FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 609

7 9 0 4 0 0 5 1 9 1 3

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas R. Kiley
President
Marttila, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Mr. Kiley:

This is to inform you that on July , 1978, the Federal Election Commission found no reason to believe that Marttila, Payne, Kiley and Thorne, Inc., made a contribution to the Udall '76 Committee in violation of 2 U.S.C. § 441b(a).

Enclosed please find a copy of the General Counsel's Report on MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne E. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

7804006199

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 26, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas R. Kiley
President
Marttila, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Mr. Kiley:

This is to inform you that on July 25, 1978, the Federal Election Commission found no reason to believe that Marttila, Payne, Kiley and Thorne, Inc., made a contribution to the Udall '76 Committee in violation of 2 U.S.C. § 441b(a).

Enclosed please find a copy of the General Counsel's Report on MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 26, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz, Dick and Friedenberg
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Mr. Kurz,

This is to inform you that on July 25, 1978, the Federal Election Commission found no reasonable cause to believe that the Udall '76 Committee violated 2 U.S.C. § 441b(a) by accepting a contribution from Marttila, Payne, Kiley and Thorne, Inc. The file is now closed in this matter.

Enclosed please find a copy of the General Counsel's Report in MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz, Dick and Fitzedenberg
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Mr. Kurz,

This is to inform you that on July , 1978, the Federal Election Commission found no reasonable cause to believe that the Udall '76 Committee violated 2 U.S.C. § 441b(a) by accepting a contribution from Marttila, Payne, Kiley and Thorne, Inc. The file is now closed in this matter.

Enclosed please find a copy of the General Counsel's Report in MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosures

7804006192 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 609 (78)
Udall '76 Committee	)	
Marttila, Payne, Kiley and Thorne, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 25, 1978, the Commission determined by a vote of 5-0 to adopt the recommendation of the General Counsel to take the following actions in the above-captioned matter:

1. Find no reasonable cause to believe that the Udall '76 Committee violated 2 U.S.C. §441b(a).

2. Find no reasonable cause to believe that Marttila, Payne, Kiley and Thorne, Inc., violated 2 U.S.C. §441b(a).

3. Send the letters attached to the General Counsel's Report dated July 20, 1978.

4. Close the file in this matter.

Commissioner Thomson was not present at the time of the vote.

Marjorie W. Emmons

Date: 7/25/78

Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 7-21-78, 11:24
Circulated on 48 hour vote basis: 7-21-78 2:30

7 8 0 1 0 0 6 1 9 2 2

July 21, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 609

Please have the attached General Counsel's Report on MUR 609 distributed to the Commission on a 48 hour tally basis.

Thankkyou.

7804006 1924

BEFORE THE FEDERAL ELECTION COMMISSION

JULY 18, 1978

In the Matter of	)	
	)	
Udall '76 Committee	)	MUR 609(78)
Marttila, Payne, Kiley and Thorne, Inc.	)	
	)	

GENERAL COUNSEL'S REPORT

Summary of Allegations and Commission Action

During their examination of the records of the Udall '76 Committee ("the Committee"), the auditors found documents which indicated that Marttila, Payne, Kiley and Thorne, Inc., ("the Corporation") had reduced the contract price of services performed for the Committee by $8,524.71. This reduction involved elimination of the 17.65% mark-up on print production included in the contract and raised the possibility of a corporate contribution having been given and accepted in violation of 2 U.S.C. § 441b(a).

On June 21, 1978, the Commission found reason to believe that the Udall '76 Committee and Marttila, Payne, Kiley, and Thorne, Inc., may have violated 2 U.S.C. § 441b(a). Letters were sent to both respondents.

Evidence

According to information obtained by the auditors and submitted more recently by the respondents, the Corporation entered into a contract with the Committee on January 9, 1976, to provide consulting and creative services for a fixed fee, plus joint production services at a markup of 17.65% of the Corporation's cost. In February of 1976 the Corporation agreed to become the advertising agency for the campaign, this work involving compensation in addition to that

set forth in the original contract. Compensation to the Corporation for its advertising services was 15% of gross placement costs and finally totaled $52,780.79. Overall payments to the Corporation by the Committee totaled $511,304.30.

The amount ultimately charged the Corporation for advertising services did not include the 17.65% mark-up for production costs provided for in the original contract. The Corporation's president, Mr. Thomas R. Kiley, has stated in his letter of July 7, 1978, to the Commission that "(p)rint production is an integral part of the agency relationship and is sometimes billed at cost under these circumstances by our firm as well as others."

The auditors had initially become concerned about the possibility that the dropping of the production cost mark-up equalled a contribution when they read a memorandum sent to the Committee by Mr. John Marttila. This memorandum contained a statement to the effect that this was the first time the Corporation had foregone the markup. Mr. Kiley's recent letter states that Mr. Marttila was incorrect in this regard. He writes, "(P)rior to Mr. Udall's campaign, we had on one or two occasions foregone production markup changes in similar advertising relationship. We have likewise done so since."

Both respondents agree that there was considerable disagreement between them as to the final payment due the Corporation. Mr. Kiley has explained that Mr. Marttila's memorandum was written during these negotiations and was intended to show that the amounts charged the Committee were reasonable and proper.

7 8 1 0 1 5 1 9 2 5

The Office of General Counsel concludes that the relationship between the Committee and the Corporation did in fact involve arm's length business transactions. Therefore the fact that the Corporation eliminated the 17.65% mark-up should not be construed to have been a contribution to the campaign.

RECOMMENDATION

1. Find no reasonable cause to believe that the Udall '76 Committee violated 2 U.S.C. § 441b(a).
2. Find no reasonable cause to believe that Marttila, Payne, Kiley and Thorne, Inc., violated 2 U.S.C. § 441b(a).
3. Send attached letters.
4. Close the file in this matter.

