FEDERAL ELECTION COMMISSION
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VERIFIED COMPLAINT

Before the
FEDERAL ELECTION COMMISSION

NEW YORK STATE DEMOCRATIC COMMITTEE,	)	
Petitioner,	)	
v.	)	MUR NO. ____
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE,	)	
CAPUTO FOR SENATE COMMITTEE,	)	
JOHN T. DOLAN,	)	
ARTHUR FINKELSTEIN, and	)	
ARTHUR FINKELSTEIN & ASSOCIATES,	)	
Respondents	)	

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INTRODUCTION

The New York State Democratic Committee (the "State Committee") files this Complaint, pursuant to § 437g of the Federal Election Campaign Act of 1971, as amended (the "Act"), in the interest of preserving free and fair elections in the State of New York. The State Committee alleges multiple, profound and continuing violations of the Act which undermine the electoral process in the State of New York by the National Conservative Political Action Committee ("NCPAC"), the Caputo for Senate Committee (the "Caputo Committee"), John T. Dolan ("Dolan"), and Arthur Finkelstein and Arthur Finkelstein &

Associates (collectively "Finkelstein").*

NCPAC, a "multi-candidate" committee, has orchestrated an expensive media campaign, with a budget ultimately intended to reach at least $750,000, to defeat incumbent Democratic United States Senator Daniel Patrick Moynihan in the 1982 United States Senate election in the State of New York. [Exhibit 1]. NCPAC characterizes this spending as "independent" of any candidate and thus purportedly exempt from the dollar limitations imposed by § 441a of the Act and sanctioned by the United States Supreme Court in Buckley v. Valeo. In reality, NCPAC's spending is anything but "independent" in nature. Rather, it has been closely coordinated with (and intended to benefit) the campaign of Bruce F. Caputo, the only announced candidate and conceded Republican Party nominee in the race against Senator Moynihan.

SUMMARY OF THE COMPLAINT

NCPAC's expenditures "expressly advocating the defeat of a clearly identified candidate," Senator Moynihan, have been and continue to be made by and through a conspicuous and largely uncontradicted pattern of "cooperation [and] consultation with" the Caputo Committee (Reg. 109.1(a)).

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* NCPAC is a registered multi-candidate committee organized to support candidates for nomination or election to federal office. The Caputo for Senate Committee is a registered committee functioning as the principal campaign committee for Bruce Caputo, a candidate for the Republican nomination for the United States Senate in the State of New York. John T. Dolan is National Chairman of NCPAC, and Arthur Finkelstein is a political strategist and President of Arthur J. Finkelstein & Associates, a political consulting firm.

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This Complaint will establish that both the Caputo Committee and NCPAC have relied on a common campaign architect and strategist, Arthur Finkelstein (see pp. 4-9, infra).

An erstwhile member of the Board of Directors of NCPAC, Finkelstein helped originate, shape and execute NCPAC's nationwide strategy of targeting individual members of the United States Senate for special efforts to defeat them. He is currently engaged in just such an effort for NCPAC in New York against Senator Moynihan. Finkelstein has simultaneously joined the campaign of unopposed Republican Senatorial candidate Bruce F. Caputo against Senator Moynihan as a paid campaign and media strategist. Upon information and belief, Finkelstein enjoys broad responsibility for devising and molding the Caputo campaign strategy, and is necessarily concerned with Caputo Committee expenditures made against the Senator. Thus, Finkelstein is intimately involved in the simultaneous planning and execution of the campaign strategies of both committees against Senator Moynihan.

This Complaint will further show that NCPAC and the Caputo Committee have violated the Act in that:

(a) NCPAC, by its own admission, is making its expenditures in actual cooperation, consultation and in concert with the Caputo campaign by and through Finkelstein, based on an erroneous view that it may legally do so until such time as Caputo is formally nominated (see p. 9, infra).

(b) Independent evidence, in the form of a crucial letter, establishes positively that NCPAC has, in fact, made its expenditures in consultation and coordination with the Caputo campaign. NCPAC and its agents consulted with the Caputo Committee by and through Finkelstein about the content

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of NCPAC's "first wave" commercials urging the defeat of Senator Moynihan, and about media clearance and placement problems encountered by NCPAC in its efforts to make these media expenditures (see p. 11, infra). Further, an inference of consultation and coordination is supported by the NCPAC and Caputo campaign materials which, in both substance and style, make virtually identical charges against Senator Moynihan on identical issues; and

(c) A presumption of coordination between NCPAC and Caputo is established by a curious $4,400 contribution made by NCPAC to the Caputo Committee, which was passed back again to NCPAC under the description of an unexplained "loan repayment," and ultimately must be deemed to have been expended against Senator Moynihan "through" NCPAC (see p. 16, infra).

The fact is that by its conduct NCPAC has forfeited its legal status as an independent committee in connection with the New York campaign against Senator Moynihan. Appropriate enforcement action should be commenced forthwith to redress its violations and to prevent NCPAC's further subversion of New York's electoral process. See FECA § 441a(7)(B)(i), Reg. 109.1(c).

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NCPAC AND THE CAPUTO COMMITTEE ARE ENGAGED IN A COORDINATED CAMPAIGN AGAINST SENATOR MOYNIHAN

A. Arthur Finkelstein Is the Cornerstone and Common Element in Both Committees

(1) Finkelstein and NCPAC

Arthur Finkelstein has played a key policy-making and directorial role in NCPAC, having served for a time on its

Board of Directors [Exhibit 2]. He helped originate NCPAC's nationwide strategy of targeting individual members of the United States Senate for special efforts to defeat them, polling to determine their vulnerabilities, conducting negative research, and designing and implementing NCPAC media campaigns against them. As one of NCPAC's chief political strategists he is credited with many of NCPAC's most impressive victories.

In short, Finkelstein is the ultimate NCPAC campaign strategist, [Exhibits 3 and 4], and his polling, advice and counsel are synonymous with the NCPAC strategy.* Upon information and belief, based on NCPAC's filings with the Commission, he received from and/or is owed by NCPAC over $145,000 in fees, salaries and emoluments from 1979 through September 30, 1981.

Respondent Dolan, National Chairman of NCPAC, unabashedly has admitted that Finkelstein is a key strategist

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* In "The 1981 PAC Handbook" [Exhibit 7], Respondent Dolan described the unique significance of techniques like Finkelstein's to NCPAC's overall strategy:

> NCPAC attributes most of its success to the use of modern research methods such as public opinion surveys. . . . Once public sentiments on key issues are identified, NCPAC can make well-informed judgments on which issues to target in a political campaign. This methodology was used across the board in the 1980 senatorial elections . . . .
>
> * * *
>
> It is this use of survey research that helped NCPAC to identify issues most likely to topple an incumbent politician in 1980. Public sensitivities were cultivated to the advantage of conservative challengers in an efficient, cost-effective way. Hence the unprecedented wave of challenger victories. Sophisticated methods have served conservatives well.

"The 1981 PAC Handbook" at p. 292.

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for NCPAC in its New York anti-Moynihan campaign. When questioned during a November 17, 1981 press conference about Finkelstein's role in connection with NCPAC's "first wave" media campaign against the Senator, he expressly acknowledged that Finkelstein was polling for NCPAC, and said of his commercials: "[A]ll of this information is based on a survey which we can't talk about, and we wouldn't be putting it in a commercial if it weren't there." [Exhibit 5]. NCPAC's reported payments to Finkelstein for surveys attributable to NCPAC's campaign against Senator Moynihan in New York aggregated $9,000 in October 1981 alone. [Exhibit 6].

Thus, Finkelstein's polling and interpretations are an inseparable part of what NCPAC exists to do, and what it is doing in New York against Senator Moynihan.

(2) Finkelstein and Caputo

Bruce F. Caputo legally became a candidate for the United States Senate seat held by Senator Moynihan in April 1981. [Exhibit 8].

On the basis of information on the public record, Finkelstein signed on with the Caputo campaign in New York in return for a role which apparently gives him broad responsibility for molding the Caputo strategy against Senator Moynihan. In an affidavit by the Treasurer of the Caputo Committee furnished in connection with an inquiry before the New York State Board of Elections, the Caputo Committee admitted that it had retained Finkelstein "as a political consultant for the purpose of rendering advice on a variety of matters, including election strategy, media advice, etc." [Exhibit 9]. One news report of Finkelstein's key role in the Caputo campaign observed [Exhibit 3]:

> [Caputo], who's now after Senator Daniel Moynihan's job, is already wooing the right. He's . . . hired Arthur Finkelstein,

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> the conservative guru who crafted D'Amato's [New York Senator Alphonse M. D'Amato] controversial campaign ads questioning the health of then senator Jacob Javits.
>
> "Finkelstein will make suggestions to credit me and discredit Moynihan. We will pick from the menu of alternatives," said Caputo.

An article in the April 1980 issue of Conservative Digest, by Respondent Dolan underscores the significance of what someone like NCPAC's Finkelstein does for a candidate's effort: "The polls should tell the candidate what to say . . . . What can NCPAC do here? We can certainly offer an intelligent reading of the polls and advise the candidate on what to do with the information" [Exhibit 10 at p. 29]. Upon information and belief, this, among other things, is what Finkelstein is providing for Caputo.

During the period from March 31, 1981 to approximately April 6, 1981, Finkelstein conducted a poll which surveyed 1000 New York residents to explore "attitudes and trends as they related to social, political and economic issues in the State of New York." [Exhibit 11]. The survey also included a question about Caputo and Senator Moynihan. Finkelstein concluded that the Senator could be defeated, and that Caputo's Italian background would be a "valuable asset" [Exhibit 11]. Finkelstein was paid an aggregate of $6300 by the Caputo Committee during the month the poll was conducted [Exhibit 13].* Upon information and belief, this Finkelstein survey, and others done by him, have been used to target what Finkelstein believes to be Senator Moynihan's ostensible areas

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* Finkelstein has sworn in a State Board of Elections inquiry that the poll was done at his "own cost and expense." We must therefore conclude that the $6300 he was paid in the month represents compensation for additional valuable services he performed for the Caputo campaign.

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of "vulnerability," and much of the Caputo campaign strategy and materials is predicated upon them.

No more telling indicator of Finkelstein's importance to the Caputo campaign can be found than the disclosure of his share of the total compensation paid by the Caputo Committee. As disclosed in the last available FEC report, as of June 30, 1981, the Caputo Committee paid and/or owed Finkelstein $15,000 out of its total reported receipts of $31,500, or nearly 50% of total outlays. [Exhibit 8].

Truly independent expenditures have been carefully defined to include only those made "without cooperation or consultation with any candidate or any authorized committee or agent of such candidate, and which [are] not made in concert with, or at the request or suggestion of" such persons [2 U.S.C. § 431(17); Reg. 109.1(a)]. (Emphasis added). Finkelstein's role, responsibility in, and obvious importance to the Caputo campaign make him a principal force behind an "authorized committee of the candidate" (the Caputo Committee), as contemplated by the United States Supreme Court (Buckley v. Valeo), the Congress, and this Commission.* Indeed, because of Finkelstein's importance to the Caputo campaign, he also must be deemed an "agent" of candidate Caputo, as defined by this Commission, in that he "has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he . . . may authorize expenditures." [Reg. 109.1(b)(5)].

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* See, by way of comparison, Reg. 100.5(g)(2)(ii)(C), where the Commission defined affiliated political committees, "established, financed, maintained, or controlled by the same . . . person, or group of persons" to include "the authority, power, or ability to . . . otherwise influence the decision of the officers or members of an entity . . . ." (Emphasis added.)

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Simply put, Finkelstein is one of the principal architects of the Caputo campaign. He enjoys a position where it reasonably appears that the judgments he makes will often be translated into campaign expenditures. On these facts, the joint NCPAC-Finkelstein-Caputo campaign against Senator Moynihan violates both the intent and the letter of the independent expenditure exemption of the Act.

B. NCPAC and the Caputo Committee Are Consulting and Coordinating Their Activities

(1) The Admission of Joint Coordinated Activity

Respondents' violations of the Act are complete and proven from their own lips.

Arthur Finkelstein as both a key strategist of the Caputo Committee and as an agent of the candidate is precluded from actually consulting, coordinating or acting in concert with NCPAC concerning its expenditures against Senator Moynihan. Yet, precisely such joint activity has been tacitly admitted by NCPAC and its agents in its erroneous assertions that they are permitted to engage in a coordinated effort until Caputo becomes the formal Republican nominee.

Thus, NCPAC's Chairman Dolan, responding to charges about Finkelstein's dual campaign role in New York, reportedly asserted on November 19, 1981 that,

> [P]ollsters are "common agents" exempt from the law under a special commission ruling two years ago. [Exhibit 14].

And, again, in a December 14, 1981 article, Dolan, responding to allegations about Finkelstein's "intimate involvement in the development of the anti-Moynihan commercials that form the core of Dolan's attack," exclaimed,

> No matter . . . I have an advisory opinion from the F.E.C. that states I can talk to

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> Caputo all I want and we can both use Finkelstein as much as we want until Caputo becomes the formal Republican nominee. Right now, Caputo is just a pre-primary candidate. [Exhibit 15].

And, finally, NCPAC spokesman Steve DeAngelo could scarcely be said to have denied such actual consultation when the Washington Post quoted him as offering this defense on December 31, 1981,

> NCPAC is not talking to Finkelstein "on a daily basis or even a weekly basis" and as soon as Caputo is nominated the connection will be severed [Exhibit 16].

This candor from NCPAC proceeds from its erroneous view that until Caputo is formally nominated to oppose Senator Moynihan in the General Election campaign, NCPAC and Caputo jointly can do whatever they want. This erroneous interpretation was most vividly expressed by Dolan in these surprising comments about the Act and this Commission in a Washington Post interview (August 10, 1980):

> We got an advisory opinion from the FEC. . . . I know it's a ridiculous ruling but the FEC is stupid. We asked them the nine toughest questions we could think of on what constitutes "independent" and they came up with nine of the stupidest answers.
>
> * * *
>
> [T]he law makes no sense. They ought to scrap it. . . . You can do what you want with PACs. [Exhibit 4].

However, Mr. Dolan is completely misadvised as to his interpretation of the law. In MUR 1231, this Commission's General Counsel characterized a position identical to that now taken by NCPAC as "without merit," expressly stating that:

> [I]f a primary candidate cooperates, consults and coordinates with a person regarding expenditures against a primary candidate of a different party, the person

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> making the expenditures would plainly be making a contribution to the candidate consulted as a result of such communication.

All the more so where, as here, the candidate (Caputo) is unopposed for nomination, and is conceded to be his party's nominee (see a more complete legal discussion at p. 18, infra).

Thus, the tacit admissions present in NCPAC's erroneous assertions concerning its legal position are sufficient, in and of themselves, to establish a concerted pattern of consultation and coordination between NCPAC and the Caputo Committee in violation of the Act.

(2) Proof Positive of Finkelstein's Coordination

There also exists direct documentary evidence that the "first wave" NCPAC media expenditures were in fact coordinated by and through Finkelstein while he was acting for, and receiving compensation from the Caputo Committee as its campaign and media strategist.

On September 15, 1981 Caputo kicked off his campaign in true NCPAC fashion with an announcement of candidacy designed to identify his anti-Moynihan themes and issues.*

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* As Respondent Dolan wrote in the April 1980 issue of Conservative Digest [Exhibit 10 at p. 29]:

> The announcement is maybe the most important stage of the campaign. . . .
>
> He [the candidate] should form the issues he will talk about at his announcement and have an understanding of the image he would like to project to people. . . .
>
> I believe that correct handling of the candidate announcement is at least as important as the organizational and fundraising aspects of the campaign. . . .

Upon information and belief, Finkelstein has played a central part in helping to fashion the campaign themes articulated by Bruce Caputo in both his initial fundraising letter [Exhibit 19] and formal announcement of candidacy [Exhibit 17], predicated upon Finkelstein's survey results.

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Among them was this startling assertion: "Most people are unaware that Daniel Moynihan is the father of the runaway federal welfare system." (emphasis added) [Exhibit 17].

Precisely one month later, on October 15, 1981, NCPAC's agent, Time Buying Services, Inc. ("TBS"), transmitted a draft copy of NCPAC's first wave media spots to New York radio stations for their review and acceptance [Exhibit 18]. All of the assertions in the NCPAC draft were previously made by Caputo in his initial fundraising letter and announcement of candidacy (see comparative chart, infra, at p. 15), and also the identical distorted assertion concerning Senator Moynihan's involvement with the subject of welfare, lifted directly from Caputo's announcement:

> ANNOUNCER: * * * And you know, he was the father of our runaway welfare program.
>
> WOMAN'S VOICE: Moynihan is responsible for our runaway welfare system?
>
> ANNOUNCER: Yes, Moynihan created our runaway welfare system. [Exhibit 18] (Emphasis added.)

It is not surprising that NCPAC encountered station resistance to this draft "copy." On October 30, 1981, in summarizing the status of station clearances for his client, NCPAC Michael Donovan of TBS wrote to his principal at NCPAC Elaine Gansz [Exhibit 20]:

> "The major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine . . . . However, having done that, there is a good chance these stations also may have reservations about the copy.
>
> I have discussed this with Arthur Finkelstein. (Emphasis added.)

Donovan also addressed himself to a problem with certain

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stations that apparently had totally rejected the draft. He reported: "I talked with Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further." (Emphasis added.) There followed a listing of alternative stations to reach this "market" for NCPAC's consideration.

Donovan also took care to see that Finkelstein received a copy of his report to NCPAC in its entirety [Exhibit 20].

The ultimate resolution of this particular problem for NCPAC was a somewhat watered-down version of the same claim, that led to its acceptance by the target stations as a commercial: "[H]e helped develop our runaway welfare system. . . Yes, Daniel Moynihan must share responsibility for our runaway welfare system" [Exhibit 21]. (Emphasis added.)

The fact then is that Finkelstein, while serving as the Caputo Committee's key paid campaign and media strategist, was directly "consulted" by NCPAC and its time buying agent about the specific problems NCPAC had encountered in gaining media acceptance for its first wave commercials. And, revised commercials were submitted to and accepted by various New York stations after these consultations with Finkelstein.

Thus, NCPAC's expenditures for these broadcasts were made in consultation and coordination with (i) the Caputo Committee in the person of Finkelstein; (ii) an agent of Caputo, in that Finkelstein has been "placed in a position within the campaign organization [Caputo campaign] where it would reasonably appear that in the ordinary course of campaign-related activities he . . . may authorize expenditures"; and (iii) "though [a] person who is . . .

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receiving any form of compensation or reimbursement from . . . the candidate's committee," in that Finkelstein rendered services in connection with NCPAC's media expenditures while serving as a paid Caputo Committee strategist. The documentary evidence thus establishes both an actual and a presumptive violation of the Act and of the Commission's own regulations issued thereunder. (See Regulations 109.1(a); 109.1(b)(4)(i)(B); and 109.1(b)(5), and discussion at p. 18 , infra.)

The joint NCPAC-Finkelstein-Caputo coordinated campaign is further illustrated by a comparison of the full text of NCPAC's first wave commercial [Exhibit 21] with the candidate's initial fundraising letter [Exhibit 19] and announcement of his candidacy [Exhibit 17].

The following table compares the contents of the Caputo letter and announcement with the NCPAC first wave broadcast advertisement. In view of Finkelstein's activities, it is not surprising that there is an identity of "issues" selected by both the Caputo Committee and NCPAC for their anti-Moynihan campaigns. The subjects identified by NCPAC and Caputo concerning the Senator are listed in the first column. The two columns that follow show the attack against him on the subject as worded in the Caputo fundraising solicitation letter or announcement and the similar if not identical attack against the Senator on the same "issue" as worded in NCPAC's first commercial.

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"ISSUE"	CAPUTO CAMPAIGN MATERIALS	NCPAC CAMPAIGN COMMERCIAL
Panama Canal	"voted to give away the Panama Canal"	"voted to give away the Panama Canal"
Capital Punishment	"voted against capital punishment"	"voted against capital punishment"
Foreign Aid	"voted for foreign aid to Communist Cambodia, Cuba, Laos and Viet Nam"	"even voted foreign aid to communist countries like Cuba, Cambodia and Vietnam"
Tax Cut	"against giving you a 10% income tax cut"	"supports increased taxes"
Welfare	"father of the runaway welfare system"	"helped develop our runaway welfare system"
Spending	"opposed the President's plan to reduce federal spending"	"opposed cutting back on government spending"
ACU Rating	"ranking him the most liberal Senator"	"the most liberal Senator"
Kennedy - McGovern Comparison	"tied with George McGovern, more liberal in fact than Ted Kennedy"	"more liberal than Ted Kennedy", "tied McGovern for most liberal"

The fact is that every charge made in the NCPAC advertisement is a slavish repetition from the Caputo materials. In style and language, they are remarkably similar. In substance the NCPAC and Caputo materials make identical charges on identical issues. This identity of campaign materials is further evidence of actual coordination of both anti-Moynihan campaigns.*

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* Another example, still more eloquently, speaks for itself. In his statement of candidacy (Exhibit 1"), Caputo made the following charge in calling for the defeat of Senator Moynihan:

(Footnote Continued)

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(3) Presumptive Violation: The $4,400 "Transfer"

The obvious connection between NCPAC and Caputo is most easily demonstrated by a curious sequence of events surrounding the transfer of $4,400 that ultimately must be deemed a Caputo Committee expenditure "through" NCPAC against Senator Moynihan in presumptive violation of the Act [Reg. 109.1(b)(4)(i)(B)].

On August 19, 1981, NCPAC transferred $4,400 to the Caputo Committee and reported that it was a NCPAC "direct contribution" [Exhibit 22]. Upon information and belief, the money was deposited in the Caputo Committee's bank account and commingled with the Committee's other campaign funds.

(Footnote Continued)

> The American Conservative Union rated Moynihan "most liberal senator" and specifically has given him a rating "more liberal . . . than Ted Kennedy," and "tied with George McGovern."

NCPAC's first wave advertisement repeats, virtually word for word, these same allegations. [Exhibit 21]. The advertisement begins with the announcer questioning: "Who is the most liberal United States senator in 1980?" An unidentified woman responds: "Oh, I know, uh-huh, Ted Kennedy." The rest of this hypothetical colloquy goes like this:

> ANNOUNCER: I'm sorry, that's wrong. The most liberal senator is Daniel Moynihan.
>
> WOMAN'S VOICE: You're kidding. Who says?
>
> ANNOUNCER: The American Conservative Union.
>
> WOMAN'S VOICE: No, more liberal than George McGovern?
>
> ANNOUNCER: Well, Moynihan tied McGovern for most liberal.

The NCPAC advertisement follows Caputo's announcement of candidacy, precisely, in the use of the American Conservative Union rating, and specifically in contrasting the Senator's voting record with those of Senators Kennedy and McGovern. As in Caputo's statement of candidacy, the NCPAC advertisement stresses that Moynihan was "the most liberal Senator," more liberal than Ted Kennedy, and "tied" with George McGovern for "most liberal."

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On October 20, 1981, $4,400 was paid by the Caputo Committee to NCPAC, and styled as a "loan repayment" on NCPAC's FEC reporting forms [Exhibit 23]. Although labelled as the repayment of a loan, no loan documents were filed to establish that the initial transfer was intended as a temporary one, or that the Caputo Committee had any obligation to repay the money. Rather, Caputo's explanation more than one month later was that he returned the money because "he considers it 'a loan' and because 'we want to disassociate ourselves from NCPAC's advertising campaign against Moynihan . . . ." [Exhibit 24].* Upon information and belief, the Caputo money was deposited in NCPAC's bank account and commingled with NCPAC's other fungible campaign funds before NCPAC began making expenditures for its first wave commercials urging the defeat of Senator Moynihan.

If the initial transfer of the $4,400 was, in fact, a contribution, then it was transferred by the Caputo Committee to NCPAC without any obligation on its part to do so. The transfer itself must be deemed a contribution by the Caputo Committee to NCPAC. When deposited, commingled and ultimately spent by NCPAC on its anti-Moynihan media campaign, it thus constituted a Caputo Committee expenditure against the Senator "through" NCPAC, in presumptive violation of the Act. [See Reg. 109.1(b)(4)(i)(B).]

