



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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November 19, 1991

Michael G. Massey
Massey, Showalter & Marsh, P.C.
1100 The Denver Club Building
518 17th Street
Denver, CO 80202

Re: AOR 1991-32

Dear Mr. Massey:

This refers further to your letters dated September 20 and August 1, 1991, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations to proposed activities of CEC, Inc. ("CEC" or "the company"), a newly formed campaign fundraising and consulting group.

On November 13, 1991, the Commission directed the Office of General Counsel to obtain additional factual information from you in order to have a complete submission of all relevant facts. 11 CFR 112.1(c). Accordingly, this Office requests that you provide responses to the questions set out below.

(1) Please state how each of the officers and directors of CEC were chosen for their positions. Your response should include, but not be limited to, whether they have any financial interest in CEC or other Prince Entities, how they were recommended to Mr. Prince, and their connections with Mr. Prince.

(2) Please describe further the community, business, and political leaders and others who will provide names of prospective donors. Describe further the leaders, political consultants and activists, and organizations that will act as informal advisers to identify and evaluate potential candidates. Your description should include the companies, party organizations and committees, or other organizations that these persons are associated with and their positions with such organizations. In addition, state how these persons will be contacted for information or recruited to provide services. Also describe any arrangements with their organizations for the provision of services.

(3) Please describe with more particularity the expenses

covered by the Advance Fee and the Percentage. With respect to the Advance Fee, explain the term "out of pocket expenses" for the campaign school. With respect to the Percentage, describe further what is meant by operational expenses and working capital. Describe any expenses that will not be covered by the Advance Fee and the Percentage.

(4) Please state how the company determined the amount or rate of its charges. Your response to this question should include, but not be limited to, the information the company possessed as to charges and practices by companies offering similar services, other companies' practices as to refraining from paying salaries or receiving infusions of capital, projections as to the revenues from your charges, and how such projections compared to your information on other companies.

(5) Please describe the geographic scope of the company's plans for candidate recruitment and contacting prospective donors. Your answer should include, but not be limited to, a response that identifies states and Congressional districts where the company will target its activities.

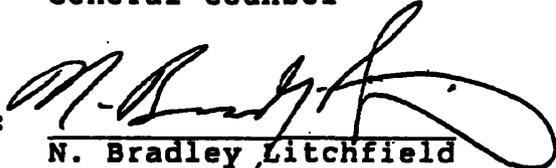
(6) Please provide copies of all sample Informational Solicitation letters and all proposed scripts for oral Informational Solicitation communications. Please also provide sample letters, demographic analyses, and similar materials to be used to recruit persons to become customers.

Upon receipt of your responses to the questions and request for documents, this Office and the Commission will give further consideration to your request. If you have any questions concerning this letter or the advisory opinion process, please contact the undersigned.

Sincerely,

Lawrence M. Noble
General Counsel

BY:


N. Bradley Litchfield
Associate General Counsel

MASSEY SHOWALTER & MARSH

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January 15, 1992

Jonathan Levin, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20643

Supplement To
AOR 1991-32

92 JAN 17 PM 2:25

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Re: CEC, Inc.
AOR 1991-32

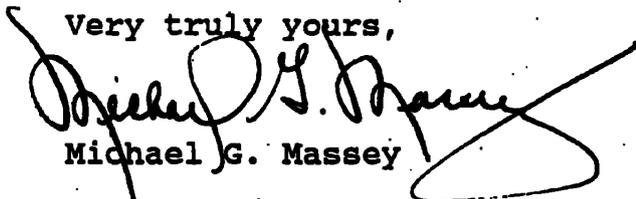
VIA FACSIMILE AND FEDERAL EXPRESS

Dear Johnny:

I have enclosed for your review the response filed by CEC, Inc. to the Federal Election Commission's request for additional information. In addition to the documents which comprise the response, I have included an Executive Summary of the proposed operations of CEC, Inc. Perhaps the Executive Summary will be helpful to members of the Federal Election Commission.

I will telephone you later this week to ascertain whether you have additional questions or comments which we need to discuss informally. As you know, any efforts you can make to expedite this request will be appreciated.

Very truly yours,


Michael G. Massey

MGM:lml:305

Enclosures

cc: CEC, Inc.
Donald Lansky, Esq.

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FEDERAL ELECTION COMMISSION

EXECUTIVE SUMMARY OF CEC, INC.

CEC, Inc.

CEC, Inc. ("CEC"), a Michigan for-profit corporation, is a political consulting firm that provides fundraising and organizational expertise to selected candidates for the United States House of Representatives. Members of CEC's six-person board of directors include Mr. Edgar Prince, Chairman of Prince Corporation, and Dr. Jack Holmes, Chairman of the Political Science Department at Hope College.

CEC's Business Plan

CEC plans to represent a limited number of non-incumbent, conservative Congressional candidates in selected districts throughout the United States. CEC proposes to match the candidates it represents with an identified base of donors who share a conservative political philosophy and who have sufficient financial resources to make maximum contributions to a number of CEC's candidate-clients. A portion of the funds raised by CEC will be used to promote grassroots political organization which can provide a competitive edge in a close race.

By using a pre-identified list of donors and by minimizing its fixed overhead costs, CEC believes it can reduce the high cost of direct mail fundraising, increase the rate of return per letter and provide a greater percentage of fundraising proceeds to candidates. CEC contemplates that a larger distribution of fundraising proceeds to campaigns will enhance its marketing potential to prospective candidate-clients as well as possible donors and will help CEC to develop a market niche within the political consulting industry.

CEC's Marketing Strategy

CEC seeks to represent candidates in districts either which have no incumbent or in which CEC believes the incumbent is vulnerable. Non-incumbents tend to run campaigns which are underfunded. As a result, otherwise viable candidates often are defeated. Using its identified donor base, CEC will help non-incumbents develop well funded and well organized campaigns that can appeal to voters frustrated with the seeming "invincibility" of incumbents. CEC believes that its strategy not only will enable non-incumbents to win, thereby enhancing CEC's ability to attract additional candidate-clients, but also will encourage potential contributors to add their names to CEC's identified donor base.