7/20/78
Date

William C. Oldaker
General Counsel

7 9 0 1 0 7 5 1 9 2 7

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Thomas R. Kiley
President
Marttila, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Mr. Kiley:

This is to inform you that on July , 1978, the Federal Election Commission found no reason to believe that Marttila, Payne, Kiley and Thorne, Inc., made a contribution to the Udall '76 Committee in violation of 2 U.S.C. § 441b(a).

Enclosed please find a copy of the General Counsel's Report on MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

7 8 0 4 0 0 6 1 9 2 8

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz, Dick and Friedenberg
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Mr. Kurz,

This is to inform you that on July , 1978, the Federal Election Commission found no reasonable cause to believe that the Udall '76 Committee violated 2 U.S.C. § 441b(a) by accepting a contribution from Marttila, Payne, Kiley and Thorne, Inc. The file is now closed in this matter.

Enclosed please find a copy of the General Counsel's Report in MUR 609 and a copy of the certification of the Commission's determination.

If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

Enclosures

7 8 0 4 0 0 6 1 9 2 9

LAW OFFICES
KURZ, DICK & FRIEDENBERG
122 EAST 42ND STREET, NEW YORK, N. Y. 10017

LAWRENCE DICK
STANLEY KURZ
STANLEY FRIEDENBERG

TELEPHONE 697-2233 AREA CODE 212
CABLE, KURZLAW, N. Y.

170 OLD COUNTRY ROAD
MINEOLA, N. Y. 11501
(516) 742-2171

MEYER KURZ (1922-1957)
MICHAEL KURZ (1922-1958)

JUL 12 PM 12:55

July 7, 1978

Federal Election Commission
1325 K Street N. W.
Washington, D. C. 20463

Att: William C. Oldaker

Re: Udall '76 Committee
MUR 609 (78)

Gentlemen:

This is in reply to your letter to me as Treasurer of the Udall '76 Committee dated June 26, 1978.

Martila, Payne, Kiley & Thorne, Inc. were our media advisors and consultants for the Massachusetts, New York and Wisconsin 1976 Presidential Primaries. For their services we paid them a total of $511,304.30. As in many business transactions, questions arise concerning the value of services rendered.

As an example, we were not satisfied with some of the T.V. commercials produced by MPKT both as to content and cost. There were legitimate differences of opinion. We finally retained counsel to represent us in this controversy. The adjustment of $8,524.71 mentioned in your letter represents 1.67% of the total billing.

As you can see the amount of the adjustment is negligible and occurred in the normal course of legitimate business transactions. Frankly I had expected a more substantial adjustment which I still feel we were entitled to.

I trust this answers your questions.

Very truly yours,

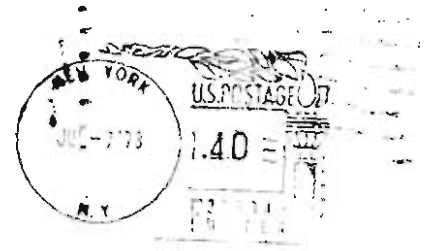
Stanley Kurz

STANLEY KURZ

SK:yk

CERTIFIED
RRR

KURZ, DICK & FRIEDENBERG
122 EAST 42ND STREET
NEW YORK, N. Y. 10017



Federal Election Commission
1325 K Street N. W.
Washington, D. C. 20463

Attn: Mr. William C. Oldaker

CERTIFIED
No. 161182
MAIL

RRR

Marttila,
Payne, Kiley
& Thorne,
Inc.

89630

July 7, 1978

78 JUL 10 AM 9:59

Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

RE: MUR 609 (78)

Dear Sirs:

I am responding to your letter of June 26, 1978, regarding changes in our contractual relationship with the Udall '76 Committee. These changes involved both the services performed and the compensation received.

Under the contract of January 9, 1976 Marttila, Payne, Kiley & Thorne, Inc. was to provide consulting and creative services to the campaign for a fixed fee. In addition, we were to provide limited print production services at a markup of our cost. This is a standard consulting relationship for our firm, and is spelled out in Section 2. "Services to be Performed."

Approximately four weeks after entering into this consulting relationship, we were asked by the campaign to be the advertising agency, in addition to the consulting relationship in force. This involved both additional services performed by our firm, and additional compensation to our firm. The compensation received for our work as an advertising agency was 15 percent of gross placement costs, which is standard for all advertising agencies. This additional compensation to our firm totalled $52,780.79. Print production is an integral part of the agency relationship and is sometimes billed at cost under these circumstances by our firm as well as others.

I believe the source of your questions is a memo sent to the campaign by John Marttila, in which he stated that we had foregone the markup "for the first time in our history." This memo was written after we had severed our relationship with the campaign under tense circumstances. At the time the memo was written, the campaign owed our firm $107,057.51. There were also questions raised as to the reasonableness of our charges to the campaign. Under these circumstances, we were justifiably concerned that prompt and complete payment would not be forthcoming.

This memo, then, was a perturbed response to these arms-length business negotiations, and was intended to assert to the campaign that the amounts billed were proper and reasonable. In point of fact, however, Mr. Marttila was incorrect; prior to Mr. Udall's campaign, we had

One State Street, Boston, Massachusetts 02109, (617) 523-1525

on one or two occasions foregone production markup charges in similar advertising relationships. We have likewise done so since.

I hope this information is sufficient to demonstrate that Marttila, Payne, Kiley & Thorne, Inc. made no corporate contributions to the Udall '76 Committee. In fact, our actions were motivated solely by the desire to ensure full payment of all monies due us, and we feel that full payment has been made.

