

RABINOWITZ, BOUDIN, STANDARD, KRINSKY & LIEBERMAN, P.C.
ATTORNEYS AT LAW
740 BROADWAY AT ASTOR PLACE
NEW YORK, N.Y. 10003-9518

TELEPHONE (212) 254-1111

CABLE "RABOUDIN, N.Y." TELEX 225028

FACSIMILE (212) 674-4614

LEONARD B. BOUDIN (1912-1989)
MICHAEL KRINSKY
ERIC M. LIEBERMAN
HILLARY RICHARD

THOMAS C. VILES
LAURIE EDELSTEIN
CAROLINE RULE
MICHAEL LUDWIG
LAURENCE HELFER*

COUNSEL
VICTOR RABINOWITZ
MICHAEL B. STANDARD
LEONARD I. WEINGLASS
ELLEN J. WINNER
DEBRA EVENSON
TERRY GROSS

January 13, 1997

*ADMITTED IN PENNSYLVANIA AND
NEW JERSEY ONLY

BY FEDERAL EXPRESS

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, DC 20463
Attn: Jonathan Levin, Esq.

AOR 1996-46
* SUPPLEMENT

Re: Supplement to Request for Advisory Opinion --
Socialist Workers Party (AOR 1996-46)

Dear Commissioners:

In response to the Commission's November 8, 1996 letter, we hereby supplement our prior showing in support of the pending request for an advisory opinion that the Socialist Workers Party (the "SWP"), the Socialist Workers Party National Campaign Committee and committees supporting candidates of the SWP are exempt from certain reporting and disclosure provisions of the Federal Election Campaign Act.

I.

This supplemental submission fully meets the concerns of the Commission's November 8 letter:

First, the present submission adds 49 incidents of harassment and intimidation against the Socialist Workers Party and its supporters. Together with the 23 incidents specified in our November 1, 1996 submission, the request for an advisory opinion is now supported by a total

* This supplement has well over 100 pages of supporting documents (stack is 2 1/2 inches). OGC will review and circulate later the most relevant pages from these documents. JZ
1-14-97

of 72 post-1989 incidents of the type which this Commission, under the dictates of Supreme Court decisions, has recognized require exemption of a minority party from reporting and disclosure requirements. Moreover, even this list of 72 incidents, like the original submission, is not meant to be exhaustive; as attested to in this supplemental submission, acts of intimidation and harassment against the SWP and its supporters are so frequent that they often go unreported to any central body.

Second, this showing of 72 incidents for the post-1989 period exceeds by far the showing of 19 incidents for the prior period found sufficient by the Commission in its 1990 Advisory Opinion.

Third, the present supplemental showing demonstrates the persistence of the special dangers in South Florida from any disclosure of support for SWP candidates which the Commission found particularly compelling in its 1990 Advisory Opinion.

Fourth, we now support each incident of intimidation and harassment with the sworn declaration of a person with personal knowledge of the matter or, in 21 of the 72 instances by contemporaneous documents or statements submitted to and accepted by other administrative bodies. In many instances, declarations are supplemented by corroborating documentation -- contemporaneous correspondence, official records, or articles that appeared in a broad range of publications, including The Militant. In no instance is an incident supported only by a Militant article. This moots any doubt the Commission may have entertained as to the probative value of Militant articles. However, we emphasize that this submission should not be understood to indicate agreement with the November 8, 1996 letter's characterization of The Militant or as a

waiver of any objections to the November 8 letter's apparent bias in favor of mass circulation publications.)

The foregoing, under the Commission's own prior rulings and binding Supreme Court precedent, is more than sufficient to compel the requested exemptions. We also demonstrate through declarations submitted herewith the continuing impact of the long history of federal animus to the SWP and its supporters detailed in the judicial proceedings referenced in the Commission's November 8th letter, and that there is reason to believe this animus continues, including the federal government a security investigation and revoking security clearance on the basis of SWP association.

Finally, as requested, we provide the factual record before the Washington State Public Disclosure Commission and the Iowa Campaign Finance Disclosure Commission supporting its recognition that exemptions from election reporting requirements are constitutionally compelled.

II.

We set forth below a brief description of each of the 72 post-1989 incidents of harassment and intimidation relied upon. As noted, this showing, extensive and dispositive as it is, nonetheless is not nor is meant to be exhaustive. *See* declaration of Greg McCartan (appearing in Volume III of Exhibits submitted herewith, at Tab A). Rather, as explained by McCartan, harassment of persons campaigning in support of the SWP and its candidates or otherwise perceived as supportive of the SWP is so common an occurrence across the country that it often goes unreported even to the SWP's own national offices.

The sworn declarations and other evidence supporting and elaborating the following summary of the 72 incidents are submitted herewith in Volume III of Exhibits. The supporting declarations and other evidence have been arranged in that volume to correspond with the numeration in this summary.