CEC's Fees

CEC charges candidate-clients an advance fee which pays for CEC's out-of-pocket expenses incurred in connection with fundraising activities and CEC's political organization workshop. CEC also retains a percentage of the gross funds raised by CEC on behalf of a candidate-client. The amount of advance fee and the percentage are established by CEC at the beginning of each election cycle.

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January 15, 1992

N. Bradley Litchfield, Esq.
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20643

Re: AOR 1991-32

VIA FACSIMILE AND FEDERAL EXPRESS

Dear Mr. Litchfield:

This letter and the exhibits thereto further supplement the letter (the "August Letter") dated August 1, 1991 from CEC, Inc. (the "Company") to the Federal Election Commission (the "Commission"), as previously supplemented by the Company's letter (the "September Letter") to the Commission dated September 20, 1991. This letter also sets forth the Company's response to the Commission's request for additional information dated November 19, 1991. Terms defined in the August and September Letters are used herein.

PART 1: SUPPLEMENTAL BACKGROUND INFORMATION

After listening to the tape of the Commission's meeting held on November 13, 1991 (the "November Meeting"), the Company believes that supplemental background information will help clarify the Company's proposed operations.

Organizational Matters: The Company is a Michigan corporation. Under Michigan law, the shareholders of a corporation elect the corporation's board of directors. The board of directors determines corporate policy and is responsible to the shareholders for the corporation's operations. The board appoints corporate officers to implement board-approved policies. Each officer has specific responsibilities which are set forth in the corporation's bylaws. In addition, officers perform such other tasks as may be directed by the board or by the corporation's president.

Under Michigan's corporate code, Mr. Prince, who presently is the Company's only shareholder, elects the board of directors. To expedite its formation, the Company initially had one director which is permissible under Michigan law. Indeed, many small businesses have only one shareholder and one director. In an effort to expand the diversity of the board, the number of members of the Company's board of directors has been increased to six. Information regarding the members of the Company's board of directors is set forth in Part 2 of this letter.

Operational Matters: The Company provides consulting services to candidate-clients primarily in the areas of fundraising and political organization. The Company does not provide consulting services in the areas of conventional mass media, independent polling, original research and overall campaign plans. The Company believes that, by limiting its consulting services to fundraising and political organization, the Company will more quickly develop a market niche. The Company's proposed operations are further described as follows:

Research: The Company does not have sufficient funds or staff to undertake independent, original research. The Company's research efforts consist primarily of compiling data from available public materials. For example, the Company uses information obtained from research books such as Politics in America and Almanac of American Politics; political periodicals such as National Journal and Congressional Quarterly; local and national newspapers; magazines such as Time and Newsweek; and other publications such as Congressional Quarterly Almanac, Washington Watch and various Republican National Committee reports. Accordingly, any information that the Company might share with potential candidate-clients is otherwise publicly available.

Recruitment of Candidate-Clients: At present, the Company plans to represent not more than 20, non-incumbent candidates for the United States House of Representatives who share the general political perspective of Potential Contributors on the Donor List; who are in Congressional districts which either have no incumbent or, in the opinion of the Company, have a vulnerable incumbent; who appear to be electable; and who agree to devote a portion of their campaign resources to grassroots organization. To find candidates or possible candidates who meet the Company's threshold requirements, the Company's management may contact announced candidates; will review local newspapers for the names of persons who may have expressed an interest, or who are believed to be interested, in becoming a candidate; and will ask for names of candidates or potential candidates from political contacts that the Company's management has developed over the years. The Company does not believe that its methods of developing leads for possible candidate-clients are unique among political consulting firms.

When a possible candidate-client who meets the Company's threshold requirements has been identified, the Company or its agent may schedule a meeting to describe the Company's consulting services and to evaluate the candidate as a possible client of the Company. The Company's management believes that such meetings are similar to those conducted by most political consultants before entering into contracts with candidate-clients.

During such meeting or in any other communication between the potential candidate-client and the Company, the Company does not intend to make available research and other materials compiled by the Company (even though such information otherwise may be available publicly) until the Candidate Contract has been executed. On the other hand, the Company intends to market its services to potential candidate-clients. In particular, the Company will describe the use of the Donor List and will outline subjects in the Company's organization workshop. The Company believes that providing such information to potential candidate-clients represents a legitimate and necessary marketing activity and will not result in the Company's contribution of something of value to an announced candidate, to a person who may be "testing the water" as that term is defined in the Act or to a person who may be interested in becoming a candidate. The Company's involvement in candidate recruitment will consist primarily of offering the Company's consulting services to a potential candidate. Accordingly, the Company's recruiting efforts are not unlike those of other political consultants who agree to provide services to a potential candidate if and when such person decides to declare a candidacy.

The Company's Political Contacts: The Company's management has numerous political contacts throughout the country both in the Republican Party and in various conservative interest groups. These contacts are similar to those enjoyed by other political consultants. The Company intends to make use of such contacts in identifying possible

candidates and marketing the Company's services to potential clients. In some instances, the Company's management will ask their contacts for names of candidates or possible candidates in various geographic areas. In other instances, the contacts may provide such information to the Company unsolicited. From time to time, the Company's management may ask their contacts to evaluate candidates or possible candidates to determine whether such candidates or possible candidates meet the Company's threshold client requirements. In the event one of these contacts undertakes any such evaluation on behalf of the Company, the Company will reimburse any expenses incurred and will offer compensation for any material amounts of time expended.

