accordingly, if the Commission denies the Motion, it must respond with a "brief statement of the grounds for denial". *See City of Gillette, Wyo. v. FERC*, 737 F.2d 883, 886 (10th Cir. 1984); *Matlovich v. Secretary of the Air Force*, 591 F.2d 852, 857 (D.C. Cir. 1978); *Democratic Congressional Campaign Committee v. FEC*, 831 F.2d 1131, 1135 (D.C. Cir. 1987), *citing SEC v. Chenery*, 332 U.S. 194 (1947).

2 5 0 4 3 6 5 5 1 2 5

Specifically, the events cited in MUR 3787 all took place during 1988. The Commission, acting as an unconstitutional body, *FEC v. NRA Political Victory Fund*, 6 F.3d 821 (D.C. Cir. 1993), voted in 1993 to find reason to believe. However, recognizing that such action was illegal at the time it was taken, a reconstituted Commission voted on April 6, 1994 to find reason to believe. See Exhibit B. Thus, by its own admission, the Commission's only legal action relating to this MUR began in April 1994, more than five years after any of the events cited as giving rise to the allegations in this MUR. Only on April 19, 1994, did the Republican Party of Georgia and Marvin H. Smith, as Treasurer, receive notification of the Commission's actions. Thus, the five year statute of limitations bars the Commission at this time from undertaking any further action against the Respondents.

B. The General Statute of Limitations Applicable to Federal Civil Actions Precludes Any FEC Enforcement Actions After Five Years.

The Federal Election Campaign Act, 2 U.S.C. § 431, *et seq.*, does not contain any internal statutes of limitations for initiating enforcement matters.[2] Thus, the general statute of limitations applicable to civil government actions, 28 U.S.C. § 2462, applies. That provision states:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

[2] The FECA's plain language makes amply clear that the conciliation timeframes and other time periods set forth in the statute, 2 U.S.C. § 437g, are not statutes of limitations for the initiation of civil enforcement actions.

2504365512 6

Simply stated, the statute sets a fixed period of time after which claims may no longer be asserted against a party. *Board of Regents v. Tomanio*, 446 U.S. 478, 487 (1990) (finding statutes of limitation having "long been respected as fundamental to a well-ordered judicial system").[3] This is particularly important in this case where any future judicial action would involve a *de novo* review of any remaining evidence.

As applied here, 28 U.S.C. § 2462 precludes the FEC from commencing a "proceeding for . . . any civil fine [or] penalty" because five years have passed from the date the Commission's claims first accrued -- when the acts at issue in the MUR first took place. *See 3M v. Browner*, No. 92-1126, slip op. (D.C. Cir. March 4, 1994) (finding five-year statute of limitations applicable to government proceeding directly analogous to MUR); *United States v. Core Laboratories, Inc.*, 759 F.2d 480 (5th Cir. 1985) ("*Core Labs*") (claim first accrues on the date of the act giving rise to the violation); *United States v. Meyer*, 808 F.2d 912 (1st Cir. 1987)

---

[3] The statute of limitations is not a technical way of avoiding enforcement proceedings; it exists to protect parties "from having to confront controversies in which the search for truth may be thwarted by the loss of evidence." *Gould v. United States Dep't of Health and Human Services*, 905 F.2d 738, 741-42 (4th Cir. 1990).

> Traditionally, statutes of limitation are "designed to promote justice by preventing surprises through the revival of claims that have been allowed to slumber until evidence has been lost, memories have faded, and witnesses have disappeared." *American Pipe & Construction Co. v. Utah*, 414 U.S. 538, 554 (1974) (*quoting Order of Railroad Telegraphers v. Railway Express Agency*, 31 U.S. 342, 348-49 (1944)). In the context of administrative law, time limits for review allow private parties to rely on the agency order and proceed with their business. See *National Black Media [Coalition v. FCC*, 760 F.2d 1297, 1300 (D.C. Cir. 1985)].

Common Cause v. Federal Election Commission, 630 F. Supp. 508, 511 (D.D.C. 1985); *see also 3M*, slip op. at 7.

2504365512 7

(concurring with *Core Labs* as to date required to initiate administrative proceedings); *Federal Trade Commission v. Lukens Steel Co.*, 454 F. Supp. 1182 (D.D.C. 1978).[4]

> [The statute of limitations] at least requires that any administrative action aimed at imposing a civil penalty must be brought within five years of the alleged violations. . . . construing § 2462 to require the initiation of administrative proceedings within five years of the date of the alleged violation . . . satisfies any legitimate concerns for repose, fair notice, and preservation of evidence.

Meyer, 808 F.2d at 914, 922.

Most recently, the United States Court of Appeals for the District of Columbia directly considered whether the five year statute of limitations applied to the initiation of agency enforcement proceedings, and resoundingly concluded that the statute applied to agencies like the Commission:

> What cannot be "entertained" after § 2462's limitation period has expired is "an action, suit or proceeding." An agency's adjudication of a civil penalty case readily fits this description.
>
> * * *
>
> Given the reasons why we have statutes of limitations, there is no discernible rationale for applying § 2462 when the penalty action or proceeding is brought in a court, but not when it is brought in an administrative agency. The concern that after the passage of time "evidence has been lost, memories have faded, and witnesses have disappeared" pertains equally to factfinding by a court and factfinding by an agency. Statutes of limitations also reflect the judgment that there comes a time when the potential defendant "ought to be secure in his reasonable expectation that the slate has been wiped clean of ancient obligations[.]" Here again it is of no moment whether the proceeding leading to the imposition of a penalty is a proceeding started in a court or in an agency. From the potential defendant's point of view, lengthy delays upset "settled expectations" to the same extent in either case.

Slip op. at 5, 7 (citations omitted).

---

[4] The statute of limitations applies to both legal and injunctive relief. *See United States v. Windward Properties, Inc.*, 821 F. Supp. 690, 693 (N.D.Ga. 1993), *citing inter alia, Cope v. Anderson*, 331 U.S. 461 (1947).

2504365512 8

The D.C. Circuit also rejected a government claim that the word "enforcement" in the statute of limitations restricted applicability of the statute to suits seeking to collect penalties, as opposed to proceedings to impose penalties:

> The pre-1948 version [of the statute] applied to any suit or prosecution "for" a penalty. Nothing restricted its operation to actions seeking to collect penalties already imposed in other proceedings, and we can discern no reason why Congress would have thought such a restriction desirable. On the other hand, [Petitioner's] reading of "enforcement" to mean "imposition" is faithful to the canon recited above; it is consistent with one of the accepted definitions of "enforcement;" and it forecloses stale claims, one of the functions of a statute of limitations, since it is in the administrative proceeding that evidence is taken, findings are made and liability determined.

Slip op. at 10-11 (citations, footnotes omitted). Indeed, the Court recognized that it may be difficult for an agency to detect violations, either because of the nature of the regulatory scheme or the agency's institutional pressures. Nevertheless, the Court held that the five year limitations period should be strictly imposed on all agency action:

> The provision before us, § 2462, is a general statute of limitations, applicable not just to EPA in TSCA cases, but to the entire federal government in all civil penalty cases, unless Congress specifically provides otherwise. . . . An agency may experience problems in detecting statutory violations because its enforcement effort is not sufficiently funded; or because the agency has not devoted an adequate number of trained personnel to the task; or because the agency's enforcement program is ill-designed or inefficient; or because the nature of the statute makes it difficult to uncover violations; or because of some combination of these factors and others. . . . An agency's failure to detect violations, for whatever reasons, does not avoid the problems of faded memories, lost witnesses and discarded documents in penalty actions brought decades after alleged violations are finally discovered.

Slip Op. at 16-17. The D.C. Circuit's holding is directly applicable here.

Respondents' research indicates that, at best, the General Counsel's office might contend that the Fifth Circuit's holding in *Federal Election Commission v. Lance*, 617 F.2d 365 (5th Cir.

2504365512 9

1980), *later proceedings*, 635 F.2d 1132 (5th Cir. 1981) (*en banc*), *cert. denied*, 453 U.S. 917 (1981), means no statute of limitations ever applies to the Commission's civil enforcement actions. The *Lance* opinion, however, only considered the three year statute of limitations applicable to criminal violations, 2 U.S.C. § 455(a) -- not the five year civil statute at issue here.[5] Further, such a strained reading of *Lance* would be in direct conflict with the Fifth Circuit's later holding in *Core Labs* and the D.C. Circuit's holding in *3M*. Thus, *Vance* provides the Commission no refuge from the limits of 28 U.S.C. § 2462. Nor should the General Counsel's apparent reliance upon *Capozzi v. United States*, 980 F.2d 872 (2d Cir. 1992), a case involving the Internal Revenue Service, give the Commission any comfort as the D.C. Circuit directly rejected both the holding and reasoning of *Capozzi, see 3M*, slip op. at 12-13, and other courts have similarly distinguished tax cases in this context. *See Core Labs*, 759 F.2d at 483.

The General Counsel may also contend that *Occidental Life Ins. Co. of California v. EEOC*, 432 U.S. 355 (1977), permits the Commission's actions here. That case, however, is simply innaposite. Specifically, the *Occidental* holding does not stand for (nor is there any reference in the case for) the proposition that a general statute of limitations (such as 28 U.S.C. § 2462) will not apply where conciliation may be mandated by statute or because Congress intended that informal resolution through conciliation be attempted before resort to federal courts. Rather, the Supreme Court held that a *state* statute of limitations will not be interposed under a judicial borrowing doctrine into a *federal* statutory scheme where the policies underlying

[5] Even under the *Lance* holding, the Commission would only be able to conduct an investigation into possible violations within the limitations period. To the best of Respondents' knowledge, however, the Commission has never alleged any violations within this five-year period. Thus, since there is not even a hint of a violation in the last five years, any Commission investigation would be futile.

0 5 0 4 3 6 5 5 1 7 0

the state limitations period conflicts with federal policies. Of course, the issue simply does not arise here, as Respondents have not sought to impose any state limitations period, but have invoked the *federal* limitations period mandated by Congress to all government civil enforcement actions, including the Commission's.

Indeed, the *Occidental Life* court specifically held that its rationale was limited to cases where "Congress has not spoken [to the limitations question] but has left matters for judicial determination." *Id.*, *quoting Holmberg v. Ambrecht*, 327 U.S. 392, 395 (1948). In this case, however, *Congress has directly spoken to the limitations question through 28 U.S.C. § 2462.* Thus, *Occidental*, is inapplicable, and more properly supports Respondents' position.

CONCLUSION

In sum, the statute of limitations bars the Commission from taking any further enforcement action against the Respondent for any events or acts arising from the 1988 election cycle. At this late stage, evidence has been lost, memories have faded even further, and that evidence that has been found is clearly stale. Because the Commission failed to properly institute any legal enforcement action within five years of 1988, the statute precludes any further enforcement actions with respect to the allegations contained in the MUR, and the MUR must be dismissed with prejudice.

Respectfully submitted,

Counsel to Respondents

2504365513 1

Exhibit A

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 19, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frank B. Strickland
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, GA 30309-3214

RE: MUR 3787
Georgia Republican Party

Dear Mr. Strickland:

On June 10, 1993, the Federal Election Commission found that there is reason to believe your clients, the Georgia Republican Party (the "Committee") and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); and 2 U.S.C. § 441b(a); and 2 U.S.C. § 432(c) and (d).

As you may be aware, on October 22, 1993, the D.C. Circuit declared the Commission unconstitutional on separation of powers grounds due to the presence of the Clerk of the House of Representatives and the Secretary of the Senate or their designees as members of the Commission. FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), petition for cert. filed, 62 U.S.L.W. 3511 (U.S. Jan. 18, 1994)(No. 93-1151). Since the decision was handed down, the Commission has taken several actions to comply with the court's decision. While the Commission petitions the Supreme Court for a writ of certiorari, the Commission, consistent with that opinion, has remedied any possible constitutional defect identified by the Court of Appeals by reconstituting itself as a six member body without the Clerk of the House and the Secretary of the Senate or their designees. In addition, the Commission has adopted specific procedures for revoting or ratifying decisions pertaining to open enforcement matters.