In any event, the return of the $4,400 by Caputo, and the joint decision to restyle it as a loan repayment, itself suggests consultation and coordination between the two committees. When considered together with the other facts alleged in this Complaint, a continuing pattern of consultation and cooperation between NCPAC and the Caputo Committee is evident.

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* On December 6, 1981, NCPAC perfunctorily sought to rewrite the record by filing amendments to its FEC reports for August through November 1981. These amendments purportedly show the $4400 as a loan from its inception. However, the filings show no interest rate and the "Date Due" was listed as "N/A".

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II

NCPAC'S VIOLATIONS FLOW FROM AN ERRONEOUS VIEW OF THE LAW GOVERNING INDEPENDENT EXPENDITURES

A. The Independent Expenditure Exemption

The independent expenditure exemption is rooted in the distinction drawn between such expenditures and conventional contributions by the United States Supreme Court in Buckley v. Valeo. The Court declined to uphold dollar limits on truly "independent" expenditures, stating:

> Unlike contributions, such independent expenditures may well provide little assistance to the candidate's campaign and indeed may prove counter-productive. The absence of pre-arrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as quid pro quo for improper commitments from the candidate.

424 U.S. at 47.

Under the Court's holding in Buckley, expenditures exempt from limitations were those "made totally independently from the candidate and his campaign." (Emphasis added). 424 U.S. at 47. Total independence, of the kind stressed by the court in Buckley, can hardly be present where the committee and the candidate are operating on the assumption that they can maintain direct contact and communication about their joint project to defeat Senator Moynihan until such time as Caputo becomes his party's nominee.

The Supreme Court's enunciation of the concept underlying independent expenditures was given legislative force by the Congress when it carved out the independent expenditure exemption from the contribution limitations of the Act. The

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statute defines an "independent expenditure" as one

> which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee, or agent of such candidate. 2 U.S.C. § 431(17)

Similarly, § 441a(7)(b)(i) provides that

> expenditures made by any person in cooperation, consultation or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate.

Regulation 109.1(b)(4)(i) defines coordinated expenditures as "any arrangement, coordination, or contribution by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication".*

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* Of course, the Regulation may not be read so as to limit the statute. The Commission may not make lawful what the Congress has made unlawful. Ernst & Ernst v. Hochfelder 425 U.S. 185 at 212-214 (1976):

> The rulemaking power granted to an administrative agency charged with the administration of a federal statute is not the power to make law. Rather, it is "the power to adopt regulations to carry into effect the will of Congress as expressed by the statute." . . . 'The scope of the Rule' cannot exceed the power granted the Commission by Congress . . . .

See also Santa Fe Industries v. Green, 430 U.S. 461 at 472-73 (1977).

Accordingly, the importance of Arthur Finkelstein to the Caputo campaign must be viewed by this Commission as falling squarely within the intent of the Congress when it expressly included an "authorized committee" of the candidate in its list of persons who are prohibited from consulting on independent expenditures. (See 2 U.S.C. § 431(17); 2 U.S.C. § 441(a)(7)(b)(i)).

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B. Actual Consultation and Coordination

FEC Advisory Opinion 1979-80, is the opinion which Respondent Dolan purports to read as creating the loophole permitting NCPAC to engage in a range of activities never contemplated by the independent expenditure exemption. This is not at all the case. In that Opinion the Commission simply suggested that, in certain circumstances, a political committee might make expenditures against a candidate for the Democratic nomination to the United States Senate, while maintaining contact with a candidate for the Republican nomination, but still avoid any impact on its "independence" until the primaries were completed and the nominees chosen.* In issuing this Opinion, the Commission did not assume -- nor was it asked to assume -- the facts now before the Commission with respect to the New York election: that the "independent" expenditures made against the Democrat would be the subject of actual coordination and consultation with the Republican and/or that both the Republican and Democrat would, in all probability, be unopposed for the nomination of their respective parties.

The first part of this distinction was explicitly confirmed in the General Counsel's report in MUR 1231 (see discussion at pp. 10-11, supra). The General Counsel has made it abundantly clear that primary candidates can violate the independent expenditure exemption, as well.

Also, NCPAC is consulting and coordinating with a candidate who, upon information and belief, has been and should be considered the de facto nominee of his party against Senator Moynihan. From the beginning of his candidacy, Caputo has

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* See the Commission's analysis of hypothetical situations 1 and 8 in AO 1979-80.

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waged a campaign only against Senator Moynihan. His perspective was most realistic; he is unopposed for the Republican nomination and is referred to as the conceded nominee.

A full three months before his announcement of candidacy, he declared that "I expect to be the unopposed nominee of both parties [Republican and Conservative]." By July 3, 1981, he was publicly perceived as having "a clear path to the nomination" of his party to run against Moynihan. In fact, during the period before his formal announcement, he sought "consensus candidate" status which, among other things, would enable him to receive the $1 million in funding promised by the national Republican Party for the Senate race in New York. [Exhibits 25-a, 25-b, 25-c].

That Caputo's actual prospects match his predictions is reflected in the mounting support he received from county Republican leaders throughout the State. With substantial or "consensus" support from these leaders, Caputo is in the position to win the nomination at the State Convention without the further requirement of a primary. By August 27, 1981, Caputo claimed support from 60% of the county leaders [Exhibit 25-d]. The prevailing assumption -- and political reality -- that Caputo was the certain nominee, already locked in a race with Senator Moynihan, was reflected in a press report of September 16, where it was stated that "Mr. Caputo, who said he already won the backing of 36 of the state's 62 Republican county leaders, sounded as if he had already won the nomination. He assailed Mr. Moynihan . . . . " [Exhibit 25-e].

The 36 county leaders supporting Caputo by September 16 represented over 65% of the weighted vote at the

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State Convention. [Exhibit 25-f]. By September 25, the total had climbed to 43; and by October 4, to 44 county leaders, or fully 71% of the State Convention weighted vote. [Exhibits 25-g and 25-h].

Finally, in December, State Republican Chairman George F. Clark pronounced: "It is a foregone conclusion Bruce Caputo is going to be the Republican candidate for the U.S. Senate" [Exhibit 25-i]. On December 15, Caputo announced that he had the Republic nomination "all 'locked up'" [Exhibit 25-j]. On December 18, Clark again confirmed that Caputo had the GOP Senate endorsement "nailed down" [Exhibit 25-k]. Throughout this period, as the attached exhibits illustrate, Caputo was waging his campaign against one man alone -- Senator Moynihan.

This complaint also differs significantly from MUR 1231. There the Commission was asked to investigate certain contacts between NCPAC and then Congressman Abdnor in connection with Congressman Abdnor's possible challenge to then Senator McGovern. All of the significant contacts between Abdnor and NCPAC arose prior to the time that Abdnor announced his candidacy to the Senate seat then held by McGovern. Moreover, those contacts were an attempt by NCPAC to convince Abdnor to run, somewhat akin to a draft movement. As stated in Pre-MUR 71, MUR 1231 was dismissed because "the Commission determined that there was insufficient evidence of consultation, cooperation or collaboration between NCPAC and the Abdnor campaign to warrant finding reason to believe." Here the expenditures in question actually have been made after candidate Caputo announced his candidacy for the seat held by Senator Moynihan and are continuing to be made. The facts presented here are therefore significantly different from those

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involved in MUR 1231. Compare also MUR 1343 and MUR 1238 where there was no evidence of cooperation.

C. Presumed Consultation and Coordination

Under the Commission's regulations, an expenditure is presumed to be coordinated with a candidate, and thus not "independent," when it has been "made by or through any person who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent . . . [Regulation 109.1(b)(4)(i)(B)] In the case of NCPAC's expenditures, the evidence has long since triggered this presumption.

The expenditures have been made "through" and in consultation with Finkelstein, a paid strategist of the Caputo Committee within the meaning of FEC regulations. Finkelstein's activities have been directly linked to the media spots which are the center of NCPAC's campaign against the Senator; he has worked with the time-buyer retained by NCPAC in reviewing copy, organizing the placement of the spots and participating generally in the overall media strategy directed against Senator Moynihan. In the most straightforward terms, the expenditures made by NCPAC against the Senator have been "made . . . through" Finkelstein -- who has been shown to be receiving compensation from the Caputo Committee.

The FEC addressed precisely such a situation in Advisory Opinion 1979-80. The Commission addressed the impact on NCPAC's independence of its use of vendors or consultants also employed by a candidate whose opponent is the target of the committee's "independent expenditures" advocating his or her defeat. In analyzing the "situations" or hypotheticals posed by NCPAC, the Commission was careful to note that such

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expenditures were presumptively not independent when made "through" a vendor, consultant or other employee also employed by the candidate.

It is submitted that by "through", the Commission means broadly that the person employed by the committee renders services in connecton with the committee's preparation or making of independent expenditures in the state in question. Thus, where the so called "independent" committee uses an advertising firm, also retained by the candidate's committee, to design layout and text for the advertisements, the expenditures can not constitute "independent expenditures". See "Situation 1," AO 1979-80. Similarly, where the committee retains an individual, also employed by the candidate, to offer "counsel on the political issues in the state" in which the expenditures will be made, the expenditures can not be deemed "independent". See "Situation 2," AO 1979-80. And it makes no difference whether he is the actual nominee (see General Counsel's Report); all the more so, however, where he is his party's de facto nominee.

III

NCPAC AND THE CAPUTO COMMITTEE HAVE VIOLATED THE ACT'S REPORTING REQUIREMENTS

In all its activities in New York NCPAC has reported its media spending against Senator Moynihan as "independent expenditures". The Caputo Committee has not reported this spending at all. Since the evidence presented herein demonstrates conclusively that this spending constituted, in fact, contributions "in-kind" to the Caputo Committee, both committees plainly failed to meet their reporting obligations under § 434 of the Act.

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CONCLUSION

This complaint demonstrates that the Respondents, notably NCPAC, Dolan, the Caputo Committee and Finkelstein, committed multiple, profound and continuing violations of the Act and the regulations, undermining the political process in the State of New York. Petitioner respectfully requests, therefore, that the Commission:

(i) Promptly commence enforcement proceedings against the Respondents;

(ii) Determine that Respondents NCPAC, Dolan, the Caputo Committee and Finkelstein have violated the Act and the regulations thereunder; and that NCPAC has ceased being an independent committee within the meaning of the Act and such regulations in connection with the 1982 campaign for the United States Senate in New York on or about, April 1, 1981;

(iii) Require that NCPAC make no further professedly "independent" expenditures against Senator Moynihan in connection with the 1982 campaign for the United States Senate in New York;

(iv) Require that the Caputo Committee accept no further contributions from NCPAC in connection with the 1982 campaign for the United States Senate in New York;

(v) Require payment by NCPAC, the Caputo Committee and Finkelstein of a civil penalty in the amount of the expenditures involved in the violations alleged here, namely, all expenditures made against Senator Moynihan in excess of the lawful contribution limits applicable to the Caputo Committee. See § 437g(a)(1)(5)(A)

(vi) Immediately correct all reporting violations by NCPAC and the Caputo Committee, including, if the Commission deems it appropriate, the imposition of civil penalties; and

(vii) Enter such orders and take such further action as may be necessary to prohibit further violations of the Act and the regulations thereunder by the Respondents.

NEW YORK STATE DEMOCRATIC COMMITTEE

By Dominic J. Barbanello
Dominic J. Barbanello, Chairman

OF COUNSEL:

MELVIN L. SCHWEITZER,
Counsel and Chairman of the Law Committee
New York State Democratic Committee
Suite 5200
200 Park Avenue
New York City, New York 10166
212-878-8187

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

Dominic J. Baranello, being duly sworn, deposes and says that he is the Chairman of the New York State Democratic Committee, the Petitioner named in the within Complaint; that the Petitioner's office and Post Office Address is 60 East 42nd Street, New York City, New York 10166; that he has read the foregoing Complaint and knows the contents thereof, and that the matters alleged therein are true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those facts he believes them to be true.

Dominic J. Baranello
DOMINIC J. BARANELLO

Sworn to before me this
27th day of January, 1982.

Notary Public
PATRICIA A. GARAFOLA
NOTARY PUBLIC SUFFOLK COUNTY
NO. 6456815
COMMISSION EXPIRES, MARCH 30, 1982

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The New York Times
November 13, 1981

Conservatives Open an Anti-Moynihan Drive

By MAURICE CARROLL

A national conservative group has opened a campaign against Senator Daniel Patrick Moynihan, labeling the New York Democrat in radio advertisements as "the most liberal United States Senator."

The campaign was instantly challenged by Mr. Moynihan's staff as "an attempt by the radical right to move into New York" and as displaying "clone ties" to his probable Republican, Conservative and Right to Life opponent, Bruce Caputo, a former Republican Representative from Westchester County.

In rapid-fire dialogue that sounds like a quiz show, the advertisement calls Mr. Moynihan a big spender who "helped develop our runaway welfare system."

"And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he even voted for aid to Communist countries like Cuba, Cambodia and Vietnam," the advertisement continues.

"Wait, wait enough," says a woman. "What would happen if the people knew this?"

A man replies, "He'd be defeated." There is applause.

"Which," the man goes on, "is why New York State taxpayers are fed up with Moynihan and why the National Conservative Political Action Committee has paid for this commercial not authorized by any candidate or candidate's committee."

John C. Dolan, head of the conservative group, played the commercial for reporters at the Roosevelt Hotel yesterday and said Mr. Moynihan had been "somewhat duplicitous" in using a moderate image to mask a liberal voting record.

He said Mr. Moynihan was among half a dozen Senators his group lists as 1982 targets. The others are Senator Lowell P. Weicker Jr. of Connecticut, Paul S. Sarbanes of Maryland, [illegible] M. Kennedy of Massachusetts, Robert C. Byrd of West Virginia and John Melcher of Montana. If the money can be raised, he said, the anti-Moynihan campaign will spend $750,000 on broadcast and direct-mail advertising.

He described the advertisement played yesterday as part of a $50,000 "first wave."

In 1980, Mr. Dolan's committee ran campaigns against Senators George S. McGovern of South Dakota, Birch Bayh of Indiana and Frank Church of Idaho. All were defeated by Republican opponents.

Robin Martin, head of the local branch of the committee, New York State Taxpayers Fed Up With Daniel Moynihan, said the group would "expose" the Senator's "liberal voting record."

Some of Mr. Moynihan's critics have called him a neo-conservative. He was thought to be vulnerable to an attack from the left, and six months ago he called attention to the planned assaults from the right, as a sort of signal that liberals should rally to his defense.

It appears that Mr. Moynihan will not have to run against an opponent in the Democratic primary, and he has been negotiating for the Liberal party line. Mr. Caputo appears likely to be [illegible] noted by the other three parties.

Mr. Moynihan's office in Washington issued a statement saying that lawyers were exploring a legal challenge concerning what it said were the "clone ties" between the conservative [illegible] ive and the Caputo campaign.

EXHIBIT 1

FILED

IF YOU WANT ANY CHANGES IN THIS BOX, READ CHECK LIST

FOR THIS HEREBY
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE
NEW OLD SPRINGHOUSE ROAD

22101

REGISTERED

1 STATE OF INCORPORATION: DISTRICT OF COLUMBIA

C T Corporation System
918 16th Street, N.W. Washington, D.C. 20006

2 CITY OR COUNTY IN WHICH REGISTERED OFFICE IS LOCATED

3 STOCK (READ DEFINITIONS ON REVERSE SIDE)

CLASS AND SERIES	PAR VALUE PER SHARE OR NO PAR VALUE	NUMBER OF SHARES (NOT NUMBER OF DOLLARS) AUTHORIZED	ISSUED	OUTSTANDING	TREASURY
None					

4 PRINCIPAL OFFICERS DO NOT LIST MORE THAN FIVE BUT YOU MUST INCLUDE A PRESIDENT, SECRETARY, TREASURER AND THE TITLE OF THE REGISTERED AGENT IF AN OFFICER.

NAME	TITLE	COMPLETE RESIDENCE ADDRESS WITH STREET NO OR RFD
John T. Dolan	Chairman	3129 S. 14th St., Arlington, Va. 22209
Terry Cecil	Treasurer	2729 Gallows Road; Vienna, Va. 22180
J. Curtis Herge	Secretary	1102 Haynewood Blvd., Alexandria, Va
Betty L. Barnard	Asst. Treas.	7800 Taylor Drive, Manassas, Va. 22110

5 DIRECTORS (ATTACH EXTRA SHEET IF NECESSARY)

NAME	COMPLETE RESIDENCE ADDRESS WITH STREET NO OR RFD
Jim Artell	29 Catherine St., Norwalk, Conn. 06851
Tim Baer	1487 Gulf to Bay Blvd., Clearwater, Fla 33515
Brad Bradley	P.O. Drawer B670, Anchorage, AK 99508
Leroy Corey	3011 Shady Lane, Cedar Falls, IA 50613
Curt Clinkscales	1961 N. Woodley, Arlington, Va. 22207
Frank Donatelli	2230 S. Piney Point Dr., Houston, [illegible]
John T. Dolan	3129 S. 14th St., Arlington, Va. 22209
[illegible] Fiedelstein	13 Third St., [illegible]e, N.Y. 10580
[illegible] Miller	Terrace Heights, Katonah, N.Y. 10536

6 AMOUNT OF CONSIDERATION FOR ISSUED CAPITAL $ None

7 DATE OF LAST ANNUAL MEETING OF STOCKHOLDERS OR MEMBERS HELD n/a
(The Corporation has no members)

CHECK LIST

1 CHECK [illegible]

2 CHECK [illegible]

3 CHECK [illegible]

4 CHECK [illegible]

I DECLARE UNDER PENALTIES OF PERJURY THAT THE REGISTERED AGENT, THE OFFICERS AND DIRECTORS NAMED HAVE BEEN NOTIFIED OF THEIR APPOINTMENT AND HAVE CONSENTED TO SERVE AND THAT THE FACTS IN THIS REPORT ARE TRUE AS OF

THIS 21 DAY OF February 19 79

John T. Dolan, Chairman

IF THE SIGNATURE IS BY ONE OF THE FOLLOWING, THE CAPACITY OF THE PERSON SIGNING MUST BE INDICATED: IN THE CASE OF A CORPORATION, AN OFFICER MAY SIGN AND THE TITLE OF THE PERSON SIGNING MUST BE INDICATED IN THE SPACE PROVIDED.

EXHIBIT 24

INTELLIGENCER

Heroin Dealers Take Cue From Madison Avenue



Brand-name heroin: "The labeling is supposed to indicate quality," said Sterling Johnson, the city's special narcotics prosecutor, who has compiled a "top 100" list of brands being sold on the street.

WITH RECORD QUANTITIES OF heroin flooding New York, dealers are copying other competitive businesses and packaging the drug with brand names and logos.

"The labeling is supposed to indicate quality," said Sterling Johnson, the city's special narcotics prosecutor, who has compiled a "top 100" list of brands being sold on the street.

According to Johnson, the current market leader is "Black Sunday," which contains 4 percent heroin and sells for $50 to $75 per envelope. Other best-selling labels include "Live 'n' Lively," "Payback," "Ayatollah's Best," and "Jimmy Carter."

"If the contents don't come up to expectations, that's when the brand gets off the market," Johnson added. "The users have the seller bumped off."

'Cowboy' LP Sparks Shoot-out

AS A MOVIE, *Urban Cowboy* never really lived up to expectations, but the soundtrack album continues to sell well enough to spark squabbling over royalties.

Not long ago, Robert Evans complained about his deal on the album to his *Cowboy* co-producer, Irving Azoff, who is in charge of distributing royalty checks. Shortly afterward, Azoff sent Evans a check that had been "shredded and burned," a source said last week.

"Irving who?" asked Evans when questioned about the incident.

His lawyers have obtained a replacement check.

Meantime, Aaron Latham, whose *Esquire* article about Gilley's—a popular Houston nightspot—inspired the movie, and Becky Shargo, the album's musical supervisor, are suing Azoff over their royalty deals. "These are ungrateful people," Azoff said.



Evans: "Irving who?"

Caputo Copies D'Amato Act



Caputo: Courting he right.

BRUCE CAPUTO, WHO WAS left standing in his 1980 bid for the GOP Senate nomination when A. D'Amato locked up the Right-to-Life and Conservative endorsements, is managing things differently the second time around.

The former congressman from Yonkers, who is now after Senator Daniel Moynihan's job, is already wooing the right. He's just addressed two anti-abortion functions, wrote and has hired Arthur Finkelstein, the conservative guru who crafted D'Amato's controversial campaign ads questioning the health of then senator Jacob Javits.

Finkelstein is still trying to suggest that Caputo, the second-term Moynihan, will push for the repeal of gun laws, said Caputo.

A Moynihan supporter countered that Caputo's record is all over the map, crediting the latter with "playing the issue crowd" and "taking a run on anything."

Police Say Met-Murder Probe Uncovered Featherbedding

BESIDES FINDING A SUSPECT in stagehand Craig Crimmins, the police probe of the murder at the Met has apparently bared extensive featherbedding at the New York opera house.

Police sources claimed last week that in order to keep labor peace Met management has agreed to let workers represented by the stagehands union—who earn up to $630 a week—to skip performances.

"The Met people stalled for three days when they were asked to give police a list of stagehands who worked the night Hildegarde Watson was killed. They didn't want what was happening to come out while they were in the middle of a fund-raising drive," a source claimed.

A detective told New York that eight "ghosts"—about a quarter of those who were supposed to run the night of the murder—showed up because it was their night."

"We were the only ones who were surprised," the detective added. "Management said, 'Police Department as usual.'"

A Met spokesman said, "It's not the case," but wouldn't comment in detail. The union, the Theatrical Stage Employees, wouldn't comment.

"Life goes on. Everybody's scared of retribution," said a stagehand.

BY SHARON CHURCHER

EXHIBIT 3

National Conservative
Political Action Committee
Suite 318, 1500 Wilson Boulevard
Arlington, Virginia 22209

John T. Dolan
National Chairman

(703) [illegible]

July 2, 1980

TO : NATIONAL CONSERVATIVE POLICY ADVISORY COUNCIL MEMBERS

FROM: John T. (Terry) Dolan

RE : Missouri Senate Race

I thought you'd be interested in hearing some of the most exciting political news of this election cycle.

As you know, NCPAC added Tom Eagleton to our Target '80 list in April due to the urging of some of our friends in Missouri. The vulnerability study we undertook was frankly unpromising. Eagleton had a remarkable 63% favorable rating with a mere 17% unfavorable rating (as compared to 48%/44% ratio for Church). He led one of his possible opponents, Senator David Doctorian, by a margin of 65% to 11%. Over 31% said they would vote for Eagleton regardless of who ran against him. According to Arthur Finkelstein, anyone who gets over 30% is close to invulnerable.

To make a long story short, rather than dropping the program, we decided to test-market one television spot in Springfield, the third largest media market in the state.

The survey indicated that Eagleton was popular personally, but when people were asked to rate his job in specific areas such as energy, economics, cutting taxes and others, they gave him significantly lower marks. We decided that this was a perfect opportunity to run an issue campaign. We ran saturation television and radio time for a two-week period on every major station in the media market using the attached script, which was [illegible] by Arthur Finkelstein.

The survey results, which are enclosed, were phenomenal. Please take a moment to look at them to see the impact our spots had. I'd like to highlight a few points from the summary. If you look at Question 2 --"What issue or action do you most associate with Tom Eagleton?" -- you can see the dramatic turn-around. The first column marked "May" shows what people thought in our May survey. The second column marked "June" shows the June survey results, and the next four columns deal with polls of people who were interviewed in the June survey. For example, the columns marked "Radio" and "No-Radio" correspond to those

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people who said they heard our radio commercials, and those who did not. You can see the clear difference between the two groups of people. The difference is even more striking among those people who saw our TV commercials.

In June the Panama Canal went from the eighth highest response to the highest. Among those people who saw our TV ads, it was even higher. If they saw our TV spots, they were far more likely to mention something negative about Eagleton than if they had not.