Sincerely,

Thomas R. Kiley

Thomas R. Kiley
President

TRK:pem

Marttila.
Payne. Kiley
& Thorne.
Inc.

One State Street
Boston, Massachusetts
02109

Federal Election Commission

1325 K Street, NW

Washington, D.C. 20463

7 JUL 10 AM 1:57

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 26, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The President
Martilla, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that Martilla, Payne, Kiley and Thorne, Inc. may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that your firm may have made a corporate contribution to the Udall '76 Committee in violation of 2 U.S.C. § 441b(a) which prohibits corporate contributions in Federal elections.

The specific transaction involved in these possible violations is the elimination by your firm of the 17.65% mark-up charge on production costs which was originally included in your January 9, 1976, contract with the Committee. The elimination of this charge apparently saved the Committee $8,524.71.

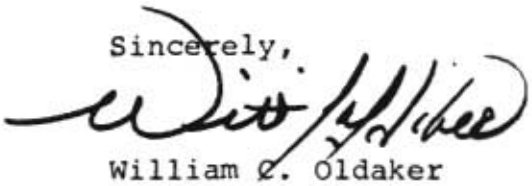
Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding your corporation's decision to drop the mark-up charge called for in your contract with the Committee.

7 3 0 4 0 0 5 1 9 3 3

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification. If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,



William C. Oldaker
General Counsel

cc: The Honorable Morris K. Udall

7 3 1 1 0 7 6 1 9 3 6

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 26, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz and Kurz
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that the Udall '76 Committee may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee may have accepted a $8,524.71 contribution from Martilla, Payne, Kiley, and Thorne, Inc., in violation of 2 U.S.C. § 441b(a), which prohibits acceptance of corporate contributions.

The specific transaction involved in these possible violations is the elimination by Martilla, Payne, Kiley, and Thorne, Inc., of the 17.65% mark-up charge on production costs which was originally included in your contract with that firm dated January 9, 1976. The elimination of this charge apparently saved the Committee $8,524.71.

Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding the elimination of the above-mentioned mark-up charge.

7 3 0 4 0 0 6 1 9 3 7

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

cc: The Honorable Morris K. Udall

Weissenborn MUR-609

PS Form 3811, Apr. 1977 — RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- ☐ Show to whom and date delivered ¢
- ☐ Show to whom, date, and address of delivery ¢
- ☐ RESTRICTED DELIVERY
  Show to whom and date delivered
- ☐ RESTRICTED DELIVERY
  Show to whom, date, and address of delivery $
  (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
Stanley Kurz
122 East 42nd Street
New York, NY 10017

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. | INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY | POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

☆ GPO 1977-O-234-137

7 8 0 4 0 0 6 1 9 3 9

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz and Kurz
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that the Udall '76 Committee may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee may have accepted a $8,524.71 contribution from Martilla, Payne, Kiley, and Thorne, Inc., in violation of 2 U.S.C. § 441b(a), which prohibits acceptance of corporate contributions.

The specific transaction involved in these possible violations is the elimination by Martilla, Payne, Kiley, and Thorne, Inc., of the 17.65% mark-up charge on production costs which was originally included in your contract with that firm dated January 9, 1976. The elimination of this charge apparently saved the Committee $8,524.71.

Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding the elimination of the above-mentioned mark-up charge.

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

lsl

William C. Oldaker
General Counsel

cc: The Honorable Morris K. Udall

6/26/78

7804006194 0

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The President
Martilla, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that Martilla, Payne, Kiley and Thorne, Inc. may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that your firm may have made a corporate contribution to the Udall '76 Committee in violation of 2 U.S.C. § 441b(a) which prohibits corporate contributions in Federal elections.

The specific transaction involved in these possible violations is the elimination by your firm of the 17.65% mark-up charge on production costs which was originally included in your January 9, 1976, contract with the Committee. The elimination of this charge apparently saved the Committee $8,524.71.

Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding your corporation's decision to drop the mark-up charge called for in your contract with the Committee.

7804006194 1

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification. If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

/S/

William C. Oldaker
General Counsel

6/26/78

cc: The Honorable Morris K. Udall

7804006194 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 609 (78)
Udall '76 Committee	)	
Martilla, Payne, Kiley and Thorne, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 21, 1978, the Commission determined by a vote of 6-0 to take the following actions in the above-captioned matter:

1. Find reason to believe that the Udall '76 Committee may have violated 2 U.S.C. Section 441b(a) by accepting a $8,524.71 contribution from Martilla, Payne, Kiley and Thorne, Inc., and to so notify this respondent.

2. Find reason to believe that Martilla, Payne, Kiley and Thorne, Inc., may have violated 2 U.S.C. Section 441b(a) by making a contribution of $8,524.71 to the Udall '76 Committee and to so notify this respondent.

Attest:

Date: 6/22/78

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

7 8 0 4 0 0 5 1 9 4 3

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 19, 1978

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

SUBJECT: OBJECTIONS

The following documents circulated on a 48 hour vote basis at 2:00 p.m., June 19, 1978, have received objections and should be placed on AMENDED AGENDA II to be prepared by your office:

MUR 605 - First General Counsel's Report dated 6-16-78

MUR 609 - First General Counsel's Report dated 6-16-78

MUR 612 - First General Counsel's Report dated 6-16-78

7801006194

June 16, 1978

MEMORANDUM TO: Margge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 609

Please have the attached 7 day report on MUR 609 distributed to the Commission on a 48 hour tally basis.

Thank you.

7804006194 5

FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO COMMISSION JUN 1 0 1978

MUR NO. 609
STAFF MEMBER(S) Weissenborn

SOURCE OF MUR: INTERNALLY GENERATED (See Attachment I)

RESPONDENT'S NAME: Udall '76 Committee
Martilla, Payne, Kiley and Thorne, Inc.