In this matter, on April 6, 1994, the Commission revoted to find reason to believe that the Committee and Marvin H. Smith, as treasurer, violated 2 U.S.C. § 441a(f); and 2 U.S.C. § 441b(a); and 2 U.S.C. § 432(c) and (d). The Commission also declined to enter into pre-probable cause conciliation with the Committee at this time, and approved

2504365513 2

the Factual and Legal Analysis previously mailed to your clients. Please refer to that document for the basis of the Commission's decision. If you need an additional copy, one will be provided upon request.

Your clients may rely on prior submissions, or may submit any additional factual and 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.

If you have any questions, please contact Jane Whang, the attorney assigned to this matter, at (202) 219-3690, or (800) 424-9530.

For the Commission,

Trevor Potter
Chairman

2504365513 3

Exhibit B

Notice: This opinion is subject to formal revision before publication in the Federal Reporter or U.S.App.D.C. Reports. Users are requested to notify the Clerk of any formal errors in order that corrections may be made before the bound volumes go to press.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued September 7, 1993 Decided March 4, 1994

No. 92-1126

3M COMPANY (MINNESOTA MINING AND MANUFACTURING),
PETITIONER

v.

CAROL M. BROWNER, ADMINISTRATOR OF
ENVIRONMENTAL PROTECTION AGENCY AND
ENVIRONMENTAL PROTECTION AGENCY,
RESPONDENTS

Petition for Review of an Order of the
Environmental Protection Agency

Douglas L. Wald argued the cause for petitioner. With him on the briefs were *Blake A. Biles* and *Annette M. Lang*.

Eileen McDonough, Attorney, United States Department of Justice, argued the cause for respondents. With her on the brief were *Peter R. Steenland, Jr.*, Acting Assistant Attorney General, United States Department of Justice, *Deb-*

Bills of costs must be filed within 14 days after entry of judgment. The court looks with disfavor upon motions to file bills of costs out of time.

orah Mack-Iacangelo, Attorney, *James C. Nelson*, Associate General Counsel, and *Patricia A. Roberts*, Assistant General Counsel, Environmental Protection Agency. *David A. Dana*, Attorney, United States Department of Justice, entered an appearance.

David E. Menotti, *Robert L. Deitz*, *Lynn F. Kaufmann*, *John N. Hanson* and *Cynthia A. Lewis* were on the brief for *amici curiae* Browning-Ferris Industries, Inc. and General Motors Corporation.

Before: BUCKLEY, GINSBURG, and RANDOLPH, *Circuit Judges*.

Opinion for the court filed by *Circuit Judge* RANDOLPH.

RANDOLPH, *Circuit Judge:* This petition for review of the Environmental Protection Agency's assessment of civil penalties turns on the meaning of 28 U.S.C. § 2462, the direct descendant of a statute of limitations enacted more than a century and a half ago. There are three questions. Does § 2462 apply to administrative proceedings? If so, is a proceeding to assess a civil penalty an action for the enforcement of a penalty within § 2462's meaning? If it is, does § 2462's five-year period of limitations begin running only when EPA reasonably could have been expected to detect the violations giving rise to the civil penalties?

I

Between August 1980 and July 1986, 3M unwittingly committed several violations of the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601–2629. On July 28, 1986, after the company became aware of its transgressions, it notified EPA's compliance office. The company had learned that one of its chemicals, Chemical A,[1] was not on an EPA inventory of existing chemicals. Although 3M had believed that Chemical A came from a manufacturer in this country, the company's investigation revealed that 3M received the chemical from the manufacturer's Canadian affiliate.

[1] EPA and 3M agreed to conceal the specific identity of the chemicals to protect confidential business information.

2504365513 5

At least ninety days before a new chemical may be imported, TSCA requires the importer to provide EPA with a Premanufacture Notice. 15 U.S.C. § 2604(a)(1). Because Chemical A was both new and imported, 3M's importation of Chemical A without the requisite notice violated this provision. In addition, 3M's brokers wrongly certified to Customs officials that TSCA's requirements had been met.

The mishap with Chemical A spurred 3M to review its other imported chemicals. Thus, it discovered a problem with Chemical B. This chemical has the same code and the same use as another chemical listed on the inventory of existing chemicals. When 3M imported Chemical B on various occasions between July 15, 1983, and August 4, 1986, it assumed Chemical B was not new and did not require a Premanufacture Notice. Closer inspection revealed that Chemical B was not identical to the chemical on the inventory. As with Chemical A, a Premanufacture Notice had been required but not submitted, and the Customs certifications regarding compliance with TSCA were incorrect. On September 16, 1986, 3M notified EPA of the violations concerning Chemical B.

Two years later, on September 2, 1988, EPA filed an administrative complaint against 3M seeking $1.3 million in civil penalties under § 16(a)(2)(A) of TSCA for 3M's failure to file Premanufacture Notices and for 3M's submitting inaccurate Customs certifications with respect to Chemicals A and B. Section 16(a)(2)(A), 15 U.S.C. § 2615(a)(2)(A), provides that the EPA Administrator shall assess civil penalties for violations of the Act "by an order made on the record after opportunity ... for a hearing ...."

In its answer to the complaint, 3M interposed a statute of limitations—28 U.S.C. § 2462—claiming that the statute barred proceedings to impose penalties for 3M's importation of the chemicals without the requisite notices five years prior to EPA's complaint, that is, before September 1983. An EPA Administrative Law Judge ruled that no statute of limitations applied to § 16(a)(2)(A) proceedings. The ALJ found 28 U.S.C. § 2462 inapplicable on the grounds that it applied only

2504365513 6

to judicial proceedings; and that, in any event, civil penalty cases under § 16 of TSCA were not the sort of enforcement proceedings covered by § 2462. After the ALJ assessed a civil penalty of $104,720, 3M filed an administrative appeal with the EPA Chief Judicial Officer, who acts as the Administrator's delegate in these cases. The Chief Judicial Officer, "adopt[ing] and incorporat[ing]" the "applicable portions" of the ALJ's opinion, also ruled that § 2462 did not apply.[2] He then assessed a penalty against 3M of $130,650. This petition followed.

II

Any person who violates § 15 of TSCA, 15 U.S.C. § 2614, "shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation." 15 U.S.C. § 2615(a)(1). Before the EPA Administrator assesses a penalty pursuant to § 16(a)(2)(A), the alleged violator has the right to a hearing. 15 U.S.C. § 2615(a)(2)(A). If the hearing results in the Administrator's issuing an order fixing liability and setting the amount of the penalty, any person "aggrieved" has thirty days to file a petition for review in a federal court of appeals. 15 U.S.C. § 2615(a)(3).

While TSCA thus sets a deadline on the alleged violator's petition for judicial review, TSCA contains no provision limiting the time within which the EPA Administrator must initiate the administrative action. If there is such a time limit, it must be derived from the five-year statute of limita-

[2] The ALJ ruled that even if § 2462 did apply, each day that 3M failed to submit Premanufacture Notices constituted a separate violation of § 15 of TSCA, so that § 2462 "would not operate to bar violations which first occurred more than five years prior to EPA's issuance of the complaint." We have considerable doubt about this aspect of the ALJ's opinion (*see Toussie v. United States*, 397 U.S. 112, 115 (1970); *United States v. McGoff*, 831 F.2d 1071, 1079 (D.C. Cir. 1987)), but we pass over it. The Chief Judicial Officer did not rely on such reasoning; although 3M has presented us with an argument that its violations could not be considered continuing offenses, EPA has not defended the ALJ's contrary conclusion.

tions, 28 U.S.C. § 2462, generally applicable to civil fines and penalties, which reads:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon.

A

The most fundamental question raised by 3M's invocation of § 2462 is whether the statute applies to civil penalty cases brought before agencies. The question has received little attention in judicial opinions. In one case, the government and the defendant agreed that § 2462 "at least requires that any administrative action aimed at imposing a civil penalty must be brought within five years of the alleged violation." *United States v. Meyer*, 808 F.2d 912, 914 (1st Cir. 1987). In three other cases, the courts have assumed, without discussion, that § 2462 covers administrative penalty proceedings. *See Williams v. United States Dep't of Transp.*, 781 F.2d 1573, 1578 n.8 (11th Cir. 1986); *H.P. Lambert Co. v. Secretary of the Treasury*, 354 F.2d 819, 822 (1st Cir. 1965); *The A/S Glittre v. Dill*, 152 F. Supp. 934, 940 (S.D.N.Y. 1957).[3] Reports of two congressional committees on unrelated legislation, cited in *Meyer*, also assumed that § 2462 "is applicable to administrative as well as judicial proceedings." S. REP. No. 363, 89th Cong., 1st Sess. 7 (1965); *see* H.R. REP. No. 434, 89th Cong., 1st Sess. 5 (1965).

It is easy to see why § 2462's application to administrative cases would be taken for granted. What cannot be "entertained" after § 2462's limitation period has expired is "an action, suit or proceeding." An agency's adjudication of a civil penalty case readily fits this description. In this case,

[3] For the moment, we put to one side three cases dealing with the unique practice of the Internal Revenue Service. *See infra* notes 10 & 11.

EPA's regulations describe the agency's process for assessing civil penalties as a "proceeding."[4] The Administrative Procedure Act, 5 U.S.C. § 554(b), which generally governs agency adjudications of civil penalties and which § 16(b) of TSCA expressly incorporates, calls agency adjudications "proceedings." So does the Judicial Code, *see, e.g.*, 28 U.S.C. §§ 2344(1), 2347. *See also* 31 U.S.C. § 3730(e)(3), referring to an "administrative civil money penalty proceeding."

The ALJ nevertheless ruled that § 2462 related only to *judicial* "actions, suits or proceedings." He acknowledged that other administrative law judges had reached the opposite conclusion in TSCA penalty assessment cases.[5] Much of the ALJ's reasoning rested on the fact that § 2462's predecessor spoke of "suit or prosecution," and that the 1948 revision of the Judicial Code (of which more hereafter) replacing these words with "action, suit or proceeding" intended no change in substance. The ALJ therefore believed that regardless of whether EPA's assessment of a civil penalty was a "proceeding," it could not be considered a "suit or prosecution."

We wonder why not. According to the Administrative Procedure Act, agency attorneys who bring administrative complaints, including complaints for civil penalties, are performing "prosecuting functions." 5 U.S.C. § 554(d). *NLRB v. United Food & Commercial Workers*, 484 U.S. 112, 125–26 (1987), for example, holds that the NLRB General Counsel's decision to file an unfair labor practice complaint is "prosecutorial." The ATTORNEY GENERAL'S MANUAL ON THE ADMINISTRATIVE PROCEDURE ACT (at pp. 14, 55), prepared in 1947, points out that agency adjudications typically have "an accusatory flavor," and stresses the need for an agency's hearing officers

---

[4] *See, e.g.*, 40 C.F.R. §§ 22.01(a), 22.04(b)(2), 22.11(a) & (b). EPA's administrative complaint against 3M used the description "civil administrative action."

[5] Note, *Enforcement of TSCA and the Federal Five-Year Statute of Limitations for Penalty Actions*, 91 MICH. L. REV. 1023, 1036 & n.82 (1993), describes the conflicting rulings of administrative law judges with respect to whether § 2462 supplies a limitations period for administrative assessment proceedings under § 16 of TSCA.

9504365513 9

to be independent of those engaged in the agency's "prosecution." The Supreme Court perceives no substantial distinction between the function performed by agency attorneys "presenting evidence in an agency hearing and the function of a prosecutor who brings evidence before a court." *Butz v. Economou*, 438 U.S. 478, 516 (1978). Civil penalty proceedings under TSCA emulate judicial proceedings: a complaint is brought, the defendant answers, motions and affidavits are filed, depositions are taken, other discovery pursued, a hearing is held, evidence is introduced, findings are rendered and an order assessing a civil penalty is issued. 40 C.F.R. §§ 22.13–26. When that sequence of events takes place in a court, we have no trouble calling it a "prosecution," although the modern trend is to reserve the description for criminal cases. When the same sequence of events plays out before an administrative agency, it too may be—and has been—designated a "prosecution."