The 72 incidents are as follows:

1. In November 1996, the Brooklyn, New York headquarters of the SWP election campaign were vandalized with spray paint. "Unabomber for President in '96" was spray painted on the front gate and "Vive Anarchism" on the side gate. Subsequently, an harassing letter sent to the socialists from an organization referring to itself as UNAPACK (The Unabomber for President Political Action Committee). The letter contained a photograph of the graffiti, suggested that the socialists were responsible for the graffiti, and demanded that it be removed immediately.

2. In addition to the incidents described in paragraph 1, there were several other harassing incidents in October/November 1996 directed at the SWP campaign headquarters in Brooklyn, New York involving a phone call and additional acts of vandalism suggesting a connection between the SWP and the Unabomber.

3. In September 1996, a SWP volunteer worker campaigning from a table on a public sidewalk in New Brunswick, New Jersey was harassed and assaulted by a Rutgers University police officer. The table displayed SWP campaign placards, featured brochures for the SWP presidential ticket, and exhibited posters expressing the political positions the campaign supports. The police officer exerted physical force on the campaign worker by twisting and bruising his

arm and demanded to see his driver's license and Social Security card. A summons was given to the campaign worker for "soliciting without permit."

4. During the Summer of 1996, the police in Miami, Florida disrupted a discussion of political issues between the SWP candidate for Congressional District 17 and several interested individuals. The police questioned the legitimacy of the campaign and its right to distribute literature. The intimidating police presence dissuaded those who had been in the process of signing up for more information.

5. In August 1996, three campaign workers petitioning to put Socialist Workers Party candidates for President and Vice-President on the ballot in New York State were detained, taken to the police station, and charged with unlawful solicitation and illegal assembly, despite the fact that they were engaged in protected political activity. The petitions and political literature were confiscated by the police. The charges were dismissed by the judge after the attorney for the campaign workers argued that the defendants were engaged in constitutionally protected activity.

6. In August 1996, the SWP campaign office in Seattle, Washington received an harassing phone call. A woman called identifying herself as being from Dun & Bradstreet. She asked questions about the SWP, wanted to know what kind of organization it was, and asked who the president was. When she was placed on hold, she hung up. A manager at the Dun & Bradstreet office in Seattle confirmed the suspicion that this was an harassing phone call, since no one from that office had called the SWP, according to the D & B manager investigating the incident.

7. In July 1996, while an SWP congressional candidate and a campaign worker were campaigning in Miami, Florida across from the campus of Miami Dade Community College, the police pulled out handcuffs and threatened to arrest them if they did not put away the literature and leave. They did this in the presence of students who were interested in learning more about the campaign.

8. In July 1996, right-wing Cuban Americans in Miami Beach overturned an SWP campaign table in front of police who did nothing to stop this harassment.

9. In June 1996, three SWP campaign workers, including the SWP candidate for Governor, were campaigning and petitioning on public property in front of the Washington Beef Co. in Toppenish, Washington. A man representing himself as the head of human resources at the plant told them they could not remain there. The campaign workers began passing campaign literature to plant employees as they stopped at a stop sign. This same man continued to harass the campaign workers by threatening to call the police for allegedly obstructing traffic.

10. In March 1996, two people campaigning on behalf of SWP candidates in front of a store in Birmingham, Alabama were told by a store employee to leave immediately, despite having permission from the store manager to carry on their activities there. The store worker threatened to call the police, refused to discuss the matter with the campaign workers, and was very hostile.

11. In December 1995, in Des Moines, Iowa, the offices of the SWP and a bookstore located at the same premises, were the target of an arson attack.

12. In November 1995, a violent and threatening message was left on the answering machine of the Socialist Workers 1995 Campaign in the State of Washington.

13. In October 1995, Trinity Industries, located in Bessemer, Alabama, refused to rehire or even give the welding test necessary for re-employment to Frances E. Farley. Farley had an excellent work record during her prior employment at Trinity from May, 1988 until May, 1990 and was well-qualified for the job. During the period of her prior employment, Farley was an active and public supporter of SWP candidates in Alabama. Farley's application for re-employment was sent to Trinity's Dallas office for evaluation. A company official in the personnel office in Alabama eventually told Farley that she would not be permitted to take the welding test, because the Dallas office had not granted approval. At the time of this incident, Trinity was placing large advertisements in daily newspapers seeking welders, and many other people were given welding tests.

14. In October 1995 at Jefferson State College in Tarrant, Alabama, SWP supporters were given permission by the Student Activities Office to set up a table offering SWP literature containing information on the SWP and explaining the party's political positions on various issues. Shortly after the table was set up, an administrator came over to the table and expressed his disapproval of the content of the literature. The administrator left and returned about ten minutes later. He notified the SWP supporters that their permission to set up the table had been revoked and that they would have to leave school property.