RELEVANT STATUTE: 2 U.S.C. §441(a)(1)(A) and (a)(f)
2 U.S.C. §441b(a)

INTERNAL REPORTS CHECKED: Committee Reports

FEDERAL AGENCIES CHECKED:

GENERATION OF MATTER

Referred to Office of General Counsel from the Audit Division as a result of an audit of the Respondent Committee.

SUMMARY OF ALLEGATIONS

During their examination of the records kept by the Udall '76 Committee, ("the Committee"), the auditors found documents which suggest that a corporate contribution may have been made by Martilla, Payne, Kiley and Thorne, Inc., ("the Corporation") and accepted by the Committee in violation of 2 U.S.C. §441b(a).

PRELIMINARY LEGAL ANALYSIS

During the 1976 presidential primary period the Committee and its affiliates entered into approximately $500,000 worth of contracts with the Corporation for consulting services. One of these contracts, dated January 9, 1976, (See Attachment II), called for a variety of services to be performed and included in Section 6(c) the provisions that "(c)lient shall pay all indirect production costs such as, but not limited to: typesetting, mats, photolettering, engravings, mechanicals, which will be billed to client with a 17.65% handling charge."

An undated memorandum written on Corporation stationery, and also discovered in the Committee's records, indicates that the above-cited 17.65% handling charge was later dropped by the Corporation, thereby saving the Committee $8,524.71 (See Attachment III). Questions have arisen as to whether the elimination of this cost constituted a contribution to the Committee or whether it is to be considered a contract adjustment undertaken during the ordinary course of business. Should the

7 9 0 4 0 0 6 1 9 4 5

dropping of the charge be deemed a contribution, the Committee and Corporation would be in violation of 2 U.S.C. §441b(a) for having accepted and made a corporation contribution. The Corporation would also be in violation of 2 U.S.C. §441a(a)(1)(A) for having made a contribution in excess of the $1,000 per election limitation and the Committee would be in violation of 2 U.S.C. §441a(f) for having accepted an excessive contribution.

The Office of General Counsel believes that additional information is needed concerning the circumstances in which the charge was dropped and therefore recommends a finding of reason to believe that a corporate and excessive contribution may have been made and accepted.

RECOMMENDATION

1. Find reason to believe that the Udall '76 Committee may have violated 2 U.S.C. §441a(a)(1)(A) and 2 U.S.C. §441b(a) by accepting a $8,524.71 contribution from Martilla, Payne, Kiley and Thorne, Inc.

2. Find reason to believe that Martilla, Payne, Kiley and Thorne, Inc., may have violated 2 U.S.C. §441a(f) and 2 U.S.C. §441b(a) by making a contribution of $8,524.71 to the Udall '76 Committee.

3. Send attached letters.

7 8 0 1 0 0 5 1 9 4 7

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The President
Martilla, Payne, Kiley and Thorne, Inc.
One State Street
Boston, MA 02109

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that Martilla, Payne, Kiley and Thorne, Inc. may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that your firm may have made a corporate contribution to the Udall '76 Committee in violation of 2 U.S.C. §441b(a) which prohibits corporate contributions in Federal elections. Because this possible contribution was in excess of $1,000 the firm may also be in violation of 2 U.S.C. §441a(a)(1)(A).

The specific transaction involved in these possible violations is the elimination by your firm of the 17.65% mark-up charge on production costs which was originally included in your January 9, 1976, contract with the Committee. The elimination of this charge apparently saved the Committee $8,524.71.

Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding your corporation's decision to drop the mark-up charge called for in your contract with the Committee.

7 3 0 1 0 0 6 1 9 4 8

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification. If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

cc: The Honorable Morris K. Udall

7 3 0 4 0 7 5 1 9 4 2

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Stanley Kurz, Treasurer
Udall '76 Committee
c/o Kurz and Kurz
122 East 42nd Street
New York, New York 10017

Re: MUR 609(78)

Dear Sir:

This letter is to inform you that the Federal Election Commission has found reason to believe that the Udall '76 Committee may have violated the Federal Election Campaign Act of 1971, as amended. Specifically, the Commission has found reason to believe that the Committee may have accepted a $8,524.71 contribution from Martilla, Payne, Kiley, and Thorne, Inc., in violation of 2 U.S.C. §441a(f), which prohibits acceptance of individual contributions in excess of $1,000 per election, and of 2 U.S.C. §441b(a), which prohibits acceptance of corporate contributions.

The specific transaction involved in these possible violations is the elimination by Martilla, Payne, Kiley, and Thorne, Inc., of the 17.65% mark-up charge on production costs which was originally included in your contract with that firm dated January 9, 1976. The elimination of this charge apparently saved the Committee $8,524.71.

Under the Act you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. In particular we request that you submit an explanation of the circumstances surrounding the elimination of the above-mentioned mark-up charge.

7 8 0 1 0 0 6 1 9 5 0

The Commission is under a duty to investigate this matter expeditiously. Therefore, your response should be submitted within 10 days after your receipt of this notification.

This matter will remain confidential until resolved in accordance with 2 U.S.C. §437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Anne A. Weissenborn, the attorney assigned to this matter, at (202) 523-4039.

Sincerely,

William C. Oldaker
General Counsel

cc: The Honorable Morris K. Udall

7 9 0 4 0 0 6 1 9 5 1

Attachment I

A-262

MUR 609

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

May 17, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER
STAFF DIRECTOR

FROM: BOB COSTA

SUBJECT: UDALL '76 COMMITTEE - POSSIBLE CORPORATE CONTRIBUTION

An audit of the Udall '76 Committee, the principal campaign committee of a Presidential candidate receiving matching funds, was conducted under authority of 2 U.S.C. 438(a)(8) and 26 U.S.C. 9038(a).