Question 3 shows how we have effectively reversed Eagleton's favorable rating in Springfield, dropping it by an incredible 45%. This is the single highest turnaround we have ever seen in our Target '80 Program. (The next closest was McGovern, when he went from a 51% to 40% favorable/unfavorable ratio to a 40% to 52% favorable/unfavorable ratio.) Tom Eagleton at least in Springfield, now has lower ratings than any other Target '80 Senator.

Question 7 indicates that, even though we attacked Eagleton on defense, his rating dropped remarkably on every other issue area as well. This just proves how interdependent a Senator's ratings are.

Question 9 shows his "re-elect" number -- "Would you vote to re-elect Senator Eagleton regardless of who ran against him?" -- dropped to an incredibly vulnerable 16%.

Question 11 shows Eagleton's lead over Gene McCarry (who is unknown in Springfield) dropped 40%.

This information is simply incredible. It proves beyond a shadow of a doubt the effectiveness of our Target '80 Program.

Because of this survey we have undertaken two courses of action. First, we have undertaken an aggressive fundraising program in Missouri to continue the program in other media markets. Our budget is approximately $265,000.

Second, I have undertaken the project of getting others interested in their own Target '80 programs. For example, an expenditure of only $25,000 to $30,000 I'm sure would defeat Pat Leahy in Vermont. Other states where a Target '80 program would turn around the race include Colorado, Wisconsin, New Hampshire, Alabama, Washington, and others.

If you know of any individual in or outside these states who would like to undertake the program, I'd be happy to do everything including writing TV and radio commercials, overseeing production and placement as well as polling in any one of those targeted states.

I thought you'd be interested in this exciting news. We are truly revolutionizing American politics.

Attachment

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WASHINGTON POST -
August 10, 1980

(front page of Style Section
in Sunday paper)

The New Right Brigade

John Terry Dolan's NCPAC Targets Liberals And the Federal Election Commission

By Myra MacPherson

"GROUPS LIKE ours are potentially very dangerous to the political process. We could be a menace, yes. Ten independent-expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in politics. We could say whatever we want about an opponent of a Senator Smith and the senator wouldn't have to say anything. A group like ours could lie through its teeth and the candidate it helps stays clean."

So speaks John Terry Dolan, 29, one of the foremost leaders of the New Right. A collection of far right groups, they have become a phenomenon in this election year. They are the "independent expenditures" brigade. They have been denounced by liberals and some mainstream conservatives alike. Dolan is chairman of the National Conservative Political Action Committee (NCPAC). It is, according to preliminary Federal Election Commission reports from January 1979 until this June, the leader of all PACs in gross receipts—over $4 million. "We're bugging the hell out of them," says Dolan, with a self-satisfied grin.

A short, slim, mustachioed young man, Dolan proudly shows off his suite of offices in Arlington, where he creates his "attack" ads, brochures and fund-raising pleas, collecting and spending thousands a month. NCPAC is active on two fronts. (1) Targeting six liberal Democratic senators— Frank Church, George McGovern, Alan Cranston, John Culver, Birch Bayh and Thomas Eagleton— spending almost $700,000 on predominately negative advertising. (2) It is one of five committees dedicated to raising millions in support of Reagan's candidacy.

Dolan goes after his opponents with the ferocity of an enraged terrier: senators hit by his ads howl that they are spurious, distorting, often inaccurate, and that there is at very least a tacit acceptance of Dolan's function by some of their opponents. Let them howl, says Dolan. For Dolan is not only finding loopholes in the Federal Election Reform law, he is taunting the FEC, the lawmakers and everyone else. "It's a stupid law. They're gonna take me kicking and screaming to jail before I stop my activities. Look," says Dolan, punching out his sentences in fast bursts, revealing his true intention in a repeated battle cry, "we're saying 'come and get us.' That law should go."

Dolan's theories often have an interesting simplicity to them. Take government management, for instance. He scathingly says Reagan does not go far enough with proposed budget and tax cuts. "The federal budget, under Dolan, would be doled out this way: "99 percent for Defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

Critics of the New Right decry what they perceive as a no-compromise, no-accommodation stance. Liberal George McGovern calls them members of the new right, "angry and intolerant, equally incapable of believing that they can be mistaken or that those with whom they disagree might have honorable intentions. They call themselves 'conservative' but their zealotry, self-righteousness and 'shall-we-burn' hatred toward those with whom they disagree demonstrate something radically different from authentic conservatism."

And some Republican officials have characterized NCPAC as a "loose cannon on the deck." William Brock, national chairman of the Republican Party, commented, "You can't build a party around those emotional social issues. The New Right groups ... draw attention in Congress away from the broad issues of tax reduction, job creation, health care, housing—the American Dream issues."

Says Dolan, "Brock should have been fired long ago," Dolan once said. "The Republican Party is a fraud. It's a social club where the rich people go to drink their booze."

What are NCPAC and other similar groups managing to do, and why is everyone so angry? And why have lawsuits, charges and countercharges been flying with all the regularity of campaign promises? A brief explanation:

• The staggering facts department of elections, American style, revealed that in 1972 a mere 153 individuals contributed $20 million to President Nixon's campaign. Reacting to Watergate and such contribution practices, Congress passed the 1974 Election Reform Act. Individuals can contribute only $1,000 per election to a candidate for federal office, including president. And groups like NCPAC are allowed to contribute $10,000 directly to a Congressional and presidential candidate ($5,000 primary and $5,000 general). Once a Democratic or Republican presidential nominee accepts federal funds, private contributions are prohibited. But now, in 1980, various "independent" groups — including NCPAC—are gleefully spending millions to defeat senatorial candidates and additional millions on Ronald Reagan's campaign. How so?

• In 1976 a collection of odd couples in politics—from leftist Eugene McCarthy to rightist James Buckley, from the ACLU to Human Events, the conservative weekly—challenged the election reform law on the ground that it violated their first amendment rights. The Supreme Court ruled in basically upholding the act that independent groups cannot be prohibited from spending any money in support of or in opposition to a candidate so long as there is no collaboration or cooperation between the campaign and the people making these independent expenditures.

• Now enter the "independents"— who have seized upon this loophole to spend their millions. These PACs differ from corporate and labor union PACs. Independents can, as one FEC official said, "shout the word," reaching out to the public while corporate and labor union PACs can only go to a targeted group for their money—the corporation to its stockholders, executives and administrative personnel, the union to its membership. In addition to its activity in senatorial races, NCPAC is one of five committees aiming to raise from $35 to $55 million to support Reagan's candidacy. Reagan has already picked up his $29.4 million check from the U.S. Treasury. The Reform law said that was all he was supposed to get. But NCPAC and other groups (which include among them long-time Reagan supporters Senators Jesse Helms and Harrison Schmitt, who were Reagan delegates at last month's convention) say they are independent enough to raise the megabucks on Reagan's behalf. Dolan's "Ronald Reagan Victory Fund" plans to spend $4 million (they spent almost $1,000,000 last month alone) and Dolan proudly claims, "We're the first of the [illegible]

EXHIBIT 4

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"A [illegible] in 1976, Terry Dolan said, 'Why Not the Best?' That's what he said. Now look what he gave us: Andy Young, the man who called Ayatollah Khomeini a saint, forced to resign after lying to the president; Bert Lance, forced to resign for questionable banking practices; Peter Bourne, forced to resign for supplying drugs to a White House staffer."

###

A definition of "independent" is sometime thing. Terry Dolan has more than a passing awareness of Ronald Reagan. NCPAC filed with the FEC in 1977 a few months later a personal letter from Reagan asked his legion of supporters all over the country to support the Virginia-based outfit. "He is," claims Dolan, "one of the main reasons NCPAC is here today." Terry Dolan's brother works for the Reagan campaign. Dolan's chief pollster, Art Finkelstein, does work for Reagan. Dolan is co-owner of an Alexandria office building along with longtime Reagan aide Lyn Nofziger, Paul Russo, a 1980 Reagan campaign staffer, and Roger Stone, Reagan's northeast coordinator in the primaries and now a consultant to Reagan and former NCPAC treasurer. A tenant is Richard Viguerie—NCPAC's virtual creator and right-wing fund-raising czar for Reagan as well as many of the independent expenditure groups. A network of friendship and contacts began when most were Young Americans for Freedom. "There is no crime in being friends," argues Dolan.

The Democratic National Committee charges in its complaint to the FEC that all this coziness of New Right leadership forms a "seamless web" and that they are "probably incapable of acting truly independently of each other." Common Cause is suing one of the committees, Americans for Change. (Arguments will be heard this week.) "There is collusion in this," charges DNC Chairman John White. "It's the same old heavy-handed misuse of the political system." Archibald Cox, chairman of Common Cause, claims such independent groups "threaten a return to the old Watergate practices and influence of money in politics."

Dolan says he makes few moves without checking it out first with his lawyer. "We got an advisory opinion from the FEC which says the use of [illegible] is perfectly acceptable. Believe me in observing extreme caution whether [illegible] or us and people in behalf of Reagan. I [illegible] a financial penalty but the fact is [illegible] asked with the close [illegible] of [illegible] and they [illegible] our lawyers meet over our ass [illegible]. So if Andy Young wants to sue, sue."

So the challenge goes on as to whether these groups of friends are independent. They claim they do not consult with Reagan or his staff. Fred Wertheimer of Common Cause contends, "If they figure out a way not to make direct contact, their actual philosophy is one of coordination and it is quantitatively different from a truly independent guy out in Des Moines taking out a full-page ad because he likes the candidate."

In a display of candor, Jesse Helms—the Patron Saint of NCPAC—allowed as how at the Republican convention it's been an "awkward situation" since the federal election law "forbids me to consult with him [Reagan]. I've had to, sort of, talk indirectly with [Sen.] Paul Laxalt [Reagan's national campaign chairman]." Helms drawled, "I hope that he would pass along, oh, and I think the contacts have gotten through all right." Dolan says his communications with "people on the Reagan campaign [illegible]." And how is he [illegible]

The troubles in NCPAC circles are long and loud. But for those who see a troublesome subversion of the intent of the law, it is no laughing matter. Says Wertheimer, "NCPAC and Dolan and these other groups are out to destroy campaign financing laws. They want to eliminate the parts that have been effective. Today you don't see huge sums from single contributors looking for favors. These groups want to unravel the whole process and get back as quickly as they can to the big spender days when 153 individuals contributed $30 million to Nixon."

As for the FEC, its critics form a long line; the agency seems to have all the clout of a moth hitting a summer screen. One FEC official admitted that the battle could drag on indefinitely, that the FEC, with its makeup of three Democrats and three Republicans, is leery of "interjecting itself. Either way it acts it's going to be perceived as political." With a sigh, he delivered a true bureaucrat's lament, "This is a very strange place. We've achieved the distinction of being disliked by everybody—those who think we can do something and those who think we can't."

###

Dolan sits in his office in front of pictures of some of the senators he's targeted this year. The hair is close clipped, the mustache trim. From time to time, Dolan opens his bottom drawer, gets out a roll of toilet paper, rips off a few pieces, blows his nose and puts the roll back.

Some of Dolan's views sound like slogans of raw anger. "The biggest threat to America—it isn't the commies, it isn't the oil companies. The biggest problem is the United States government. The U.S. government has done more to destroy the American spirit." "There's nothing unjustified in ridding the world of Fidel Castro. He's the same as Idi Amin. The only difference is one has a beard," and then the smile, "and one has darker skin." He admires William Buckley because he can "knock anybody down in two seconds." He admires "the strength of a Patton or a MacArthur." Carter is "our weakest president ever." It is easy to get around the FEC because "they're a bunch of mindless bureaucrats who know less about the first amendment than they do politics."

Dolan says "Liberals never bother to find out if conservatives are right. Take a voucher system for education—if you paid for private education, you'd get tax breaks." How would that help families with children in public schools? "Who said it would?" Well, what if you can't afford private schools? "Well, that's why public school is for," he says indifferently.

Dolan is also for getting the government out of nearly everything that doesn't please him. Federal social programs should be done away. "Say next year we cut all food stamps. It would take moral courage, if that's what it takes, to, if you were a local politician, decide your state was going to give out food stamps. Gov. Carey, say, is going to have to have the courage to give out the food stamps, not the federal government. Of course, I don't think people should starve in America. But our system discourages responsibility."

A special scorn is reserved for the liberal targets of his negative advertising—Senators Church, McGovern, Bayh, Cranston, Eagleton, Culver. "I like to see 'em squirm. They deserve it." Dolan proudly points to his polls that show Church and McGovern behind, and thinks there is a good chance "at least two, possibly four, can be defeated. It's just possible that the conservatives could take control of the Senate."

Dolan has been called everything [illegible] to enemy by the [illegible] he targets. A few years ago his heavy negative espousals would have been considered on the fringe. RNC Chairman Brock has denounced the independent approach as detrimental to the RNC mainstream fund-raising. Dolan muses, "Every chance he's got Brock tries to screw Reagan. He's frustrated by jealousy. We're raising the funds. We're on the cutting edge of politics."

Last one confuse Dolan with mainstream Republicanism. Dolan hasn't to thumb his nose at both parties. "The only difference between Republicans and Democrats on a presidential level is the Democrats tell you they're going to screw you and the Republicans tell you they're not going to screw you—and do it anyhow."

He likes to appear impervious to the charges leveled at him. "I'm not after respectability. That doesn't bother me. The only thing I care about is if we're effective. I'm absolutely convinced our negatives on Carter will stick. We've got a couple more 'smack spots' planned." One will include Billy Carter. Ethnics and southern accents will be prominent as Dolan develops plans for his rural markets, but there will be no blacks. "Let Brock spend the RNC money to try to get that vote," he said.

Some Reagan aides murmur that Reagan privately wonders if Dolan and others like him will create a backlash with their negative advertising, but Reagan so far has done nothing to publicly disavow them.

Dolan's ads are more often than not "against" a candidate, rather than "for" someone. Alan Crawford's new book "Thunder on the Right," on the New Right the "politics of resentment."

Dolan retorts, "I know I'm screwed up, but at least I admit it. That's more than I can say for the author of that silly book."

###

Dolan seldom loses his cool but one subject that causes a bit of nervous fumbling is something his opponents discovered last week. NCPAC had not reported a single itemized contribution since October 1979—despite over $5 million in receipts. Dolan admits the omission. "I just found that out. We're going to take immediate action. Of course we're going to amend the report," he says quickly. It was just a "comedy of errors," he contends. "We had, in a new bookkeeper and the two determined [illegible] them." [illegible] according to federal rules any committee over $200 has to be punished failure to do so could be cited a technical violation of the [illegible] "I don't know if we [illegible]. We're trying to hire an [illegible] We don't have any Bill Brocks. I wish we did. The Coors tax contributed just one this year."

One irony is that the very law he [illegible] created the Dolans and Viguerie. The direct mail solicitation has a reputed 2 million names [illegible] up when small donors became vital to campaigns after large individual contributions were ruled out.

Opponents accuse Dolan of benefiting and distorting the facts. Dolan himself seems to indeed have a [illegible] toward some of the details in his advertising.

• In a spoof of the Fairness Doctrine, Dolan put together a mock radio program called The Fairness Game. It was made against Church, Bayh, McGovern, Church and Culver. In each of these a "Mini Versa Smith"—Dolan's [illegible] in one, [illegible] in another and so on. "Oh yeah, that name appeared in all the ads. It's phony name, but I don't think anyone [illegible] to the ad would [illegible]."

The federal budget, under Dolan: Ninety-nine percent for Defense—keep America strong—and one percent on delivering the mail. That's it. Leave us alone."

• Dolan also plans a half-hour film "using Ronald Reagan. That'll drive the FEC crazy. It's a part of his acceptance speech. I think we are violating the regulations—it says you cannot rebroadcast something of the candidate—but as far as I'm concerned, the regulations is unconstitutional," says Dolan.

• An exasperated Frank Church accused Dolan of "scummy tactics" and was successful in getting NCPAC to withdraw an ad that erroneously accused him of voting to increase his Senate pay. Another ad—which stayed on—showed an empty missile silo and stated that because they were empty "they won't be of much help in defense of your family or mine. You see, Senator Church has almost always opposed a strong national defense . . ." The obvious implication was that Church's votes had emptied out that silo— even though it had been made obsolete by a more advanced weapons system. "Inuendo? Sure," says Dolan. "But I have absolutely no ethical qualms about that. It's symbolic of his record."

• Ads against George McGovern charge that he is a "baby killer" (he is pro-choice) and one has him in the gunsights as a 1980 target. "That's not our stuff, even though he is a baby killer. We wouldn't use such rhetoric. McGovern in the gunsight I don't see anything wrong with that. It was not intended to mean you ought to shoot McGovern." Who did those ads? A man named Dave Bell. "Well, Bell used to be an employe of ours—but not in this campaign." Some NCPAC ads smack McGovern as favoring "a gas tax that could reach 50 cents a gallon . . . and voting "against energy tax incentives." McGovern staffers protest: "that's dead wrong. He has never proposed such a tax measure in the Senate." To that Dolan says, "Well, he supported Anderson's plan." Back to the McGovern staff. "He never did! And McGovern has cosponsored measures and voted for energy tax credits for individuals and companies installing energy conservation devices." Dolan says "They're lying."

• Dolan uses The American Farm Bureau Federation, a right wing, anti-union group, to base his rating on farm votes. Senators he attacks howl that this distorts the vote and that Dolan should use the National Farmers Union rating. Dolan says, "That's just a pro-union, anti-business organization."

• When Dolan kicked off his Get Eagleton campaign, the senator's staff fired off a letter to Dolan: "Your analysis of the Eagleton record which you distributed yesterday fully lives up to your earned reputation for inaccuracy, distortion and untruths." NCPAC castigated Eagleton for "giving $75 million of taxpayers' money in aid to revolutionary government in Nicaragua." Eagleton voted against aid to Nicaragua, his staff pointed out. NCPAC said Eagleton voted against the Hatfield amendment which would cut off funds for the neutron bomb. Eagleton, in fact, supported only one restriction on the neutron bomb. Shrugs Dolan, "We had corrections passed out at that time. We sent letters to radios and newspapers and said we did make a couple of mistakes in the analysis of the record—but that just proves he doesn't vote all bad all the time. They're just trying to discredit us. Want to make out we're schoolgirls."

• In a last minute fund-raising letter to "stop Kennedy," Dolan charged that Kennedy "can legally spend as much of his own money [on his own campaign] as he wants—and he's got millions." When asked about it, Dolan seemed vague about the details, even though he signed the letter. This is, of course, inaccurate, as Kennedy had applied for matching funds and is therefore limited to spending $30,000 of his own money. "Oh, our statement was as accurate statement of the law—we didn't mention matching funds. It's all so incredibly irrelevant."

Dolan's father was manager of the Sears Roebuck store when he was growing up in Fairfield, Conn. Irish Catholic—except for "one quarter Swiss"—Dolan learned about politics early. His mother ran for local office when he was young. At first the Dolans were Democrats but switched to the GOP. "They even voted for Jack Kennedy because he was Irish." Dolan recalls. Dolan attended private high school in Connecticut and then Georgetown University. "I managed to survive four years of their (Georgetown's) socialist doctrine," he says witheringly (1968 to 1972). Dolan was in school during the Vietnam War although he "firmly believed it was a moral duty, trying to resist communist aggression." Dolan was heavy in the Young Americans for Freedom movement and in such counter-protests as Honor America Day.

He majored in government and German.

His brother, Anthony, went on to become a Pulitzer Prize-winning journalist and Dolan drifted more to the right in his interests. "I used to be a Republican. I used to be a political hack, but then in 1972, it was like a revival awakening. I couldn't understand these strange urgings to do conservative things. On the ballot I saw John Schmitz [the American Party presidential candidate who once quipped that he had "gone pretty far in life for a Catholic Bircher with a mustache"] and I had this urge to pull the lever."

Dolan worked for right wing causes and then got in on the ground floor when NCPAC was formed in 1975—along with Charles Black, a former Helms aide who worked for Reagan until he was fired along with campaign chairman John Sears this spring. Dolan describes NCPAC as a "central bureau" to help conservatives—both Democrats and Republicans. Helms was "the prime mover. He gave us credibility." A huge stockpile of lists and names in Viguerie's and Helms' possession were fed into the NCPAC operation. "Helms just went to his magic computer," says Dolan. The appeals are often on emotional social issues. "Oh no question," says Dolan. "It is a perfect list for anti-abortion, anti-ERA, anti-gun control and pro-Human Events [magazine]."

Dolan acknowledges that NCPA was a creation of Dick Viguerie. "[1978 about 90% of our money was V guerie-raised. Now he does about 50 —probably a little over $1 million b the end of the year." At one time h was heavier in debt to Viguerie bu now says NCPAC owes "only abou $50,000."

There seems to be no getting around Dolan's luck with the FEC—the group he constantly belittles. The South Dakota Democratic party filed a suit challenging Dolan's independent status, charging that he openly encouraged Jim Abdnor to run against McGovern. "I know we did," says Dolan with a chuckle. "We admit it. He admits it. We just led him up to the nomination. We got an advisory from the FEC that we could do it." The FEC has reportedly decided to rule 4-2 to dismiss the suit.

Dolan has a virtual empire—a whole floor of an Arlington office building. Next to his office is the National Conservative Research and Education Foundation and next to that is Conservatives Against Liberal Legislation (CALL). Dolan is on the board of directors. Rhonda Stahlman, who runs CALL, a lobbying outfit, can be found on Dolan's telephone. A handful of volunteers are working xerox machines, there are "Nuke Now" signs around.

"There is a commonality of board of directors but we keep the finances separate. We used to do consolidated analysis—but why should NCPAC do research [illegible]? It's totally legitimate. Sure we use the information in upcoming elections but there is no [illegible]."

There is, in fact, a real sense of expansiveness as Dolan brags, "Nothing that NCPAC does is illegal. If we went out of business tomorrow I could pocket everything of value I would [illegible]—but I could do." Because the law makes no sense. They ought to scrap it. "The smile is there to the last. You can do what you want with PACs."

"It is easy to get around the FEC because they're a bunch of mindless bureaucrats who know less about the First Amendment than they do about politics."

National Conservative Political Action Committee
Press Conference
Fifth Avenue Suite, Hotel Roosevelt, New York, New York
Tuesday, November 17, 1981, 10 a.m.

QUESTION BY REPORTER: Is Arthur Finkelstein a member of your board?

ANSWER BY TERRY DOLAN: NCPAC's board? No, he's not. He is a pollster and does work for us. But he is not.

QUESTION BY REPORTER: Is he doing any work for you now?

ANSWER BY TERRY DOLAN: Yes, he is doing surveying for us in many parts of the country and consulting for a number of the candidates.

QUESTION BY REPORTER: But not in this effort?

ANSWER BY DOLAN: Well he's taking a survey for us, but since you know we cannot talk about it because of the silly rules we have in New York, we can't talk about the survey results. (Laughter). I don't know, I suppose we can.

QUESTION BY REPORTER: Is the survey . . . I suppose it beckons on . . . what you put out.

ANSWER BY DOLAN: Who gets arrested if we start talking about this thing? (Reporter says: Probably you. [Laughter]) If we share a cell, then I'll tell you. No, obviously all of this information is based on a survey which we can't talk about, and we wouldn't be putting it on a commercial if it weren't there. So I guess that's the easiest way of saying it without getting everybody in trouble.

EXHIBIT 5

ITEMIZED INDEPENDENT EXPENDITURES

Name of Committee (or Person) NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

I.D. No. C00024687

Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (Mo., Day)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Joe Gordon	printing	10/9/81	123.71	Jones OK-1 ☐ Support ☒ Oppose
Elinor Berry	creative fees	10/12/81	35.00	Jones OK-1 ☐ Support ☒ Oppose
Holiday Inn Howard & Lorbard St. Baltimore, MD	meeting exp.	10/13/81	159.38	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
Arthur J. Finkelstein & Associates 317 Smith Avenue Mt. Kisco, NY 10549	surveys	10/16/81	4,000.00	Moynihan U.S. Sen., NY ☐ Support ☒ Oppose
Michael Boos	payroll	10/20/81	360.37	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
Stephen DeAngelo	payroll	10/20/81	206.88	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose

(a) SUBTOTAL of Itemized Independent Expenditures ..... $ 4,885.34

(b) SUBTOTAL of Unitemized Independent Expenditures ..... $ _____

(c) TOTAL Independent Expenditures ..... $ _____

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation or concert with or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. I further certify that I understand and did not receive the knowledge of contribution information or reported expenditures in advance of or part of any campaign materials prepared by the candidate, his campaign committees, or their agents.