15. In October 1995, the police singled out two known supporters of the SWP on the basis of their political affiliation from among numerous persons walking a picket line at a Boeing

plant in Washington, arrested, finger printed, and photographed them before releasing them without charges.

16. In September 1995 in Union City, New Jersey, a large group of Cuban Americans attacked a small group of people campaigning for socialist candidates supported by the SWP. The attackers, one of whom brandished a length of iron pipe, overturned the campaign table and demanded that the campaigners leave Union City. A Union City police officer appeared at the scene but took no action against the attackers. Rather, the officer questioned the campaigners right to sell and distribute literature on the street.

17. In July 1995, a security guard at the Rising Sun Mall in Philadelphia, Pennsylvania took photographs of SWP campaign workers petitioning on behalf of SWP candidates for Mayor and City Council.

18. In June 1995, four campaign workers were collecting signatures on nominating petitions for the SWP candidate for Seattle, Washington City Council. Shortly after they had set up their campaign table outside of the Seattle Center, someone from the Seattle Center demanded to see their vendors license. Even after the campaign workers explained to her that no license was needed to engage in campaign activities, she called the police. A Seattle police officer approached the campaign workers and argued with them for 30-45 minutes about their right to collect signatures. Eventually the police officer left, but not before he had interfered with the right to engage in protected campaign activities.

19. In May 1995, Ilona Gersh was denied employment at the White Oak Mine in Scoffield, Utah. The employee relations director told Gersh that he had investigated her political

activities and discovered that she had been a SWP candidate for Congress. The employee relations director further stated that he did not want to hire anyone who was involved with socialist activities.

20. In May 1995 in Miami, Florida, two SWP volunteers campaigning for the SWP's slate in an upcoming election and distributing SWP literature in front of a Dade County vocational school were subjected to verbal insults and lewd gestures by school officials. The officials' ire was principally directed at the SWP's support of the Cuban revolution. SWP volunteers distributing literature at this same location continue to be subjected to intimidating tactics by people who disagree with their political views. In order to secure their right to distribute literature at that location, it was necessary for the SWP to invoke the threat of litigation against the City of Miami.

21. In February 1995, a man started harassing and abusing the people staffing a literature table sponsored by the SWP in downtown Miami. There was a sign on the table against the U.S. embargo of Cuba. The man started shouting, "I was a political prisoner in Cuba. They tortured and killed two people in my family. Fuck you! Fuck you! Fuck you!" Then he smashed the table with his fist, cracking it all the way through.

22. In February 1995, an individual approached an informational table staffed by supporters of the SWP at Florida International University in Miami. The individual asked a supporter of the Young Socialists, an organization that supports SWP candidates, if they were "for Fidel Castro?" After a short discussion, he said, "I should kick your ass," and left. He returned a few minutes later, pointed specifically to books by and about Che Guevara and Fidel

Castro, and threatened to overturn the table and to attack physically the people staffing the table. This person continued to threaten the people staffing the table, interfered with efforts to disseminate literature, and, when he appeared to be on the verge of carrying out his threats, was dragged away by two students who appeared to be his friends.

23. In August 1994, two police officers harassed a group of SWP campaign workers by closing down a campaign table in Washington Square Park in New York City. One of the police officers made negative comments about a sign defending the revolution in Cuba, patted his gun, and said that he knew how to solve the problem with Fidel Castro. The day after this incident, the same officer made derogatory comments, including "there goes that Castro lover," to one of the campaign workers as she passed him on the street.

24. In July 1994, the SWP candidate for mayor was collecting signatures for nominating petitions on a public street in Minneapolis, Minnesota. He was cited by a Minneapolis policeman for blocking the sidewalk, despite the fact that the sidewalk was wide and there was ample room for pedestrians to pass. The City Attorney's office dismissed the charge.

25. In January 1994, the Ku Klux Klan sent an abusive letter to the SWP office in Philadelphia, Pennsylvania that was clearly intended to intimidate. The letter is addressed to "Dear Communist Scum," is filled with invective, and concludes by stating, "White Patriots will win this Civil War."

26. In November 1993, a large piece of asphalt was thrown through the window of the SWP's offices in Detroit, Michigan. The premises had been identified as the location of the SWP offices in literature that had been distributed throughout the City.

27. In October 1993, David Shedlock, one of the leaders of the anti-abortion group, Operation Rescue, picketed a forum being held at the Pathfinder Bookstore in Des Moines, Iowa, which is located on the same premises as the campaign headquarters of the local branch of the SWP, on the subject of abortion rights. An SWP candidate was also a featured speaker at the public forum. Operation Rescue's efforts to block access to abortion clinics has been the subject of widespread litigation. Shedlock took photographs of participants in the forum and took down the license plate numbers of cars parked around the bookstore. Shedlock and other picketers also menaced and harassed one of the speakers at the forum. On August 30, Shedlock made abusive remarks and engaged in threatening behavior directed against two people, including the SWP candidate for city counsel, exiting the SWP Campaign headquarters in Des Moines, Iowa. Harassment complaints were filed with the Des Moines Police Department shortly thereafter.