Given the reasons why we have statutes of limitations, there is no discernible rationale for applying § 2462 when the penalty action or proceeding is brought in a court, but not when it is brought in an administrative agency. The concern that after the passage of time "evidence has been lost, memories have faded, and witnesses have disappeared" pertains equally to factfinding by a court and factfinding by an agency. *Order of R.R. Telegraphers v. Railway Express Agency*, 321 U.S. 342, 349 (1944). Statutes of limitations also reflect the judgment that there comes a time when the potential defendant "ought to be secure in his reasonable expectation that the slate has been wiped clean of ancient obligations," Note, *Developments in the Law—Statutes of Limitations*, 63 HARV. L. REV. 1177, 1185 (1950). Here again it is of no moment whether the proceeding leading to the imposition of a penalty is a proceeding started in a court or in an agency. From the potential defendant's point of view, lengthy delays upset "settled expectations" to the same extent in either case. *See Board of Regents v. Tomanio*, 446 U.S. 478, 487 (1980).

The ALJ also supported his ruling that no limitations period applied by invoking a maxim: statutes of limitations

9504365514 0

ought to be strictly construed in favor of the government. While this accurately recites the Supreme Court's general pronouncements, *see Badaracco v. Commissioner*, 464 U.S. 386, 391 (1984), there is another Supreme Court maxim, older still, a maxim specifically relating to actions for penalties and one pointing in quite the opposite direction: "In a country where not even treason can be prosecuted, after a lapse of three years, it could scarcely be supposed, that an individual would remain for ever liable to a pecuniary forfeiture." *Adams v. Woods*, 6 U.S. (2 Cranch) 336, 341 (1805) (Marshall, C.J.). Justice Story, sitting as a circuit justice in a civil penalty case, made the same point as Chief Justice Marshall: "it would be utterly repugnant to the genius of our laws, to allow such prosecutions a perpetuity of existence." *United States v. Mayo*, 26 F. Cas. 1230, 1231 (C.C.D. Mass. 1813) (No. 15,754). *See also H.P. Lambert Co. v. Secretary of the Treasury*, 354 F.2d at 822; *United States v. Maillard*, 26 F. Cas. 1140, 1142 (S.D.N.Y. 1871) (No. 15,709).

We therefore reject this aspect of the ALJ's construction of § 2462. It is not entirely certain that the EPA's Chief Judicial Officer, whose order is the subject of our review, relied on any court-agency dichotomy in sustaining the ALJ's decision holding § 2462 inapplicable. Before us, EPA has chosen not to mount an argument in favor of this portion of the ALJ's reasoning. And so we move on.

B

If, as we have held, an administrative proceeding under § 16(a)(2) of TSCA is an "action, suit or proceeding," the question remains whether it is—in the language of § 2462—one "for the enforcement of" a civil penalty. EPA thinks not, because "enforcement" connotes an action to collect a penalty already imposed, whereas a proceeding under § 16(a)(2) merely assesses or imposes the penalty. EPA's distinction relies on § 16(a)(4), which authorizes the Attorney General to bring an action against the violator in federal district court to recover the amount, plus interest, of any civil penalty remaining unpaid after final judgment. That, EPA, says is the

95043655141

action for "enforcement," to which § 2462's five-year limitation applies.

As against this, 3M points out that if EPA is right, then there would be no limitations period and liability might be imposed no matter how distant the violation.[6] Yet *Adams v. Woods* tells us that with respect to penalty actions such a situation "could scarcely be supposed." "Enforce," 3M says, merely signifies "impose," which is what EPA seeks to do when it brings a civil penalty assessment case.

Both sides cite contemporary dictionaries in support of their readings. How to choose between these competing definitions of "enforcement"? History holds the key. For more than a century, § 2462's predecessors simply provided that "[n]o suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, shall be maintained" unless it is brought within five years "from the time when the penalty accrued."[7] The word

---

[6] In an action by the Attorney General to recover an unpaid penalty, "the validity, amount, and appropriateness of such penalty shall not be subject to review." 15 U.S.C. § 2615(a)(4).

[7] The quotation in the text is taken from Revised Statutes § 1047, 18 Stat. 193, 193 (1874) (later codified at 28 U.S.C. § 791 (1911)):

> No suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, shall be maintained, except in cases where it is otherwise specially provided, unless the same is commenced within five years from the time when the penalty or forfeiture accrued; *Provided*, That the person of the offender, or the property liable for such penalty of forfeiture, shall, within the same period, be found within the United States; so that proper process therefor may be instituted and served against such person or property.

The 1874 version of § 2462 replaced the slightly different one in the Act of Feb. 28, 1839, ch. 36, § 4, 5 Stat. 321, 322:

> [N]o suit or prosecution shall be maintained, for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, unless the same suit or prosecution shall be commenced within five years from when the penalty or forfei-

"enforcement" did not appear in the statute until the comprehensive revision of the Judicial Code, completed in 1948. The Reviser's Notes on the rewriting of § 2462's predecessor report: "Changes were made in phraseology." H.R. REP. No. 308, 80th Cong., 1st Sess. A191 (1947).

A long line of Supreme Court decisions compels the conclusion that the rewording did not render the new statute different in substance from the old. When the Reviser's Notes describe the alterations as changes in phraseology, the well-established canon of construction is that the revised statute means only what it meant before 1948. *See, e.g., Keene Corp. v. United States*, 113 S. Ct. 2035, 2041 (1993); *Finley v. United States*, 490 U.S. 545, 554 (1989); *Tidewater Oil Co. v. United States*, 409 U.S. 151, 162 (1972); *Fourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222, 228 (1957).

EPA's reading of § 2462 therefore must be rejected. To adopt it would be to treat the Reviser's rewriting of § 2462 as a modification of the statute's substance. No one could have construed § 2462's immediate predecessor to mean what EPA urges. The pre-1948 version applied to any suit or prosecution "for" a penalty. Nothing restricted its operation to actions seeking to collect penalties already imposed in other proceedings, and we can discern no reason why Congress

---

ture accrued; *Provided*, That the person of the offender, or the property liable for such penalty of forfeiture, shall, within the same period, be found within the United States; so that proper process therefor may be instituted and served against such person or property.

It is unclear, and unimportant, whether the ancestor of the Act of 1839 was the Act of Apr. 30, 1790, ch. 9, § 32, 1 Stat. 112, 119, construed in *Adams v. Wood*, or a 1799 statute pertaining to the collection of duties on imports and tonnage. Act of Mar. 2, 1799, ch. 22, § 89, 1 Stat. 627, 695-96. Early cases gave the nod to the 1790 law. *See Stimpson v. Pond*, 23 F. Cas. 101, 101-02 (C.C.D. Mass. 1855) (No. 13,455); *United States v. Platt*, 27 F. Cas. 546, 550 (C.C.S.D.N.Y. 1840) (No. 16,054a); Limitations Under Internal-Revenue Law, 14 Op. Att'y Gen. 81 (1872).

would have thought such a restriction desirable.[8] On the other hand, 3M's reading of "enforcement" to mean "imposition" is faithful to the canon recited above; it is consistent with one of the accepted definitions of "enforcement"; and it forecloses stale claims, one of the functions of a statute of limitations, since it is in the administrative proceeding that evidence is taken, findings are made and liability determined. Because assessment proceedings under TSCA seek to impose civil penalties,[9] they are proceedings for the "enforcement" of penalties and § 2462 thus applies. The same result may be reached on the basis, proposed by Judge Boggs, that "assessment is a prerequisite to, and thus a part of, the measures for the enforcement of a civil penalty." *Mullikin v. United States*, 952 F.2d 920, 933 n.1 (6th Cir. 1991) (concurring in part and dissenting in part). "It would seem quite odd to say that the very act that initiates the actions leading to the collection of the penalty, a stream of events that must at some point be a proceeding, is not itself part of the proceeding." *Id. See Yaffe Iron & Metal Co. v. EPA*, 774 F.2d 1008, 1012 (10th Cir. 1985), characterizing a civil penalty administrative

[8] *United States Dep't of Labor v. Old Ben Coal Co.*, 676 F.2d 259, 261 (7th Cir. 1982), held that with respect to an action in the district court to collect a penalty previously imposed administratively, the collection claim accrues under § 2462 "after the administrative proceeding has ended, a penalty has been assessed, and the violator has failed to pay the penalty." *See also Crown Coat Front Co. v. United States*, 386 U.S. 503 (1967). Applying the five-year limitations period to administrative proceedings in which liability is determined and a penalty imposed, does not preclude also applying § 2462 to later collection actions in district court, as the First Circuit recognized in *United States v. Meyer*, 808 F.2d 912, 914 (1987); *see also United States v. Noble Oil Co.*, 1988 U.S. Dist. LEXIS 11526, *5 (D.N.J. 1988). Under TSCA, these are separate proceedings. The judicial action to collect a penalty is brought, not by the agency, but by the Attorney General, and in "such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review." 15 U.S.C. § 2615(a)(4).

[9] TSCA itself speaks in terms of "any civil penalty which may be imposed." 15 U.S.C. § 2615(a)(2)(C).

assessment proceeding under § 16(a)(2) of TSCA as an "enforcement action," a description also adopted by EPA attorneys in the administrative proceedings in this case.

Three courts of appeals, including the Sixth Circuit in the *Mullikin* case just cited, hold § 2462 inapplicable to the assessment of penalties by the Internal Revenue Service pursuant to 26 U.S.C. § 6700 or § 6701.[10] In one of these cases, *United States v. Capozzi*, 980 F.2d 872 (2d Cir. 1992), the court stated as an alternative holding[11] that it "is the collection of amounts owed, not the assessment of them, that may be properly termed 'enforcement.'" 980 F.2d at 874–75 (footnote omitted). In adopting this definition, the *Capozzi* court neglected to consider how the word "enforcement" came to be inserted in the statute. The court therefore never analyzed whether, in light of the Reviser's Notes, it should have given such significance to § 2462's rewriting. Furthermore, the explanation the court did offer for its definition of "enforcement" does not survive close attention. The *Capozzi* court thought that "[p]rior to the assessment" there can be

---

[10] The majority in *Mullikin*, reciting the qualification in § 2462—"Except as otherwise provided by Act of Congress"—ruled that "Congress has otherwise provided for a statute of limitations within the Internal Revenue Code and therefore, Section 2462 has no application." 962 F.2d at 929. The per curiam opinion in *United States v. Lamb*, 977 F.2d 1297 (8th Cir. 1992), relied on *Mullikin*.

[11] The Second Circuit's first ground of decision in *Capozzi*, while consistent with our analysis, reached the opposite conclusion in light of the *ex parte*, non-adversarial manner in which the IRS assesses penalties:

> First, by its terms section 2462 applies only to "action[s], suit[s] or proceeding[s]." These terms implicate some adversarial adjudication, be it administrative or judicial. An [IRS] *assessment* of a penalty (or tax), however, is an *ex parte* act. It is merely the determination of the amount of the penalty and the official recording of the liability. *See* 26 U.S.C. § 6203; Treas. Reg. § 301.6203-1. Indeed, the taxpayer is not even entitled to a pre-assessment hearing. . . .

980 F.2d at 874 (footnote omitted). EPA penalty assessment proceedings are, by contrast, "adversarial adjudications."

95043655145

"no fine, penalty or forfeiture"; "[t]herefore, there is nothing to enforce until after the assessment is made." But if this is correct, if "enforcement" means only the collection of a previously assessed penalty and not the adjudication of liability for a civil penalty, then § 2462's five-year limitations period would not apply even to federal court actions to determine penalties. In view of the history of § 2462 and reasons why we have statutes of limitations, such a result is inconceivable. Indeed, § 2462's application to cases in which the court first adjudicates liability and then sets the penalty or fine is unquestioned.[12]

III

The remaining issue concerns the meaning of § 2462's phrase "unless commenced within five years from the date when the claim first accrued." On the assumption that § 2462 applies, EPA contends, and the ALJ held, that its claim for penalties "first accrued" when it discovered 3M's violations, not beforehand when the company committed those violations.