The Informational Solicitation: The Company believes that the Informational Solicitation, which is an important part of the Company's business strategy of matching possible donors with compatible candidates, does not constitute express advocacy. The Informational Solicitation does not ask a prospective donor to vote for or against any specific candidate. Instead, prospective donors are informed that the Company intends to provide consulting services to unnamed candidates who are not incumbents and who believe in conservative values. Prospective donors are asked merely for permission to include their names on the Company's Donor List. The Company's legal argument to the express advocacy theory suggested by the Commission's staff is set forth in Part 3 of this letter.

The development of the Donor List is part of the Company's business plan; it is one of the ways in which the Company proposes to "build a better mousetrap." The Company does not seek to underwrite candidate-clients. The Company seeks merely to use the Donor List to match Potential Contributors with candidates. The Potential Contributor always has the right to make the decision as to whether or not to contribute to the candidate. If the Company's strategy is sound and it can develop a list of Potential Contributors who will make maximum contributions to non-incumbent candidates who share a similar political perspective, the Company not only will have a significant service to sell to candidate-clients, but it also will have created its own marketing niche in the political consulting industry. The Donor List is an important part of that strategy.

The Company plans to use the Informational Solicitation to refine lists of names which are acquired from a variety of sources. In many respects, the Company acts like any other list broker which constantly seeks to improve the quality of a list. The better the list, the higher the value. For example, in Advisory Opinion 1981-46, the Commission determined that neither a contribution nor an illegal transaction resulted when a mailing list owned by a political committee was exchanged with other direct mail organizations for mailing lists of equal value. When a for-profit list broker acquires such a mailing list from a candidate's campaign committee, the broker, knowing the political perspective of the candidate, has considerable insight into the political perspective of the names on such list. Such knowledge not only would help the broker market the list but also might enhance the market value of the list.

The Company's Donor List operates on the same principle: The Company, through the Informational Solicitation, seeks to refine various mailing lists. The primary difference is that, once the list is refined, the Company does not sell the list to a campaign or another broker. Instead, the Company seeks to match the names on the list with candidates who share a similar political perspective and, in effect, rent portions of the Donor List to the Company's candidate-clients with the permission of the Potential Contributors. The Informational Solicitation process has nothing to do with advocating the election or defeat of clearly identified candidates and everything to do with developing a successful business venture.

The Company's Activities Supplement Party Support and are Dissimilar to the Activities of PACs: The Company's activities are designed to supplement, not supplant, the traditional support a candidate receives from a political party. The Company provides consulting services in only a limited number of areas. To run an effective campaign, the candidate will need assistance from a political party and the expertise of other political consulting firms.

A candidate also will need the support of a political party to implement the techniques developed in the Company's campaign workshop. For example, the Company's workshop will stress the need to recruit and retain volunteers. Many of the volunteers needed by a candidate-client will be recruited from the political party structure. The campaign's organizational plan which will be developed during the Company's workshop must be a part of, and not separate from, the candidate's overall campaign plan.

The activities of the Company are dissimilar to the functions performed by a political action committee ("PAC"). A PAC solicits a donor base for financial contributions to the PAC. Donors contribute directly to the PAC. Subsequently, the PAC's board of directors selects the candidates the PAC will support. If the donor dislikes the PAC's choice, there is no recourse.

On the other hand, the Company does not ask any prospective donor to contribute money to the Company. Prospective donors are asked only for permission to include their name on the Donor List. When the Company sends a Candidate Solicitation Letter to a Potential Contributor, the Potential Contributor decides whether to support the candidate or not. Unlike a donor to PAC, the Potential Contributor at all times retains the freedom of choice.

The Company's Compensation: The Company has not yet determined the exact amount of the Advance Fee or established the percentage to be charged its candidate-clients. The ranges of the Advance Fee and the Percentage set forth in the September Letter were intended to be illustrative. Once the amounts have been determined, each candidate-client will be charged the same fee. The Company's candidate-clients will not pay different fees.

One of the Company's business strategies is to reduce the costs of direct mail and increase the rate of return. If the Company can effect its strategy, a greater percentage of the fundraising proceeds can be returned to the Company's candidate-clients. The Company believes that it can accomplish its objectives in two ways: first, by using the Donor List which is expected to generate substantial contributions without the attendant expense of high volume mailings; and second, by minimizing the Company's overhead. At present, the Company has only one full time employee and several part-time employees. As the election cycle continues, the Company will hire temporary employees on a full or part time basis as needed. The Company believes that hiring on an "as needed" basis will substantially reduce fixed labor costs.

Reduced labor and mailing expenses permit the Company to provide services to its candidate-clients at lower costs.

The Company as a Start-Up Business: At the November Meeting, some of the Commissioners expressed concern as to the "totality" of possible operational losses, the potential need for additional capital and the possibility that one of the Company's officers might waive receipt of all or some portion of his salary. All of such factors are endemic to the Company's status as a start-up business.

Before any Candidate Contract is signed, the Company will incur substantial start-up expenses: full and part time employees will have been hired; equipment (including personal computers, software and video equipment) will have been purchased; office space will have been leased; utilities will have been paid; and telephones and furniture will have been acquired. In addition, there will have been substantial legal fees incurred not only in connection with the Company's formation but also in connection with the Company's request for an advisory opinion from the Commission. All of these expenses were necessary to initiate the Company's business, and all of them had to be incurred before the Company could market its services and begin to generate revenue.

If the Company were required to recoup the aggregate amount of such start-up expenses from its candidate-clients in the first two or three years of operation, the cost per candidate-client would be so exorbitant that no candidate would ever use the Company's services, irrespective of how innovative they might be. That reality is not unique to the Company's business but is applicable to almost any start-up business in any industry.