28. For one and a half years, Milton Chee, an aircraft sheet metal worker at the Alameda Naval Aviation Depot and a candidate for public office endorsed by the Socialist Workers Party, was subjected to a Hatch Act investigation for allegedly violating provisions concerning federal employees seeking elective office in a partisan election. Chee had sought election to the San Francisco Board of Supervisors, which state law categorizes as a nonpartisan election, and had received the endorsement of the SWP. The United States Office of Special Counsel eventually concluded its investigation in 1993 and decided not to seek disciplinary action. The office had not commenced its investigation until Chee's superiors at the Alameda Naval Air Station became concerned with the content of Chee's views, which are consistent with those held by the SWP, and had brought Chee to the Office's attention.

29. In September and October 1993, two SWP candidates for political office appeared on Spanish-language radio call-in programs in Miami, Florida. Interview topics included abortion rights and the Cuban revolution. The telephone number of the SWP's campaign headquarters were given out during the radio interviews. After each radio appearance, harassing telephone calls were received at SWP campaign headquarters, including calls threatening "Muerte a los comunistas" [Death to the communists].

30. In September 1993, four campaign workers supporting the bid of SWP candidate Mark Rahn for governor of New Jersey were physically assaulted by a group of Cuban Americans. The assailants shouted "communists," "murderers," and "free Cuba," as they overturned the campaign table and attacked the activists working on behalf of the SWP candidate. One of the campaign workers was taken to the hospital. Although this attack was witnessed by police officers, they neither acted to prevent the attack nor filed any charges against the attackers.

31. In June 1993, the display window and the glass door of the SWP campaign headquarters in Seattle, Washington was defaced with a red substance that had been smeared over the glass area. The display area behind the area defaced featured books and other campaign literature promoted and distributed by SWP candidates and supporters.

32. In May 1993, a union member in Chicago, Illinois, who actively and regularly engaged his co-workers in a wide-range of political discussions and was a known supporter of the SWP, was the victim of an act of vandalism at his workplace. A political poster displayed on his tool box was ripped off and a cable securing a chair to the tool box was cut.

33. In April 1993, the locks securing the clothes locker of the SWP supporter discussed in paragraph 33 were rendered inoperable by glue.

34. In April 1993, an employee of Burlington Northern Railroad in Washington announced his candidacy as the SWP candidate for state representative. The next day, a defaced campaign flyer containing a message denigrating the candidate was left in the breakroom. The day after that an individual familiar with the candidate's political views came into the breakroom, and demanded to know if the other workers there knew they were "working with that socialist shit." He was abusive and denounced the candidate, the SWP, and the political position outlined in the campaign platform. He also threatened to "take care" of the candidate and any other socialists.

35. In April 1993, at an anti-Klan rally in Miami Beach, a Cuban American overturned the SWP's informational table. In addition, the people staffing the table were harassed. After being surrounded by political opponents, the SWP workers had no choice but to leave the rally.

36. In March 1993, an employee at the Kenworth Truck plant in Seattle, Washington, who openly supported SWP candidates in the 1992 elections and who openly expressed his belief in worker solidarity, raised a workplace issue with co-workers. The employee was told by his supervisor not to raise questions about who works during lunch and to "[S]top preaching that solidarity shit," because "the last guy who did that got run out of here."

37. In February 1993, a Minneapolis newspaper reported that the SWP candidate for U.S. Congress for the fifth congressional district in Minnesota was an activist whom he "dislikes a lot." Speaking of Nisan, the officer further stated: "He called for the downfall of the

establishment. His rhetoric can inflame minds, reinforce what people think that's not truth, cause dissension, not harmony."

38. In December 1992, an SWP campaign worker, Henry J. Hillenbrand, was the target of violent threats at the Conrail freight yard in Camden, New Jersey. Hillenbrand's political views and his support of the SWP was well-known in the workplace. "Henry you fuckin slime ball I'm gonna gut you," "Bomb this place," and "Henry must die" were written on flyers supporting SWP candidates that Hillenbrand had placed on bulletin boards in the work areas of the yard. The person or persons defacing the flyers also indicated a desire to contribute "1 stick of dynamite" to the Socialist Workers campaign.

39. In September 1992, the SWP congressional candidate for the ninth congressional district in New Jersey was cited by a Port Authority police officer for distributing pamphlets without a permit in Jersey City, New Jersey. The Port Authority dropped the case just before the trial was set to begin.