---

[12] *See, e.g.*, *United States v. Walsh*, 8 F.2d 659, 662–63 (9th Cir. 1993); *Sierra Club v. Chevron U.S.A., Inc.*, 834 F.2d 1517, 1521 (9th Cir. 1987); *United States v. Central Soya, Inc.*, 697 F.2d 165, 169–70 (7th Cir. 1982); *United States v. Amerep Nat'l Serve., Inc.*, 516 F.2d 198, 209 n.5 (2d Cir. 1975); *United States v. Smith, Kline & French Co.*, 184 F. 532, 533 (E.D. Pa.), *aff'd sub nom. Wampole & Co. v. United States*, 191 F. 573, 574–75 (3d Cir. 1911), *cert. denied*, 225 U.S. 710 (1912); *Carter v. New Orleans & N.E. R.R.*, 143 F. 99, 99 (5th Cir. 1906); *Erie Basin Metal Products, Inc. v. United States*, 150 F. Supp. 561, 564–65 (Ct. Cl. 1957); *FTC v. Bonnie & Co. Fashions, Inc.*, 1992 U.S. Dist. LEXIS 18764, *18 n.8 (D.N.J. 1992); *United States v. Island Park*, 791 F. Supp. 354, 367–68 (E.D.N.Y. 1992); *United States v. C & R Trucking Co.*, 537 F. Supp. 1060, 1063 (N.D. W.Va. 1982); *FTC v. Lukens Steel Co.*, 454 F. Supp. 1182, 1185 n.2 (D.D.C. 1978); *United States v. Fraser*, 156 F. Supp. 144, 147 (D. Mont. 1957), *aff'd*, 261 F.2d 282 (9th Cir. 1958); *United States v. Covello*, 136 F. Supp. 107, 108–09 & n.2 (D. Pa. 1955); *United States v. Maillard*, 26 F. Cas. 1140, 1141 (S.D.N.Y. 1871) (No. 15,709).

A claim normally accrues when the factual and legal prerequisites for filing suit are in place. *United States v. Lindsay*, 346 U.S. 568, 569 (1954); *Oppenheim v. Campbell*, 571 F.2d 660, 662 (D.C. Cir. 1978). While this appears to be a straightforward formulation, there may be complications: "The statutory period may begin either when the defendant commits his wrong or when substantial harm matures. This choice, unnecessary where the two events are simultaneous, becomes complex where considerable time intervenes; here the courts have generally looked to the substantive elements of the cause of action on which the suit is based." Note, *Developments in the Law—Statutes of Limitations*, 63 HARV. L. REV. at 1200. If the period always ran from the date of the wrong, actions by workers previously exposed to dangerous chemicals, for example, might be time-barred when brought years later after the workers' injuries manifested themselves. For cases involving such latent injuries or injuries difficult to detect, courts have developed the "discovery rule." We adopted the rule in *Connors v. Hallmark & Son Coal Co.*, 935 F.2d 336, 342 (D.C. Cir. 1991), following the lead of the other courts of appeals.[13] The "discovery rule" rests on the idea that plaintiffs cannot have a tenable claim for the recovery of damages unless and until they have been harmed. Damage claims in cases involving hidden injuries or illnesses therefore are viewed as not accruing until the harm becomes apparent. The rule approved in *Connors*, in which we "borrowed" a local statute of limitations for a federal claim, is of this type—a "discovery of injury" rule. *Connors*, 935 F.2d at

[13] *Dixon v. Anderson*, 928 F.2d 212, 213 (9th Cir. 1991); *Cada v. Baxter Healthcare Corp.*, 920 F.2d 446, 448 (7th Cir. 1990); *Corn v. City of Lauderdale Lakes*, 904 F.2d 585, 586 (11th Cir. 1990); *Alcorn v. Burlington Northern R.R.*, 878 F.2d 1105, 1107 (9th Cir. 1989); *Jensen v. Snellings*, 841 F.2d 600, 606–07 (5th Cir. 1988); *Alexopulos v. San Francisco Unified Sch. Dist.*, 817 F.2d 551, 552–53 (9th Cir. 1987); *Cullen v. Margiotta*, 811 F.2d 698, 725 (2d Cir. 1987); *Suslick v. Rothschild Sec. Corp.*, 741 F.2d 1000, 1004 (7th Cir. 1984); *Nichols v. Hughes*, 721 F.2d 657, 659–60 (9th Cir. 1983); *Trotter v. International Longshoremen's & Warehousemen's Union*, 704 F.2d 1141, 1143 (9th Cir. 1983).

341–42. Although use of the rule has not been restricted to personal injury actions, the rule has only been applied to remedial, civil claims. *See supra* note 13.

The rule EPA sponsors is of an entirely different sort. It is a "discovery of violation" rule having nothing whatever to do with the problem of latent injuries. The rationale underlying the discovery of injury rule—that a claim cannot realistically be said to accrue until the claimant has suffered harm—is completely inapposite. The statute of limitations on which EPA would engraft its rule is aimed exclusively at restricting the time within which actions may be brought to recover fines, penalties and forfeitures. Fines, penalties and forfeitures, whether civil or criminal, may be considered a form of punishment. *See Austin v. United States*, 113 S. Ct. 2801 (1993). In an action for a civil penalty, the government's burden is to prove the violation; injuries or damages resulting from the violation are not part of the cause of action; the suit may be maintained regardless of damage. Immediately upon the violation, EPA may institute the proceeding to have the penalty imposed. The penalty provision of TSCA, § 16(a)(1), says just that: "Any person who violates a provision of section 2614 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation." Because liability for the penalty attaches at the moment of the violation, one would expect this to be the time when the claim for the penalty "first accrued." [14]

---

[14] The Supreme Court rejected a "discovery of violation" rule in *Unexcelled Chemical Corp. v. United States*, 345 U.S. 59 (1953), which held that an enforcement claim accrued at the moment of violation. The suit was for liquidated damages against a government contractor for unlawfully employing child labor. The Court held: "'the cause of action accrued' ... when the minors were employed. That was the violation ... giving rise to the liability for liquidated damages.... A cause of action is created when there is a breach of duty owed the plaintiff. It is that breach of duty, not its discovery, that normally is controlling." 345 U.S. at 65.

The Court rejected a discovery of the wrong rule in *United States v. Kubrick*, 444 U.S. 111 (1979), a civil action under the Federal

9 5 0 4 3 6 5 5 1 4 8

EPA's contrary arguments tend to disregard the limited role of the court in this case. We are interpreting a statute, not creating some federal common law. The provision before us, § 2462, is a general statute of limitations, applicable not just to EPA in TSCA cases, but to the entire federal government in all civil penalty cases, unless Congress specifically provides otherwise. We therefore cannot agree with EPA that our interpretation of § 2462 ought to be influenced by EPA's particular difficulties in enforcing TSCA.[15] And we cannot understand why Congress would have wanted the running of § 2462's limitations period to depend on such considerations. An agency may experience problems in detecting statutory violations because its enforcement effort is not sufficiently funded; or because the agency has not devoted an adequate number of trained personnel to the task; or because the agency's enforcement program is ill-designed or inefficient; or because the nature of the statute makes it difficult to uncover violations; or because of some combina-

---

Tort Claims Act. In an argument roughly analogous to the one EPA makes here, Kubrick contended that his claim accrued only upon his discovery of the "wrong," that is, only when he discovered that the acts inflicting his injury constituted medical malpractice. After discussing why the prevailing case law and the statute's legislative history were against Kubrick's position, 444 U.S. at 120, the Court rejected his proposed rule as unworkable and contrary to the purposes of statutes of limitations. *Id.* at 123–24.

[15] EPA tells us that violations like 3M's are inherently undiscoverable and that this case involves self-reporting rules. After the incidents involved in this case, EPA instituted a new certification procedure. Under 19 C.F.R. § 12.12(a), importers are now required to certify that the shipment complies with TSCA or that TSCA does not apply. The certification is sent to EPA after inspection by a customs agent. Thereafter, EPA can compare the certification with its Premanufacture Notice and inventory records. Given this certification requirement, it may be that in future cases EPA could invoke the fraudulent concealment doctrine to toll the statute of limitations. *Holmberg v. Almbrecht*, 327 U.S. 392 (1946). At any rate, EPA's new procedure suggests that violations of the sort 3M committed are not "inherently undiscoverable." *See ALM Corp. v. EPA*, 974 F.2d 380, 382 (9th Cir. 1992).

tion of these factors and others. In this case, EPA suggests a remand for an evidentiary hearing on such matters and proposes a test: whether, "in the exercise of due diligence," EPA should have discovered 3M's violations earlier than it did. Brief of Respondents at 38 n.33. The subject matter seems more appropriate for a congressional oversight hearing. We seriously doubt that conducting administrative or judicial hearings to determine whether an agency's enforcement branch adequately lived up to its responsibilities would be a workable or sensible method of administering any statute of limitations. Nor do we understand how any of this relates to the reasons why we have a statute of limitations in penalty cases. An agency's failure to detect violations, for whatever reasons, does not avoid the problems of faded memories, lost witnesses and discarded documents in penalty actions brought decades after alleged violations are finally discovered. Most important, nothing in the language of § 2462 even arguably makes the running of the limitations period turn on the degree of difficulty an agency experiences in detecting violations.

When we return to the statutory language and ask what Congress meant when it required actions to be brought within five years from the date when a claim for a penalty "accrued," the answer readily presents itself. The meaning of this portion of § 2462 has been settled for more than a century. The word "accrued" first appeared in the 1839 version of the statute: the suit for a penalty had to be "commenced within five years from the time when the penalty or forfeiture accrued," Act of Feb. 28, 1839, ch. 36, § 4, 5 Stat. 321, 322. This language was carried over in the 1874 version (Rev. Stat. § 1047, 18 Stat. 193, 193 (1874), later codified at 28 U.S.C. § 791 (1911)), and modified slightly (without any substantive change) in the 1948 revision to read, as it does today, "unless commenced within five years from the date when the claim first accrued." *See supra* note 7.

In 1839, when Congress used the word "accrued," it could not possibly have intended the word to incorporate any discovery of violation rule. Only nine years earlier, the Supreme Court had rejected a discovery rule and held that a

2504365515 0

claim accrues at the moment a violation occurs. *Wilcox v. Plummer*, 29 U.S. (4 Pet.) 172, 181 (1830). Other Supreme Court opinions of the era consistently used the phrase "claim accrued" to mean the time at which a cause of action first existed, not the time when the violation was first discovered. *See, e.g.*, *Meredith v. United States*, 38 U.S. (13 Pet.) 486, 493–94 (1839); *Bank of the United States v. Daniel*, 37 U.S. (12 Pet.) 32, 56 (1838); *Evans v. Gee*, 36 U.S. (11 Pet.) 80, 84 (1837); *New York v. Miln*, 36 U.S. (11 Pet.) 102, 144 (1837) (Thompson, J., dissenting on other grounds); *Montgomery v. Hernandez*, 25 U.S. (12 Wheat.) 129, 133–34 (1827). In a case decided under the 1839 version of § 2462, the government urged the court to hold—as EPA does here—that its claim for a forfeiture did not accrue until it discovered the violation. *Maillard*, 26 F. Cas. at 1143. The court rebuffed the government, ruling that the claim "did so accrue, as against the defendant in this case, when the offenses alleged were committed.... [I]gnorance does not prevent the running of the statute or the accruing of the forfeiture." *Id. See also In re Landsberg*, 14 F. Cas. 1065, 1067 (E.D. Mich. 1870) (No. 8,041); *United States v. Hatch*, 26 F. Cas. 220, 224 (C.C.S.D.N.Y. 1824) (No. 15,325). Since then, the term "accrued" in § 2462 has been taken to mean that the running of the limitations period in penalty actions is measured from the date of the violation. *United States v. Core Lab.*, 759 F.2d 480, 482 (5th Cir. 1985); *see also Smith v. United States*, 143 F.2d 228, 229 (9th Cir. 1944); *United States v. Appling*, 239 F. Supp. 185, 194–95 (S.D. Tex. 1965).[16] As the Fifth Circuit

[16] EPA describes one circuit court and two district court opinions as applications of a variant of a discovery rule in penalty enforcement cases brought pursuant to the Clean Water Act, 33 U.S.C. §§ 1251–1376. Each court held that the five year limitations period in § 2462 commenced not when the company illegally discharged waste, but when the company filed its discharge reports with EPA. *Public Interest Research Group of New Jersey v. Powell Duffryn*, 913 F.2d 64, 75 (3d Cir. 1990); *United States v. Hobbs*, 736 F. Supp. 1406 (E.D. Va. 1990), *aff'd*, 947 F.2d 941 (4th Cir. 1991), *cert. denied*, 112 S. Ct. 2274 (1992); *Atlantic States Legal Found. v. Al Tech Specialty Steel Corp.*, 635 F. Supp. 284, 287–88 (N.D.N.Y.