To recoup the start-up sums, the Company has amortized such expenses over a period of years. Accordingly, the Company's financial projections for the next several years include the "repayment" of a portion of the start-up expenses during each year. Since a portion of the money earned by the Company each year is used, in effect, to "re-pay" the costs of the start-up expenses, the Company is not expected to generate a profit during the initial years of operations. Similarly, the Company may encounter unexpected problems which could have an adverse impact on the Company's financial projections. For example, the considerable delay experienced in connection with the Commission's advisory opinion process has impacted adversely the Company's ability to attract candidate-clients. As a result, the Company may be unable to enter into Candidate Contracts with the number of candidate-clients which the Company initially projected, resulting in reduced revenues. Yet the Company's fixed costs (salaries, equipment, rent, utilities, telephone and similar expenses) will remain almost as projected. When such events occur over a period of time, the Company experiences a loss, and the board of directors either must obtain an infusion debt or equity capital from some source (like a bank or a shareholder) or the Company must terminate its business. Since the Company contemplates losses during the first few years of operation as it seeks to establish its market niche and "re-pay" start-up expenses, it seemed only practical and prudent to the Company's board of directors to make advance arrangements for any necessary infusion of capital. On the other hand, if the Company exceeds its financial projections during the first few years of operation, it is possible that no losses would be experienced.

No officer or director other than Mr. Prince has offered to waive remuneration, and the Company's board of directors has made no decision with respect to such offer. Indeed, the decision to accept such offer is dependent upon a variety of factors, including the number of candidate-clients the Company represents during the 1992 election cycle. If such offer were to be accepted (subject to the Commission's advisory opinion), more money would be available to the Company to pay operating expenses and "re-pay" start-up expenses. Having more money available may mean less need for an infusion of additional capital.

The three factors which represent the "totality" of the circumstances which were of concern to certain Commissioners during the November Meeting exist in nearly every start-up business whether it be a flower shop, a print shop or a political consulting firm.

The Company is attempting to start a new business in a highly competitive industry. The Company's fundamental business strategy is not unlike hundreds of other start-up companies: do it better and do it cheaper. The Company's management believes that it will find its market niche in the political consulting industry for primarily two reasons: firstly, there are prospective donors who are frustrated with the high percentage of incumbents returned to office and who might be willing to contribute to non-incumbents who share a similar political perspective and who have the ability to run a well funded and well organized campaign; secondly, qualified challengers lose elections primarily because they lack adequate financial resources and political organization. Poorly funded and poorly organized candidates are unable to communicate their positions on the issues to frustrated voters. The Company's management believes that there is a dynamic market for a company which matches frustrated prospective donors with viable challengers. While the Company's success might encourage other entrepreneurs to focus on matching other prospective donors with potential candidate-clients, the Company believes that its focus on vulnerable incumbents will provide the Company with substantial profits over a period of time.

Being a prototype, however, is not without pitfalls. For example, without a track record, the Company's management cannot know precisely whether the compensation the Company proposes to charge is sufficient. Since the Company's fundraising strategy is relatively unique among political consulting firms, there are no yardsticks by which to measure the Company's compensation. On the other hand, the Company's projections and the assumptions on which they are based anticipate that revenues will exceed expenses, excluding start-up expenses, during the first election cycle. The fact that the Company does not have a track record and needs time in which to conduct its business and make appropriate adjustments should not result in a present ruling that the Company's charges are not "normal and usual."

PART 2: RESPONSE TO THE COMMISSION'S NOVEMBER COMMENT LETTER

The following comments are in response to the questions set forth in the Commission's comment letter dated November 19, 1991. The chronological sequence of the Company's responses parallels the numerical order of the Commission's comments:

1. Selection of the Company's Officers and Directors.

Under Michigan law, the shareholders of a corporation elect the directors. A corporation which has only one shareholder may have only one director. To expedite the formation of the Company and other preliminary corporate matters, the Company's Articles of Incorporation named Mr. Prince as the Company's initial director. Subsequently, Mr. Prince, as the Company's sole shareholder, decided to expand the number of members of the Company's board of directors and elected five additional individuals: Dr. Holmes, Mr. Haveman, Ms. Emilie Wierda, Ms. Joan Prince and Mr. Michael Massey. Directors are responsible to the shareholders for the operation of the corporation and elect officers to implement policy decisions made by the board. The Company's officers were named in the September Letter.

Since none of the Company's officers and directors except for Mr. Prince are shareholders of the Company, none of them have any financial interest in the Company. Some officers and directors, such as Dr. Holmes and Mr. Massey, who provide services to the Company (other than as directors) are compensated therefor. Such compensation generally is on an hourly basis. As is typical in start-up companies, directors receive no salary or fee for their services as directors but are reimbursed for any expenses incurred on behalf of the

Company. Also like most start-up companies, the Company has not instituted a profit-sharing or other benefit plan.

None of the Company's officers or directors has any direct interest in the Prince Entities except for Mr. Prince. Mr. Haveman is employed by Prince Management.

Mr. Prince and Dr. Holmes have been involved in a number of political activities over a period of years. In his work with Prince Management, Mr. Haveman provides management expertise to the Prince Entities. Ms. Wierda is Mr. Prince's daughter and has considerable experience in grassroots political organization. Ms. Prince, who is related to the Prince family by marriage, has been involved in a number of political activities and provides generational diversity to the Company's board. Mr. Massey, who is counsel to the Company, has been involved in political and business activities with Dr. Holmes for many years.

2. Mailing Lists for Potential Contributors and Matters Pertaining to the Company's Political Contacts.

The names on the Company's initial mailing lists will be derived primarily from three sources: membership and other lists from organizations to which the Company's officers and directors belong; lists of names purchased or otherwise acquired by membership from various chambers of commerce and other business organizations; lists purchased or otherwise acquired from organizations such as the Family Research Council whose members would be likely to share a conservative political perspective.

In addition, officers and directors of the Company have a number of business and political contacts throughout the country who will be asked informally for names and addresses of persons who might be interested in being included on the Company's Donor List. These contacts include, without limitation, a former United States Senator, one or more members and former members of the United States House of Representatives, a former Presidential aide, one or more committeemen and committeewomen of the Republican National Committee, chief executive officers of various businesses, presidents of state and local chambers of commerce and executive directors of trade associations and other interest groups.