During the field work, documents were found filed in Committee records which suggest a possible corporate contribution.

Specifically, a written agreement was made on January 9, 1976 (see Attachment I) between the Committee and an incorporated advertising agency, Martilla, Payne, Kiley & Thorne, Inc., that said in part that the Committee shall pay all indirect production costs which will be billed to the client with a 17.65% handling charge.

The agreement also states that it shall not be modified except by written instrument signed by both parties.

In an unsigned, and undated memorandum, (see Attachment II), prepared on corporate stationery (filed in Committee records), reference is made to the mark-up on print production costs to the Committee. The memorandum states, in part, the following:

> "For the first time in our history, we abandoned the almost universal, industry-wide practice of marking up print production - even though our original contract provided for this charge. The elimination of the 17.65% mark-up on production saved the Udall campaign $8,524.71".

A handwritten note on the memorandum adds, ". . . only a handful of agencies would have advanced production costs at all, much less $35,000 +. Rarely, if ever, are advertising materials even released without complete payment."

The treasurer believes that in the normal course of business, it is routine to modify an aggreement subsequent to consumation.

The treasurer said that he believes that the elimination of the 17.65% mark-up on print production from the original agreement could be considered a debt settlement. However, no debt settlement statement was filed for these transaction.

It would appear that the advertising agency has provided services to the campaign at a charge substantially less than that offerred to other customers. Hence, a question is raised concerning a possible corporate contribuion. In addition, the handwritten note contained on the memorandum from the advertising agency suggests that credit may have been extended outside the normal course of business.

This matter is referred to your office for possible MUR treatment. If you have any questions concerning the matters above, please call Joe Stoltz or Ralph Brandt on extension 3-4155.

Attachments as stated
(2)

7 9 0 1 0 3 1 9 5 5

AGREEMENT made January 9, 1976 between the UDALL FOR PRESIDENT COMMITTEE ("the Committee"), a voluntary membership organization, and MARTTILA, PAYNE, KILEY & THORNE, INC. ("MPKT"), a Massachusetts corporation.

Section 1. Appointment and Limits of Authority

The Committee hereby retains MPKT as general consultant and, for the performance of such specific services as are enumerated in this Agreement, to further the Committee's campaign. The Committee acknowledges that MPKT may be required to enter into agreements with third parties to carry out MPKT's functions under this Agreement and that those agreements will be for the benefit of the Committee. The parties agree, however, that (except as may be required by applicable law) such third party agreements shall not be made in the Committee's name, and MPKT acknowledges that in the absence of explicit authorization, in each instance, MPKT will have no authority to enter into any agreements which will create any direct liability on the part of the Committee to any such third party. MPKT shall use its best efforts to secure proper performance of all such third party contracts, but MPKT shall not be liable to the Committee for any failure or deficiency in performance by such third party.

Section 2. Services to be Performed

A. Consulting Services. MPKT shall prepare and assist in implementing a general campaign plan for the Committee, and will cooperate with the Committee in making such revisions of the plan as may be necessary. In addition, MPKT will consult with the Committee in specific areas of voter communication, media advertising, campaign organization structure, organization of volunteer campaign workers, direct-mail fundraising, budget design and management and, if appropriate, survey research techniques.

B. Excluded Services. MPKT shall not be responsible in any capacity, either as consultant or as performer of services, or otherwise, for any services which, under applicable law, may be furnished only by licensed practitioners, such as lawyers or accountants, or by a campaign official or candidate.

Section 3. Delivery and Approval of Services.

All consulting services to be performed by MPKT shall be performed for or at the direction of the Committee's designated manager. Samples and drafts of any creative work performed by MPKT shall be submitted to the manager for written approval (or to a person or persons designated by the manager), and such approval shall also be required before any of the services shall be contracted for.

Section 4. Personnel to be Furnished by MPKT

Mr. John Marttila, of MPKT, will supervise services to be performed by MPKT, will serve as special consultant to the Committee, and will act as liaison between MPKT and the Committee. Other members of MPKT's staff will be made available to the Committee, as necessary, to perform the services described in Section 2 (A) above.

Section 5. Term

The term of this Agreement shall begin on January 9, 1976, and shall end on March 2, 1976, unless terminated earlier as provided below.

Section 6. Compensation; Expenses; Payment Schedule

A. Direct Compensation. The Committee shall pay MPKT, as direct compensation for MPKT's services for the period beginning January 9, 1976 and extending to March 2, 1976, inclusive, the sum of $20,000, which shall be paid in accordance with the following schedule:

January 9, 1976.....	$10,000
February 2, 1976.....	$10,000
	$20,000

B. Expenses. MPKT will be reimbursed for normal, out-of-pocket expenses incurred in performing the services required of MPKT under this Agreement. Expenses will be reimbursed on a regular basis upon presentation of MPKT's statement therefor.

C. Client shall pay all indirect production costs such as, but not limited to: typesetting, mats, photolettering, engravings, mechanicals; which will be billed to Client with a 17.65% handling charge.

Section 7. Property Rights

All special designs and all materials created by MPKT for the Committee which are used in the campaign (including surplus copies of any printed material) shall be and remain the property of the Committee, except to the extent that a contrary arrangement was made with the individual (such as a photographer or musician) who created the item in question, and except that MPKT shall have the right to use copies of such materials and designs for its own public and private promotional activities. Any item or material created by MPKT or by anyone secured by MPKT for the purpose of creating material for the campaign, which was not used in the campaign, shall remain the property of MPKT, subject to any contrary arrangement made with the person creating the material.