95043655151

put it in *Cors*, a "review of [cases under § 2462] clearly demonstrates that the date of the underlying violation has been accepted without question as the date when the claim first accrued, and, therefore, as the date on which the statute began to run." 759 F.2d at 482.

In light of the legal meaning of the word "accrued" in 1839, the retention of the word in the 1874 version of § 2462, and its appearance in the current statute, we hold that an action, suit or proceeding to assess or impose a civil penalty must be commenced within five years of the date of the violation giving rise to the penalty. We reject the discovery of violation rule EPA advocates as unworkable; outside the language of the statute; inconsistent with judicial interpretations of § 2462; unsupported by the discovery of injury rule adopted in non-enforcement, remedial cases; and incompatible with the functions served by a statute of limitations in penalty cases.

IV

EPA may not assess civil penalties against 3M for any violations of § 15 of TSCA allegedly committed by the company more than five years before EPA commenced its proceeding under 15 U.S.C. § 2615. The petition for review is granted, and the case is remanded for further proceedings consistent with this opinion.

So Ordered.

1986). None of the decisions purported to adopt any general interpretation of "accrued." Each decided only when a claim accrued under the particular provision of the Clean Water Act. The courts do not mention a discovery rule, and they most certainly do not make the running of limitations period dependent on the agency's enforcement capacity, as EPA proposes in this case. Each court simply determined that the claim before it "accrued" at a discrete time: when the reports were filed. It is unnecessary for us to agree or disagree with these opinions. It is enough to say that they do not support EPA's argument for an open-ended discovery of violation rule under § 2462.

9 5 0 4 3 6 5 5 1 5 2

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Jan 13 9 49 AM '94

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of Arthur L. Williams, Jr.	)))	MUR 3787

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

Attached is a signed proposed conciliation agreement which has been submitted to the Commission by Arthur L. Williams in the above-referenced matter. Attachment 1.

On June 10, 1993, the Commission found reason to believe that Respondent violated 2 U.S.C. § 441a(a)(1)(C). On April 6, 1994, in light of the decision in FEC v. NRA Political Victory Fund, 6 F.3d 821 (D.C. Cir. 1993), cert. granted, 62 U.S.L.W. 3842 (U.S. June 20, 1994) (No. 93-1151), the Commission revoted that determination, and reapproved the Factual and Legal Analysis and conciliation agreement previously mailed to Respondent. For the foregoing reasons, we recommend that the Commission accept the conciliation submitted by Mr. Williams and close the file with respect to this Respondent.1/

II. ANALYSIS

9504365153

1/ The Georgia Republican Party (the "Committee") is also a respondent in this MUR. This Office is currently reviewing materials submitted by the Committee and expects to circulate a report to the Commission with recommendations within the next 45 days.

9 5 0 4 3 6 5 5 1 5 4

Therefore, we recommend that the Commission accept this proposed conciliation agreement with Mr. Williams.

III. **RECOMMENDATIONS**

The Office of General Counsel recommends that the Commission:

1. Approve the attached conciliation agreement with Arthur L. Williams, Jr.

2. Close the file as to this respondent.

3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

7/12/94
Date

BY: Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

Attachments:
Proposed Conciliation Agreement

Staff Assigned: Jane J. Whang

95043655156

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Arthur L. Williams, Jr.	)	MUR 3787
	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on July 18, 1994, the Commission decided by a vote of 5-0 to take the following actions in MUR 3787:

1. Approve the conciliation agreement with Arthur L. Williams, Jr., as recommended in the General Counsel's Report dated July 12, 1994.

2. Close the file as to this respondent.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated July 12, 1994.

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

Attest:

7-18-94
Date

Delores Hardy
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., July 13, 1994 9:49 A.M.
Circulated to the Commission: Wed., July 13, 1994 11:00 A.M.
Deadline for vote: Mon., July 18, 1994 4:00 P.M.

mck

9504365551 57

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

JULY 19, 1994

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Myles V. Lynk, Esq.
Dewey Ballantine
1775 Pennsylvania Ave., N.W.
Washington, D.C. 20006-4605

RE: MUR 3787
Arthur L. Williams, Jr.

Dear Mr. Lynk:

On July 18, 1994, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 441a(a)(1)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to Mr. Williams.

This matter will become public within 30 days after it has been closed with respect to all other respondents involved. 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.

You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply with respect to all respondents still involved in this matter. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation

9 5 0 4 3 6 5 5 1 5 8

agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Jane J. Whang
Attorney

Enclosure
Conciliation Agreement

9 5 0 4 3 6 5 5 1 5 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Arthur L. Williams, Jr.	)	MUR 3787
	)	
	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Arthur L. Williams ("Respondent") violated 2 U.S.C. § 441a(a)(1)(C).

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

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

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

III. Respondent enters voluntarily into this agreement with the Commission.

95043655160

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

1. In 1988 Arthur L. Williams, Jr., was a contributor to the Georgia Republican Party, a political committee within the meaning of 2 U.S.C. § 431(4).

2. Four separate checks were written on a joint account maintained by Mr. Williams and his wife, Angela H. Williams, and made payable to "Victory '88-GA" of the Georgia Republican Party, including two in the amount of $5,000 each on September 21, 1988, which were received by the Georgia Republican Party on September 29, 1988, and two in the amount of $7,500 each on October 14, 1988, which were received by the Georgia Republican Party on October 17, 1988.

3. All four checks were deposited into the Georgia Republican Party's federal account.

4. The September 21, 1988 checks designated that Mr. and Mrs. Williams were each contributors, and they were so attributed by the Georgia Republican Party. The two October 14, 1988 checks, however, did not contain any written indication that Mr. Williams and Mrs. Williams were both contributors, and the Georgia Republican Party attributed both checks to Mr. Williams.

5. In its response to the Commission's Interim Audit Report, the Georgia Republican Party contended that it had made a diligent effort to monitor contributors' aggregate totals, and that any excessive amounts erroneously deposited into its federal

9504365551 61

account, were transferred into the Georgia Republican Party's non-federal account as soon as they discovered the discrepancies.

6. The Georgia Republican Party also contended that letters were written to donors who had exceeded their $5,000 limit "explaining the situation and to query whether they wanted a refund or whether we could transfer funds from the federal to the state account on their behalf." The Georgia Republican Party further stated that its representative "remembers specifically calling A.L. Williams regarding his excessive contribution." At this point, the Respondent directed the Georgia Republican Party to immediately transfer the excessive portion of his contribution to the non-federal account.

7. The Georgia Republican Party did not transfer all such funds immediately, but reported transferring Respondent's excessive contributions to its non-federal account in four separate transactions: $625 on December 9, 1988; $5,500 on December 14, 1988; $5,000 on December 21, 1988; and $3,875 on December 29, 1988. The amount of $6,125 was transferred to a non-federal account within the required 60 day period from the date the contributions were received; however, $5,000 was transferred to a non-federal account 5 days after the expiration of the 60 day time period, and $3,875 was transferred to a non-federal account 13 days after the expiration of the 60 day time period.

8. As a result, because the Georgia Republican Party deposited Respondent's two $7,500 contribution checks into its federal account, and then did not transfer these funds from that

9 5 0 4 3 6 5 5 1 6 2

account into a non-federal account within 60 days of the date of the receipt of the contributions, the Respondent is deemed to have made $15,000 in excessive contributions in violation of 2 U.S.C. § 441a(a)(1)(C).

9. Respondent contends that he did not know that the Georgia Republican Party's "Victory 88-Georgia" or "Victory 88-GA" account was a federal election campaign account, or that the two October 1988 contribution checks had been deposited into the Georgia Republican Party's federal account, until he was so advised only by a telephone call from the Georgia Republican Party. He further contends that one of the October 1988 checks represented a contribution from his wife, Angela H. Williams, and that the Committee incorrectly designated both checks to him.

10. The Commission has not found that the Respondent knowingly and willfully violated 2 U.S.C. § 441a(a)(1)(C).

V. Respondent made a contribution to the Georgia Republican Party in excess of the $5,000 limitation, in violation of 2 U.S.C. § 441a(a)(1)(C).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of five thousand dollars ($5,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

9 5 0 4 3 6 5 5 1 6 3

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. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement 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

BY: Kim Bright-Coleman
Kim Bright-Coleman
Associate General Counsel

7/19/94
Date

FOR THE RESPONDENT(S):

Myles V. Lynk
(Name) Myles V. Lynk
(Position) Attorney

July 5, 1994
Date

95043655164

DEWEY BALLANTINE

1776 PENNSYLVANIA AVE., NW.
WASHINGTON, D.C. 20006

THE PRIVATE BANK
CITIBANK D.C.
WASHINGTON, D.C.

010092

DATE	CHECK NUMBER
8/2/94	010092

PAY THIS AMOUNT
$5,000.00

PAY SUM OF 5000 DOLS 00 CTS

TO THE ORDER OF Federal Election Commission

Bennie McKinney

TWO SIGNATURES REQUIRED
ON AMOUNTS EXCEEDING $10,000.00

MUR 3782 - Arthur L. Williams, Jr.

[redacted]

9504365516 5

TO THE READER OF THE PUBLIC RECORD FILE:

THE GENERAL COUNSEL'S REPORT, DATED APRIL 28, 1995, IN THE MATTER OF 28 U.S.C §2462 - STATUTE OF LIMITATIONS, CONTAINS DISCUSSION OF SEVERAL CASES CURRENTLY UNDER REVIEW BY THE COMMISSION. THAT DISCUSSION HAS BEEN DELETED FROM THE PUBLIC RECORD FILE, AND PAGES FOLLOWING IT HAVE BEEN REDESIGNATED AS (A), (B), ETC.

9504365516 6

AGENDA DOCUMENT NO. 95-39

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
Apr 28 4 02 PM '95

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) 28 U.S.C. § 2462
) Statute of Limitations
)

SENSITIVE
MAY 16 1995
EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

I. INTRODUCTION[1]

As the Commission is aware, on February 24, 1995, the U.S. District Court for the District of Columbia decided in Federal Election Commission v. National Republican Senatorial Committee, 1995 WL 83006 (D.D.C. 1995) ("NRSC"), that the statute of limitations set forth at 28 U.S.C. § 2462 ("Section 2462") applied to Commission enforcement suits seeking civil penalties, relying upon the D.C. Circuit's opinion in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994). This Report discusses the statute of limitations generally, describes

enforcement matters potentially affected by the NRSC court's conclusion and makes recommendations for each of the potentially affected matters.[2]

9 5 0 4 3 6 5 5 1 6 7

1. This is a combined General Counsel's Report from the Enforcement and Public Financing, Ethics and Special Projects ("PFESP") areas of the Office of the General Counsel.