40. In September 1992, two SWP campaign workers distributing campaign literature in Jersey City, New Jersey received tickets for violating the city's peddling ordinance. The City subsequently acknowledged that the SWP had been engaging in constitutionally protected activity and dismissed the tickets. In response to this police harassment, the SWP congressional candidate and her supporters requested a letter from the City Council confirming their right to distribute campaign literature. A City Council member recognized that the police might not agree with the views of the SWP, and the City Council unanimously supported this request.

41. In August 1992, the SWP candidate for U.S. Congress from the third congressional district in Utah along with a supporter were handing out leaflets in Salt Lake City publicizing two events protesting police violence. Two Salt Lake police officers harassed them and effectively curtailed their activity by telling them to leave and threatening them with arrest for passing out leaflets without a permit.

42. In June 1992, a police officer in Minneapolis, Minnesota harassed three supporters of the SWP election campaign who had set up a campaign table on a public street. The officer indicated that if they did not remove the table he would issue a citation.

43. In June 1992, in Seattle, the SWP candidate for Governor of Washington and several supporters were campaigning and collecting signatures for nomination petitions as required by state election law. They were harassed several times by Seattle police officers who threatened to confiscate the campaign literature and arrest them if they did not leave the area. The police actions intimidated passersby from stopping at the campaign table that had been set up and interfered with their effort to collect signatures.

44. In May 1992, the SWP congressional candidate for the seventh congressional district in Seattle, Washington and a campaign supporter were harassed by a man yelling in a belligerent manner. He also harassed passers-by who stopped at the campaign table they had set up.

45. In May 1992, Chris Nisan, the SWP candidate for Congress in the fifth district of Minnesota, received three telephone death threats after leading a demonstration protesting the

beating of Rodney King by Los Angeles police officers. Three different callers stated that Nisan would be "taken out" for his role in the protests.

46. In April 1992, a conversation between two union members -- a campaign supporter and Ed Hill, the SWP candidate for County Commission -- was interrupted by a foreman at the Hormel plant in Tucker, Georgia. The supervisor stated: "Take Ed's name off that communist list. He wants to hang out with me now." Shortly thereafter, the same supervisor interrupted a second conversation between the campaign supporter and a co-worker, stating: "Mark doesn't want to hear any of that communist shit. He told me he isn't interested." It is clear that the basis of the foreman's antagonism was the socialist's political views.

47. In April 1992, a campaign worker canvassing for SWP candidates was approached by a police officer in Mount Vernon, Washington. The officer stated that a complaint had been filed. After she explained that she was engaged in political campaign activities on behalf of the SWP candidates for Senator and Governor, the police officer told her "you had better watch what you say to people in this neighborhood." The police officer left when she insisted on her right to campaign.

48. In March 1992, Kate Kaku, SWP candidate for U.S. Senator from Illinois and a trade unionist, was arrested on charges of criminal trespass and obstructing an officer as she participated in a rally in support of striking United Auto Workers members. Before entering the venue where the rally was taking place, Kaku had been distributing literature about the SWP campaign, including copies of the socialist newsweekly, *The Militant*, which had endorsed Kaku's campaign. The police told the local press that Kaku and another unionist were arrested because

they had been passing around "militant literature." The charges were later dropped without explanation.

49. In February 1992, in Des Moines, Iowa, a bullet was fired through the window of the SWP offices. The attack came during a period in which the SWP was actively expressing its viewpoints at city council meetings and public hearings.

50. In November 1991, an anonymous caller threatened to kill those associated with the SWP offices and a bookstore in Omaha, Nebraska, unless they closed down.

51. In October 1991, the security clearance of an airman in Omaha, Nebraska was revoked after he attended a conference sponsored by the SWP. The airman was told by Air Force officials that he was the subject of a security investigation. Among the reasons given for opening a security investigation was the airman's "alleged involvement with socialist organizations." The airman was reassigned from his post as a computer programmer at Offutt Air Force Base to a clerk's position in the base housing office.

52. In August 1991, in Houston, Texas, two campaign volunteers were circulating nominating petitions for the SWP mayoral candidate. A Houston police officer informed the campaign workers that their activities were illegal. The police officer was informed that this was constitutionally-protected activity, since they were gathering signatures for the purpose of placing a candidate on the ballot. A summons was issued for "distribution of commercial handbills" and "blocking city sidewalk w/table." The handbills in question were a flyer encouraging people to sign petitions for the purpose of placing an SWP candidate on the ballot and an announcement for an upcoming forum on the Gulf War to be held at SWP campaign headquarters. Both of

these charges were dismissed by the prosecutor.

53. In August 1991, supporters of the SWP's candidates for state office in New Jersey were harassed and threatened by several police officers. While the campaign workers were staffing a literature table outside of the campaign offices, three police officers, two on horseback, hovered nearby, made threatening comments, and asked provocative questions seemingly for the purpose of intimidation. In response to escalating threats, the campaign workers took down the table.