_____ _____
Signature Date

Subscribed and sworn to before me this _____ day of _____, 19__.

My Commission expires:

_____ _____
NOTARY PUBLIC

EXHIBIT 6

Name of Committee (in Full): NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

ID #: C00024687

Full Name, Mailing Address & Occupation of Each Payee	Purpose of Expenditure	Date (mo., day, yr.)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Leo Dynowski 2937 Dillon Street Baltimore, MD 21224	postage	10/20/81	150.00	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
NY Time Buying Service	time buys	10/29/81	25,660.00	Wright TX-12 ☐ Support ☒ Oppose
Stephen DeAngelo	payroll adv.	10/30/81	75.00	Wright TX-12 ☐ Support ☒ Oppose
Stephen DeAngelo	payroll adv.	10/30/81	75.00	Sarbanes U.S. Sen., MD ☐ Support ☐ Oppose
Arthur J. Finkelstein & Assoc.	surveys	10/29/81	5,000.00	Hagedorn U.S. Sen., MN ☐ Support ☒ Oppose
1st American Bank of VA	Fed withholding taxes	10/7/81	381.15	Wright TX-12 ☐ Support ☐ Oppose

a. SUBTOTAL of Items Itemized on Continuation Pages ..... $ _____

b. SUBTOTAL of Unitemized Independent Expenditures ..... $ _____

c. TOTAL Independent Expenditures ..... $ _____

Under penalty of perjury I certify that the information contained herein and in all attached statements is true and complete and that all reports received from persons acting as my authorized agents have been filed with me. I am aware that any knowing and willful false statement or omission of information requested may subject me to civil penalties of up to $5,000 or more.

Subscribed and sworn to before me this _____ day of _____, 19____

_____ _____

Signature Date

_____

Notary Public

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Political Action
For Business

THE PAC HANDBOOK

1981

FRASER/ASSOCIATES
1800 K Street, N.W.
Suite 1006
Washington, D.C. 20006
(202) 452-1158

EXHIBIT 7

Challengers vs. Incumbents: New Winning Strategies

John T. Dolan
National Chairman, National Conservative PAC

The 1980 elections amounted to a watershed success for conservative political action committees. Not only did they help orchestrate the *removal* of a liberal incumbent president, but they also succeeded in toppling ten incumbent Democratic senators and severely calling into question the records of several other liberal politicians.

As the smoke clears following the November 4 elections, certain political realities present themselves to the American public. The National Conservative Political Action Committee (NCPAC) has monitored those changing political factors for several years, and through sophisticated methodology, innovation and commitment, NCPAC had a noted impact on the outcome of the 1980 elections.

NCPAC is often classified as an "ideological PAC." Totally dedicated to promoting conservative candidates and causes, NCPAC is not affiliated with any one particular corporation, association or political party. It was founded in 1975, and operates with a small, flexible staff that expands temporarily as needs dictate. NCPAC publishes one newsletter quarterly, *NCPAC Report*. Policy decisions are generally made by the national chairman, advised by the National Conservative Policy Advisory Council (an integral part of NCPAC), the general staff and other select consultants.

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NCPAC solicits public and private donations and sponsors regional training seminars for conservative candidates and their staffs. Though these are all contributing factors, NCPAC's success is primarily due to four specific factors: methodology, the use of independent expenditures, the candidates endorsed and the solid base of conservative support groups.

NCPAC attributes most of its success to the use of modern research methods such as public opinion surveys. The results of such survey research provide NCPAC with two benefits. First, the survey results are valuable in and of themselves as indicators of public moods (referred to by some as "hot buttons"). Once public sentiments on key issues are identified, NCPAC can make well-informed judgments on which issues to target in a political campaign. This methodology was used across the board in the 1980 senatorial elections, in which NCPAC highlighted such things as Sen. Frank Church's liberal defense voting record to an Idaho public increasingly uncertain about America's status as a world power. NCPAC used the same technique to focus on President Carter's disappointing record and to determine aspects of that record to which the American public was most sensitive. Targeted issue-oriented campaigns are cost-effective.

The second benefit of NCPAC's survey research methodology is its status as an in-kind contribution. Although survey research is a costly undertaking, one general survey could identify issues ("hot buttons") valuable to several different political candidates. Thus the cost of a poll could be divided to meet the $5,000 per candidate in-kind contribution limitation. Furthermore, the FEC has ruled that, over time, the value of survey research declines. So, conceivably, results of a poll taken one month could be used three months later, devalued, and conform to the $5,000 limitation.

It is this use of survey research that helped NCPAC to identify issues most likely to topple an incumbent politician in 1980. Public sensitivities were cultivated to the advantage of conservative challengers in an efficient, cost-effective way. Hence the unprecedented wave of challenger victories. Sophisticated methods have served conservatives well.

Because of NCPAC's nature as an ideology PAC, however, in-kind contribution limits to specific candidates need not often be taken into consideration. NCPAC supports conservative candidates, and we generally

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do so without directly consulting those candidates. This leads to NCPAC's second success factor: independent expenditures.

An independent expenditure is an expenditure by a PAC for "communications expressly advocating the election or defeat of a clearly identified candidate" without consulting that candidate, according to the FEC. The bulk of NCPAC's expenditures are independent of candidate consultation, allowing for unrestricted spending to affect political outcomes.

Though NCPAC used independent expenditures to its advantage in the 1976 and 1978 elections, 1980 marked a massive increase in this type of spending. NCPAC estimates total independent expenditures in the six Senate races it targeted in 1980 to be $1.2 million plus an additional $2 million for its independent campaign on behalf of Ronald Reagan. By 1982, the committee plans to look at 21 Senate races as well as some House campaigns for independent expenditure. It anticipates a tally of over $2 million in independent expenditures.

Most of the independent expenditure funding has gone towards media campaigns. NCPAC opted again for modern, sophisticated methods and used television, radio and the press to expose the poor records of those incumbents we sought to replace. In Idaho we developed the "Anyone But Church (ABC) Project" and in Indiana, the "If Bayh Wins, You Lose Project." In Iowa we initiated a project to elect Republican Charles Grassley called "The Committee for Another Responsible Senator" and in Missouri, the "Missouri Citizens to Defeat Tom Eagleton Committee."

On a national scale, NCPAC funneled much of its funding into a "Ronald Reagan Victory Fund" which provided for numerous television ads that asked the question: "Jimmy Carter: We trusted him once; can we really afford to trust him again?"

All of these projects were carried out independent of any candidate or candidate's committee. Therefore, there was no spending ceiling on these efforts. These efforts had an enormous effect on the defeat of the incumbent.

NCPAC is committed to supporting conservative challenger candidates, and it has had unprecedented success in getting challengers into office. This is due in part to the methodology and independent expenditures already

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mentioned. But it is also due to the nature of the candidates themselves -- i.e., challengers and incumbents -- and to the firm support of conservatives in general. NCPAC contributes heavily to key conservative challengers' campaigns in order to counter the nearly overwhelming "favorables" of the incumbents.

The Americans for Democratic Action, a group I infrequently quote, has estimated that up to 60 percent of a congressman's budget goes towards keeping him in office. That is taxpayers' money spent every year. That 60 percent is used to mail newsletters to constituents, to make public appearances and, in general, to sell the politician for another term. In states like California this amounts to over one million dollars on political expenditures per year. Largely because of this, and the free favorable media attention incumbents get because of their office, they usually have enormously high favorable-to-unfavorable-ratings. No one focuses on their faults, which are usually apparent in their records, until very late in a campaign.

The challenger receives none of these gratuities. A challenger who is under-funded and cannot convince the public that he is the better candidate loses his credibility entirely. He is frequently on the defensive. A challenger seeking to win through destroying his opponent's credibility erodes his own credibility eventually as well.

Challengers almost never start campaigns early enough. George Gallup estimates that up to 60 percent of the voters decide who they will vote for prior to election day, but that is when many challengers often begin and end their campaigns. A challenger who is well-funded, starts early, and seeks to change the public's perception of the incumbent by highlighting issues, maintains his credibility and overcomes the incumbent's advantages.

Most PACs will go out on a limb for a challenger, but it is of the utmost importance to be able to determine the electibility of that candidate.

A few rules on deciding which challengers should be supported:

First, be wary of a candidate who says "everything is going great except for the money." This translates to "I have a miserable overall campaign because I can't raise any money." NCPAC will teach candidates and

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campaigns how to raise money. We will almost never give cash to a candidate who has not proven he is credible enough to raise it on his own.

Money is almost without exception the critical factor in the success of a challenger. Let's face it: It's tough to knock off an incumbent. In 1980, 92 percent of all incumbent house members were elected. Only in cases where the challenger outspent the incumbent or was at least competitive, did the incumbent lose. PACs can be helpful to challengers by giving or raising money early, but only after a challenger *proves* he is credible.

Second, make sure the candidate has a burning desire to be elected. I am shocked by the number of candidates who get into a race, and do it poorly because they decide they simply did not like it. I have always thought that there is something wrong with a person who likes to get up at 5 a.m. to shake hands at a factory gate, but that is the type of mentality it usually takes.

Third, make sure the candidate is in the right place. A candidate may be in 100 percent agreement on your issues and be attractive, articulate and well-funded, but if he is a Republican in Harlem, he does not stand a chance. Careful analysis of polling data and past election returns tell us how winable the seat is.

Fourth, determine that the challenger has competent management and/or consultants, or at least a campaign strategy that has been partially implemented. Campaigns are very unsophisticated affairs. Without a professional to guide them, and at least a fairly clear idea of where to go and how to get there, many campaigns die because of inertia.

Fifth, find out how committed he is to your issues. Get him committed in writing. And, ask if he is willing *to lead* your fight in Congress. The recent classes of freshmen have shown how effective a committed new member of Congress can be; make sure he is on your side.

The political trend now in America is towards conservatism, as evidenced by the 1980 election results. But hardly all conservatives who ran were elected. Though NCPAC supports conservative candidates, the rate of success or failure ultimately depends on the support of the voters. For this reason, NCPAC selects candidates with extreme care. Challengers are chosen on their merits as conservatives and are aided if they stand a good

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chance of winning. Their electibility (for the most part a product of voters' perceptions of them and the incumbent) can be increased by using issues to adjust public perception.

Through careful analysis, thorough survey research, realistic goals, monitoring and strong support, the National Conservative Political Action Committee has increased its influence and honed its techniques. Other PACs can learn from NCPAC's experiences – as they probably already have – and become increasingly effective in the political arena. PAC



John T. Dolan currently serves as chairman of the National Conservative Political Action Committee (NCPAC), which he co-founded in 1975. He also directs the Conservatives Against Liberal Legislation, the National Conservative Research and Education Foundation and the Washington Legal Foundation.

Dolan is a graduate of Georgetown University and of the Georgetown University Law Center. At Georgetown, he served as District of Columbia chairman of Young Republicans and as leader of the campus College Republicans.

Dolan worked at the Committee to Reelect the President in 1972 and as National Political Consultants in 1973 and 1974. In addition to his other activities, Dolan serves on the boards of the Committee for Responsible Youth Politics, the Conservative National Committee and Americans for Nuclear Energy.

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ROGER H. KIMMEL
[illegible]
[illegible]
[illegible]

SECRETARY OF THE SENATE
81 AUG -3 AM 8 25
HAND DELIVERED ☐

July 31, 1981

[illegible]

Secretary of the Senate
119 D Street, N.E.
Washington, D.C. 20510

Caputo For Senate
FEC Identification Number
C[illegible]
Our File 1445-03

Gentlemen:

On behalf of the Caputo for Senate Committee, I enclose herewith the following:

(1) Printed Statement of Organization FEC Form 1, 3 copies with the [illegible] C and D [illegible] 4/1/81 thereof, [illegible]

(2) [illegible] the report [illegible] thereof.

If there is any additional information that is needed, please do not hesitate to communicate with me.

Sincerely,

[illegible]
Caputo for Senate Committee

[illegible]
[illegible]
[illegible]
cc: Secretary of State
[illegible]

EXHIBIT 9

S [illegible] REPORT [illegible]

1. Name of Committee (in Full)	2. FEC Identification Number
CAPUTO FOR SENATE COMMITTEE	C00140756
Address (Number and Street) 2 W. 45th Street	3. Is this Report an Amendment? ☐ Yes ☒ No
City, State and ZIP Code New York, N.Y. 10036	☐ Check if address is different than previously reported

4. TYPE OF REPORT

- ☐ April 15 Quarterly Report
- ☐ July 15 Quarterly Report
- ☐ October 15 Quarterly Report
- ☐ January 31 Year End Report
- ☒ July 31 Mid Year Report (Non-election Year Only)
- ☐ Twelfth day report preceding _____ (Type of election) election on _____ in the State of _____
- ☐ Thirtieth day report following the General Election on _____ in the State of _____
- ☐ Termination Report

This report contains activity for — ☐ Primary Election ☒ General Election ☐ Special Election ☐ Runoff Election

SUMMARY	Column A (This Period)	Column B (Calendar Year)
5. Covering Period 6/01/81 Through 6/30/81		
6. Net Contributions (other than loans):		
(a) Total Contributions (other than loans) (from Line 11e)	$ 1,000.00	$ 1,000.00
(b) Total Contribution Refunds (from Line 20c)	$ - 0 -	$ - 0 -
(c) Net Contributions (other than loans) (Subtract Line 6b from 6a)	$ 1,000.00	$ 1,000.00
7. Net Operating Expenditures:		
(a) Total Operating Expenditures (from Line 17)	$ - 0 -	$ - 0 -
(b) Total Offsets to Operating Expenditures (from Line 14)	$ - 0 -	$ - 0 -
(c) Net Operating Expenditures (Subtract Line 7b from 7a)	$ - 0 -	$ - 0 -
8. Cash on Hand at Close of Reporting Period (from Line 27)	$ 1,000.00	
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C or Schedule D)	$ - 0 -	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C or Schedule D)	$ - 0 -	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

For further information, contact:
Federal Election Commission
Toll Free (800) [illegible]
Local 202 [illegible]

Joseph F. Freedman, Jr.
Type or Print Name of Treasurer

Signature of Treasurer

Date

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

[illegible]

[illegible]

[

CALLED FOR SENATE COMMITTEE		
II. RECEIPTS		
10. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	$ [illegible]	$ [illegible]
(Attach Itemized Schedule(s) - 0 -)		
(b) Political Party Committees	- 0 -	- 0 -
(c) Other Political Committees	- 0 -	- 0 -
(d) The Candidate	- 0 -	- 0 -
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11a, 11b, 11c and 11d)	$ 1,000.00	$ [illegible]
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES	- 0 -	- 0 -
13. LOANS:		
(a) Made or Guaranteed by the Candidate	- 0 -	- 0 -
(b) All Other Loans	- 0 -	- 0 -
(c) TOTAL LOANS (add 13a and 13b)	- 0 -	- 0 -
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	- 0 -	- 0 -
15. OTHER RECEIPTS (Dividends, Interest, etc.)	- 0 -	- 0 -
16. TOTAL RECEIPTS (Add 11e, 12, 13c, 14 and 15)	$ [illegible]	$ [illegible]
III. DISBURSEMENTS		
17. OPERATING EXPENDITURES	- 0 -	- 0 -
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES	- 0 -	- 0 -
19. LOAN REPAYMENTS MADE:		
(a) Made or Guaranteed by the Candidate	- 0 -	- 0 -
(b) All Other Loans	- 0 -	- 0 -
(c) TOTAL LOAN REPAYMENTS (add 19a and 19b)	- 0 -	- 0 -
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees	- 0 -	- 0 -
(b) Political Party Committees	- 0 -	- 0 -
(c) Other Political Committees	- 0 -	- 0 -
(d) TOTAL CONTRIBUTION REFUNDS (add 20a, 20b and 20c)	- 0 -	- 0 -
21. OTHER DISBURSEMENTS (Dividends, Interest, etc.)	- 0 -	- 0 -
22. TOTAL DISBURSEMENTS (add 17, 18, 19c, 20d and 21)	[illegible]	[illegible]
CASH ON HAND AT CLOSE OF REPORTING PERIOD	$ - 0 -	
[illegible]	$ [illegible]	

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FEC

Check for general c[illegible]

[illegible] Co., Inc. [illegible] Street York, N.Y.	Dillon, Read & Co., [illegible]	4/23/[illegible]	$ 1,[illegible]
[illegible] Primary [illegible]	[illegible]		
[illegible]	[illegible]		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		
Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
	Occupation		
Primary General	Aggregate Year-to-Date $		

1. [illegible] SENATE COMMITTEE

2. [illegible] RECEIVED

2 W. 45th Street

3. [illegible]

New York, N.Y. 10036

4. TYPE OF REPORT

- ☐ April 15 Quarterly Report
- ☐ July 15 Quarterly Report
- ☐ October 15 Quarterly Report
- ☐ January 31 Year End Report
- ☑ July 31 Mid Year Report (Non-election Year Only)
- ☐ Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____
- ☐ Thirtieth day report following the General Election on _____ in the State of _____
- ☐ Termination Report

This report contains activity for – ☒ Primary Election ☐ General Election ☐ Special Election ☐ Runoff Election

SUMMARY	Column A	Column B
5. Covering Period 4/01/82 Through 6/30/82		
6. Net Contributions (other than loans):		
(a) Total Contributions (other than loans) (from Line 11e)	$ 19,500.00	$ 19,500.00
(b) Total Contribution Refunds (from Line 20c)	$ - 0 -	$ - 0 -
(c) Net Contributions (other than loans) (Subtract Line 6b from 6a)	$ 19,500.00	$ 19,500.00
7. Net Operating Expenditures:		
(a) Total Operating Expenditures (from Line 17)	$ 22,337.33	$ 22,337.33
(b) Total Contributions Operating Expenditures (from Line 14)	$ - 0 -	$ - 0 -
(c) [illegible] Expenditures (Subtract Line 7b from 7a)	$ [illegible]	$ [illegible]
9. [illegible] (from Line 27)	$ 5,162.67	
10. [illegible] Committee [illegible] (Subtract Line 9)	$ - 0 -	
11. [illegible] Committee [illegible]	$ 17,098.00	

I [illegible] this Report and to the best of my knowledge and belief [illegible]

[illegible] D. Freeman, Jr.

[illegible]

7/7/82

For further information contact:

Name [illegible]
Telephone [illegible]
Location [illegible]

[illegible]

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93040751031

Name of Committee (in Full) CAPUTO FOR SENATE COMMITTEE		
I. RECEIPTS		
11. CONTRIBUTIONS (other than loans) FROM:		
a) Individuals/Persons Other Than Political Committees	$19,570.00	$31,570.00
(Memo Entry Unitemized $ 200.00)		
b) Political Party Committees	- 0 -	- 0 -
c) Other Political Committees	- 0 -	- 0 -
d) The Candidate	- 0 -	- 0 -
e) TOTAL CONTRIBUTIONS (other than loans) (add 11a, 11b, 11c and 11d)	$19,570.00	$31,570.00
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES	- 0 -	- 0 -
13. LOANS:		
a) Made or Guaranteed by the Candidate	$12,000.00	$12,000.00
b) All Other Loans	- 0 -	- 0 -
c) TOTAL LOANS (add 13a and 13b)	$12,000.00	$12,000.00
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	- 0 -	- 0 -
15. OTHER RECEIPTS (Dividends, Interest, etc.)	- 0 -	- 0 -
16. TOTAL RECEIPTS (Add 11e, 12, 13c, 14 and 15)	$31,570.00	$43,570.00
II. DISBURSEMENTS		
17. OPERATING EXPENDITURES	$22,337.33	$30,337.33
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES	- 0 -	- 0 -
19. LOAN REPAYMENTS:		
a) Of Loans Made or Guaranteed by the Candidate	- 0 -	- 0 -
b) Of All Other Loans	- 0 -	- 0 -
c) TOTAL LOAN REPAYMENTS (add 19a and 19b)	- 0 -	- 0 -
20. REFUNDS OF CONTRIBUTIONS TO:		
a) Individuals/Persons Other Than Political Committees	- 0 -	- 0 -
b) Political Party Committees	- 0 -	- 0 -
c) Other Political Committees	- 0 -	- 0 -
d) TOTAL CONTRIBUTION REFUNDS (add 20a, 20b and 20c)	- 0 -	- 0 -
21. OTHER DISBURSEMENTS	- 0 -	- 0 -
22. TOTAL DISBURSEMENTS (Add 17, 18, 19c, 20d and 21)	$22,337.33	$30,337.33
III. CASH SUMMARY		
23. CASH ON HAND AT BEGINNING OF THE REPORTING PERIOD	$ - 0 -	
24. [illegible] (From Line 16)	$ 31,570.00	

Name of Committee (in Full)

CAPUTO FOR SENATE COMMITTEE

	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
A. Full Name, Mailing Address and ZIP Code Mrs. Doris Caputo 250 Pondfield Road West Yonkers, N.Y. 10708 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	n/a Occupation Housewife Aggregate Year-to-Date $ 1,000.00	3/30/81	$ 1,000.00
B. Full Name, Mailing Address and ZIP Code Anthony J. Caputo 250 Pondfield Road West Yonkers, N.Y. 10708 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Self-employed Occupation Attorney Aggregate Year-to-Date $ 1,000.00	3/30/81	$ 1,000.00
C. Full Name, Mailing Address and ZIP Code Henry Zenzie 28 Audubon Lane Princeton, N.J. 08540 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Prescott, Ball & Turbin Occupation Attorney Aggregate Year-to-Date $ 300.00	4/21/81	$ 300.00
D. Full Name, Mailing Address and ZIP Code Albert F. Gordon 10 Hanover Square New York, N.Y. 10005 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Kidder, Peabody & Co. Occupation Investment Banker Aggregate Year-to-Date $ 1,000.00	4/21/81	$ 1,000.00
E. Full Name, Mailing Address and ZIP Code Stratton C. Pedaras 50 Rockefeller Plaza New York, N.Y. 10020 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Equitable Petroleum Co. Occupation Executive Aggregate Year-to-Date $ 1,000.00	4/21/81	$ 1,000.00
F. Full Name, Mailing Address and ZIP Code Arthur B. Treman, Jr. Dillon, Read & Co., Inc. 46 William Street New York, N.Y. Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Dillon, Read & Co. Inc. Occupation Investment Banker Aggregate Year-to-Date $ 1,000.00	4/23/81	$ 1,000.00
G. Full Name, Mailing Address and ZIP Code Alton P. Gibb 555 North Street Greenwich, Ct. 06830 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	A.P. Gibb & Co., Inc. Occupation Financial Consultant Aggregate Year-to-Date $ 1,000.00	5/8/81	$ 1,000.00

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Name of Committee (in Full)

CAPUTO FOR SENATE COMMITTEE

A. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
Benjamin B. Hersh, Esq. Park Circle Building Peekskill, N.Y. 10566	Hersh & Hersh Attorney	5/8/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		
B. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
James C. Kautz 935 Park Avenue, Apt. 6A New York, N.Y. 10028	Goldman, Sachs & Co. Executive	5/15/81	$ 250.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 250.00		
C. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
George M. Van Cleave 21 Highland Way Scarsdale, N.Y. 10583	Goldman, Sachs & Co. Dealer in Commercial Paper	5/15/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		
D. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
Mr. Charles V. Cusimano 4709 Cleveland Drive Metairie, La.	Energy Corp. of America Executive	5/22/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		
E. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
Mrs. Charles V. Cusimano 4709 Cleveland Drive Metairie, La.	n/a Housewife	5/22/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		
F. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
Albert R. Hughes, Jr. 63 Wall Street New York, N.Y. 10005	Lord Abbett & Co. Salesman	5/27/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		
G. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (Month, day, year)	Amount of Each Receipt This Period
Robert W. Alvord 918 16th St., N.W. - Apt. 200 Washington, D.C. 20006	Alvord & Alvord Attorney	5/27/81	$ 1,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Aggregate Year-to-Date: $ 1,000.00		