In NRSC, Judge Pratt held that the Commission could not seek a civil penalty in conjunction with its civil enforcement action against the defendant for violations of 2 U.S.C. §§ 441a(h) and 434(b) because the 5-year federal catch-all statute of limitations found at 28 U.S.C. § 2462 applied to Commission-initiated enforcement suits seeking civil penalties. The court, however, allowed the Commission's suit to go forward notwithstanding this conclusion, ruling that Section 2462 did not apply to the declaratory and equitable relief also sought by the Commission. Therefore, the court so far has issued no final appealable decision.

On May 17, 1994, in FEC v. Williams, the U.S. District Court for the Central District of California reached the opposite conclusion about the applicability of 28 U.S.C. § 2462 to the Commission's enforcement actions. Mr. Williams' contributions in the name of another took place more than 5 years before the Commission filed its complaint and counsel raised 28 U.S.C. § 2462 as an affirmative defense. However, the court ruled at an oral hearing that the statute of limitations did not apply. Instead, the court awarded the Commission a $10,000 civil penalty against Mr. Williams for violations of 2 U.S.C. § 441f. FEC v. Williams, No. 93-6321 (C.D. Cal. Jan. 31, 1995), appeal docketed, No. 95-55320 (9th Cir. 1995) ("Williams"). Mr. Williams has filed a notice of appeal regarding, inter alia, the district court's

95043655168

statute of limitations decision. Thus, whether and to what extent the statute of limitations at 28 U.S.C. § 2462 will apply to Commission enforcement cases will be before the 9th Circuit shortly, and could also be the subject of a later appeal before the D.C. Circuit in MRSC.[3]

In light of this conflict between the courts and the pendency of the appeal, this Office believes a decision to close enforcement cases based solely on a conclusion that the 5 year statute of limitations would apply to any potential enforcement suits would be unwarranted. This is especially true since neither 28 U.S.C. § 2462 nor the MRSC decision limits the Commission's authority to complete administrative investigations or seek civil penalties in voluntary conciliation prior to filing suit. Nonetheless, the Office of the General Counsel recognizes that until the stautue of limitations is finally resolved by the courts, respondents are likely to raise it as a defense, making settlement more complicated. Thus, even though the Commission is not bound by the MRSC decision in other cases, the Office of the General Counsel believes the Commission should take this issue into consideration on a case-by-case basis when looking at its active and inactive enforcement cases -- particularly those with older activity -- and, in an exercise of its prosecutorial discretion, attempt to bring the matters most vulnerable to

9504365169

statute of limitations difficulties to an early administrative disposition.[4]

In order to give the Commission the broadest picture of the possible effect of a statute of limitations on its caseload, this Office has analyzed all enforcement cases where there is FECA-violative activity that will be 5 years old at some point during this year. Section II of this Report gives an overview of principles involved in analyzing the statute of limitations issue, with particular attention to determining when a Commission cause of action might accrue, and when the running of the statute may be tolled by equitable principles. Section III describes how this Office applied these principles to its active and inactive enforcement caseload and the approach used in making its recommendations for Commission action. Section IV includes descriptions of each of the potentially affected enforcement matters, outlines the statute of limitations difficulties this Office foresees for each, and recommends specific Commission action for each potentially affected matter.

II. THE LAW

This section discusses 28 U.S.C. § 2462, the federal catch-all statute of limitations, and issues relating to when the statute begins to run, under what circumstances it may be tolled

95043655170

and declaratory and equitable relief available to the Commission even if the statute of limitations has run completely.

A. Accrual

Section 2462 requires commencement of a suit for civil penalties within five years from the date when the claim first accrued.[5] Thus, as a threshold matter, in considering the potential effect of the limitations period on a particular case, one must determine the complex issue of when the claim first accrued.

1. General Principles

A cause of action normally accrues when the factual and legal prerequisites for filing suit are in place, i.e., at the precise moment when the violation occurred.[6] However, federal courts have generally applied the discovery rule of accrual, an equitable doctrine under which a claim is considered to have accrued at the time that a potential claimant knew, or through the exercise of reasonable diligence should have known, of the facts underlying the cause of action.[7]

9504365517 1

---

5. 28 U.S.C. § 2462 provides:

> Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued . . . .

6. United States v. Lindsay, 346 U.S. 568, 569 (1954).

7. See, e.g., Delaware State College v. Ricks, 449 U.S. 250, 259 (1980) (Court implicitly applied discovery rule to Title VII discrimination suit); United States v. Kubrick, 444 U.S. 111, 122-25 (1979) (court implicitly endorsed discovery rule of accrual, but limited it to discovery of facts underlying a claim,

The substantial harm theory of accrual can be considered analytically as a particular application of the discovery rule. It is usually advanced in personal injury actions involving latent injuries or injuries difficult to detect, especially in cases of "creeping disease" such as asbestosis. The rule rests on the idea that plaintiffs cannot have a tenable claim for the recovery of damages unless and until they have been harmed. Under the substantial harm theory, therefore, damage claims in cases involving latent injuries or illnesses do not accrue until substantial harm matures or, in other words, until the harm becomes apparent.

The Supreme Court has cautioned against "attempting to define for all purposes when a cause of action first accrues. Such words are to be interpreted in light of the general purposes of the statute and of its other provisions, and with due regard to those practical ends which are to be served by any limitation of the time within which an action must be brought."[8] Thus, in determining the time of accrual in cases arising under the FECA,

---

(Footnote 7 continued from previous page)
rather than extending the rule to discovery of legal cause of action); see also Oshiver v. Levin, Fishbein, Sedran & Berman, 38 F.3d 1380, 1386 (3d Cir. 1994); Dixon v. Anderson, 928 F.2d 212, 215 (6th Cir. 1991); Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450 (7th Cir. 1990); Corn v. City of Lauderdale Lakes, 904 F.2d 585, 588 (11th Cir. 1990); Alcorn v. Burlington Northern Railroad Co., 878 F.2d 1105, 1108 (8th Cir. 1989); Lavellee v. Listi, 611 F.2d 1129, 1131 (5th Cir. 1980); Cullen v. Margiotta, 811 F.2d 698, 725 (2d Cir. 1987); Cline v. Brusett, 661 F.2d 108, 110 (9th Cir. 1981); Bireline v. Seagondollar, 567 F.2d 260, 263 (4th Cir. 1977).

8. Crown Coat Front Co., Inc. v. United States, 386 U.S. 503, 517 (1967) (quoting Reading Co. v. Koons, 271 U.S. 58, 62 (1926)).

95043655172

courts will look to the nature and goals of the FECA versus the interests underlying the five-year limitations period.

2. Accrual in the Context of the FECA

While the discovery rule has been applied in a wide range of cases, originating in the tort context and extending to, inter alia, contract, Title VII, and RICO actions, to date, it appears that only the United States District Court for the District of Columbia has held that the Section 2462 statute of limitations is applicable to the FECA. The court also addressed the precise question of when a cause of action accrues under the FECA. Inasmuch as the district court in NRDC relied on the decision of the Court of Appeals for the District of Columbia in 3M Co. v. Browner, 17 F.3d 1453 (D.C. Cir. 1994) ("3M"), the latter case will be summarized first.

3M was an action brought by the Environmental Protection Agency ("EPA") to impose civil penalties against a company for violations of the Toxic Substances Control Act, wherein the EPA argued that in the exercise of due diligence it could not have discovered the violations earlier. In 3M, the defendant misstated and failed to include information on notices required by the EPA. The court acknowledged that the District of Columbia Circuit has adopted the discovery rule, under which, as discussed above, a claim is considered to have accrued at the time that a claimant knew or should have known of the facts underlying the cause of action. However, the 3M court found that the discovery rule had only been applied in limited circumstances -- those involving remedial, civil claims -- and specifically rejected the discovery

2504365517 3

rule under the circumstances presented, stating that the rule proposed by the EPA in that case was a "discovery of violation" rule. The court concluded that in civil penalty actions the running of the limitations period of Section 2462 is measured from the date of the violation.[9]

In NRSC, a suit arising from violations of the FECA involving excessive contributions and failure to report such contributions to the FEC, the court repeated the options for defining the time of accrual set forth in 3M, stating that a claim accrues "when the defendant commits his wrong or when substantial harm matures." Then, without pinpointing the exact time of accrual, and without specifically attempting to define accrual in the FECA context, the court held that the FECA claim accrued "considerably before the end of the [FEC's] administrative process." While the district court's accrual finding was imprecise, Judge Pratt's construction of 3M suggests that the discovery rule of accrual may be rejected in FECA claims brought in that Circuit.

On the other hand, the Court of Appeals for the Third Circuit, in considering a citizens' suit brought under the Clean

---

9. In 3M, the court cited the Supreme Court's decision in Unexcelled Chemical Corp. v. United States, 345 U.S. 59 (1953), which was a suit for liquidated damages against a government contractor for unlawfully employing child labor. As the 3M decision noted, in that case, the Supreme Court held that "a cause of action is created when there is a breach of duty owed the plaintiff. It is that breach of duty, not its discovery, that normally is controlling." However, the Supreme Court's focus was the question of whether the claim accrued at the time of the violation versus after it had been administratively determined that the contractor was liable. The Court was not concerned specifically with the question of whether the claim accrued at the time of the violation versus when the plaintiff knew or should have known of the facts underlying the claim.

9504365517 4

Water Act, which has statutory self-reporting requirements comparable to the FECA, held the Section 2462 statute of limitations applicable and embraced the discovery rule. There, the Third Circuit held that since the defendant was responsible for filing reports under the Act and the public could not reasonably be deemed to have known about any violation until the defendant filed the report, the cause of action did not accrue until the reports listing the violations were filed.[10] A district court in Virginia[11] has also embraced this discovery rule for determining accrual under the Clean Water Act.[12]

B. EQUITABLE TOLLING

There are instances in which a court may determine that equitable considerations require the statute of limitations to be tolled. Such a determination is made on a case-by-case basis and

---

10. Public Interest Research Group v. Powell Duffryn Terminals, Inc., 913 F.2d 64, 75 (3d Cir. 1990), cert. denied, 498 U.S. 1109 (1991).

11. United States v. Hobbs, 736 F. Supp. 1406 (E.D. Va. 1990).

12. Various other circuit courts have grappled with the question of when the federal five-year statute of limitations of Section 2462 begins to run, but these cases, which have produced conflicting rulings, have all involved actions to recover civil penalties rather than actions to impose them. Compare United States Dept. of Labor v. Old Ben Coal Co., 676 F.2d 259 (7th Cir. 1982) (in action to recover civil penalty, claim accrues only after administrative proceeding has ended, penalty has been assessed, and violator failed to pay) and United States v. Meyer, 808 F.2d 912 (1st Cir. 1987) (in civil penalty enforcement action limitations period is triggered on date civil penalty is administratively imposed) with United States v. Core Laboratories Inc., 759 F.2d 480 (5th Cir. 1985) (in suit to recover civil penalty limitations period begins to run on date of underlying violation).

9504365517 5

is referred to as equitable tolling.[13] Equitable tolling presumes claim accrual and steps in to toll, or stop, the running of the statute of limitations in light of established equitable considerations.[14] The most fundamental rule of equity is that a party should not be permitted to profit from its own wrongdoing.

There are three principal situations in which equitable tolling may be appropriate: (1) where the defendant has actively misled the plaintiff regarding the plaintiff's cause of action; (2) where the plaintiff in some extraordinary way has been prevented from asserting his or her rights; and (3) where the

---

13. Some courts have pointed out that, in instances where the defendant has taken active steps to prevent the plaintiff from suing, e.g., in cases involving fraudulent concealment, the tolling of the statute of limitations is more appropriately referred to as equitable estoppel. See Cada v. Baxter Healthcare Corp., 920 F.2d 446, 450-51 (7th Cir. 1990).