54. In July 1991, an SWP candidate for Seattle, Washington City Council and other supporters of SWP candidates collecting signatures to place additional SWP candidates on the ballot for city council were harassed and physically threatened by an individual who objected to socialists collecting signatures.

55. A few days after the incident described in paragraph 54, a Seattle police officer approached the campaign workers and informed them that the police had received a report that the campaign workers were harassing people on the street. The same person, who had harassed and physically threatened the campaign workers a few days prior to this second incident and who presumably had notified the police, approached the campaign workers while they explained what they were doing to the police. This individual yelled anti-communist statements and profanity and demanded that the police arrest the campaign workers who were lawfully engaging in petition activity required by city election laws.

56. In July 1991, an SWP candidate for Seattle, Washington City Council, who was employed by General Electric, was questioned about his political views by company officials.

A few weeks prior to this interrogation, the candidate had spoken at a public meeting of an organization attempting to organize a boycott of General Electric because of its role in the production of nuclear weapons. At that meeting, he had spoken on the subject of why working people should oppose nuclear power and the production of nuclear weapons. The General Electric officials specifically wanted to know if the quotations attributed to him in an article covering the meeting that was printed in a local Seattle newspaper were accurate.

57. In June 1991, the offices of the SWP in Greensboro, North Carolina received a threatening phone call. The caller stated: "This is the Ku Klux Klan. We're gonna come and get you." This incident was reported to the Greensboro police.

58. In June 1991, a threatening and harassing telephone call was received at the SWP headquarters in Greensboro, North Carolina. The caller stated: "Do you have the manifesto of Karl Marx and Frederick Engels? This is the Ku Klux Klan. We'd like a couple of them and a couple of you too." Both of these incidents were reported to the Greensboro police and reports were filed by the investigating officers. The FBI opened an investigation of this incident.

59. In June 1991, a swastika and the slogan "White Power" were spray-painted on the building housing the offices of the SWP and its campaign headquarters in Birmingham, Alabama.

60. In May 1991, two threatening stickers were placed on the entrances of the SWP in Greensboro, North Carolina. One read, "Nigger go home," and the other, "You have been paid a social visit by the Knights of the Ku Klux Klan. Don't make the next visit a business call." The stickers included a depiction of a robed Klansman, who was mounted on a horse, carrying a flaming torch. The FBI opened an investigation of this incident.

61. In January/February 1991, Northwest airlines threatened with disciplinary action an employee who refused to remove a button stating his opposition to the Gulf War. This employee's political affiliation with the SWP was well known, since he had been the SWP candidate for Seattle, Washington City Council in 1990. It was common practice for Northwest employees to wear buttons at work, and at the time many of his co-workers wore buttons supporting United States involvement in the war. Nevertheless, Northwest Airlines issued a memo singling out the employee for this supposed violation.

62. In January 1991, Priscilla Schenk, a worker at Emco Industries in Des Moines, Iowa and a known supporter of the SWP who regularly sold the *Militant*, a socialist newsweekly, and had distributed public statements by the SWP opposing the Gulf War, was interrogated at her place of employment by two men, one an agent of the Iowa Bureau of Criminal Investigation and the other a Secret Service agent. Schenk was questioned about her political views with respect to the Gulf War, her political activities, and about who her friends were.

63. In January 1991, the window of the SWP campaign headquarters in St. Louis, Missouri was smashed, the day after the SWP submitted a sufficient number of signatures to qualify to be listed on the ballot in an upcoming election. SWP campaign supporters had focused their signature-gathering efforts on publicizing the SWP's vehement opposition to the war against Iraq.

64. In September 1990, the car of the SWP candidate for Georgia Commissioner of Agriculture was vandalized in the Hormel plant parking lot the day after a campaign rally had

been held at the Hormel plant in Tucker, Georgia. No other cars were vandalized at that time, indicating that the act was provoked by the political views expressed by the SWP candidate.

65. In September 1990, an SWP campaign worker lawfully campaigning on a public street in Chicago, Illinois was verbally abused and arrested for disorderly conduct and obstructing traffic. The charge of disorderly conduct was dropped and a (non-conviction) thirty day period of supervision was imposed.

66. In September 1990, a large rock was thrown through the window of the SWP's offices in Kansas City, Missouri. The rock was thrown through a window containing a sign reading: "U.S. out of the Arab East!" This incident was reported to the police.

67. In August 1990, the SWP congressional candidate discovered that the window of the offices of the SWP 1990 Election Campaign and a bookstore at the same premises in Des Moines, Iowa had been vandalized.