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Name of Committee (as Filed)

CITIZENS FOR SENSIBLE C[illegible]

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Albert L. Williams Villages of Golf Boynton Beach, Florida 33436	n/a	5/27/81	$ 1,000
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Retired		
B. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Austin T. Fragomen, Jr. Ardsley Avenue West Irvington, N.Y.	Fried, Fragomen, Del Rey, Bernsen & [illegible]	5/29/81 6/2/81	$ 250 $ 500
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Attorney		
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Robert G. Wilson 42 Masterton Road Bronxville, N.Y. 10708	Goldman, Sachs & Co.	6/1/81	$ 1,000
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Investment Banker		
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Valerie Ann Wilson 42 Masterton Road Bronxville, N.Y. 10708	n/a	6/2/81	$ 1,[illegible]
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Housewife		
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Ralph F. Leach 60 Hampshire Road, Bronxville, N.Y. 10708	n/a	6/10/81	$ 1,000.
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Retired		
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Frederick B. Whittemore Morgan Stanley & Co. 1251 Ave. of the Americas [illegible], N.Y. 10020	Morgan Stanley & Co.	6/23/81	$ 1,000.
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation: Investment Banker		
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt This Period
Lee J. Dell Herzfeld & Stern [illegible] Avenue [illegible], N.Y. 10022	Herzfeld & Stern	6/23/81	$ 500.
☐ Primary ☐ General ☐ Other (specify):	Occupation: Stockbroker		

[illegible]

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CAPUTO FOR CONGRESS COMMITTEE

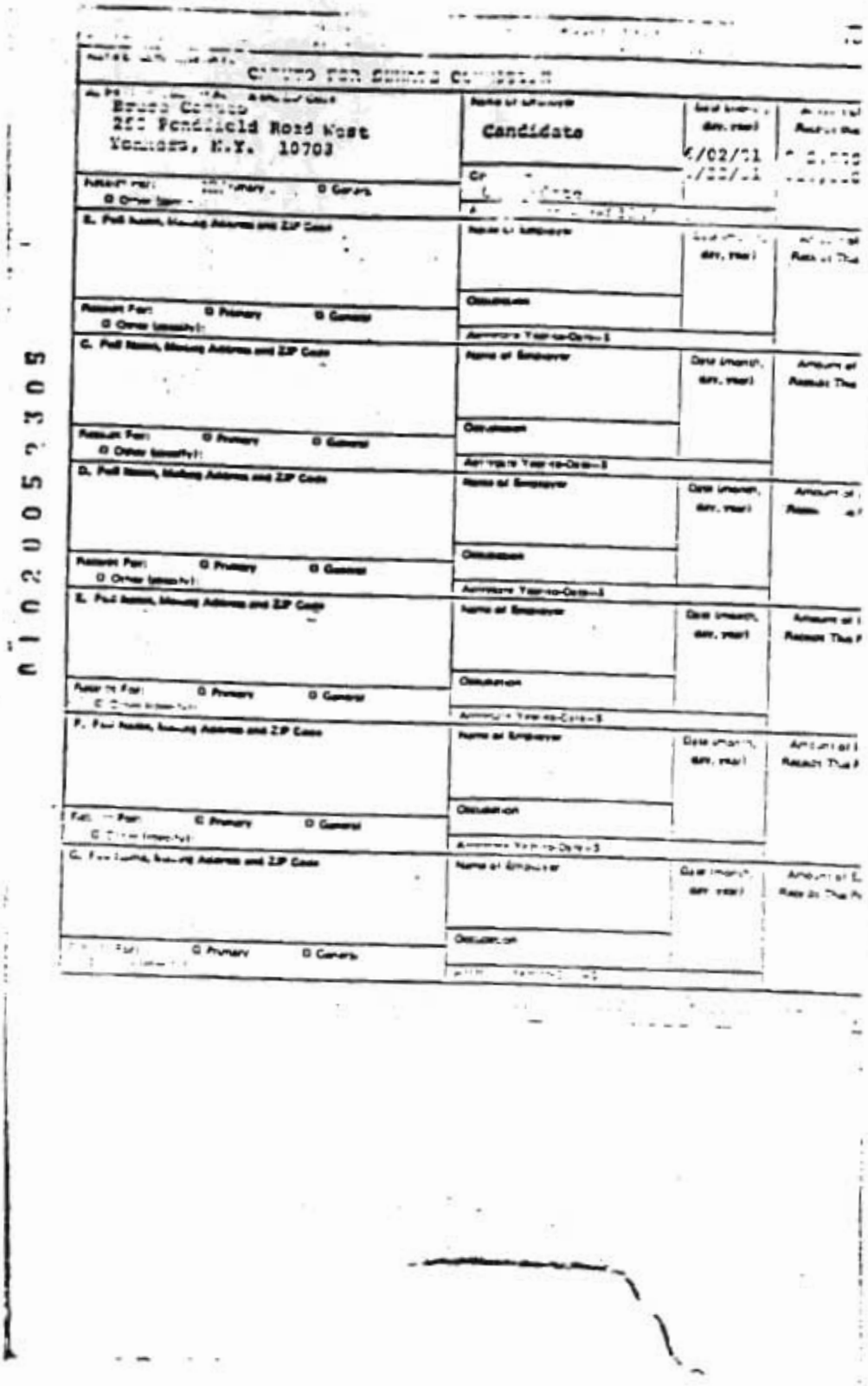
A. Full Name, Mailing Address and ZIP Code Richard Ferry 17 Old Kings Highway Darien, Conn. 06820 Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Pomboy Partners Occupation Partnership Aggregate Year-to-Date $	Date (month, day, year) 5/30/81	Amount of Each Receipt this Period $ 500.00
B. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period
D. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period
E. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date $	Date (month, day, year)	Amount of Each Receipt this Period

Name of candidate (as filed)

Candidate for [illegible]

A. Full name, mailing address and ZIP Code Mrs. V. Fuller	Name of employer n/a	Date (month, day, year) 4/21/81	Amount of each Receipt this period $ 100.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation n/a		
B. Full name, mailing address and ZIP Code J. Slade	Name of employer n/a	Date (month, day, year) 4/21/81	Amount of each Receipt this period $ 100.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation n/a		
C. Full name, mailing address and ZIP Code	Name of employer	Date (month, day, year)	Amount of each Receipt this period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
D. Full name, mailing address and ZIP Code	Name of employer	Date (month, day, year)	Amount of each Receipt this period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
E. Full name, mailing address and ZIP Code	Name of employer	Date (month, day, year)	Amount of each Receipt this period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
F. Full name, mailing address and ZIP Code	Name of employer	Date (month, day, year)	Amount of each Receipt this period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		
G. Full name, mailing address and ZIP Code	Name of employer	Date (month, day, year)	Amount of each Receipt this period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation		

8304075103 6



Bruce Cornell
251 Pendfield Road West
Yonkers, N.Y. 10703

Candidate

4/02/21

B. Full Name, Mailing Address and ZIP Code

C. Full Name, Mailing Address and ZIP Code

D. Full Name, Mailing Address and ZIP Code

E. Full Name, Mailing Address and ZIP Code

F. Full Name, Mailing Address and ZIP Code

G. Full Name, Mailing Address and ZIP Code

Name of Employer

Occupation

Date (month, day, year)

Amount of Receipt This Period

Receipt For: ☐ Primary ☐ General ☐ Other (specify):

Aggregate Year-to-Date

C20200523057

C00407510337

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Filing Fee Exhibit Continuation

Name of Applicant (as shown on Page 1) Same as above			
A. Payee Name and Address Law Offices of Thomas Lobkowicz & Associates, P.C. [illegible] Park Avenue	Purpose Campaign C[illegible] Check or Money Order ☒ General ☐ Primary ☐ Other	Date 6/22/11 6/22/11	Amount of Each Disbursement This Period $ [illegible]
B. Name and Address of Person Receiving Loan or Repaying Loan Same as above	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	Date 6/22/11 6/22/11	Amount of Each Disbursement This Period $ [illegible]
C. Payee (For Loan Guarantee, Endorser, and Reimbursement) Name and Address Jamie Rivera [illegible] East Avenue New York, N.Y. 10021	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	Date 6/22/11 6/22/11	Amount of Each Disbursement This Period $ [illegible]
D. Payee Name, Mailing Address and ZIP Code Same as above	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	Date (Month, day, year) 6/22/11 6/22/11	Amount of Each Disbursement This Period $ 133.78 11.14
E. Payee Name and Address Direct Charter, Inc. [illegible] Island Avenue [illegible], N.Y.	Purpose Air [illegible] - campaign Check or Money Order ☐ General ☐ Primary ☐ Other	Date (Month, day, year) 6/21/11	Amount of Each Disbursement This Period $ 1039.80
F. Payee Name and Address [illegible] Party Comp. [illegible]	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	Date (Month, day, year) 6/21/11	Amount of Each Disbursement This Period $ 2000.00
[illegible] [illegible] Company [illegible]	Purpose [illegible] - campaign Check or Money Order ☐ General ☐ Primary ☐ Other	Date (Month, day, year) 6/22/11	Amount of Each Disbursement This Period $ [illegible]
[illegible]	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	[illegible]	[illegible]
[illegible]	Purpose Check or Money Order ☐ General ☐ Primary ☐ Other	[illegible]	[illegible]

Name of Committee (in Full)

CAPUTO FOR SENATE COMMITTEE

A. Full Name, Mailing Address and ZIP Code Goldman, Sachs & Co. 55 Broad Street New York, N.Y. 10004		Date (Month, day, year) 6/23/81	Amount of Each Disbursement This Period $ 6,000.00
B. Full Name, Mailing Address and ZIP Code Cecilia Dorney 319 E. 72nd Street New York, N.Y. 10021	Consulting Consultant fee Disbursement for: ☒ Primary ☐ General ☐ Other (specify)	Date (Month, day, year) 6/29/81	Amount of Each Disbursement This Period 4,000.00
C. Full Name, Mailing Address and ZIP Code Same as above	Reimbursement to for Expenses (offices) Disbursement for: ☒ Primary ☐ General ☐ Other (specify)	Date (Month, day, year) 6/25/81	Amount of Each Disbursement This Period $ 120.00
D. Full Name, Mailing Address and ZIP Code Pyramid Video, Inc. 340 National Press Building Washington, D.C. 20045	Campaign Commercial Disbursement for: ☒ Primary ☐ General ☐ Other (specify)	Date (Month, day, year) 6/23/81	Amount of Each Disbursement This Period $ 740.00
E. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (Month, day, year)	Amount of Each Disbursement This Period
F. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (Month, day, year)	Amount of Each Disbursement This Period
G. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (Month, day, year)	Amount of Each Disbursement This Period
H. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (Month, day, year)	Amount of Each Disbursement This Period
I. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (Month, day, year)	Amount of Each Disbursement This Period

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CAPUTO FOR SENATE COMMITTEE

Name and Address	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
ık of New York	checkbook & checks	4/21/81	$ 19.21
G. Wilson	reimbursement for k:	/17/81 6/23/81	$ 20.00 161.00
L. Kasprzak	publicity photos	5/17/81	$ 25.00 3.00
rinters	Deposit - printing	6/19/81	$ 100.00
ıster,New York	postage permit	6/23/81	$ 40.00

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E 1 0 2 0 0 5 2 3 0 9

A. Person Liable for Loan Bruce Caputo 200 Pemwald Road West Yonkers, N.Y. 10703	Original Amount of Loan $ 2,000.00	Unpaid Balance - 0 -	Amount Now Due $ 2,000.00

Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % per annum ☐ Secured

List All Endorsers or Guarantors (if any) in Item A

1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed and Outstanding
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed and Outstanding
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed and Outstanding

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Unpaid Balance To Date	Date of Transaction

☐ Endorser ☐ Surety ☐ Guarantor ☐ Other (specify)

Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % per annum ☐ Secured

List All Endorsers or Guarantors (if any) in Item B

1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed and Outstanding
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed and Outstanding
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation

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C

A. Full Name, Mailing Address and ZIP Code of Lien Source	B. Original Amount of Lien	C. Payments To Date	D. Balance Outstanding
Bruce Canuso 811 Randolfld Road West Yankton, S.D. 57078	$10,000.00	- 0 -	$10,000.00

E. Check if: ☐ Primary ☐ General ☐ Other (specify)

Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % ☐ Secured ☐ Unsecured

List All Endorsers or Guarantors (if any) to Item B

1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $

B. Full Name, Mailing Address and ZIP Code of Lien Source	Original Amount of Lien	Payments To Date	Balance Outstanding as of Close of This Period

Election: ☐ Primary ☐ General ☐ Other (specify)

Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % ☐ Secured ☐ Unsecured

List All Endorsers or Guarantors (if any) to Item B

1. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Approximate Gross Annual Income $

PROMISSORY NOTE

$10,000 May 29, 1981

For value received, the undersigned (hereinafter called "Maker") promises to pay to Bruce F. Caputo, 250 Pondfield Road West, Yonkers, New York 10708, the sum of $10,000 (Ten Thousand Dollars), without interest, on the earlier of (i) 60 (sixty) days after expiration or termination of that certain lease between Joseph P. Day Realty Corp., as Agent, and Bruce F. Caputo, on behalf of Maker, as Tenant, or (ii) December 15, 1982.

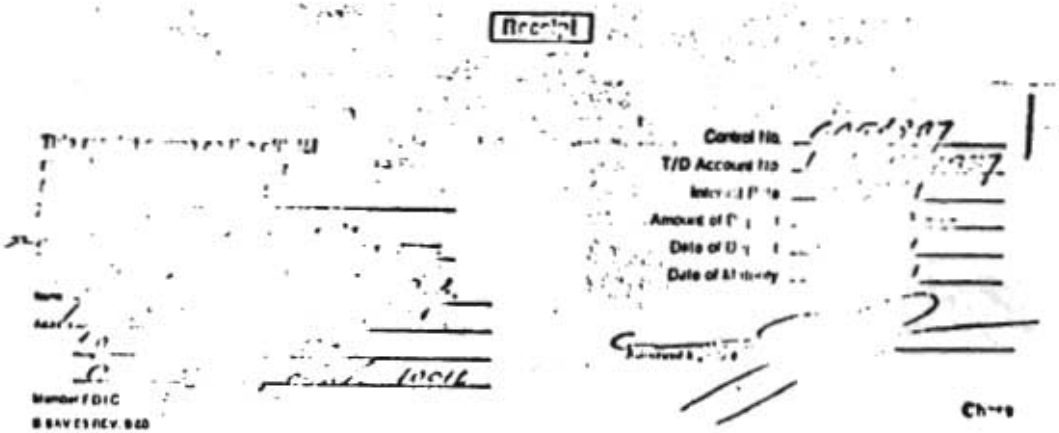
CAPUTO FOR SENATE COMMITTEE

By _____

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	- 0 -	$1000.00	$1000.00	$ 700.00
	$10,000.00	$3,000.00	$13,000.00	$ 3700.00
1111 114th S.E. - Suite 155 Bellevue, Washington 98004	- 0 -	$ 648.00	- 0 -	$ 648.00

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

Austin T. Fragomen, Jr., being duly sworn, deposes and says:

1) I am Treasurer of the Caputo for Senate Committee and have served in such capacity since March 11, 1981;

2) You have requested that I furnish you with information as to whether the Caputo For Senate Committee furnished any funds to Arthur J. Finkelstein & Associates, Inc. ("AFA") for the purposes of conducting a political poll on behalf of the Caputo For Senate Committee.

3) To the best of my knowledge (a) the Caputo For Senate Committee has retained AFA as a political consultant for purposes of rendering advice on a variety of matters, including election strategy, media advice, etc., (b) AFA's current engagement does not provide for polling services and (c) no funds have been paid by the Caputo For Senate Committee to AFA for purposes of conducting a political poll.

Austin T. Fragomen, Jr.

Sworn to me this
23rd day of September, 1981

MAUREEN E. LENNON
Notary Public, State of New York

EXHIBIT 9

NCPAC chairman Terry Dolan tells how planning and smart campaigning can translate into conservative victories

A Blueprint for Election Success

From: *Political Action Report*

The National Conservative Political Action Committee was established in 1975 to counter the successful campaign efforts of such liberal groups as the AFL-CIO.COPE and the National Committee for an Effective Congress. But unlike most PACs, NCPAC helps candidates by providing technological training and assistance in all areas of campaigning. In this discussion with Nathan J. Muller, editor of Political Action Report, *NCPAC chairman Terry Dolan analyzes a hypothetical Senate campaign involving a vulnerable liberal incumbent and a novice conservative candidate recruited by NCPAC.*

Q: How did you assess the climate for a conservative candidacy?

Dolan: It was largely based on relevant polling data which showed the incumbent weak. Also, there was a gut feeling on the part of a lot of people who know the state—media people, political activists, pollsters—that the incumbent is vulnerable.

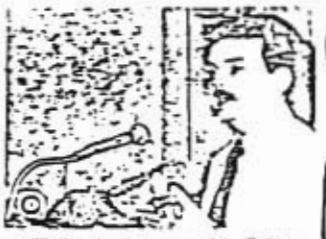
Q: Would you describe NCPAC's recruitment process?

Dolan: The process will be widespread in scope, similar to the one undertaken in 1976 to locate a candidate to run against Dick Clark in Iowa. I'll talk with political reporters and some of my friends in both parties—everyone I know in politics. We'll also mail letters to major NCPAC supporters in the state to find out what they think. Of course, we will communicate with other political action committees too.

Q: What kind of person are you trying to recruit?

Dolan: Well, certainly someone who is conservative. That doesn't mean 100 percent conservative, however, just someone who is noticeably right-of-center. We determine that by sending the most likely prospects a questionnaire and by talking with them in person.

We are assuming in this hypothetical case that this is a winnable state. We



NCPAC national chairman John T. Dolan

determine that by looking at past voting statistics and all the polling information we can get our hands on.

We want a credible individual. Just because he's conservative doesn't mean he can raise money or present himself well. What we want to know is how much money he can get his hands on by himself. Can he raise a good amount of his budget before asking us for support? Will he be able to recruit a large number of volunteers? Does he have people around him who think highly of him? What does the media think of him? We will ask these types of questions.

We will take a chance on unknown candidates. As a matter of fact, it is probably preferable that the individual we recruit not be known in his own state. But he has to be willing to devote the time, energy and the money, of course, to getting elected.

But generally, we find that someone who has to be recruited or needs to be talked into a race is not really the right type of individual to run.

Q: What factors must your novice candidate take into consideration before deciding whether to run, and what assurances of support would NCPAC give him at this point?

Dolan: [redacted]

Second, he must be willing to put us

Q: Assuming that he stays i race, the candidate must make liminary decisions regarding the he will highlight. How wou assist him in determining to address?

Dolan: By and large, the be doing that. I don't think anyone run for office without taking a pol that applies all the way down to th last level of office.

Assuming that our candidate h ready taken a poll, [redacted]

Q: How would NCPAC he candidate get organized?

Dolan: I make my services ava to anybody who I think has a cha winning. I will gladly go out to congressional district or state to h the initial stages of setting up a paign. We have other consultants work for NCPAC who would be w to do the same.

We conduct seminars to train paign managers, schedulers an searchers. Oftentimes, we send o of these people to the campaign full-time if they work out.

We hold three or four camp schools every year. We try to lim tendance to 40 people so we can with them on a one-to-one basis. biggest problem we have is finding people to work on campaign

[redacted]

EXHIBIT 10

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Q: What advice would you give the candidate regarding the recruitment of a finance committee, when he should begin to raise money and where he should start?

Dolan: If a candidate has a hard time putting together a finance committee, he shouldn't be running. The committee should include representatives of almost every interest group in the state—realtors, labor unions, lawyers, doctors—all types of groups. They would have to be willing to work well within the campaign structure. Most of all, they should be committed to the candidate.

Of course, fundraising should begin at once. If our hypothetical campaign had to have $500,000 and the candidate started raising money over a year in advance, he would have to raise a little over $1,000 a day to meet his budget. That's a substantial amount of money. The task is not impossible by any stretch of the imagination, but it does emphasize the need to get started early.

He would not only have to start asking for money from people he knows, but be willing to put in a substantial amount of his own money. That's the best investment a candidate can make. Then, he has to go to his family, then to friends and political allies who share his philosophy. I put these people last because they don't usually give early. They like to wait and see how things develop.

Q: How important is a comprehensive financial plan to the success of this campaign?

Dolan: That depends. Most of the time, extremely important.

On the other hand, if he's going to provide most of the money himself, then a financial plan is not that important. But generally, I think a comprehensive financial plan is just as important as any other part of the campaign, more so because problems in finance very rarely stay confined to finance. They can affect recruitment and effective voter identification and generate unfavorable press. But if the campaign is organized in the first place, the financing will come.

Q: The next step would be to publicize our candidate. What steps would you recommend he take, and what kind of assistance can he expect from NCPAC?

Dolan: One of the things that bugs the daylights out of me is the candidate who decides that he's going to announce his candidacy, but without having a campaign manager or some polling data to work from. That's absolute lunacy. The announcement is maybe the most important stage of the campaign. He can get [illegible] from page coverage in the. Anyone who tries to publicize his campaign before he is ready is making a very poor decision.

When we advise candidates, we tell them not to announce until they are ready. We explore a whole list of reasons why, good and bad. Certainly, a candidate who is going to announce should already have a campaign manager. He should have a poll. He should have a list of all the press people in the state and personally invite them, by telephone, letter or news advisory, to the announcement.

He should understand the issues he will talk about at his announcement and have an understanding of the image he would like to project to people. Barring unforeseen circumstances, he should remain consistent throughout the campaign.

I believe that correct handling of the candidate announcement is at least as important as the organizational and fundraising aspects of the campaign, so much so that NCPAC puts out a manual on the art of announcing—where, when and why.

Q: The primary election is the critical stage since, typically, most eligible voters don't turn out and many local party organizations will not commit themselves. How would NCPAC have the candidate proceed in amassing the support necessary to win the primary, and from where is he most likely to draw that support?

Dolan: It's safe to say that conservatives are extremely successful in primaries. They do much better in primaries than they do in general elections. The reason for this is that Republican primary voters are traditionally far more conservative than the average voter. As a matter of fact, I have never seen a situation where the Republican primary voter was as moderate as the voting population as a whole.

One of the things that [illegible] is important is that a conservative candidate decide who his audience is early on. This is a real problem, particularly with liberals. Liberal consultants usually decide to run a general election campaign in the primary, which is why they often lose. Instead of identifying people who vote in primaries, they aim their message at the whole voting age population.

Q: How important is media advertising in the primary election?

Dolan: A conservative candidate who is unknown can use the media to build credibility and to raise funds. The media could also be used to shape his image, [illegible] especially if he is a strong right-winger is perceived as such by the general population. Media at this point is a very important tool that can help soften that image.

But whether it's a primary or general election, the pollsters should tell the candidate what to say. If he understands his audience, he can use the media very effectively.

What can NCPAC do here? We can certainly offer an intelligent reading of the polls and advise the candidate what to do with the information.

Q: To what extent would you advise the candidate to get involved with issues as the primary nears?

Dolan: In the primary, I would advise discussing issues, but I would also advise the candidate to emphasize and promote his image as the conservative, whether he is running by himself or with ten opponents. That is the key factor in Republican primaries.

In terms of issues, any issue that is identifiable with conservative causes is generally a good one, with the possible exceptions of abortion and [illegible] health care insurance. Somehow these two issues don't always cut conservative versus liberal. This doesn't mean he shouldn't take stands on them; he just shouldn't make a big deal over them.

Q: Assuming our hypothetical candidate made it through the primary, what steps should he take in preparation for the general election campaign and how would NCPAC assess his needs?

Dolan: Assuming the candidate has distinguished himself as the conservative at the time of the primary, in terms of perception, he must move toward the middle in the general election.