14. Courts have held that statutes of repose cannot be extended by federal tolling principles, see Baxter Healthcare, 920 F.2d at 451; First United Methodist Church of Hyattsville v. United States Gypsum Company, 882 F.2d 862 (4th Cir. 1989). While statutes of repose and statutes of limitations have sometimes been referred to interchangeably, a statute of repose is legally distinguishable from a statute of limitations. Whereas a statute of limitations is a procedural device motivated by considerations of fairness to the defendant, a statute of repose is a substantive grant of immunity after a legislatively determined period of time and is based on the economic interest of the public as a whole and a legislative balance of the respective rights of potential plaintiffs and defendants. See First United Methodist Church, supra. To date, this Office's research has revealed no instances in which a court has held that Section 2462 is a statute of repose in the legal sense and, therefore, held tolling principles to be inapplicable. Indeed, in 3M, the court noted the potential applicability of the doctrine of fraudulent concealment to Section 2462. See 3M, 17 F.3d at 1461, n.15.

95043655176

plaintiff has timely asserted his or her rights mistakenly in the wrong forum.[15]

1. Doctrine of Fraudulent Concealment

The Supreme Court has defined the doctrine of fraudulent concealment as the rule that "where a plaintiff has been injured by fraud and remains in ignorance of it without any fault or want of diligence or care on his part, the bar of the statute does not begin to run until the fraud is discovered, though there be no special circumstances or efforts on the part of the party committing the fraud to conceal it from the knowledge of the other party." Holmberg v. Armbrecht, 327 U.S. 392, 397 (1946). The Court went on to state that this equitable doctrine is read into every federal statute of limitation. Id.

The doctrine, as applied by the circuit courts of appeal, requires the plaintiff to plead[16] and prove three elements:

95043655177

15. School District of City of Allentown v. Marshall, 657 F.2d 16, 19-20 (3d Cir. 1981) (quoting Smith v. American President Lines, Ltd., 571 F.2d 102, 109 (2d Cir. 1978)). It should also be noted that statutes of limitations are subject to waiver and may be tolled by agreement of the parties. See Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 393 (1982).

16. Pleading requirements for fraudulent concealment are very strict. Some courts invoke Fed. R. Civ. P. 9(b) and require a plaintiff to meet the pleading requirements for fraud. See Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389, 394 (6th Cir. 1975). Other courts, while not specifically invoking Rule 9, still require specificity and particularity in pleading. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Weinberger v. Retail Credit Co., 498 F.2d 552, 555 (4th Cir. 1974).

(1) use of fraudulent means by the defendant;
(2) plaintiff's failure to discover the operative facts that are the basis of his cause of action within the limitations period; and
(3) plaintiff's due diligence until discovery of the facts.

State of Colorado v. Western Paving Construction, 833 F.2d 867, 874 (10th Cir. 1987).

The first prong of the plaintiff's burden under the doctrine - the use of fraudulent means by the defendant - warrants some elaboration. The courts have generally held that to establish this element of the doctrine one of two facts must be shown: 1) that fraud is an inherent part of the violation so that the violation conceals itself; or 2) that the defendant committed an affirmative act of concealment - a trick or contrivance intended to exclude suspicion or prevent inquiry.[17] These approaches to establishing the first element of the doctrine of fraudulent concealment have been referred to, respectively, as the self-concealing theory and the subsequently concealed theory. By contrast, the courts have pointed out that silence, without some fiduciary duty, never satisfies this element.[18]

---

17. See Riddell v. Riddell Washington Corp., 866 F.2d 1480, 1491 (D.C. Cir. 1989); State of Colorado v. Western Paving Construction, 833 F.2d at 876-78.

18. See Rutledge v. Boston Woven Hose & Rubber Co., 576 F.2d 248, 250 (9th Cir. 1978); Dayco Corp. v. Firestone Tire & Rubber Co., 386 F. Supp. 546, 549 (N.D. Ohio 1974), aff'd sub. nom., Dayco Corp. v. Goodyear Tire & Rubber Co., 523 F.2d 389 (6th Cir. 1975). Some courts have also held that a denial of an accusation of wrongdoing does not constitute fraudulent concealment. See King & King Enters. v. Champlin Petroleum Co., 657 F.2d 1147, 1155 (10th Cir. 1981), cert. denied, 454 U.S. 1164 (1982); but see Rutledge, supra ("denying wrongdoing may constitute fraudulent concealment where the circumstances make the plaintiff's reliance upon the denial reasonable").

95043655178

Where the plaintiff establishes all three of the required elements, the doctrine provides the plaintiff with the full statutory limitations period, starting from the date the plaintiff discovers, or with due diligence could have discovered, the facts supporting the plaintiff's cause of action.

2. Inducement Due to Intentional or Unintentional Misrepresentation

In cases where the plaintiff has refrained from commencing suit during the period of limitation because of inducement by the defendant, the Supreme Court has found the statutory period tolled because of the conduct of the defendant. See Glus v. Brooklyn Eastern Terminal, 359 U.S. 231 (1973). Under the facts of Glus, supra, the plaintiff averred that the defendant had fraudulently or unintentionally misstated information upon which the plaintiff relied in withholding suit.

3. Subpoena Enforcement

Several district courts have tolled other statutes of limitations in circumstances where the plaintiff was forced to initiate subpoena enforcement proceedings to uncover facts underlying the cause of action.[19] While research to date has not revealed specific instances in which a court has tolled the Section 2462 statute of limitations because the plaintiff was

---

19. EEOC v. Gladieux Refinery, Inc., 631 F. Supp. 927, 935-36 (N.D. Ind. 1986) (Court held that the statute of limitations was tolled during the time between issuance of subpoena and enforcement because defendant did not have valid basis for not complying with subpoena); EEOC v. City of Memphis, 581 F. Supp. 179, 182 (W.D. Tenn. 1983) (Court held that the statute of limitations was tolled until documents sought in subpoena were made available to EEOC).

95043655179

forced to initiate subpoena enforcement proceedings, Section 2462 is sufficiently similar to those statutes which courts have tolled to suggest that the same result would be appropriate. Further, a good argument could be made for equitably tolling Section 2462 in such circumstances because defendants' refusal to comply with the Commission's subpoenas, whether that refusal is reasonable or otherwise, frustrates the Commission's ability to bring the action within the limitations period. Not tolling the statute of limitations in such circumstances while allowing defendants to plead the statute of limitations as an affirmative defense to actions brought by the Commission would allow defendants to profit from refusing to comply with subpoenas, and thus "offer a tempting method of defeating the basic purpose of [the Act]."[20]

4. Continuous Violation Theory

The continuous violation theory is another theory that operates to toll statutes of limitations. In the case of a continuing violation, the violation is not complete for purposes of the statute of limitations as long as the proscribed course of conduct continues, and the statute of limitations does not begin to run until the last day of the continuing offense.[21]

The Supreme Court has cautioned that continuing offenses are not to be too readily found, explaining in the criminal context that "such a result should not be reached unless the

20. See Hodgson v. International Printing Press, 440 F.2d 1113, 1119 (6th Cir. 1973).

21. See Fiswick v. United States, 329 U.S. 211, 216 (1946); United States v. Butler, 792 F.2d 1528, 1532-33 (11th Cir. 1986).

9504365518 0

explicit language of the substantive criminal statute compels such a conclusion, or the nature of the crime involved is such that Congress must assuredly have intended that it be treated as a continuing one." Toussie v. United States, 397 U.S. 112, 115 (1970). Thus, the question of whether a violation is a continuing one is largely a matter of statutory interpretation involving the precise statutory definition of the violation.

Courts will generally not find that a violation is continuous absent clear language in the statute.[22]

C. Declaratory Relief and Equitable Remedies

The limitations period set forth in 28 U.S.C. § 2462 applies only to suits for civil penalties. Section 2462, by its own terms, has no bearing on suits in equity.[23] The following is a purely exemplary, non-exhaustive list of various forms of equitable relief that may be available. It should be noted that it is within the discretion of the courts to grant or withhold

---

22. Compare Toussie, 397 U.S. 112 (1970) (Court held that failure register for draft was not continuing violation where draft statute contained no language that clearly contemplated continuing offense, and regulation under Act referring to continuing duty to register was insufficient, of itself, to establish continuing offense) with United States v. Cores, 356 U.S. 405 (1958) (statute prohibiting alien crewmen from remaining in United States after permits expired contemplated continuing offense where conduct proscribed is the affirmative act of willfully remaining, and crucial word "remains" permits no connotation other than continuing presence). See also Keystone Insurance Company v. Houghton, 863 F.2d 1125 (3d Cir. 1988) (In RICO action, court held that language of the Act, which makes a pattern of conduct the essence of the crime, "clearly contemplates a prolonged course of conduct."); West v. Philadelphia Electric Co., 45 F.3d 744 (3d Cir. 1995) (Court applied continuing violation theory where cause of action required showing of intentional, pervasive, and regular racial discrimination).

23. See Hobbs, 736 F. Supp. at 1410; NRSC, 1995 WL 83006, at *4.

95043655181

equitable remedies and courts will exercise that discretion on a case-by-case basis in light of the particular circumstances of each case.

o Declaratory Judgment - A declaratory judgment is a court judgment which establishes the rights of parties or expresses the opinion of the court on a question of law without the court necessarily ordering anything to be done. While a declaratory judgment is similar in some respects to an advisory opinion, unlike the latter, a declaratory judgment is rendered in an adversarial proceeding and is legally binding on all the parties involved.

o Disgorgement - Disgorgement is aimed at preventing the unjust enrichment of a wrongdoer. The disgorgement remedy takes away "ill-gotten gains," thereby depriving a respondent of wrongfully obtained proceeds and returning the wrongdoer to the position the wrongdoer was in before the proceeds were wrongfully obtained.

o Injunction - A prohibitory injunction is a court order that requires a party to refrain from doing or continuing a particular act or activity. Prohibitory injunctions are generally considered preventative measures which guard against future acts rather than affording remedies for past wrongs.

By contrast, a mandatory injunction is a type of injunction that requires some positive action. A mandatory injunction (1) commands the respondent to do a particular thing; (2) prohibits the respondent from refusing (or persisting in refusing) to do or permit some act to which the plaintiff has a legal right; or (3) restrains the respondent from permitting his previous wrongful act to continue to take effect, thus virtually compelling him or her to undo it. A conciliation agreement provision that requires a committee to amend its reports in conformance with the Act is similar in effect to a mandatory injunction, albeit one entered into voluntarily and without court order. In addition, the creative forms of equitable relief listed below are examples of possible mandatory injunctions that the Commission might seek in court.

o Creative Forms of Equitable Relief

- require defendant(s) to notify the public that the defendant(s) violated the FECA, e.g., bulletin board posting.
- require additional reporting relevant to preventing future violations of the type committed.
- require defendant(s) to put different procedures in place to prevent future violations of the type committed.
- require defendant(s) to take courses to become familiar with the requirements of the FECA.

95043655182

III. ANALYSIS

This section outlines the underlying legal assumptions and other factors considered by this Office in evaluating and making recommendations for each of the potentially affected cases discussed in Section IV, infra. As a preliminary matter, this Office notes that it has reviewed all of the active and inactive enforcement matters where there appears to have been FECA-violative activity prior to January 1, 1991 that will thus be at least 5 years old by the end of this year. By selecting the cases in this manner, this Office has attempted to bring to the Commission's attention all of the matters where, were the MUR SC decision applied, the statute of limitations might run this year.[24]

9 5 0 4 3 6 5 5 1 8 3

This Office has assumed for purposes of these recommendations the possibility of a uniform application of the Section 2462 statute of limitations to the FECA in all circuits

This Office has further assumed that it is possible courts will deem claims arising under the FECA to have accrued at the precise moment that the violation occurred.

9 5 0 4 3 6 5 5 1 8 4

In setting forth the case summaries, this Office has divided its discussion into three sections.

The third

9 5 0 4 3 6 5 5 1 8 5

section analyses matters which this Office recommends that the Commission not pursue.

95043655186

9504365551187

9504365518 8

IV. CASE DISCUSSIONS

This section provides brief descriptions of enforcement matters assigned to the Public Financing, Ethics and Special Projects and Enforcement areas, including the Central Enforcement Docket.