Section 8. Non-Disclosure

MPKT and the Committee acknowledge that much of the material which is to be developed by MPKT under the terms of the Agreement and much of the material which will necessarily be disclosed to MPKT by the

Committee in the course of the campaign will be confidential material. Each party agrees to use its best efforts and all due diligence to maintain the confidentiality of any material which is designated as confidential.

Section 9. Indemnities

MPKT shall indemnify the Committee and hold it harmless from and against any and all claims, liabilities, or damages arising from the preparation or presentation of any of the materials to be prepared by MPKT. The Committee shall indemnify and hold MPKT harmless from and against any and all claims, liabilities, or damages arising from the use of any information, data, or material approved or furnished to MPKT by the Committee, the campaign manager, or any other person working in a responsible capacity in the campaign, which information or data is to be used in the preparation of materials by MPKT or in the performance of any of its other obligations under this Agreement.

Section 10. Termination

A. Without Cause. Either party may terminate this Agreement without cause by written notice to the other party, subsequent to March 2, 1976. Any notice of termination shall take effect immediately upon its receipt. This Agreement shall have no effect, and neither party shall have any recourse hereunder, from and after the effective date of a termination under this sub-section except as follows: (i) in the event of termination by either party, the Committee shall be liable to MPKT for the proportionate amount of any prior installment(s) due under Section Section 6(A) and not yet satisfied, and for the full amount of expenses accrued under Section 6(B) for which reimbursement has not been made. Such amounts shall be paid in full not later than ten (10) days after the effective date of termination; (ii) in the event of termination by MPKT, MPKT shall be liable to the Committee for the unearned portion of any advance payment made by the Committee of the most recent installment due, and such amount shall be refunded not later than ten (10) days after the effective date of termination.

B. If any payment required under 6(A) is not made when due, this Agreement shall terminate automatically at the close of business on the third day following the due date, unless the payment has been made by that time, or unless MPKT extends the time for payment in writing.

Section 11. Miscellaneous

A. Notice. All notices pertaining to this Agreement shall be in writing and shall be sent by United States Certified Mail, return receipt requested, addressed to the parties at their respective addresses below, or at such other address as one party may designate by written notice to the other.

B. Waiver. The failure of either party to this Agreement to object to or to take action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed

as a waiver of the commission or of any claims [illegible] wrongful conduct.

C. Assignment. Neither party may assign any rights or delegate any duties under this Agreement without the prior written approval of such assignment or delegation by the other party, except that MPKT may assign its rights to receive the direct compensation payments specified in this Agreement without such prior written approval.

D. Changes. This instrument contains the entire agreement of the parties and shall not be modified except by a written instrument signed by both parties. All representation of either party material to the entry into this Agreement of either party are set forth in this Agreement.

Executed as a sealed instrument, duplicate counterparts each of which shall be deemed an original hereof.

UDALL FOR PRESIDENT COMMITTEE

By John M. Rennie, agent
Campaign Director

John M. Rennie, agent
Campaign Director

MARTTILA, PAYNE, KILEY & THORNE, INC.

By Donald H. Thorne

1/16/1976
Donald H. Thorne

7201061937

TV-270 bc

Attachment III

Enclosed are copies of receipts for all out-of-pocket expenses for advertising production.

Unlike many advertising agencies, we have never marked up production costs on radio and television production, and we did not do so in the Udall campaign.

For the first time in our history, however, we abandoned the almost universal, industry-wide practice of marking up print production -- even though our original contract provided for this charge (see attached contract).

The elimination of the 17.65% mark-up on production saved the Udall campaign $8,524.71.

To reinforce our contention that the Wisconsin and Massachusetts television was produced at an extraordinarily low rate, I have enclosed Dan Payne's recent letter regarding this matter.

Given the low cost for TV production and the elimination of the print mark-up, we believe the production costs to the Udall campaign are exceptionally reasonable.

Further, only a handful of agencies would have advanced production costs at all, much less 35% or +. Rarely, if ever, are advertising materials even released without complete payment.

A-262

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

May 17, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER OBP.
STAFF DIRECTOR

FROM: BOB COSTA RJC

SUBJECT: UDALL '76 COMMITTEE - POSSIBLE CORPORATE CONTRIBUTION

An audit of the Udall '76 Committee, the principal campaign committee of a Presidential candidate receiving matching funds, was conducted under authority of 2 U.S.C. 438(a)(8) and 26 U.S.C. 9038(a).

During the field work, documents were found filed in Committee records which suggest a possible corporate contribution.

Specifically, a written agreement was made on January 9, 1976 (see Attachment I) between the Committee and an incorporated advertising agency, Martilla, Payne, Kiley & Thorne, Inc., that said in part that the Committee shall pay all indirect production costs which will be billed to the client with a 17.65% handling charge.

The agreement also states that it shall not be modified except by written instrument signed by both parties.

In an unsigned, and undated memorandum, (see Attachment II), prepared on corporate stationery (filed in Committee records), reference is made to the mark-up on print production costs to the Committee. The memorandum states, in part, the following:

> "For the first time in our history, we abandoned the almost universal, industry-wide practice of marking up print production - even though our original contract provided for this charge. The elimination of the 17.65% mark-up on production saved the Udall campaign $8,524.71".

A handwritten note on the memorandum adds, ". . . only a handful of agencies would have advanced production costs at all, much less $35,000 +. Rarely, if ever, are advertising materials even released without complete payment."

The treasurer believes that in the normal course of business, it is routine to modify an aggreement subsequent to consumation.

The treasurer said that he believes that the elimination of the 17.65% mark-up on print production from the original agreement could be considered a debt settlement. However, no debt settlement statement was filed for these transaction.

It would appear that the advertising agency has provided services to the campaign at a charge substantially less than that offerred to other customers. Hence, a question is raised concerning a possible corporate contribuion. In addition, the handwritten note contained on the memorandum from the advertising agency suggests that credit may have been extended outside the normal course of business.