Inasmuch as the Company has refrained from discussing the Company's proposed plan of operation with most of such persons pending receipt of the Commission's advisory opinion, further identification of such individuals would be inappropriate. The Company's request for names of prospective donors from their political contacts is not unlike requests that such persons receive periodically from a variety of sources. Any such request would be conveyed and responded to more in the nature of casual conversation than through any formal solicitation process.

The politically active persons described above also are the Company's informal political advisers. The Company does not contemplate any formal network of advisers who have any kind of contractual or other formalized arrangement with the Company. Nor does the Company contemplate any formal recruitment of such advisers. The Company's informal advisers actually are political and business contacts of officers and directors of the Company that have been developed over a number of years. The Company understands that communicating with contacts from time to time regarding various political matters is typical of most political consulting businesses. Indeed, the Company believes that without such political contacts its business, and the business of other political consulting firms, would be

difficult to sustain. Political contacts help provide political consultants with information which is not available from either print or electronic media. The Company does not believe that its use of political contacts is at all unusual.

For example, the Company's management might ask one of their business colleagues known to be politically active in a certain state for names of non-incumbent, conservative Republicans in a particular Congressional district who have announced for Congress or who might be interested in running for Congress. Company representatives further might ask this business colleague if he or she has any opinion as to the electability, political perspective or issue-orientation of such candidates or potential candidates. All communications between the Company's management and their business colleagues would be on an informal basis.

In some instances, the Company will identify open House seats or potentially vulnerable House districts (as defined in the September Letter) and ask Company contacts in or near to such districts for the names of announced candidates or possible candidates. In other instances, the Company's management may ask their contacts for names of announced or possible candidates and then determine whether the district from which such candidate would run is open or vulnerable.

The Company does not plan to enter into any formal relationship with any person or organization with respect to sharing information. The Company hopes to work on an informal basis with a variety of organizations which tend to support conservative issues or conservative candidates, including the National Republican Congressional Committee, Family Research Council, GOPAC and similar organizations. From such sources the Company hopes to obtain additional information regarding targeted districts and possible candidates. The Company does not contemplate entering into any arrangements for services with any such organizations and will use information from such organizations only to the extent it is legally available for the Company's operations.

3. Additional Information Regarding the Advance Fee and the Percentage.

The Advance Fee is intended to cover the following: out-of-pocket costs related to Candidate Solicitation Letters, including letterhead, printing and postage; and the costs of transportation, lodging, meals, materials, supplies and equipment rental for the Company's campaign workshop. The Company designed the Advance Fee so that the campaign committee, and not the Company, pays the out-of-pocket costs incurred in connection with the Candidate Solicitation Letters and the campaign workshop. By collecting the Advance Fee, the Company avoids the possibility that the Company might make an inadvertent "advance" to a campaign committee which might be construed as a "thing of value" pursuant to Section 316 of the Act and the regulations thereunder. The Company understands that a similar arrangement to have a campaign committee pay out-of-pocket costs did not result in a prohibited corporate contribution. See, e.g., Advisory Opinion 1988-17. The Company believes that all out-of-pocket expenses with respect to the Company's fundraising activities and the campaign workshop are covered by the Advance Fee.

As described in the September Letter, the Percentage provides funds for operating expenses, working capital and profit. Operating expenses include rent, salaries and consulting fees, utilities, telephone, travel, advertising expenses, legal and accounting fees and similar charges that the Company incurs in its day to day operations. Working capital is money

available to the Company to use for operating expenses, equipment purchases and similar expenditures.

The aggregate costs of certain initial start-up expenses will not be covered by the Advance Fee and the Percentage. For example, legal fees related to the Company's formation and the Advisory Opinion Request have been substantial. The Company also has purchased personal computers and other equipment. If the Company had to recoup such costs in its first year of operation, the Advance Fee and the Percentage would be unrealistically high, and the Company would be unable to attract clients. By amortizing such start-up costs over a period of years, the Company is able to charge reasonable fees and "re-pay" such costs over a period of time. The practice of amortizing start-up expenses over a period of years is common to newly formed corporations. Indeed, regulations of the Internal Revenue Service mandate that certain start-up expenses be amortized over time rather than deducted in their entirety in the year in which they were incurred.

4. Calculation of the Company's Fees and Charges.

The Company's management, having been involved in political fundraising for a number of years, is aware not only of the volume of direct mail needed to produce a suitable financial return but also the high cost of each solicitation. High direct mail costs result in fewer dollars being available to fund other aspects of a campaign.

The Company's management, and particularly Mr. Prince, concluded that there should be a better way of direct mail fundraising that provided greater proceeds to a campaign. Mr. Prince theorized that if a list could be compiled of persons who shared a particular political perspective and who were financially capable of giving the maximum amount allowed under the Act to a number of candidates and if a company could match such donors with compatible candidates, direct mail costs could be substantially reduced, campaigns could receive a greater percentage of fundraising proceeds because the per unit return would be greater and the company making the match could make a profit.

Based upon such premise, the Company's management developed a series of financial projections which, in turn, were founded upon a series of assumptions. The assumptions included the number of candidate-clients the Company was likely to have during an election year cycle; the number of persons on the Donor List which the Company would need to solicit for each candidate-client; the amount of money which the Company's management believed could be raised for each candidate; the estimated expenses for the Company's campaign workshop; the estimated amount of start-up fees which would have to be amortized over a period of time; the number of full and part time employees the Company would employ; and other fixed and variable costs. Based upon the financial projections, the Company's management developed the range of fees which are set forth in the September Letter. The fees were designed so that, excluding the start-up expenses, the Company's revenues would exceed expenses. The exact fees have not yet been determined. Once established, the same Advance Fee and the same Percentage will be charged to each candidate-client.