3. Cases this Office Recommends the Commission Close

MUR 2984 (Robert Johnson et al.)

This matter involves 1988 corporate fundraising mailings for the 1988 Bush/Quayle campaign and a pattern of contributions made in the name of another, resulting in knowing and willful probable cause findings for violations of 2 U.S.C. §§ 441f, 441b(a), and 441d(a) against the individual and corporate actors.

Of the respondents still open in the matter, Robert G. Johnson and E. Kenneth Twichell were formally referred to the Department of Justice for criminal prosecution; Mr. Johnson pled guilty to felony perjury for lying under oath in a Commission deposition and Mr. Twichell pled guilty to obstructing the Commission's investigation. The corporate respondents, all closely tied to Mr. Johnson, were neither pursued nor prosecuted during the criminal proceeding. As this Office has reported, Mr. Johnson's remaining sentence was stayed based on NRA arguments

No action has taken place since the Supreme Court dismissed the Commission's appeal in NRA, and whether Mr. Johnson will have to serve the balance of his sentence is still unclear.

All of the transactions underlying FECA liability date from 1988, thus posing an obstacle under 28 U.S.C. § 2462 in the event the Commission chose to litigate this matter to obtain civil penalties. The Commission found probable cause in January of 1992, but then referred the matter to the Department of Justice, and resumed proceedings in late 1993 after resolution of the criminal proceedings. Prosecutorial discretion strongly counsels against further pursuing the remaining respondents in this matter. The

age of the activity as compared to other pending matters, and the desirability of making public the Commission's initiating role in the prosecution of Mr. Johnson argue in favor of closing this matter.

For the reasons outlined above, this Office recommends the Commission take no further action with respect to the remaining respondents in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504365518 9

MUR 3182 (Kentucky Democratic Party, et al.)

This matter, a merger of MURs 3145 and 3182, involves television ads broadcast by the Kentucky Democratic Party during the 1990 general election campaign on behalf of the Democratic Party's Senatorial candidate, Dr. Harvey Sloane. The complaints allege that the ads were prepared by the Sloane campaign's media consultant, paid for by the Kentucky Democratic party's nonfederal account, and financed in part by contributions from the ATLA PAC and from Mary C. Bingham. Mrs. Bingham recently passed away.

Most of the outstanding issues in this matter occurred in the Fall of 1990, slightly less than five years ago. Thus, it does not appear that the Commission would presently be barred from seeking a civil penalty even under the strictest reading of Section 2462. In order for the Commission to obtain a judicially imposed civil penalty in this matter, civil suit must be filed by November of 1995. Yet, even if the Commission were to devote substantial resources to this matter, it is virtually inconceivable that the deadline would be met.

First, in order to proceed, the Commission must review and revote its earlier determinations in this matter to comply with the MRA opinion. Second, this matter is still in the investigatory stage and further investigation appears necessarry. Third, the issues are complex and the two staff attorneys previously assigned to this matter have been transferred to other areas of this agency. Moreover, the allocation regulations at issue in this matter are no longer in effect, having been revised in 1991

Finally, it does not appear that equitable relief would be appropriate here as the only feasible remedy we may obtain is injunctive relief on the misallocation issue: The Sloan Committee has virtually no money for disgorgement and Sloan has never been a candidate in any other federal election. In view of all the foregoing, this Office recommends the Commission take no further action and close this file.

Staff Assigned: Lisa Klein (pending reassignment)

9504365519 0

MUR 3228 (Dahlson for Congress, et al.)

This matter was generated by a referral from the Commission's Reports Analysis Division, and involves the subsidization of the campaign by a corporation associated with the candidate (§ 441b(a)) and the misreporting of one of the corporate loans (§ 434(b)). Specifically, the candidate funneled approximately $47,000 in corporate funds to the campaign through his personal checking account, thus concealing the true source of the funds. The candidate/corporate loans took place from May to October 1990. Further, the committee misreported the source of a May 2, 1990 direct contribution from the corporation ($10,000) in its 12-Day Pre-Primary report filed May 21, 1990. Consequently, assuming 28 U.S.C. § 2462 applies, the Commission might be unable to obtain a judicially imposed civil penalty for most of the violations as early as May of this year.

This matter is presently in the investigative stage after an unsuccessful attempt at pre-probable cause conciliation. Most recently, on March 2, 1995, this Office interviewed the campaign's treasurer. The interview established that the treasurer was not involved in the committee's receipt of the funneled corporate contributions and that the misreporting may have resulted from innocent error. Consequently, the available evidence suggests that the candidate Roy Dahlson was the individual chiefly responsible for the violations in this matter.

Additional investigation would be necessary -- including the taking of depositions -- to prove that the § 441b(a) violations by Mr. Dahlson are knowing and willful. This investigation and the subsequent procedural stages leading to litigation would have to be completed in the most expeditious fashion. This Office recommends that the Commission forgo this course. Mr. Dahlson was a one-time candidate who won the primary election but lost the general election with 35% of the vote. Mr. Dahlson is now retired. Accordingly, this matter does not warrant the expenditure of resources necessary for its most expeditious completion and resolution. Therefore, this Office recommends that the Commission take no further action in this matter and close the file.

Staff Assigned: Jonathan Bernstein and Jose Rodriguez

2504365519 1

MUR 3787 (Georgia Republican Party)
Public Financing, Ethics and Special Projects

This case involves violations committed during the 1988 election cycle. In particular, an audit of the Georgia Republican Party ("the Party") revealed that the Party accepted $20,350 in excessive contributions from five individuals that were not resolved in a timely manner. Similarly, the Party accepted $13,403 in prohibited contributions that were not resolved in a timely manner. The Party also did not properly document approximately $333,270 in individual contributions. In addition, the Commission found reason to believe that the respondent violated 2 U.S.C. § 441a(f) by paying phone bank employees to conduct get-out-the-vote activities and voter identification on behalf of the Bush-Quayle campaign.

The Party admits that it erred in accepting the prohibited and excessive contributions, but urged the Commission to accept as a mitigating factor the fact that it rid its accounts of the impermissible amounts upon discovery. Similarly, the Party concedes that it failed to keep adequate records for certain contributions, but asserts that a large portion of those receipts were $35 contributions which it did not believe it was required to document. Finally, this Office has concluded that documentation and affidavits furnished by the Party demonstrate that only $26,700 of the more than $300,000 in Party expenditures made for get-out-the-vote and voter identification activities amounted to impermissible contributions by the Party.

Although it may be possible to enjoin similar conduct in future elections, the Party has acknowledged that it violated the Act. Accordingly, assuming that the NRDC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of this case and the ordering of the Commission's priorities, we recommend that the Commission take no further action in this matter and close the file. If the Commission adopts this recommendation, the notification letter to the Party will contain appropriate admonishment language.

Staff Assigned: Kenneth E. Kellner and Jane Whang

9504365192

MUR 3973 (Bob Davis)

This matter stems from a House Bank Task Force referral indicating that former Representative Bob Davis used his committee's petty cash to make disbursements in excess of $100. Between 1988 and 1992, the committee reported disbursing $22,708 in petty cash disbursements, $16,567 of which was reported as having been disbursed by Mr. Davis. In May of last year the Commission found reason to believe that Mr. Davis, his committee and its treasurer violated 2 U.S.C. § 432(h)(1), and that his committee and its treasurer additionally violated 2 U.S.C. § 432(h)(2) for failing to maintain a petty cash journal as required. However, because RAD had allowed the committee to terminate some months before, the Commission took no further action with respect to the committee's violations. Thus, only Mr. Davis remains a respondent in the case.

Of the $22,708 in petty cash, all but approximately $9,400 was disbursed prior to 1991. Thus, if 28 U.S.C. § 2462 applies, the Commission might be time-barred from obtaining a judicially imposed civil penalty for a substantial portion of the petty cash.

While our inquiries have confirmed that the committee kept no petty cash journal, that it possesses receipts for only a portion of its cash transactions, and that a small number of the disbursements exceeded $100, it now appears that Mr. Davis' role in the committee's petty cash was de minimus. Affidavits from two members of Mr. Davis' congressional staff and one from his former campaign treasurer state that while Mr. Davis was the payee of many of the checks, and was reported as same, this was to enable the staff to easily cash the checks at the Wright-Patman Federal Credit Union. In fact, the affiants maintain, the majority of the petty cash was disbursed by the campaign and congressional staff and not Mr. Davis.

Given the age of these violations, the fact that Mr. Davis is no longer a candidate for federal office and his apparently limited personal involvement in his committee's petty cash violations, this Office recommends the Commission take no further action in MUR 3973 and close the file.

Staff Assigned: Jonathan Bernstein and Colleen Sealander

9504365519 3

MUR 4013 (National Freedom PAC)
Public Financing, Ethics and Special Projects

This matter involves chronic reporting violations and the apparent commingling of Committee funds with the personal funds of the Committee's treasurer, Rick Woodrow. The respondents are the Committee and Mr. Woodrow. The material events occurred in 1990.[31]

This is an inactive, internally generated matter. Assuming that the NRSC decision is followed and judicially-imposed civil penalties are time-barred then in light of the age of the violations at issue this Office recommends that the Commission take no further action with respect to this matter and close the file.

Staff Assigned: Kenneth E. Kellner and Delanie Dewitt Painter

31. On July 20, 1994, MUR 3516 was merged with MUR 4013. In MUR 3516, which arose out of a RAD referral, the Commission found reason to believe that National Freedom PAC committed reporting violations.

9504365519 4

V. RECOMMENDATIONS

Take no further action, close the file and approve the appropriate letters in the following matters:

1) MUR 2984
2) MUR 3182
3) MUR 3228
4) MUR 3787
5) MUR 3973
6) MUR 4013

9504365551995

95043655196

With regard to MUR 3492:

1) Accept the attached conciliation counteroffer.

2) Close the file.

3) Approve the appropriate letter.

4) Approve the appropriate letters.

4/22/75
Date

Lawrence M. Noble
General Counsel

Staff Assigned

Staff members assigned to each of the potentially affected matters prepared their respective case discussions; the PFEEP cases were coordinated by Jim Portney; Tracey Ligon drafted the legal section; and Colleen Seelander combined the parts into one document.

9504365551197

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Multiple MURS
28 U.S.C. § 2462	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 16, 1995, do hereby certify that the Commission took the following actions with respect to the above-captioned matter:

1. Decided by a vote of 6-0 to take no further action, close the file and approve the appropriate letters in the following matters.

   MUR 3182
   MUR 3228
   MUR 3973
   MUR 4013

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

2. Decided by a vote of 5-0 to take no further action, close the file and approve the appropriate letters in the following matters:

   MUR 2984
   MUR 3787

   Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision. Commissioner Potter recused himself with respect to these matters and was not present during their consideration.

Attest:

5-18-95
Date

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

9504365519 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 1, 1995

Frank B. Strickland
Wilson, Strickland & Benson, P.C.
One Midtown Plaza, Suite 1100
1360 Peachtree Street, N.E.
Atlanta, GA 30309-3214

RE: MUR 3787
Georgia Republican
Party, and
Marvin H. Smith, as
treasurer

Dear Mr. Strickland:

On April 19, 1994, the Federal Election Commission notified the Georgia Republican Party and Marvin H. Smith, as treasurer, concerning certain violations of the Federal Election Campaign Act of 1971, as amended.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Committee and Marvin H. Smith, as treasurer. Accordingly, the Commission closed its file in this matter on May 16, 1995.

The confidentiality provisions of 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 prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Jane J. Whang
Attorney

95043655199

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 5, 1995

Myles V. Lynk, Esq.
Dewey Ballantine
1775 Pennsylvania Ave., N.W.
Washington, D.C. 20006-4605

RE: MUR 3787
Arthur L. Williams, Jr.

Dear Mr. Lynk:

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

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

Sincerely,

Jane J. Whang
Attorney

95043655200

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

THIS IS THE END OF MUR # 3787

DATE FILMED 7/7/95 CAMERA NO. 2

CAMERAMAN E.E.S.

9504365520 1