This matter is referred to your office for possible MUR treatment. If you have any questions concerning the matters above, please call Joe Stoltz or Ralph Brandt on extension 3-4155.

Attachments as stated
(2)

7 3 0 1 0 7 5 1 9 5 0

Marttila,
Payne, Kiley
& Thorne,
Inc.

I. Consulting Fee

Attached is a copy of the consulting contract for the first two months of our relationship.

The February fee has never been received.

There was a verbal commitment for our continued involvement at the same fee (in my exact words, "at no extra cost") during the month of March -- in spite of the extraordinary addition of manpower on the part of MPKT. The March fee was also never received.

MPKT personnel during March:

1. Tom Kiley spent 100 percent of his time as the campaign manager.

2. David Thorne spent 100 percent of his time as the national finance director.

3. Curt Mead spent 100 percent of his time on communications problems in both New York and Wisconsin.

4. Frank O'Brien spent 100% of his time on fund-raising, and during the final three weeks before the primary, served as New York fund-raising coordinator.

5. Judy Rappaport spent 100% of her time as Boston fund-raising coordinator.

6. Payne and Marttila spent upwards of 80 percent of their time on the campaign.

7. Additionally, many friends and relatives were encouraged to join the campaign at no salary at our request.

1 9 6 1 0 1 0 1 3

AGREEMENT made January 9, 1976 between the UDALL FOR PRESIDENT COMMITTEE ("the Committee"), a voluntary membership organization, and MARTTILA, PAYNE, KILEY & THORNE, INC. ("MPKT"), a Massachusetts corporation.

Section 1. Appointment and Limits of Authority

The Committee hereby retains MPKT as general consultant and, for the performance of such specific services as are enumerated in this Agreement, to further the Committee's campaign. The Committee acknowledges that MPKT may be required to enter into agreements with third parties to carry out MPKT's functions under this Agreement and that those agreements will be for the benefit of the Committee. The parties agree, however, that (except as may be required by applicable law) such third party agreements shall not be made in the Committee's name, and MPKT acknowledges that in the absence of explicit authorization, in each instance, MPKT will have no authority to enter into any agreements which will create any direct liability on the part of the Committee to any such third party. MPKT shall use its best efforts to secure proper performance of all such third party contracts, but MPKT shall not be liable to the Committee for any failure or deficiency in performance by such third party.

Section 2. Services to be Performed

A. Consulting Services. MPKT shall prepare and assist in implementing a general campaign plan for the Committee, and will cooperate with the Committee in making such revisions of the plan as may be necessary. In addition, MPKT will consult with the Committee in specific areas of voter communication, media advertising, campaign organization structure, organization of volunteer campaign workers, direct-mail fundraising, budget design and management and, if appropriate, survey research techniques.

B. Excluded Services. MPKT shall not be responsible in any capacity, either as consultant or as performer of services, or otherwise, for any services which, under applicable law, may be furnished only by licensed practitioners, such as lawyers or accountants, or by a campaign official or candidate.

Section 3. Delivery and Approval of Services.

All consulting services to be performed by MPKT shall be performed for or at the direction of the Committee's designated manager. Samples and drafts of any creative work performed by MPKT shall be submitted to the manager for written approval (or to a person or persons designated by the manager), and such approval shall also be required before any of the services shall be contracted for.

Section 4. Personnel to be Furnished by MPKT

Mr. John Marttila, of MPKT, will supervise services to be performed by MPKT, will serve as special consultant to the Committee, and will act as liaison between MPKT and the Committee. Other members of MPKT's staff will be made available to the Committee, as necessary, to perform the services described in Section 2 (A) above.

Section 5. Term

The term of this Agreement shall begin on January 9, 1976, and shall end on March 2, 1976, unless terminated earlier as provided below.

Section 6. Compensation; Expenses; Payment Schedule

A. Direct Compensation. The Committee shall pay MPKT, as direct compensation for MPKT's services for the period beginning January 9, 1976 and extending to March 2, 1976, inclusive, the sum of $20,000, which shall be paid in accordance with the following schedule:

January 9, 1976.....	$10,000
February 2, 1976.....	$10,000
	$20,000

B. Expenses. MPKT will be reimbursed for normal, out-of-pocket expenses incurred in performing the services required of MPKT under this Agreement. Expenses will be reimbursed on a regular basis upon presentation of MPKT's statement therefor.

C. Client shall pay all indirect production costs such as, but not limited to: typesetting, mats, photolettering, engravings, mechanicals; which will be billed to Client with a 17.65% handling charge.

Section 7. Property Rights

All special designs and all materials created by MPKT for the Committee which are used in the campaign (including surplus copies of any printed material) shall be and remain the property of the Committee, except to the extent that a contrary arrangement was made with the individual (such as a photographer or musician) who created the item in question, and except that MPKT shall have the right to use copies of such materials and designs for its own public and private promotional activities. Any item or material created by MPKT or by anyone secured by MPKT for the purpose of creating material for the campaign, which was not used in the campaign, shall remain the property of MPKT, subject to any contrary arrangement made with the person creating the material.

Section 8. Non-Disclosure

MPKT and the Committee acknowledge that much of the material which is to be developed by MPKT under the terms of the Agreement and much of the material which will necessarily be disclosed to MPKT by the

Committee in the course of the campaign will be confidential material. Each party agrees to use its best efforts and all due diligence to maintain the confidentiality of any material which is designated as confidential.