The Company has limited information on fees charged by other political consulting firms. For example, at least one of the Commission's previous advisory opinions notes that charging a percentage for direct mail fundraising is an acceptable practice. See, e.g., Advisory Opinion 1979-36. Based only upon the direct mail fundraising experience of the Company's management, the Company has concluded that most direct mail solicitations are made to several

thousand names and cost thousands of dollars per solicitation. The Company plans to solicit only several hundred Potential Contributors for each candidate-client. Accordingly, the Company's mail costs are projected to be less than costs incurred by traditional direct mail consulting firms. None of the consulting companies of which the Company is aware is a publicly held corporation subject to the reporting requirements of the Securities Exchange Act of 1934. Therefore, the Company does not have information as to salaries paid or waived and the amount, if any, of additional debt or equity capital made available by officers, directors or shareholders. Since consulting firms of which the Company is aware are privately owned, they do not have to make public such information. The Company's management is aware, however, that in small, start-up businesses in every industry, the need for additional infusions of capital and the waiver of salary by officers to make more money available to pay third party vendors and other operating expenses are commonplace.

The Company has designed its fees so that if the Company represents the projected number of candidate-clients and raises the projected amounts of money for each such client, the Company will generate before tax profits, excluding the effect of the start-up expenses. It is likely that, as the Company develops a track record, the Company's compensation scheme will need to be adjusted.

5. Geographic Scope of the Company's Proposed Operations.

The Company does not contemplate any geographical restrictions with respect to either Potential Contributors or candidate-clients. Targeted states and Congressional districts will vary from election cycle to election cycle. As of the date of this response, the Company has not specifically identified either targeted districts or possible candidate-clients for the 1992 election cycle, although the Company is considering marketing its services to a number of potential candidate-clients. The Company would be reluctant to identify targeted districts and possible candidate-clients, even if they had been determined, since a response to the Commission becomes public information. As a practical business strategy, the Company is unwilling to share such information with the Company's possible competitors.

6. Sample Solicitation Documents.

Attached to this letter as Exhibits 1, 2 and 3, respectively, are drafts of a proposed announcement of the Company's formation; a letter to prospective donors requesting permission to include such persons on the Company's Donor List, together with a form of brochure which explains the Company's proposed operations; and a letter to a hypothetical potential candidate-client, outlining the types of services which the Company offers. The Company may make changes to such draft documents as deemed necessary or appropriate.

Inasmuch as the Company does not undertake original analyses, there are no demographic analyses available. Instead the Company merely compiles information already publicly available from political research books such as Politics in America and Almanac of American Politics; political periodicals such as National Journal and Congressional Quarterly; and other sources such as Congressional Quarterly Almanac, Time and Newsweek. Moreover, the Company does not intend to provide any compilations to candidates until such time as they become clients of the Company.

PART 3: COMMENTS REGARDING THE DRAFT OPINION

The Company has the following comments with respect to the draft opinion (the "Draft Opinion") prepared by the Commission's staff:

The Company's Informational Solicitation does not constitute "express advocacy" as defined in case law and, in any event, does not advocate the election or defeat of a clearly identified candidate. In the Draft Opinion, the Commission's staff correctly notes that "[c]ourts have held that in order for a corporate communication to be subject to the prohibition [against corporate expenditures], it must expressly advocate the election or defeat of a clearly identified candidate." Draft Opinion at 13 and cases cited therein (emphasis added). While the Company understands that express advocacy is not strictly limited to the words and phrases described by the United States Supreme Court in a footnote to the case of Buckley v. Valeo, 424 U.S. 1 (1976), the cases clearly hold that the speech sought to be regulated must include some kind of an "exhortation" to vote for or against a specific candidate.

In the Company's Informational Solicitation, prospective donors are not urged to vote for or against anyone. Indeed, the only action that prospective donors are asked to take in the Informational Solicitation is to add their names to the Company's Donor List. Neither the phrases described in Buckley nor words reasonably related to such phrases are contained in the Informational Solicitation with respect to any clearly identified candidate. Instead, the Informational Solicitation focuses on conservative values and unnamed candidates who might support such values.

The Company's research has disclosed no case which has eliminated or otherwise modified the mandate that express advocacy must pertain to a "clearly identified candidate." Though clearly recognizing such requirement (Draft Opinion at 12-13), the Commission's staff chooses to ignore it. The Draft Opinion concludes that, since the Company's Informational Solicitation makes reference to conservative values shared by prospective donors and the types of candidates the Company seeks to have as clients, the Company "will be asking [prospective donors] to engage in activity that is unambiguously for the election of conservative candidates or the defeat of their opponents." Draft Opinion at 13. In what appears to be a bit of legal legerdemain, the Commission's staff substitutes the generic term "conservative candidates" for the mandated requirement of a "clearly identified candidate." The staff's attempt at word wizardry must fail.

The generic term "conservative candidates" simply does not satisfy the "clearly identified candidate" standard. In Federal Election Commission v. Furgatch, 807 F.2d 857 (9th Cir. 1987), cert. denied, 484 U.S. 850 (1987), the Court of Appeals, while noting that express advocacy may result from using words other than those set forth in Buckley, stated: "[B]ut it [the speech sought to be regulated] must, when read as a whole, and with limited reference to external events, be susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate." 807 F.2d at 864 (emphasis added). The Informational Solicitation contains no reference to any specific candidate. The Informational Solicitation merely makes reference to candidates who share the conservative values of prospective donors. No reasonable mind could interpret such language as seeking the election or defeat of a specific candidate.

Moreover, the staff's position as set forth in the Draft Opinion is not consistent with the Act. Section 301 (18) of the Act states that the term "clearly identified" means that the

name of the candidate appears; or a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference. The Informational Solicitation does not contain the name of any candidate; does not include a photograph or drawing of any candidate; and does not identify any potential candidate-client of the Company except to note that the Company seeks as clients candidates who are non-incumbents and who are conservative. Using the staff's logic, the fact that the Company seeks non-incumbents as clients would transform any non-incumbent into a "clearly identified candidate." The Company submits that generic descriptions such as "conservative" or "non-incumbent" do not satisfy the "clearly identified candidate" standard imposed not only by the Act but also by the courts.