68. In July 1990, the SWP headquarters in Greensboro, North Carolina, received a threatening message on its answering machine. The caller stated: "This is a member of the Ku Klux Klan. We just want you to know, we're watching you." The KKK had announced that they intended to hold a rally in November to commemorate the killing of members of the Communist Workers Party in 1979. An official report was filed with the Greensboro police, who indicated that they considered this a serious threat and expected an increase in Klan activity in light of the its announced rally.

69. In May 1990, a personnel director of U.S. Steel in Fairfield, Alabama, questioned the union official who had recommended for employment an active and public supporter of SWP

candidates in Alabama. The personnel director wanted to know why the union official had recommended a "nigger-lover communist."

70. In May 1990, in Chicago, Illinois, the glass in the front door of the building housing the offices of the SWP was broken by vandals. No other windows on the street were broken in this incident.

71. In April 1990, two policeman approached an SWP literature table in Miami, Florida, looked at the books, and told the people staffing the table that it had to be removed because it was blocking the sidewalk. The police said there was no where else that the table could be set up. The two police officers arrested one of the people staffing the table for selling without a license and for obstructing the sidewalk. The State's Attorney dropped the case the day before the scheduled court appearance.

72. In December 1989, in Kansas City, Missouri, a telephone message was recorded on the answering machine at the Socialist Workers Party headquarters suggesting that supporters of the SWP's political position on Panama "should be shot."

III.

In its 1990 Advisory Opinion, the Commission took special note of the situation confronting the Socialist Workers Party and its supporters in South Florida. That situation persists with full force today. Since 1989, the SWP has been the target of repeated attacks by elements of the anti-Castro Cuban community in South Florida, See Point II, *ante*, ¶¶ 8, 20-22, 29, 35. These incidents are merely reflective of the constant hostility and ever-present threat of harassment and violence in South Florida experienced by those who publicly espouse a view

opposing the most rigidly anti-Castro political position and, even more so, by those, such as the SWP and its supporters, who are active and known supporters of the Cuban revolution.

Indeed, Human Rights Watch, the respected United States human rights organization, itself highly critical of Cuba, has issued two reports extensively documenting the murders, bombings, assaults, harassment, and reprisals suffered by those who express viewpoints different from those of the fiercely anti-Castro and anti-Communist forces who dominate political debate in Miami's Cuban exile community. These reports appear at Tabs B and C in Volume III of Exhibits. The August 1992 report notes that "in their attitude toward dissenting viewpoints, many anti-Castro Miami Cubans have a good deal in common with the regime they loathe. Freedom of expression suffers, much as it does in other countries in Latin America -- or anywhere else in the world -- where violence rules." Tab B at 2. In the second report, issued two years later in 1994, Human Rights Watch found the "atmosphere for unpopular political speech remains marked by fear and danger, while government officials maintain a conspicuous silence in the face of threats to free expression." Tab C at 2. Exemplary of the ferocity of the anti-Castro forces is the communiqué issued by Alpha 66, a paramilitary organization, stating that "anyone who visited Cuba, engaged in dialogue with Cuban authorities, or offered direct or indirect support to the government of Cuba would be considered 'a military target and will suffer the consequences inside or outside of Cuba.'" *Id.* The report concluded: "[O]nly a narrow range of speech is acceptable, and views that go beyond these boundaries may be dangerous to the speaker. Government officials and civic leaders have taken no steps to correct this state of affairs." *Id.* at 9.

The SWP maintains an office in Miami and is an active presence on the Miami political scene. Its views on Cuba, as well as its opposition to the United States embargo of Cuba, are well known in South Florida, having been reported on both Spanish- and English-language television, in local newspapers, and on the radio. *See* Decl. of Seth E. Galinsky, Ex. vol. III at Tab D. The SWP's views on Cuba have also been publicized through media interviews with its candidates for public office, the distribution of campaign literature of candidates supported by the SWP, sales of *The Militant* and the magazine *Perspectiva Mundial*, and at public demonstrations and picket lines at which SWP supporters were present. *Id.* The SWP and the candidates it supports are known to be in favor of the Cuban revolution, and the SWP publicly advocates its support of the revolutionary government and in opposition to the U.S. embargo of Cuba. *See* Exhibit vol. III at Tab E. As noted, this support has led to threats and harassment of the SWP and its candidates.

Consequently, the compelled disclosure of persons supportive of the SWP or its candidates must reasonably be expected to put those persons in jeopardy in Florida. The prospect of such disclosure cannot but severely deter persons from extending their support to SWP candidates, requiring the requested exemption.

The intolerance of certain members of the Cuban-American community is not confined to southern Florida. Where there are significant Cuban-American communities, the political climate is similar to that in Miami, *see* Exhibit vol. III, Tab B at 1, n.2, and the same intense hostility and similar threats are directed against the SWP if it is present there. Thus, the SWP has also been the victim of anti-Castro violence elsewhere. *See, e.g.,* Point II, *ante*, ¶¶ 16, 30.