Generally, what he has to do is go out and coopt all the people he defeated and win over all their allies to his campaign. He has to seriously evaluate the nature of all the people who did not vote in the primary and find out who the undecideds are so he can address the issues they are concerned about. He also has to redouble all of his other campaign efforts—fundraising, research and voter identification. He can't afford to let up after the primary. If he does, he may never regain that momentum.

Q: Is fundraising through direct mail always an important element of a conservative candidate's campaign?

Dolan: If he starts early enough, it ought to be. Conservatives have good impact in the mails. There are a lot of people out there who are strong contributors for conservative causes and candi[illegible]

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What people usually overlook is that direct mail is a very effective voter education tool, particularly in a primary. Even if there's no time to use it for fundraising purposes, it should be utilized anyway for voter persuasion purposes.

Q: Since in the general election the candidate is aiming his campaign at the state's entire voting age population, what factors will be considered in planning media strategy?

Dolan: First, the candidate is not aiming his campaign at the state's entire voting-age population; he's aiming his message at people who traditionally vote in general elections. There's a difference.

Whenever we take a poll, we take it on the basis of election returns, not population. The poll has to be skewed. For example, cities are undersampled because blacks don't vote as often as whites and old people vote more often than young people.

Any candidate running in 1980 against an incumbent is going to have to change his message after the primary. He must hit the issues that are more in common with the general election vote. As I said before, Republican primary voters tend to be a lot more conservative than general election voters. On the Democratic side, the opposite is true, with the exception of the South.

It's sad but true that more voters are concerned about the image of a candidate than the issues stands he takes. If voters agree with someone but just don't like him, they will more than likely vote against him. For this reason, conservative candidates should be concerned with building a favorable media image.

Q: As the general election approaches, surveys from a variety of sources predict a close race. Both candidates have made few mistakes—at least nothing that can be used against them. The electorate seems split on the social issues conservatives like to focus on. Both candidates are stepping up media campaigns, personal appearances and door-to-door campaigns. A week before the election, there is still no change in the polls. Your candidate is on the verge of unseating an incumbent, but what would NCPAC do to put him over the top on election day?

Dolan: [redacted]

The use of independent expenditures is another possible way we can help. We can throw in some last-minute radio commercials, television ads, even a direct mail piece aimed at targeted voters.

In your question you have presumed that both candidates did pretty much what they were supposed to do, but in a real campaign this almost never happens. It certainly is never the case that both candidates run good races.

If the race is as close as you suggest, it would probably be decided on one of two things: first, which campaign has a better election day turnout process, or second, outside issue or personality factors which aren't measured in polls.

Q: Finally, we'll suppose that your candidate won the general election. What is he expected to do for NCPAC?

Dolan: It's not so much what he is expected to do for NCPAC as what he's expected to do for other conservative candidates. He's expected to do for other candidates what he expected other elected officials to do for him. He should get involved in primaries with conservative candidates. He can offer to sign a letter of endorsement or help with fundraising or research. There are many things he can do to help.

He should certainly vote conservative. He should be willing to take a leadership role in building the conservative movement. He can join any number of organizations that have as their job the building of the conservative movement.

There's a lot this senator-elect can do, especially when he assumes a leadership role. But NCPAC has never asked a congressman to vote a certain way just because we supported his campaign. □

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A. HAND CHRISTOPHER
KAREN LUBSEN BLAIR
JOHN ROBERT CLARK III
E. ERIC SIVERTSEN

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1100 PENNSYLVANIA AVENUE
WASHINGTON, D. C. 20004
(202) 628-1000
TELEX: 710-822-0084
CABLE: SEDAMHERGE

October 15, 1981

Thomas P. Zolezzi, Esq.
Special Counsel
State Board of Elections
99 Washington Avenue
Albany, New York 12210

Re: Arthur J. Finkelstein & Associates

Dear Mr. Zolezzi:

In response to your request, I have examined a copy of "New York State Quarterly Report," which was the subject of my letter to you, dated September 14, 1981. The Report consists of 54 questions, designed to explore attitudes and trends as they related to social, political and economic issues in the State of New York, which were asked of 1,000 residents of the State. The responses to the questions are contained in computer printouts. The Report contains no editorial comment or text.

Of the 54 questions, only one referred to Bruce Caputo. That question was, as follows:

43. If the election for United States Senator were held today and the candidates were Bruce Caputo, the Republican, and Daniel Patrick Moynihan, the Democrat, for whom would you vote?

1. Caputo 2. Moynihan 3. Undecided

The response to that question was compiled, as follows:

Question No. 043 Vote/U.S. Senator	Actual Number	Per-Cent	Adj. PC
Caputo	142	16.2	25.1
Moynihan	423	48.1	74.9
Undecided	314	35.7	
	879		

EXHIBIT 11

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We are advised that 879 responses were recorded to that question, rather than 1,000, because that was the number of registered voters in the full sample.

Sincerely yours,

J. Curtis Herge

8204075105

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

ARTHUR J. FINKELSTEIN, being duly sworn, deposes and says:

1. That he is the President of Arthur J. Finkelstein & Associates (hereinafter "Associates"); and that he, of his own knowledge, is aware and familiar with the programs, activities, services and clients of Associates;

2. That, in the first calendar quarter of 1981, Associates decided to publish and distribute on a subscription basis a quarterly periodical to be known as "New York State Quarterly Report," such periodical being intended to enhance the general business reputation identity and financial success of Associates;

3. That a single issue of "New York State Quarterly Report" was published on or about April 14, 1981, reporting, among other things, summary conclusions reached as a consequence of a general survey of the population of the State of New York, which survey had been taken by Associates at its own cost and expense during the period from or about March 31, 1981 to on or about April 6, 1981, exploring attitudes and trends as they related to social, political and economic issues in the State of New York;

4. That no other issue of "New York State Quarterly Report" was published because of a lack of subscribers.

5. That the survey described in paragraph 3 hereof was not contracted for, commissioned and/or paid for by Bruce Caputo, Caputo for Senate, its officers or agents;

6. That Associates did not provide or give a copy of the survey described in paragraph 3 hereof to Bruce Caputo, Caputo for Senate, its officers or agents, and,

7. That, to the date of this document, Bruce Caputo, Caputo for Senate, its officers and agents have not contracted for, commissioned and/or paid Associates for any survey or poll.

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IN WITNESS WHEREOF, the said ARTHUR J. FINKELSTEIN has executed this Affidavit this 10th day of September, 1981.

Arthur J. Finkelstein

Sworn to before me, a Notary Public, this 15 day of September, 1981.

Notary Public

ANN C. KOLARICH
Notary Public, [illegible]
My Commission Expires March 30, 1982

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The Congressional Quarterly
Political Report

Stuart Rothenberg
Editor

Paul Weyrich
Foundation President

Kathleen Teag
Foundation Ch

721 Second St. N.E.
Washington, D.C. 20002
202-546-3004

3 June, 1981
Vol: IV No: 22

IN THIS ISSUE:

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Conservatives Aim at Byrd. . . . . .page

NEW YORK, NEW YORK

Most people would not relish the thought of challenging an incumbent Senator who w this country's representative to the United Nations, who was a college professor and o about as articulate as imaginable. Yet one Republican, former Congressman Bruce Capu of Yonkers, already is on the campaign trail in the hope of gaining the GOP nomina face Democratic Sen. Daniel Patrick Moynihan in 1982.

Caputo, who ran unsuccessfully as the GOP candidate for Lt. Governor in 1978 and w sought the Republican Senate nomination last year before withdrawing in favor of D'Amato, cites two polls to show that Moynihan is vulnerable and that he -- Caputo -- wo be a strong opponent. The first, a Market Opinion Research (MOR) poll conducted November of 1980 for the National Republican Senatorial Committee, found that Moynih is not a particularly strong incumbent and would be weak in a Democratic prima Specifically, the MOR data showed Moynihan losing a trial heat to former Cong. Elizabe Holtzman, 41%-38%, and it showed that 33% of the over-all sample had no opinion of t Senator. The poll concluded that "Senator Patrick Moynihan is vulnerable."

The second poll conducted in April, 1981 for Caputo by Arthur Finkelstein and Associates (the same firm that ran Sen. D'Amato's campaign) also indicates that a Republican could defeat Moynihan. According to the survey, in a head-to-head match-up with Caputo, Moynihan "failed to draw 50% among the sample," and "less than half of sampled voters reported having a favorable opinion of Moynihan." The MOR survey found that an Italian-American would run best for the GOP against Moynihan, and Finkelstein agrees that Caputo's Italian background is a "valuable asset." Caputo told the Report, "Moynihan does not have a strong base. He is rather like a non-incumbent. He was in much better shape to run for the Senate in 1976 than he is now."



Patrick Moyn

But if polling data and Caputo's instincts rate Moynihan vulnerable, it is not easy find a great many New Yorkers who agree. One New York City Republican not "Moynihan's greatest threat could well be in the Democratic primary. He would be to for any Republican to beat. Can you imagine him in a debate? He'd play the role o former professor. He'd blow away his opponent." An upstate Republican agreed. "You w have to be a little crazy to take on Moynihan."

A publication of the Free Congress Research and Education Foundation
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EXHIBIT 12

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Predictably, Democrats are optimistic about a Moynihan victory. "Moynihan has a [illegible]," notes Albany Mayor Erastus Corning II (D). "and he appeals to many diverse gr[illegible] within the Democratic party. Quite simply, he makes an excellent candidate." A Suf[illegible] County Democrat agreed, "Pat is good at using the New York media. And people seem [illegible] like his eccentricities."

Moynihan presents a problem for any conservative Republican because of the Senat[illegible] reputation as a neo-conservative. His support for tuition tax credits and his criticism of [illegible] Soviets and of certain Third World regimes find him support among conservatives. On [illegible] other hand, his votes on the Panama Canal treaties, gun control and abortion placate liber[illegible]. As one Democrat noted, "He covers the waterfront on both sides."

Playing both sides of the fence could get Moynihan in trouble on both the left and right, though. Jim Notaro, Executive Director of the New York State Liberal Party, [illegible] quick to point out that the Senator's position on tuition tax credits could very well lose h[illegible] the support of the Liberal party. "(We) have issued a very strong statement that the pa[illegible] was very unhappy with the Senator's position on tax credits." "Perhaps he is willing to sol[illegible] on this issue now as he realizes what an issue this is not only in (our) party but around [illegible] state." Notaro concluded, "It would be extremely tough if not impossible for the Senator [illegible] win without the support of the Liberal Party. President Carter and Elizabeth Holtzm[illegible] certainly found that to be true in the last election."

Caputo, on the other hand, charges, "Moynihan is not a neo-conservative or any [illegible] kind of conservative. He is a card-carrying liberal and nobody should be under an[illegible] illusions." "He is pro-busing, anti-capital punishment, pro-abortion, pro-gun contro[illegible], against the balanced budget, and I don't call that a conservative," notes Caputo. And [illegible] GOP hopeful has some early supporters who agree. Wayne LaPierra, Director [illegible] Governmental Affairs for the NRA Institute for Legislative Action, the political [illegible] legislative arm of the National Rifle Association, told the Report, "Our members in [illegible] York are upset with Moynihan for going along with the Kennedy (gun control) b.... We [illegible] very well be involved in (the Senate) race now that Moynihan has joined that bill." A [illegible] resolution by the New York state Right-to-Life Party states, "We strongly encourage ([illegible] Caputo's) candidacy to replace Daniel Moynihan as Senator from New York, and we a[illegible] party through this resolution hereby state our intent to endorse Bruce Caputo for the [illegible] Senate in 1982." According to Peter Gemma, executive director of the National Pro-[illegible] Political Action Committee, "The National Pro-Life PAC is putting New York on the top [illegible] its Senate priority list in 1982."

Caputo is the only Republican who has indicated an interest in challenging Moynih[illegible]. He has been campaigning throughout the state and he appears, at this early date, to be [illegible] logical GOP challenger. An official with the Nassau County Republican organization, one [illegible] the strongest GOP organizations in the state and the organization which produced S[illegible] Alphonse D'Amato, told the Report, "Bruce Caputo is extremely well liked, and we beli[illegible] he would be a good candidate." And if Caputo is to be a serious challenger he would a[illegible] need to hold on to the Conservative line. While the Conservatives are not going to comm[illegible] themselves yet, James O'Doherty, Treasurer of the Conservative Party of New Yo[illegible] commented, "Bruce certainly would be someone we would take a long look at. We think [illegible] highly of him."

Caputo hopes to raise $4 million for the race, but he thinks that he could get [illegible] little as $2 million. Sen. D'Amato raised $2 million on his own, and he received anot[illegible] $250,000 from the Republican party.

In 1980 D'Amato narrowly defeated Elizabeth Holtzman and Jacob Javits to gain [illegible] one of New York's Senate seats. Some observers have argued that D'Amato could not h[illegible] won had Jacob Javits not been on the Liberal party line. The November 1980 Market Opi[illegible] Research survey disputes that fact, and Caputo believes that he can win as long as he [illegible] three lines — the Republican, Conservative and Right-to-Life. Observers, however, beli[illegible]

that Moynihan must be both opposed within his own party and challenged by a candidate from the Liberal party, if the GOP is to capture this seat. At the moment, there is no immediate indication that this will happen.

A number of Republicans have expressed interest in taking on New York Governor Hugh Carey (D) in 1982. Only Bruce Caputo has indicated his intention of challenging Moynihan. That probably says something about the current political strength of New York's two top Democrats.

Opportunity Knocking in Pennsylvania"
—by Richard Prins

Unexpected developments have given a Republican backed candidate a realistic chance of winning the seat in Pennsylvania's overwhelmingly Democratic 3rd Congressional District. The seat, recently vacated by Raymond Lederer, has been held by a Democrat for the last 30 years. Normally, few, if any, observers would give a Republican endorsed candidate even a remote chance of winning this seat. Last week, however, the Republicans met in caucus and decided to support a candidate who has a legitimate chance of winning in the July 21 special election. The man they chose is state Senator Joseph Smith, a Democrat who has already petitioned enough signatures to run as an independent.

Two weeks ago when the Democratic caucus convened to choose its candidate, two men emerged as the strongest contenders. Sen. Smith was believed to be the most likely [illegible] while the chairman of the Democratic City Committee, David Glancey, was believed to be the inside choice of the party leadership. After much politicking, Glancey was narrowly chosen as the Democrat's candidate for the seat. Smith, unsatisfied with the proceedings, quickly circulated petitions to garner the necessary signatures to run as an independent.

According to Mike Krauss, executive director of the Republican State Committee, Sen. Smith is the choice of the Republicans out of necessity. He added, "They (Republicans in the 3rd C.D.) could not field a good candidate. Our opportunity to endorse him is a indication of a problem in the ranks of the Democrats." Observers feel that the Democratic support in the district is split between the faction of the party that supports the more liberal Glancey and the faction that continues to support the more conservative Smith. It is this split that the Republican party hopes to capitalize on in this special election.

A local political reporter described Glancey as a liberal who worked very hard for Senator Ted Kennedy's failed Presidential campaign this past year. The reporter pointed out that Glancey has never held an elective office. A spokesman for Glancey, Anthony Green, told the Report, "Dave has experience. . .he knows the legislative process, but beyond that he has worked in Washington before and knows it." Green added, "Glancey will be stressing jobs and economic resurgence. It is a working class district and a lot of factories are now closed." The issue in this very short campaign will be Smith's endorsement from the Republicans. "It will mean a lot to a lot of Democrats around the district. That certainly helped us."

Sen. Smith will appear on the ballot twice, as both an independent running on the Smith for Congress ticket and on the Republican ticket. He has been labeled as a fiscal conservative and takes a strong stand against abortion, and as such has received very low ratings from local liberal groups including the ADA. He has served seven years in the State Senate and five years previous to that as a legislative assistant to Congressman James B. [illegible]. His strength in the party comes from his close association with the labor unions in the district rather than from his associations with members of the party leadership. Dorn Jamieson, chairman of the Philadelphia County GOP, told the Report, "We are endorsing Senator Smith. While he is an avowed Democrat, he is philosophically attuned to the principles of our party and the principles of President Reagan."

Thus, the coalition supporting Smith's congressional bid includes Republicans, conservative Democrats, some disgruntled Democratic party regulars and union members.

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A. Full Name, Mailing Address and ZIP Code Arthur J. Finkelstein & Assoc., Inc. 117 South Avenue	Purpose of Disbursement Campaign Consultants Disbursement: ☐ Primary ☐ General ☐ Other	Date (month, day, year) 4/2/81 4/23/81	Amount of Each Disbursement This Period $ 2895.00 4500.00
B. Full Name, Mailing Address and ZIP Code Same as above	Purpose of Disbursement Same as above Disbursement: ☐ Primary ☐ General ☐ Other	5/[illegible]/81 5/[illegible]/81 5/27/81	[illegible] [illegible] [illegible]
C. Full Name, Mailing Address and ZIP Code Adele Eisenal 900 Park Avenue New York, N.Y. 10021	Purpose of Disbursement (list specific item purchased, rented, or expense incurred) [illegible] Disbursement: ☐ Primary ☐ General ☐ Other	[illegible] 6/10/81 6/10/81	[illegible] 50.00 201.00
D. Full Name, Mailing Address and ZIP Code Same as above	Purpose of Disbursement Travel Reimbursement Disbursement: ☐ Primary ☐ General ☐ Other	Date (month, day, year) 6/23/81 6/23/81	Amount of Each Disbursement This Period $ 359.78 11.14
E. Full Name, Mailing Address and ZIP Code Eastern Charter, Inc. 810 Seventh Avenue New York, N.Y.	Purpose of Disbursement Resident's Bill - campaign Disbursement: ☐ Primary ☐ General ☐ Other	Date (month, day, year) 5/01/81	Amount of Each Disbursement This Period $ 1069.50
F. Full Name, Mailing Address and ZIP Code [illegible] Poultry Comp. [illegible]	Purpose of Disbursement Food - campaign Disbursement: ☐ Primary ☐ General ☐ Other	Date (month, day, year) 6/01/81	Amount of Each Disbursement This Period $ 2691.50
Full Name, Mailing Address and ZIP Code [illegible] Company [illegible], N.Y. 11548	Purpose of Disbursement Deposit - [illegible] Disbursement: ☐ Primary ☐ General ☐ Other	Date (month, day, year) 6/02/81	Amount of Each Disbursement This Period $ 1000.00
Full Name, Mailing Address and ZIP Code [illegible]	Purpose of Disbursement [illegible] Disbursement: ☐ Primary ☐ General ☐ Other	[illegible] [illegible]	[illegible] [illegible]
[illegible] (Media Vote) [illegible]	Purpose of Disbursement [illegible] Disbursement: ☐ Primary ☐ General ☐ Other	[illegible] [illegible]	[illegible] [illegible]

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Name of Committee (in Full)

COMMITTEE FOR SENATE COMMITTEE

EXHIBIT 13

Buffalo Courier

$750,000 Anti-Moynihan Drive Set

By Douglas L. Turner

WASHINGTON — The National Conservative Political Action Committee (NcPAC) is planning to spend $750,000 on a campaign to portray Sen. Daniel P. Moynihan, D-N.Y., as an ultra-liberal who is out of step with his constituents.

"Through the spring of next year, when our activities will terminate, I expect we will spend three quarters of a million dollars," Robin H. Martin, a New York City radio executive who heads the group's anti-Moynihan effort, said yesterday.

"If we can raise a million (dollars)," Martin said, "we'll spend a million."

By comparison, Moynihan's primary and general election campaigns in 1976 cost $1.5 million.

Monday, at the insistence of NcPAC's national chairman, Terry Dolan, Martin opened a week-long radio advertising blitz against the senator. It characterized Moynihan as being more liberal than Sen. Edward M. Kennedy, D-Mass., and on a liberal par with former Sen. George McGovern, D-S.D., the 1972 Democratic candidate for president.

The advertisements accuse Moynihan of voting for foreign aid for Cuba, Vietnam and Cambodia, of supporting "increased taxes" and of voting against the death penalty.

A spokesman for Moynihan said that there had never been what he termed "a substantive vote" on the death penalty during his term in the Senate. Moynihan did vote with other senators, including Republican leader Howard H. Baker of Tennessee, to defeat efforts by Sen. Jesse Helms, R-N.C., to attach death penalty legislation to other measures such as an appropriation bill, the spokesman said.

He added that Moynihan ultimately voted for the Reagan administration's tax and budget cuts, although Moynihan opposed aspects of both. The spokesman said the foreign aid charge was confusing, but said that Moynihan did vote for a bill to help two United Nations organizations and the International Red Cross, whose aid is available to nations of a wide spectrum of political systems, including communist, in cases of natural disasters.

(...)

Moynihan said NcPAC was a group of "extremists from Virginia who ... spend their out-of-state money on slickly produced ads which distort our political process and grossly misrepresent ..."

The senator's aide said that of 107 NcPAC contributors of $1,000 or more, only two were from New York, and he added that NcPAC was fined last June by the Federal Elections Commission for failing to adhere to financial reporting laws.

Martin acknowledged that some of the campaign's funds come from outside New York State, but said that more than 5,000 of NcPAC's contributors were from New York State.

NcPAC, called "Nick Pack," has earmarked several Democrats for defeat in the 1982 congressional elections. Last summer, the committee directed several newspaper and ra-

$750,000 DRIVE
Continued on Page A 10



Sen. Daniel P. Moynihan

EXHIBIT 14

9 3 0 4 0 7 5 1 0 6 5

$750,000 Drive Aimed at Moynihan

★ From Page A-1

dio ads at Rep. Stanley N. Lundine, D-Jamestown, and 13 other Democratic congressmen in an effort to persuade them to vote for President Reagan's tax program. Lundine, who has a very liberal record, broke with his party to vote for the tax cuts.

Martin said that after this week's radio campaign in New York City, the "logical next step" will be to campaign against Moynihan upstate and in Buffalo. He could not identify any committee members in the Buffalo area.

A spokesman for Moynihan said that the senator's campaign committee is exploring whether to file charges with the Federal Elections Committee against NcPAC, which, he said, may be acting as a "stalking horse" or front for Bruce Caputo, a former congressman who wants the Republican nomination to oppose Moynihan's re-election bid next year.

Moynihan friends point to a NcPAC contribution of $4,000 to Caputo last August, and the fact that Caputo uses the same printing organization as NcPAC — Arthur Finkelstein & Associates of Mount Kisco, N.Y.

□

NcPAC operates as an independent political organization that does not support nominees and is therefore exempt from the federal contribution limit of $5,000. Asked about the charges, NcPAC chairman Dolan said that pollsters are "common agents" exempt from the law under a special commission ruling two years ago.

Dolan acknowledged the NcPAC contribution to Caputo, but said it is allowed by federal law. Dolan said NcPAC would be barred from sending money to Caputo after next year's state primary election for nominations for the Senate and other posts. Dolan explained that an independent organization such as his may not make contributions to actual nominees. Caputo could not be a nominee, he said, until after the primary.

Dolan, in response to the possibility of commission charges by Moynihan, said the action "is a perfect example of Daniel Moynihan's trying to keep the discussion off his liberal voting record. Why doesn't he deny he's a liberal?"

New York Magazine, December 14, 1981

The National Interest/Michael Kramer

CHEAP SHOTS AT MOYNIHAN

Those Slanted Commercials

YOU MAY NOT HAVE HEARD IT ALREADY, but you will before long. It's the first of a $750,000 wave of radio and television spots directed against Senator Pat Moynihan, and it goes like this:

ANNOUNCER: Who was the most liberal United States senator in 1980?
WOMAN'S VOICE (somewhat hysterically): Oh, I know, uh-huh, Ted Kennedy.
ANNOUNCER: I'm sorry, that's wrong. The most liberal senator was Daniel Moynihan.
WOMAN'S VOICE: You're kidding. Who says?
ANNOUNCER: The American Conservative Union.
WOMAN'S VOICE: No, more liberal than George McGovern?
ANNOUNCER: Well, Moynihan tied McGovern for most liberal.
WOMAN'S VOICE: I don't believe it.
ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And, you know, he helped develop our runaway welfare system.
WOMAN'S VOICE: Moynihan shares responsibility for our welfare system?
ANNOUNCER: Yes. Daniel Moynihan must share responsibility for our runaway welfare system.
WOMAN'S VOICE: Gee, I didn't know that.
ANNOUNCER: And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he even voted foreign aid to Communist countries like Cuba, Cambodia, and Vietnam.
WOMAN'S VOICE: Well, well enough. What would happen if the people knew this?
ANNOUNCER: He'd be defeated. Which is why New York State taxpayers are fed up with Moynihan. ...