Instead of constituting express advocacy as suggested by the Commission's staff, the purpose of the Informational Solicitation is to effect the Company's business strategy. The Company is seeking to develop a particular niche in the political consulting industry by creating what the Company believes is a less expensive and more lucrative direct mail program. The Informational Solicitation is part of that process. The Company merely wants to refine a list of names which, in turn, will be "rented" to the Company's candidate-clients.

The Company developed the Informational Solicitation and the Candidate Solicitation Letter after reading a number of the Commission's advisory opinions as well as undertaking significant legal research. Based on that analyses, the Informational Solicitation was designed specifically to avoid any mention of any clearly identified candidate. Accordingly, only generic terms like "conservative candidates" and "non-incumbents" are used. On the other hand, the Candidate Solicitation Letter was designed for express advocacy. Therefore, the Company made certain that out-of-pocket costs of the Candidate Solicitation Letter were paid in advance by the Company's candidate-clients so as to avoid the prohibition against corporate contributions when the election of specific candidates was advocated.

First amendment rights extend not only to individuals but also to corporations. The Company believes the United States Supreme Court and other courts intended to protect such rights by restricting the scope of the Act to language which in express terms advocates the election or defeat of a clearly identified candidate. The language of the Company's Informational Solicitation does not include any such exhortation and does not identify any specific candidate. The Commission should not conclude that a generic description is the equivalent of a clearly identified candidate. Accordingly, the language of the Informational Solicitation should be protected under the first amendment, and the Company should be permitted to effect its business strategy. The Company understands that, at the request of some of the Commissioners, the Commission's staff is preparing an alternative draft opinion consistent with the Company's position.

The Commission's staff has misconstrued the Company's research and recruitment activities. The Company does not intend to conduct any original research. The Company merely compiles information already available to the public in books, periodicals, newspapers and similar sources. Accordingly, the Company would be unable to share with any candidate or potential candidate any "product of [the Company's] research" as suggested in the Draft Opinion at page 16. The only general or specific information which the Company might share with a potential candidate-client is information already publicly available. Moreover, until the Company has entered into a Candidate Contract with a candidate-client, the Company intends to limit information disclosed to a potential client to a description of services provided by the Company, Company references and similar marketing information. As described in Part

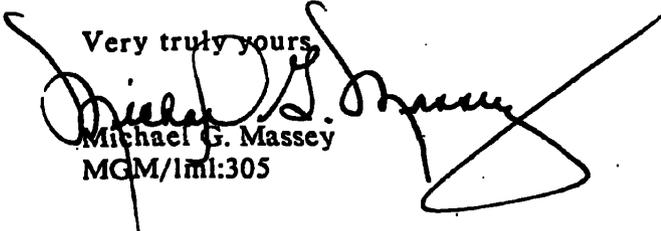
1 of this letter, the Company does not intend to "recruit" candidates for purposes other than to attract candidate-clients.

PART 4: SUPPLEMENTAL ISSUE

Assuming that the Draft Opinion is approved by the Commission, the Company raises the following supplemental issue: If the Informational Solicitation cannot be undertaken by the Company due to the possibility of a prohibited corporate contribution, could the information intended to be included in the Informational Solicitation be included in the Candidate Solicitation Letter?

The Company anticipates that the information contained in this letter is responsive to the Commission's requests. If additional information is needed, please telephone me at your convenience. The Company assumes that the Commission's advisory opinion will respond to all or substantially all of the Company's requests so that the Company can alter its business strategy to the extent it may deem necessary to effect its business in compliance with the Commission's advisory opinion. Inasmuch as it has been a considerable period of time since the Company's request was filed with the Commission, your efforts to expedite this matter are most appreciated.

Very truly yours,


Michael G. Massey
MGM/lml:305

[Announcement Card]

CEC, Inc.

Mr. Edgar D. Prince is pleased to announce the formation of CEC, Inc., a political consulting firm, of which he is president.

CEC represents non-incumbent Republicans who have a conservative political perspective. CEC's candidates believe in life, family, country and business.

CEC offers a unique approach to direct mail fundraising by matching its candidates with potential donors identified by CEC who share a similar political philosophy. CEC also provides organizational expertise.

CEC believes that the combination of a unique approach to fundraising and a focus on grassroots political organization will give its non-incumbent candidates a competitive election-day edge.

[Informational Solicitation Letter]

Dear David:

I'm frustrated with the state of affairs in Congress. Each year it seems that the values you and I believe in--life, family, country and business--get less and less support from our elected representatives.

Yet in 1990, over 96 percent of the incumbents who sought re-election to the U.S. House were re-elected. This system just isn't good for our country.

I think we need a change. I've formed a company called CEC, Inc. CEC is a political consulting firm that works with non-incumbents who share conservative values. CEC provides help in raising money and political organization, two of the main ingredients in a winning campaign.

As president of CEC, I've hired some bright people. Together we have come up with a new approach to political fundraising. We are developing a list of people who are willing to consider making large contributions to a number of candidates who share conservative values. We'd like to add your name to the list. Then, when CEC identifies a good candidate, we'll send you a letter on behalf of that candidate asking for your support. Of course, whether or not you contribute to any candidate is always up to you.

Since CEC's donor list will include people like you who can give the maximum amount to a number of candidates, fewer letters will raise more dollars. That means more of your contribution can help return conservative values to the Congress. And since CEC retains the list of potential donors, you will know that the list won't be sold to other organizations.

If we're ever going to make a change in Washington, we need to return to traditional values and the candidates who support them. By permitting us to add your name to our donor list, you will be helping to bring about that change. Remember, being on the list does not obligate you to make a contribution. Just complete the enclosed form and return it in the pre-addressed envelope. Or if you want more information, give us a call.

Thanks for your concern and thanks for your help.

Sincerely,

Edgar D. Prince
President
CEC, Inc.