IV.

While the post-1989 incidents of harassment and the special dangers in South Florida are more than sufficient to compel the requested exemptions, we emphasize, as we did previously, that the effects of the decades-long federal hostility and disruption of the SWP and its supporters remain. *See* declarations of Greg McCartan, Janet Post, Seth Galinsky and Norton Sandler (Volume I of Exhibits at Tabs C and D), and the discussion in our November 1, 1996 letter, pages 13-19. Since the chilling effect of the historic federal animus persists, it no more can be discounted today than in 1990, when the Commission cited that extraordinary federal history as an additional reason why the requested exemption was constitutionally compelled.

In its 1990 Advisory Opinion, the Commission found it particularly relevant that there was reason to believe that the federal animus against the SWP continued, AO at 11,635, reinforcing the chilling effect on First Amendment rights created by past misconduct. See our discussion of this aspect of the Commission's 1990 ruling in our November 1, 1996 letter at pages 17-19. The Commission cited in particular the position of the federal government that the SWP affiliation of individuals might be relevant to decisions as to security clearances. AO at 11,635.

This remains the federal position. Not only has the federal government never repudiated the position cited by the Commission, but, as set forth for the first time in this supplemental submission, the Air Force commenced a security investigation of an airman in 1991 because of his association with the SWP and revoked his security clearance on that basis. The incident received substantial attention in the Omaha press. Incident 51, Part II, *ante*, and related exhibits. Accordingly, under the Commission's own reasoning in its 1990 Advisory Opinion, the lesson

reasonable persons may draw from the historical record is no less forceful today than in 1990: disclosure of their relations with or support of the SWP or its candidates might provide, now or sometime in the future, a basis for federal investigation and other prejudicial government actions.

V.

As requested, we provide herewith the requests and supporting material submitted to the Washington (State) Public Disclosure Commission in 1991, 1992, 1993, and 1996 and to the Iowa Campaign Finance Disclosure Commission in 1991. Tabs F through J in Exhibit Vol. III submitted in support of the 1996 advisory opinion request. (Incidents submitted to these Commissions also are included in the enumeration of incidents set forth in this letter.)

We add that the decisions of the Washington and Iowa Commissions reflect not only the submitted evidentiary material but the common knowledge, shared by the Commissioners, of local bias and of the chilling effect of compelled disclosure with respect to a political party such as the SWP. The findings and judgment of these Commissions are entitled to substantial weight, both for their own intrinsic evidentiary value and as precedent.

VI.

The record here, if anything, is stronger than that presented to the Commission in 1990, when it found that exemption from the disclosure requirements of the Act was constitutionally required under the Supreme Court's decisions in *Buckley v. Valeo*, 424 U.S. 1 (1976) and *Brown v. Socialist Workers '74 Campaign Committee (Ohio)*, 459 U.S. 87 (1982). In any event, it more than satisfies the constitutionally mandated standards for exemption.

As the Commission agreed in 1990, *Buckley* and *Brown* had established that "under certain circumstances, the Act's disclosure requirements as applied to a minor party would be unconstitutional because the threat to the exercise of First Amendment rights resulting from disclosure would outweigh the insubstantial interest in disclosure by that entity." AO at 11,633.

The Supreme Court recognized that:

The Constitution protects against the compelled disclosure of political associations and beliefs. Such disclosures "can seriously infringe on privacy of association and belief guaranteed by the First Amendment."

Brown v. Socialist Workers '74 Campaign Committee (Ohio), 459 U.S. at 91 (quoting *Buckley*, 424 U.S. at 64). See also *McIntyre v. Ohio Elections Comm'n*, ___ U.S. ___, 115 S. Ct. 1511 (1995).

The Commission further found in 1990 that, under *Buckley* and *Brown*, the SWP:

need show only a reasonable probability that the compelled disclosure of a party's contributors [or other protected categories of persons] will subject them to threats, harassment, or reprisals from either Government officials or private parties.

AO at 11,633, quoting *Buckley*, 424 U.S. at 74. The Commission elaborated upon this standard, further quoting *Buckley*, 424 U.S. at 74:

The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations of public hostility may be sufficient.

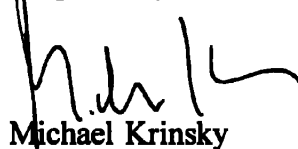
AO at 11,633.

Such proof has been submitted here.

CONCLUSION

The showing made in the November 1, 1996 letter requesting an advisory opinion along with the material contained in this supplementary submission establishes that under controlling constitutional principles the Socialist Workers Party and its election committees are entitled to renewal of the previously granted exemptions from the disclosure requirements of the Federal Election Campaign Act.

Respectfully submitted,



Michael Krinsky