Section 9. Indemnities

MPKT shall indemnify the Committee and hold it harmless from and against any and all claims, liabilities, or damages arising from the preparation or presentation of any of the materials to be prepared by MPKT. The Committee shall indemnify and hold MPKT harmless from and against any and all claims, liabilities, or damages arising from the use of any information, data, or material approved or furnished to MPKT by the Committee, the campaign manager, or any other person working in a responsible capacity in the campaign, which information or data is to be used in the preparation of materials by MPKT or in the performance of any of its other obligations under this Agreement.

Section 10. Termination

A. Without Cause. Either party may terminate this Agreement without cause by written notice to the other party, subsequent to March 2, 1976. Any notice of termination shall take effect immediately upon its receipt. This Agreement shall have no effect, and neither party shall have any recourse hereunder, from and after the effective date of a termination under this sub-section except as follows: (i) in the event of termination by either party, the Committee shall be liable to MPKT for the proportionate amount of any prior installment(s) due under Section Section 6(A) and not yet satisfied, and for the full amount of expenses accrued under Section 6(B) for which reimbursement has not been made. Such amounts shall be paid in full not later than ten (10) days after the effective date of termination; (ii) in the event of termination by MPKT, MPKT shall be liable to the Committee for the unearned portion of any advance payment made by the Committee of the most recent installment due, and such amount shall be refunded not later than ten (10) days after the effective date of termination.

B. If any payment required under 6(A) is not made when due, this Agreement shall terminate automatically at the close of business on the third day following the due date, unless the payment has been made by that time, or unless MPKT extends the time for payment in writing.

Section 11. Miscellaneous

A. Notice. All notices pertaining to this Agreement shall be in writing and shall be sent by United States Certified Mail, return receipt requested, addressed to the parties at their respective addresses below, or at such other address as one party may designate by written notice to the other.

B. Waiver. The failure of either party to this Agreement to object to or to take action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed

as a waiver of the violation or of any future breach or subsequent wrongful conduct.

C. Assignment. Neither party may assign any rights or delegate any duties under this Agreement without the prior written approval of such assignment or delegation by the other party, except that MPKT may assign its rights to receive the direct compensation payments specified in this Agreement without such prior written approval.

D. Changes. This instrument contains the entire agreement of the parties and shall not be modified except by a written instrument signed by both parties. All representation of either party material to the entry into this Agreement of either party are set forth in this Agreement.

Executed as a sealed instrument, duplicate counterparts each of which shall be deemed an original hereof.

UDALL FOR PRESIDENT COMMITTEE

By John M. Rennie, agent
Campaign Director

John M. Rennie, agent
Campaign Director

MARTTILA, PAYNE, KILEY & THORNE, INC.

By Donald H. Thorne

1/16/1976
Donald H. Thorne

7 9 0 4 0 7 5 1 9 6 5

TV-275 bpt.

Enclosed are copies of receipts for all out-of-pocket expenses for advertising production.

Unlike many advertising agencies, we have never marked up production costs on radio and television production, and we did not do so in the Udall campaign.

For the first time in our history, however, we abandoned the almost universal, industry-wide practice of marking up print production -- even though our original contract provided for this charge (see attached contract).

The elimination of the 17.65% mark-up on production saved the Udall campaign $8,524.71.

To reinforce our contention that the Wisconsin and Massachusetts television was produced at an extraordinarily low rate, I have enclosed Dan Payne's recent letter regarding this matter.

Given the low cost for TV production and the elimination of the print mark-up, we believe the production costs to the Udall campaign are exceptionally reasonable.

Further, only a handful of agencies would have advanced production costs at all, much less 35,000+. Rarely, if ever, are advertising materials ever released without complete payment.

Meardhilla,
Partner, Kilkey
& Thompson,
Inc.

April 12, 1976

David,

These bills -- one of which has been paid and one has NOT -- clearly indicate that the Udall campaign got a total of eleven (11) TV spots -- 10-30's and one 60 for a total of $29,500.

My math says this is less than $2,700.00 per spot -- the cheapest television I've ever done and an incredible bargain for the high quality of the spots.

CinemaGraphics has done fantastic work and I'm sad to learn that their rates are being questioned.

Dan

7 8 0 1 5 1 9 6 7

CAMBRIDGE, MASSACHUSETTS 02138
(617) 4[illegible]0866

INVOICE NO. 12419

SOLD TO
MR. ED COYLE
UDALL FOR '76 COMMITTEE
401 C ST. N.E.
WASHINGTON D.C. 20002

INVOICE DATE March 29, 1976

SHIPPED TO

ORDER NO.	YOUR ORDER NO.	SALESMAN	TERMS	SHIPPED VIA	FRD. OR COLL.

QUANTITY	DESCRIPTION	PRICE	AMOUNT
	Filming in Wisconsin and finishing 3 30 second television commercials and one 60 second television commercial including dubs.	$18,000.00	
	DUE		18,000.00
	PAID IN FULL JMH		

CINEMAGRAPHICS
~~[illegible] SHANNON STREET~~ 101 TROWBRIDGE STREET
CAMBRIDGE, MASSACHUSETTS 02138
(617) 491-0866

INVOICE NO. 12420

SOLD TO
MR. ED COYLE
UDALL '76 COMMITTEE
401 C. ST. N.E.
WASHINGTON D.C. 20002

INVOICE DATE March 30, 1976

SHIPPED TO

ORDER NO.	YOUR ORDER NO.	SALESMAN	TERMS	SHIPPED VIA	FRD. OR COLL.

QUANTITY	DESCRIPTION	PRICE	AMOUNT
4	Additional television commercials finished from Wisconsin footage including dubs	$4,500.00	
	Washington D.C. filming	4,000.00	
3	television commercials; Wisconsin wild spot plus two D.C. spots, finishing including dubs	PER TIME SHEET 3,000.00	
	DUE		$11,500.0

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR 609

7 9 0 4 0 0 5 1 9 5 9