Encls.: CEC, Inc. Brochure

What is CEC?

CEC, Inc. is a for-profit, political consulting firm that specializes in direct mail fundraising and political organization.

CEC represents primarily non-incumbent Republican candidates for the U.S. House of Representatives. CEC's candidate-clients battle in life, family, county and business.

How does CEC get paid for their services?

CEC charges the campaign an up-front fee to cover out-of-pocket costs. In addition, CEC receives a percentage of the funds it raises. Because CEC uses an identified donor list and keeps overhead to a minimum, more fundraising proceeds generally are available to candidates.

How does CEC co-ordinate with political parties and PACs?

CEC is a specialized political consulting firm. The services CEC provides to its candidate-clients supplement other services and support candidates receive from political parties, political action committees and other consulting firms.

Why does CEC work with non-incumbents?

Voters want a change. They are tired of special interests dictating the nation's agenda. Yet non-incumbents can't seem to get elected. They don't have enough money. They don't have a strong organization. They can't get their message to enough frustrated voters. CEC will help non-incumbents develop well funded and well organized campaigns that can mount a strong challenge to an entrenched incumbent.

Why should my name be on CEC's donor list?

Because CEC's candidate-clients and donors share conservative values. CEC representatives personally interview each and every CEC client. When you get a letter from CEC on behalf of a candidate, you can be confident that CEC knows where that candidate stands on important issues. And you never lose your freedom to choose. Whether or not you contribute to a CEC candidate is always up to you. Of course, you'll have to provide information so that the candidate can comply with federal and state election laws.

What is unique about CEC's fundraising?

CEC matches an identified conservative donor base with candidates who share the same political perspective. And since CEC has identified donors who have substantial financial resources, CEC candidate-clients are likely to get the maximum contribution. Using an identified donor base reduces the expense of direct mail fundraising, increases the potential return per letter, and permits a greater return of proceeds for the campaign. That's good for the contributor. That's great for the candidate.

If I'm on the donor list, will I end up getting junk mail?

CEC retains control over the donor list. The donor list will not be sold to any organization or group. Because CEC has identified the persons on the donor base, CEC, unlike other direct mail fundraising organizations, will send only a minimum number of solicitation letters to each potential contributor.

Why does CEC emphasize grassroots organization?

Recent political campaigns rely on expensive, impersonal television commercials. There seems to be little time scheduled for direct contact with voters. As a result, elected officials tend to lose touch with the people. CEC wants to put people back into a campaign. That's why a portion of the funds raised by CEC are reserved for grassroots organization. That's also why CEC's candidate-clients will learn how to recruit volunteers, how to campaign door-to-door and how to get each individual voter to the polls on election day. That kind of personal involvement can provide the winning margin in a close race.

How can I add my name to the donor list?

Just complete the enclosed form and return it to CEC in the envelope provided. CEC will take care of the rest.

RE-MINDER: Corporate contributions are prohibited by law. Personal contributions to all federal candidates and federal political committees are limited to a total of \$25,000 annually. You and your spouse may each give up to such limit. Personal contributions shall not exceed \$1000 per candidate for the primary election and \$1000 per candidate for the general election.

(form for spouse, if applicable)

I hereby give my permission for CEC to include my name on their list of potential donors. I understand that I will be solicited by CEC on behalf of specific Congressional candidates.

Signature: _____

(Optional) I am willing to consider contributing a total of \$_____ to candidates for the U.S. House of Representatives.

I am interested in being on CEC's donors list, but would like additional information before committing myself.

Comments/Questions: _____

Name: _____

Address: _____

Telephone: () _____

I hereby give my permission for CEC to include my name on their list of potential donors. I understand that I will be solicited by CEC on behalf of specific Congressional candidates.

Signature: _____

(Optional) I am willing to consider contributing a total of \$_____ to candidates for the U.S. House of Representatives.

I am interested in being on CEC's donor list, but would like additional information before committing myself.

Comments/Questions: _____

Name: _____

Address: _____

Telephone: () _____

[Candidate Marketing Letter]

Dear Candidate:

I'd like to introduce you to CEC, Inc., a new political consulting firm with innovative ideas. CEC wants to help elect non-incumbent, conservative Republican candidates to Congress by assisting them in fundraising and grassroots organization.

CEC focuses on challengers because they need the most help. Incumbents have built-in advantages: access to powerful Washington special interest groups, franking privileges and media exposure. In 1990, 96 percent of the incumbents who sought re-election were returned to the House of Representatives.

CEC provides a candidate with help in direct mail fundraising. CEC has developed a refined list of potential contributors who believe in the kinds of candidates CEC serves: conservative Republican challengers who believe in life, family, country and business. The people on CEC's mailing list have already been contacted by CEC and have indicated a willingness to consider making the maximum contribution to CEC's candidate-clients.

So when CEC solicits a potential contributor on behalf of a candidate-client, there is a good chance that person will contribute the maximum amount. CEC candidates can expect to send fewer letters and get a better response. The CEC technique results in lower direct mail costs, expectation of greater returns per unit and the availability of more fundraising proceeds to the Campaign.

CEC also helps a candidate develop an effective grassroots political organization. In a close race, a good organization can be a deciding factor. CEC's workshops teach campaigns how to recruit and retain volunteers, how to write an organization plan, how to get out the vote and other techniques that are critical to victory.

Our fees are reasonable: an advance fee to pay for out-of-pocket expenses and a small percentage of the funds CEC raises. There are no other charges.

We think you're the kind of candidate who can make a difference. We believe you have a political perspective that is shared by the potential contributors on our donor list. And we think we can offer you some services that can help get you elected. We would welcome an opportunity to visit with you and your key advisors at your convenience to discuss in more detail the services CEC provides. A representative will be contacting you shortly to arrange a mutually convenient meeting. We look forward to working with you in the coming campaign.

Sincerely,

Edgar D. Prince
President
CEC, Inc.