What's wrong with this advertisement? Plenty—including what it says and who's saying it.

"Most everything about that spot is, at least, distorted," says Pat Moynihan. "For example, there's never been a substantive vote on capital punishment—and I favor it for certain crimes. The consistent votes to cut back government spending—not to increase it. And it's just nonsense to say that I voted foreign aid to Communist countries. I voted against direct aid to those nations. I *did* vote for the Panama Canal treaties. But was that a giveaway? I don't think so. And as for being responsible for the welfare system, well, there's a word for that. It's 'he.' It's spelled h-i-m. And how anyone could say that about me, after all I've written about welfare and said about it over twenty years is beyond me. Oh, yes, I did vote against the B-1 bomber—just like my Republican opponent did when he was in the House."



The leader of Nick-packs: Terry Dolan stands before his Senate hit list

Moynihan's Republican opponent is Bruce Caputo—but it wasn't Caputo who paid for the attack on Moynihan. It was a Virginia outfit called the National Conservative Political Action Committee. "Nick-pack," as it's pronounced, was founded in 1975 and already is a genuine force in American politics. Nick-pack has become powerful by taking advantage of new campaign-finance rulings that set no limit on the amount of money an "independent" group can spend to further a candidate's fortunes.

During the 1980 presidential campaign, more than $10 million was spent by independent organizations in support of Ronald Reagan. That was 382 times the $27,773 spent by similar groups supporting Jimmy Carter. Of the Reagan total, almost 20 percent was spent by Nick-pack—and over a million dollars more was spent by Nick-pack to help oust liberal senators.

Going into the 1982 federal elections, Nick-pack has targeted more than a dozen U.S. senators for ousting on Most, like Pat Moynihan, have learned that the political arm, George McGovern, Frank Church, and John Culver, a casualty of Nick-pack's work in 1980, prove the point.

Which is why the Moynihan re-election apparatus has just mailed out an anti-Nick-pack ad of its own. The Moynihan document labels Nick-pack an "extreme right-wing political group" that "playful dirty," an organization th... has already been "found guilty of cam... paign violations" by the Federal Elec... tion Commission.

The man behind Nick-pack is Terry Dolan, a wiry, 30-year-old lawyer close-cropped hair and a firm mustache. To Dolan, the New Right is here. Ronald Reagan doesn't go far enough. If Dolan had his way, it would be "99 percent defense—keep America strong—and percent on domestic side. That's it. Leave us alone."

As for the ethics statute that Dolan exploits, he hates it. It is a "stupid la... One thing we've done ... [illegible] ... [illegible] ... [illegible]

destroy his effectiveness. But, as Dolan gratuitously points out, "no one can rationally define independence—it's a ridiculous concept." Dolan is right, and, as a consequence, he has got away with all kinds of collusive activities that the election law never intended to permit—but that the Federal Election Commission has been reluctant to stop. "By allowing [his] kind of behavior," says Moynihan of Dolan's operation, "the F.E.C. is proving itself not only gutless, but it is taking part in a new form of corrupt politics."

As a result of the F.E.C.'s laxity, which is mostly a product of its politicized membership, Dolan is, in Moynihan's words, "manifestly violating the law's intent. The connection between Dolan and Caputo is clear. To believe otherwise requires a degree of innocence unattainable in our time."

In addition to contributing $4,400 directly to the Caputo campaign (which is perfectly legal), Nick-pack shares with Caputo the services of Arthur Finkelstein, a pollster-cum-campaign strategist. Dolan defends the Finkelstein connection in two ways. First, he says that Finkelstein is "just a pollster"—a contention that is disputed by those who know the Caputo and Nick-pack operations and also by internal Nick-pack memorandums that reveal Finkelstein's intimate involvement in the development of the anti-Moynihan commercials that form the core of Nick-pack's media.

No matter," says Dolan, for his second defense, "I have an advisory opinion from the F.E.C. that says it's O.K. to talk to Caputo. I want and we can both use Finkelstein as much as we want, and Caputo pretends it's some kind of compliment. Paranoia. Caputo is just a Democratic candidate." Not so, says the F.E.C.'s general counsel, who has clarified the advisory opinion Dolan obtained from the F.E.C. last year.

But that hasn't stopped Dolan, so the war of "independence" drags on. Moynihan and various Democratic-party groups will likely bring an action against Dolan before the F.E.C. But, if past practice is any guide, the F.E.C. won't get around to a decision until well after Dolan has done his damage.

The F.E.C., though, is not the court of last resort. There is another way to thwart Dolan's cheating. Radio and television stations do not have to accept Dolan's spots—and some have already refused to do so. Others, meanwhile, have offered Moynihan free time to reply. In both cases, though, the majority of stations have made their determinations solely on the basis of whether or not they like the Nick-pack message. To me, this is little more than blatant censorship shrouded in some high-falutin rhetoric about the First Amendment's permitting the press to do anything it chooses to do. "The stations shouldn't be doing that," says Dolan. "This is political comment, and the stations should permit all political comment, not just that with which they agree."

I think Dolan is right—but that doesn't mean he should be on the air. None of this action is going on in a vacuum. There is nothing hypothetical about it. Pat Moynihan and others are up for re-election. Nick-pack is out to get them. The agency charged with regulating campaigns has proved itself toothless, despite the fact that the intent of the law is clear. Until the loopholes are closed or the F.E.C. gets cracking, it should be the responsibility of the media to decide the independence question for itself, which is not all that difficult to do. Both the Nick-pack and Moynihan camps happily provide the press with documents supporting their positions. Any other course, like free time for Nick-pack's opponents, begs the question—and reinforces the low opinion in which the public holds the media. If the evidence of non-independence is clear—as it certainly seems to be in the case of the Nick-pack–Caputo connection—the press should face up to it and then pull the plug on Dolan's sweet gig. Government is not the repository of all wisdom, and when an agency like the F.E.C. is shirking its responsibility, that responsibility must be borne by others, in this instance by the media.

The person benefiting most from the current impasse is Bruce Caputo—who is trying to have it both ways. "Nick-pack is running me badly," says Caputo. "The message getting across is that I'm cheating. Well, I don't want Nick-pack here. I wish they'd just go away."

Caputo, by the way, buys the Dolan point that the two of them can't [illegible] Caputo is quite [illegible] as the Republican endorsement [illegible] months away, and months after [illegible] Republican primary [illegible] have moved to millions of New Yorkers.

So why, I asked Caputo, if he can communicate with Dolan all he wants, doesn't he simply tell Nick-pack to get lost? "Again," said Caputo, "I'm afraid to even ask them the time of day for fear of being attacked for collusion."

"So you're saying that while you deplore Nick-pack's activities in your behalf and [illegible] your own campaign [illegible] whether you want [illegible] you're powerless to [illegible] the way they're going?"

"That's right," said Caputo, "but maybe I will anyway. I have to talk to my lawyers."

What's next? Perhaps enough pressure will force Caputo to tell Dolan to cool it. But I'd bet that if he does, Bruce Caputo will be whining.

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The Washington Post, Thursday, December 31, 1981

Democrats Doubt Independence Of Conservative Money-Baggers

By Alan Emory
Special to The Washington Post

Democratic campaign strategists hope they have found a way to hamstring the National Conservative Political Action Committee.

It's called "The Finkelstein Connection."

The "connection" is named after Arthur J. Finkelstein, a New York pollster and political consultant who works for conservative Republicans.

The Finkelstein Connection has surfaced in NCPAC's early-starting campaign to defeat Sen. Daniel Patrick Moynihan (D-N.Y.), one of the committee's most prominent targets in 1982.

• Democrats hope the challenge to Moynihan will put NCPAC's future on the line. If the Democrats can prove that NCPAC is working for Bruce Caputo, a Republican former congressman who is challenging Moynihan, it could lose its status as an "independent" committee. That status enables it to spend unlimited amounts to elect or defeat candidates, which is what has made it a fearsome factor in recent elections.

Federal Election Commission rules allow independent committees—those that have no communication or coordination with a candidate or his supporters—free rein on political spending, as opposed to the $5,000 limitation put on other political action units. NCPAC is registered as an independent committee.

Under FEC rules a violation—a determination that an independent committee has coordinated with a candidate or campaign organization—can cost the committee its independent status and a civil penalty of up to twice the amount of its illegal contribution. In the Caputo case that could come to as much as $200,000 for NCPAC.

NCPAC insists it is trying simply to defeat Liberal incumbents, with whom it lumps Moynihan, not to elect individual conservatives, such as Caputo.

But the Democrats think it is more than coincidence that Finkelstein's firm is listed as "campaign consultant" in Caputo's latest report to the FEC. Also:

• Finkelstein has been a member of the NCPAC board of directors, although a committee spokesman says he resigned two or three years ago.

• Of the $19,500 that Caputo had spent on his fledgling campaign through July, $12,100 went for Finkelstein's polls and political advice.

• NCPAC's August filing with the FEC showed a $4,400 contribution to the Caputo campaign.

• Terry Dolan, NCPAC's chairman, says Finkelstein is playing an important part in the organization's activities. In a Nov. 17 press conference in New York City, he said Finkelstein was responsible for NCPAC's polling in New York as well as nationally.

• Some NCPAC ads have segments that appear to have been taken word-for-word from Caputo's formal announcement of his candidacy, and from a fund-raising letter signed by Caputo and now being circulated in New York.

NCPAC spokesman Steve DeAngelo says NCPAC is not talking to Finkelstein "on a daily basis or even a weekly basis" and as soon as Caputo is nominated the connection will be severed.

According to DeAngelo, the FEC has ruled that an independent committee cannot be charged with working for a candidate until he has been formally nominated. Caputo has not yet won the nomination, although he has the endorsement of 50 of the 62 Republican county chairmen in the state and apparently has no opposition for what many observers consider the uncertain honor of running against Moynihan.

The Democrats contend that this FEC ruling has been modified and that the FEC now says there can be no pre-primary talks between an independent political committee and a potential candidate.

The FEC says that both are wrong and that it has only advised NCPAC that the closer an independent committee gets to a candidate the more its chances of compromising its independence.

NCPAC has budgeted $750,000 to defeat Moynihan, with $50,000 of that for a "first wave" of television commercials.

The Democrats, through their national, Senate and House campaign committees, are considering suing NCPAC on the ground that it is working for Republican candidates, including Caputo, and therefore is not an "independent" committee.

FEC rules state that a political expenditure is not "independent" if made by a person "receiving any form of compensation or reimbursement from the candidate" or any "agent" of the candidate.

The Democrats contend that Finkelstein is clearly a Caputo "agent" and that NCPAC's moves in New York appear based on information about Caputo plans provided by Finkelstein. Such an information link is a big no-no for an "independent" political committee.

Democratic strategists call the $4,400 NCPAC gift to Caputo a "remarkable early endorsement." NCPAC, however, also gave Caputo money for his losing 1980 campaign against incumbent Jacob K. Javits for the Republican Senate nomination. The nomination went to Alfonse M. D'Amato, who was elected.

The Democrats also will focus on comments by White House political adviser Edward Rollins that he expects to be working closely with NCPAC on the 1982 campaign, which would involve electing Republicans rather than just defeating Democrats.

Ironically, the Democrats have managed to shake loose a Finkelstein poll that shows Moynihan with a 3-to-1 lead over Caputo. Of 879 persons polled, 48 percent backed Moynihan, 16 percent supported Caputo and nearly 36 percent were undecided.

EXHIBIT 16

92040751075

UNITED STATES SENATE

2 West 45th Street • Suite 1703 • New York, NY 10036 • (212) 944-8330

FOR FURTHER INFORMATION CONTACT:

John Samarjan (212) 944-8330
(212) 459-4691

September 15, 1981

TEXT OF BRUCE CAPUTO'S ANNOUNCEMENT SPEECH

~~I am announcing today that I am a candidate for~~ election to the United States Senate.

I am running because I believe in a militarily strong America because the Soviet military threat is real as the people of Poland and Afghanistan know, an America that can speak from strength and act with resolution, an America that has the will might and the moral will to defend the freedom of its allies.

I am running because I believe in an economically strong America and because I have seen how decades of liberal domination of Congress have sapped our economic vitality, promoted excessive inflation, and have undermined the private sector's ability to provide jobs for our people through economic expansion.

I am running because I support President Reagan in his efforts to turn our nation around and restore its military and economic strength.

I am running because crime has made all of us feel unsafe, from the streets of New York to villages, cities, and rural communities around the state. What we need from Washington is a program of crime prevention and control, including restoration of capital punishment. We need tougher judges, and more police who are better paid and better equipped.

I am running because the people of New York need access to the decision making and as a Republican Senator I would have real influence in the Senate and the House.

I have a record of hard work and achievement, a record that I am proud of. As a defense planner, New York State legislator, United States Congressman, and private businessman. During the Vietnam era, I served in the Defense Department, working on military manpower needs in Southeast Asia, the SALT negotiations, and United States requirements for fighter attack aircraft, naval forces, and nuclear defense. In the New York State Assembly I supported legislation to strengthen criminal laws and reduce government spending. In Congress, I voted for a strong defense, for measures to cut waste and fraud out of welfare and other programs, and for a balanced budget.

-MORE-

EXHIBIT 17

UNITED STATES SENATE

2 WEST 45TH STREET • SUITE 1703 • NEW YORK, NY 10036 • (212) 944-6330

I founded and developed my own business which has grown to considerable size and success. I have been a partner in America's oldest and most successful management consulting firm. And now, as an Alternate United States Representative to the United Nations, I am encouraging non-aligned nations to compare the freedom and opportunity of America to the repression and stagnation of Soviet society.

New York's present Senator Daniel Patrick Moynihan is one of the principal architects of big government, a system that penalizes hard work and rewards laziness, a system that is bleeding dry the hardworking, taxpaying middle class citizens. Most people are unaware that Daniel Moynihan is the father of the runaway federal welfare system. Moynihan has been at the forefront of support for the growth of government for the past three decades. In 1980, the American Conservative Union rated Moynihan at zero percent, ranking him as the most liberal Senator, tied with George McGovern, more liberal in fact than Ted Kennedy.

President Reagan is bringing about a quiet but momentous revolution. He is doing what the people of New York elected him to do, reduce the size and cost of government. He is cutting back on wasteful federal spending, shrinking the bloated bureaucracy, fighting to let working people keep more of the money we earn instead of paying more and more taxes. But sadly, Daniel Moynihan has a very different view from the people of New York. He is among the last of the big-time spenders. Moynihan is the last of a dying breed that still fervently believes in taking money from those of us who have earned it and giving it to those who have not. Deep in his heart, he still believes that the productive people in our society should support those who choose not to work. He was one of only a handful of ultra-liberal Senators who opposed the President's plan to reduce federal spending.

Daniel Moynihan and I both claim to be strong supporters of Israel, but Moynihan bitterly opposes defense measures that will allow the United States to defend Israel and our other allies.

It is on these issues that I am running. I believe that I will be elected to the United State Senate.

I am gratified that even before the formal announcement of my candidacy, I have gained the endorsement of 16 Republican County leaders, many hundreds of activists, and thousands of volunteers around the state. As I go around from city to city, town to town, county to county, the enthusiasm at the grass roots level for a new philosophy of government, for a new direction, is inspiring. The people of New York want an efficient government, well managed and compassionate, and dedicated to the preservation of the traditional values upon which this great nation grew and upon which it will continue to flourish. As the next Senator from New York, I will offer just that.

8204075074

TBS

TIME BUYING SERVICES INC.

545 Avenue of the Americas, New York, N.Y. 10036 (212) 765-7700

15 October 1981

NCPAC (National Conservative Political Action Committee) will be placing a one week 60-second spot radio schedule in the New York market in the near future through TBS.

Attached is a draft of the copy which will be produced on tape for airplay and a prototype schedule of sixteen AM and nine PM drive time positions Monday-Sunday (25 announcements).

Please provide us with acceptance of this copy, along with a cost estimate for this schedule.

We will be contacting you by phone within a few days regarding this.

Very truly yours,

Michael J. Donovan
V.P. Group Head

MJD:CR
Atts.

EXHIBIT 18

TIME BUYING SERVICES INC.
345 Avenue of the Americas, New York, NY 10036 (212) 765-7700

COPY DRAFT
NCPAC 60-Second Announcement

New York Market

ANNOUNCER: (Bing, Ding) Who was the most Liberal United States Senator in 1980?

WOMAN'S VOICE: (Somewhat hysterical) Oh, I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.

WOMAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

WOMAN'S VOICE: No more Liberal than George McGovern.

ANNOUNCER: Well, you are right. Moynihan tied McGovern for most Liberal.

WOMAN'S VOICE: I don't believe it.

ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.

WOMAN'S VOICE: Moynihan is responsible for our welfare system?

ANNOUNCER: Yes, Moynihan created our runaway welfare system.

WOMAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he

WOMAN'S VOICE: (Interrupts) Wait, enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

A Division of TBS ASSOCIATES Inc.

82040751079

UNITED STATES SENATE

Dear Friend,

I need your help on one of the most important decisions of my life.

Let me get right to the point.

With the election last year of Ronald Reagan and a Republican Senate, we have taken the first step towards getting our nation's economy and skyrocketing inflation under control.

The President's Economic Recovery Program to reduce government spending, cut taxes, and balance the federal budget, is now being debated by the Senate.

Just the other day some of President Reagan's closest advisers told me of the high expectations the President has of success... ...but they also relayed to me a fear and concern the President has.

As you have read in the newspapers or seen on television, the President's plan will take three to four years to take effect.

It's a tough job to dismantle all those out dated liberal programs and remove burdensome federal regulations that have been stifling our economy for the past forty years. Particularly, with powerful old-line liberal special interest Senators working against the Reagan program.

Sadly--Patrick Moynihan voted against the wishes of New York's people and against the needs of our nation when he joined with Ted Kennedy and a handful of other ultra-liberals voting against President Reagan's budget cuts.

The Senate is held by the Republican Party, but only by a slim margin.

The Democrats have plans to retake the Senate in 1982, and if Republicans lose only four seats, then the liberals will take over again and and Ronald Reagan's dream for economic recovery.

That is why I am writing and asking friends and neighbors if I should help President Reagan by challenging liberal Senator Patrick Moynihan in the 1982 election.

Senator Moynihan has consistently voted for wasteful big spending programs, new government agencies and against new defense programs.

Paid for by Carol [illegible] Senate Committee

EXHIBIT 19

He has even voted against critical strengthening of our crim[illegible] laws.

Let's just take a quick look at Moynihan's voting record in Washington for the past five years:

✓ Voted to give away the Panama Canal.

✓ Voted to give himself a pay raise 4 times in 4 years!

✓ Voted for Foreign Aid to Communist Cambodia, Cuba, Laos, and Viet Nam.

✓ Voted against balancing the 1980 budget, the 1981 budget, and Ronald Reagan's 1982 budget.

✓ Voted against giving you a 10% income tax cut.

✓ Voted for raising your taxes on gasoline.

✓ Voted for a new plush $60 million Senate office building at your expense

and

✓ Voted against capital punishment.

Patrick Moynihan tries to portray himself as a "conservative" in New York, but his voting in Washington...is right down the line with Ted Kennedy and the other special interest liberals.

The truth needs to be told about Moynihan and his votes. Ronald Reagan needs another Senator from New York he can count on.

That's why I need your help.

Patrick Moynihan is vulnerable, very vulnerable...but liberals are massing hundreds of thousands of dollars in New York to help him retain his seat.

They know what happened to their other favorites last year like George McGovern and Frank Church. The liberals can't afford to lose Moynihan, and we who believe in Ronald Reagan can't afford to have him in the Senate rejecting the Reagan initiatives any longer.

Should I run for the Senate? For the next year and a half I will need to spend fourteen hours a day, six or seven days a week, campaigning if I'm to get our message - the Reagan Republican message - to the voters.

If I am to run, I must start today.

I must know if I can count on your support.

This is where you can help.

82040751080

I've enclosed a pledge form and postage paid, self-addressed envelope. On the form, please fill it out and tell me if I should run against liberal Democrat Patrick Moynihan.

The Caputo campaign will be a grassroots campaign. A campaign involving thousands of volunteers working together to defeat Patrick Moynihan. Your involvement, even a few hours of your time could make the difference.

And as I reported, the liberal special interest groups are already filling Senator Moynihan's campaign chest.

Moynihan has already amassed three hundred thousand dollars because he knows how vulnerable he is.

While Moynihan has special interest money, I have only the generosity of you and other dedicated Americans who have the best interest of their country and state at heart.

I hope you will help me get my campaign started by mailing a check today.

Maybe you can send $25.

Or maybe you can send $50, $75, $100, or even $250, $500, or more.

Of course, even if you can only afford $10 or $15, you will be doing more for my campaign and helping President Reagan than you know.

I believe that America is destined to remain the greatest country in the world. Our Forefathers knew it when they founded our Republic.

I look forward to representing this great state and country as New York's U.S. Senator.

I know that, with your support, we can get the job done.

Sincerely,

Bruce Caputo

P.S. When I was Ronald Reagan's New York Campaign Vice Chairman, I learned how important an early start can be. Won't you take the time to fill out the enclosed card and help the President today?

P.S.S. My Campaign Manager is Bob Wilson. Why don't you call Bob at (212)944-8130. Thanks.

R 2 0 4 0 7 5 1 3 R I

Dear Bruce,

I agree! You should run for the United States Senate in 1982. We must defeat Patrick Moynihan before he and his ultra-liberal friends destroy President Reagan's programs that will make America great again.

Here's my contribution to kick off your campaign. Enclosed is a check in the amount of

☐ $15 ☐ $25 ☐ $75 ☐ $100 ☐ $250
☐ $500 ☐ $1000 ☐ $ _____ Other

Federal law limits contributions to $1,000 per person. No corporate contributions or cash donations, please.

Federal Law Requires We Ask the Following:

Name _____

Home Address _____

City _____ State _____ Zip _____

Title or Occupation _____

Name of Company (or Self Employed) _____

_____ City/State _____

Please make checks payable to: Caputo for Senate, 2 West 45th Street, Suite 1703, New York, NY 10036.

Paid for by Caputo for Senate. A copy of our report is filed, and is available from the Federal Election Commission, Washington, D.C. 20463

8 2 0 4 0 7 5 1 0 8 2

TBS
TIME BUYING SERVICES INC
1345 Avenue of the Americas, New York, NY 10105 (212) 765-77[illegible]

30 October 1981

Ms. Elaine Ganss
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WFAS and WWYD-Fm	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WBLI	3
No	
WCBS-AM WCBS-FM WOR	3

A Division of TBS ASSOCIATES INC

EXHIBIT 20

9224075104

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine after having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WRKR
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WNEW-FM	--	$1,360
WYNY	--	$1,250
WFAS & WWYD	--	$1,821

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

TIME BUYING SERVICES INC.

9204075inas

up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Mike.

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

2204075108

TIME BUYING SERVICE INC

MR. Y[illegible]
STATION CLEARANCE [illegible]

STATION	CLEARANCE STATUS	COMMENTS
WCBS-AM	No	"Will not sell time to indep dent political committees for the purpose of discuss political issues - only se to legally qualified candic I am requesting this respons in writing.
WCBS-FM	No	Same as above.
WNEW-AM	Yes	Subject to documentatio claims in the copy that Moynihan was the father our runaway welfare system.. responsible for our welfare system...created our runaw welfare system.
WNEW-FM	Yes	Same as above.
WNN	Yes	Subject to the omission of the claims that Moynihan created our runaway welfare system.
WOR	No	Station claims copy is subj to Fairness Doctrine. I am writing letter with legal opinion - will follow imed
WINS	Yes	Subject to substantiation o the claim that Moynihan is father of our runaway welfa system, etc.

TIME BUYING SERVICES INC.

9220407507

STATION	CLEARANCE STATUS	COMMENTS
WPAT-AM/FM	Undecided	Believes advertising is subject to Fairness Doctri and they have concerns abo claims in the copy. I am sending copy of the legal opinion on the Fairness Doc and have requested a respon in writing. Will follow through.
WVNJ	Yes	Accepted copy with no chang
WREM	Yes	Subject to documentatio claims regarding Moynihan voting record and that he i the father of our runaway welfare system.
WHLI	Undecided	Station management has prop under consideration. I ar pursuing a resolution.
WFAS	Yes	Currently no copy change. Station sent representative in with "candidate" adverti forms to be filled out. I substituted with copy of legal opinion on Fairness Doctrine. Station suggests we add sister FM station, WWYD-FM, at 50% increase in schedule cost. We recommen schedule be added.

10.30.81

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National Conservative
Political Action Committee
1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-28

Moynihan - Draft

ANNOUNCER:	(Bing, Bing) Who was the most liberal United States Senator in 1980?
WOMAN'S VOICE: (Somewhat hysterical)	Oh, I know, uh uh, Ted Kennedy.
ANNOUNCER:	(Buzz, Buzz) I'm sorry, that's wrong. The most liberal Senator was Daniel Moynihan.
WOMAN'S VOICE:	You're kidding. Who says?
ANNOUNCER:	The American Conservative Union.
WOMAN'S VOICE:	No, more liberal than George McGovern?
ANNOUNCER:	Well, Moynihan tied McGovern for most libera
WOMAN'S VOICE:	I don't believe it.
ANNOUNCER: (read quickly)	Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he helped develop our runaway welfare system.
WOMAN'S VOICE:	Moynihan shares responsibility for our welfare system?
ANNOUNCER:	Yes, Daniel Moynihan must share responsibility for our runaway welfare system.
WOMAN'S VOICE:	Gee, I didn't know that.
ANNOUNCER:	(Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he even voted foreign aid to communist countries like Cuba, Cambodia and Vietnam.
WOMAN'S VOICE:	(Interrupts) Wait, wait enough. What would happen if the people knew this?
ANNOUNCER:	He'd be defeated. Which is why New York state taxpayers are fed up with Moynihan and why the National Conservative Political Action Committee has paid for this commercial (Not authorized by any candidate or candidate committee).

EXHIBIT 11

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Documentation of NCPAC/Moynihan Ad

1) **Who was the most liberal United States Senator in 1980?**

On the ACU (American Conservative Union) Senate key vote index of June 1, 1981, Moynihan rated zero in 18 key votes. On the same index, McGovern also rated zero.

2) **He voted to give away the Panama Canal.**

CQ 119, 1978 - Moynihan voted "yea."

3) **He opposed cutting back on government spending.**

a) **Votes increasing the deficit or public debt ceiling:**

CQ 38, 1977 — yes - $68.2 billion deficit
CQ 136, 1977 — no - decrease size of deficit
CQ 360, 1977 — yes - 65.1 billion deficit
CQ 501, 1977 — yes - increase national debt 52B
CQ 272, 1978 — yes - increase national debt 46B
CQ 20, 1979 — yes - prevent future budget deficits
CQ 28, 1979 — yes - increase national debt 32B
CQ 317, 1979 — yes - increase national debt 49B
CQ 254, 1980 — yes - increase national debt 46B

b) **Votes in 1981 to restore money to Reagan budget cuts:**

CQ 45 — yes - lessen cuts by 200 million
CQ 49 — yes - lessen cuts by 200 million
CQ 50 — yes - lessen cuts by 800 million
CQ 51 — yes - lessen cuts by 1.4 billion
CQ 52 — yes - lessen cuts by 3 billion
CQ 54 — yes - lessen cuts by 100 million
CQ 55 — yes - lessen cuts by 435 million
CQ 56 — yes - lessen cuts by 937 million
CQ 60 — yes - lessen cuts by 125 million
CQ 61 — yes - lessen cuts by 300 million
CQ 62 — yes - lessen cuts by 264 million
CQ 63 — no - deepen cuts by 1.6 billion
CQ 65 — no - deepen cuts by 2.4 billion
CQ 66 — no - deepen cuts by 110 million
CQ 68 — yes - lessen cuts by 6 million
CQ 69 — yes - lessen cuts by 400 million
CQ 70 — yes - lessen cuts by 39 million
CQ 72 — yes - lessen cuts by 285 million
CQ 73 — yes - lessen cuts by 83 million
CQ 74 — yes - lessen cuts by 400 million
CQ 75 — yes - lessen cuts by 13 million
CQ 76 — yes - lessen cuts by 80 million

4) He helped develop our runaway welfare system.

Based on Moynihan's writings in the Moynihan Report which was released through the Labor Department in 1965. Moynihan and Richard Goodwin also wrote a speech (based on the Moynihan Reports) which was delivered by President Johnson at Howard University in 1965. This speech guaranteed the solidity of minority families through government financial support.

Every year Moynihan votes to raise the expenditure ceiling of the Federal Food and Nutritional Service (which covers food stamps.) He also votes to raise their supplemental budget. For 1980-81, he voted to eliminate the expenditure ceiling altogether.

In 1977, he supported allowing students and strikers to participate in the food stamp program. He has also voted against the inclusion of college loans and grants as income to be counted against the eligibility for food stamps.

Moynihan's 1967 family assistance proposal became, in 1969, the basis for the Family Assistance Program.

Co-authors Moynihan, Shriver, Yarmolinsky and James Sundaquist developed the War on Poverty program. (Moynihan Report and The Politics of Controversy, MIT press, 1967.)

CQ 126, 1977		voted for 4 billion in public works jobs
CQ 135	*	voted against 4 billion in the CETA progr
CQ 160	*	voted against barring availability of food stamps to strikers
CQ 162	*	photo ID's for food stamp recipients
CQ 163	*	voted for extending the food stamp system five years
CQ 165	*	voted for stopping payment requirements for food stamps
CQ 168	*	voted against barring college students from getting food stamps
CQ 383	*	voted against limiting disability payments for pregnant women
CQ 619	*	voted to expand the AFDC program

7 7 0 4 0 7 5 1 0 9 2

CQ 139, 1980 voted for food stamp supplemental budget 200 million over Carter's request

CQ 499 " voted for 1 billion in stand-by aid to states and cities for anti-recession aid

CQ 519 " voted to increase CETA aid by 605 million

5) He voted against capital punishment.

a) Voted to kill an amendment to expand the list of crimes that require the death penalty (CQ 9, 1978).

b) Voted to kill an amendment to reinstate the death penalty (CQ 220, 1980).

6) He opposed the B-1 Bomber.

a) Voted to delete 1.466 billion for production of five B-1 bombers (CQ 297, 1977).

b) Voted to delete 200 million for continued development of the B-1 bomber (CQ 305, 1977).

c) Voted to rescind 462 million for continued development of the B-1 bomber (CQ 26, 1978).

7) He supports increased taxes:

a) He ranks third from the bottom in the National Taxpayer's Union ratings.

b) Voted against tax cuts:

CQ 107, 1977 no
CQ 108, 1977 no
CQ 356, 1977 no
CQ 357, 1977 no
CQ 358, 1977 no
CQ 135, 1978 no
CQ 448, 1978 no
CQ 464, 1978 no
CQ 513, 1978 no
CQ 91, 1980 no

c) Voted against the Reagan tax cut (CQ 239, 1981) in committee.

9 7 0 4 0 7 5 1 0 9 3

CQ 305, 1978		voted against deletion of 250 million in food stamps
CQ 307	*	voted against deletion of 2 billion in food stamp appropriations
CQ 362	*	voted against private sector job creation inceptives for CETA workers
CQ 450	*	voted against deletion of a cut in AFDC State aid
CQ 512	*	voted against reducing CETA jobs
CQ 47, 1979		voted against eliminating CETA jobs
CQ 49	*	voted against 6.2 billion cap on food stamps
CQ 145	*	voted against food stamp cut
CQ 159	*	voted against restricting federal rend subsidies
CQ 193	*	voted against cut in HEW appropriations
CQ 194	*	voted against reducing public service
CQ 206	*	voted for raising the food stamp expenditure ceiling
CQ 208	*	voted for raising the food stamp expenditure ceiling
CQ 243	*	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 244	*	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 245	*	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 355	*	voted for 1.35 billion emergency fuel assistance program for low income families
CQ 370	*	voted against reducing federal grants to states paying too much in foster care
CQ 133, 1980		voted to increase food stamp expenditures for fiscal years 1980 and 1981
CQ 136	*	voted against reducing food stamp expenditures
CQ 137	*	voted against a cut in food stamp benefit for families whose children get federal subsidized free or reduced price school lunches
CQ 138	*	voted against counting higher education loans and grants and housing subsidies against food stamp eligibility

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8) He voted for foreign aid to communist countries like Cuba, Cambodia and Vietnam.

a) Voted against a resolution to direct the U.S. Representative to the International lending organization to vote against loans to Cuba.

CQ 198, 1977
CQ 201, 1977
CQ 202, 1977

b) Voted for aid to Cambodia and Vietnam.

CQ 337, 1979

8204075109

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 400
8300 GREENSBORO DRIVE
MCLEAN, VIRGINIA 22102
(703) 821-2900

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT P. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUBSEN BLAIR
JOHN ROBERT CLARK III
D. ERIC SILVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(202) 331-0900
TELEX 710-822-0088
CABLE SEDAMHERGE

October 26, 1981

Mr. Michael Donovan
Vice President
Time Buying Services, Inc.
1345 Avenue of the Americas
New York, New York 10105

Re: National Conservative
Political Action Committee

Dear Mr. Donovan:

The purpose of this letter is to forward to you, for your consideration and the consideration of broadcasters with whom you do business, a memorandum addressing fairness doctrine and equal opportunity issues pertaining to advertisements sponsored by the National Conservative Political Action Committee (NCPAC), which are critical of the past voting record and candidacy of Federal candidates. NCPAC requested that we forward this memorandum to you to assist you in your dealings with broadcasters who have raised these issues in considering whether to accept these advertisements for broadcast.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

J. Curtis Herge

Enclosure

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee
(w/encl.)

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2320407510097

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
MCLEAN, VIRGINIA 22102
(703) 821-1000

GLENN A. SEDAM, JR.
A. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
S. ERIC SIVERTSEN

SUITE 270
1100 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20004
(703) 821-1000

TELEX: 710-833-0498
CABLE: SEDAMHERGE

October 26, 1981

MEMORANDUM

To: Mr. John T. Dolan
Chairman
National Conservative Political
Action Committee

From: Sedam & Herge, P.C.

Re: Broadcast of Certain Advertisements Sponsored by the National Conservative Political Action Committee

Purpose

The purpose of this memorandum is to provide authority resolving equal opportunity and fairness doctrine issues which, we understand, have been raised by certain licensees concerning the broadcast of NCPAC-sponsored advertisements which are critical of the past voting record, and/or are directed against the candidacy, of certain identified Federal officials.

I. THE BROADCAST OF THE NCPAC-SPONSORED ADVERTISEMENTS BY A LICENSEE WILL NOT RESULT IN THE IMPOSITION OF EQUAL OPPORTUNITY OR FAIRNESS DOCTRINE OBLIGATIONS TO OFFER FREE RESPONSE TIME TO THE CANDIDATE, HIS COMMITTEE, OR HIS SUPPORTERS

You have advised us that on behalf of the National Conservative Political Action Committee (hereinafter "NCPAC"), you have encountered difficulties in placing certain NCPAC-sponsored advertisements which are critical of the past voting

record or candidacy of certain identified Federal candidates. The reluctance of some broadcasters to accept these advertisements appears to be caused by a misunderstanding with respect to the obligations of the licensee once the advertisements are broadcast.

The primary issue which has repeatedly been a source of confusion on behalf of licensees, is the question whether licensees which broadcast NCPAC-sponsored advertisements thereby become obligated to offer free opportunities for opponents to respond. The FCC has determined that, whenever an independent committee purchases time to broadcast advertisements which are critical of the past voting record or directed against the candidacy of a particular candidate for Federal office, that equal opportunity and Fairness Doctrine considerations do not impose an obligation upon the licensee to offer free, roughly equivalent time to the candidate, his committee, or his supporters. FCC letter to Honorable Thomas F. Eagleton, 81 FCC 2d 423 (1980).

The Eagleton decision concerned NCPAC-sponsored advertisements which were critical of the past voting record and directed against the candidacy of Senator Eagleton. The FCC interpreted Nicholas Zapple, 23 FCC 2d 707(1970), to require only that comparable time be sold where spokesmen or supporters of a candidate purchase time and criticize a candidate. The FCC concluded that the NCPAC-sponsored advertisements do not constitute a "use" within the purview of Section 315(a) of the Communications Act of 1934 [47 U.S.C. §315(a)] so as to invoke equal opportunity issues. Paid NCPAC spots create only the obligation to offer comparable time on a paid basis to the supporters of the candidate. FCC letter to Honorable Thomas F. Eagleton, supra, at 426-427.

In addition to resolving the equal opportunity issue, the Eagleton decision addressed the question whether the Fairness Doctrine would require that free time be provided to a candidate or his supporters where an independent committee sponsors advertisements critical of a candidate. (On October 9, 1980, a supplement to Senator Eagleton's original complaint was filed, which specifically addressed the Fairness Doctrine issue. Supra, p.427.)

9204275108

Senator Eagleton argued that the Fairness Doctrine and, specifically, Cullman Broadcasting Co., Inc., 40 FCC 576 (1963), would require free equal time. In Cullman the FCC held that licensees are obligated to provide free access for the presentation of contrasting viewpoints concerning controversial issues of public importance where paid response time cannot be had, to ensure the public's right to know. In response, the FCC noted that it has consistently held that Cullman is not applicable to the "political arena." The FCC concluded that the Fairness Doctrine does not require a licensee to grant candidates or their supporters free time to counterbalance time sold to their opponents or the supporters of their opponents. Notwithstanding the above, the FCC continued to note that even if Fairness Doctrine principles applied in such a case, that Senator Eagleton had not demonstrated sufficient facts to entitle him or his Committee to access to the licensee for the purpose of expressing views contrary to those expressed in the NCPAC advertisements. A successful complainant would be required to show an imbalance in the station's overall programming that is such that the public has not been adequately informed on an issue of public importance.

Accordingly, neither equal opportunity nor fairness doctrine obligations are incurred by a licensee which accepts these advertisements for broadcast. In 1981, NCPAC has sponsored radio and television advertisements critical of the past voting record and directed against the candidacy of a number of identified Federal candidates. Among those states wherein such advertisements have been broadcast are Montana, Texas, Maryland, New Jersey, New York, North Carolina, Washington, D.C., and Connecticut.

2204075109

SCHEDULED ITEMIZED DISBURSEMENTS

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full)

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

A. Full Name, Mailing Address and ZIP Code	Purpose of Disbursement / Disbursement for: ☐ Primary ☐ General ☐ Other (specify)	Date (month, day, year)	Amount of Each Disbursement This Period
Comm. to Re-elect Bill CArney 206 Congress Bldg. 422 First St., SE Washington, DC 20003	Direct Contribution	8/19/81	1,000.00
B. Full Name, Mailing Address and ZIP Code Caputo for U.S. Senate 2 West 45th St. New York, NY 10036	Direct Contribution	8/19/81	4,400.00
C. Full Name, Mailing Address and ZIP Code Thomas Lankford, Inc. PO Box 1504 Washington, DC 20013	Printing - IX Arlen Strangeland	8/19/81	475
D. Full Name, Mailing Address and ZIP Code			
E. Full Name, Mailing Address and ZIP Code			
F. Full Name, Mailing Address and ZIP Code			
G. Full Name, Mailing Address and ZIP Code			
H. Full Name, Mailing Address and ZIP Code			
I. Full Name, Mailing Address and ZIP Code			
SUBTOTAL of Disbursements This Page (optional)			5,875.
TOTAL This Period (last page this form version only)			5,875.

EXHIBIT 22

2274075110 3

81032094529

REPORT OF RECEIPTS AND DISBURSEMENTS
For a Political Committee Other Than an Authorized Committee

(Summary Page)

81NOV20 5:1

1. Name of Committee (in Full)
National Conservative Political Action Committee

Address (Number and Street)
1500 Wilson Blvd., Suite 513

City, State and ZIP Code
Arlington, VA 22209

☐ Check if address is different than previously reported.

2. FEC Identification Number
C00024687

3. ☐ This committee qualified as a multicandidate committee during this Reporting Period on _____ (date)

4. TYPE OF REPORT (check appropriate blocks)
(a)
☐ April 15 Quarterly Report
☐ July 15 Quarterly Report
☐ October 15 Quarterly Report
☐ January 31 Year End Report
☐ July 31 Mid Year Report (Non-election Year Only)
☒ Monthly Report for November 1981
☐ Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____
☐ Thirtieth day report following the General Election on _____ in the State of _____
☐ Termination Report

(b) Is this Report an Amendment?
☐ YES ☒ NO

SUMMARY	Column A This Period	Column B Calendar Year-to-Date
5. Covering Period 10/1/81 Through 10/31/81		
6. b) Cash on Hand January 1, 19 81		$ 149,326.32
(b) Cash on Hand at Beginning of Reporting Period	$ 98,415.00	
(c) Total Receipts (from Line 18)	$ 359,817.83	$ 3,350,260.49
(d) Subtotal (add lines 6(b) and 6(c) for Column A and lines 6(a) and 6(c) for Column B)	$ 458,232.83	$ 3,499,586.81
7. Total Disbursements (from Line 23)	$ 398,630.15	$ 3,439,984.13
8. Cash on Hand at Close of Reporting Period (subtract line 7 from 6(d))	$ 59,602.68	$ 59,602.68
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C or Schedule D)	$ 15,052.60	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C or Schedule D)	$ 389,276.96	

I certify that I have examined the Report and to the best of my knowledge and belief it is true, correct and complete.

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

Candace M. Tay
Type or Print Name of Treasurer

SIGNATURE OF TREASURER

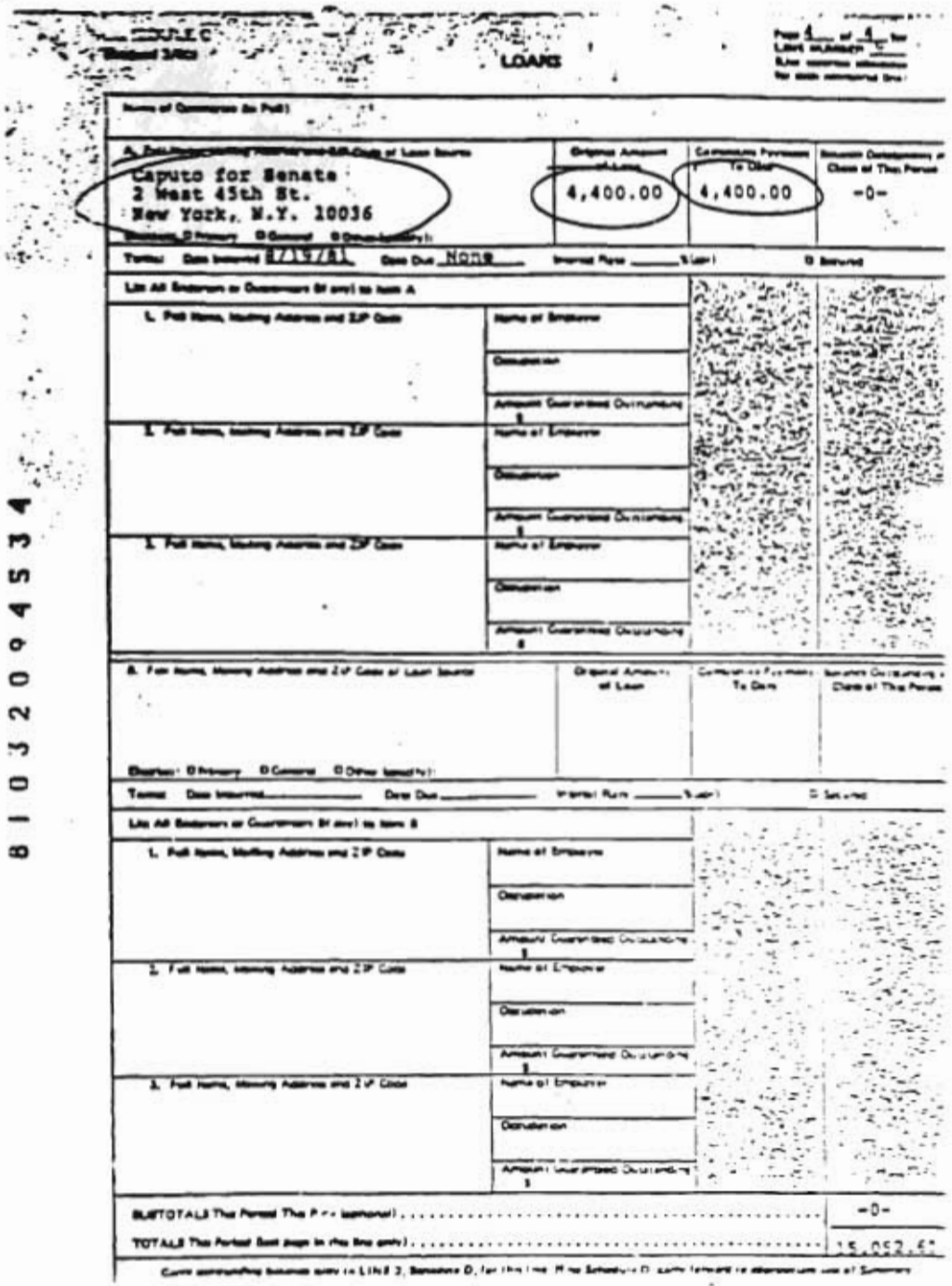
11/16/81
Date

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

All previous versions of FEC FORM 3 and FEC FORM 3a are superseded and should not be used as worksheets.

FEC FORM 3X (1/80)

EXHIBIT 23



LOANS

Caputo for Senate
2 West 45th St.
New York, N.Y. 10036

4,400.00

4,400.00

-0-

Date Received 8/19/81

Date Due NONE

-0-

15,052.6*

SCHEDULE A — ITEMIZED RECEIPTS

A. Paid Name, Mailing Address and ZIP Code Caputo For Senate 2 West 45th St. New York, N.Y. 10036 Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Loan Repayment Occupation Aggregate Year-to-Date	Date (month, day, year) 10/20/81	Amount of Receipt this A 4,400.0
B. Paid Name, Mailing Address and ZIP Code Bob Eberle For Congress Com. 1449 Montague Dr. Vienna, VA 22180 Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Loan Repayment Occupation Aggregate Year-to-Date	Date (month, day, year) 10/2/81	Amount of Receipt This P 2,500.0
C. Paid Name, Mailing Address and ZIP Code Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date	Date (month, day, year)	Amount of Receipt This
D. Paid Name, Mailing Address and ZIP Code Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date	Date (month, day, year)	Amount of Receipt This
E. Paid Name, Mailing Address and ZIP Code Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date	Date (month, day, year)	Amount of Receipt This
F. Paid Name, Mailing Address and ZIP Code Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date	Date (month, day, year)	Amount of Receipt This
G. Paid Name, Mailing Address and ZIP Code Purpose For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date	Date (month, day, year)	Amount of Receipt This
SUBTOTAL of Receipts This Page (optional)			6,900
			6,900

81032094544

22240751105

Caputo Says He Returned NcPAC's $4,400

By Douglas Turner

WASHINGTON — Bruce Caputo, a candidate for the Republican nomination to oppose Sen. Daniel P. Moynihan, said yesterday that he has returned the $4,400 that the National Conservative Political Action Committee (NcPAC) gave him last August.

Caputo, a former congressman now in the mission to the United Nations, said he returned the money because he considers it "a loss" and because "we want to disassociate ourselves from NcPAC's advertising campaign against Moynihan, a Democrats.

Caputo said he returned NcPAC's $4,400 "about 30 days ago," before the NcPAC anti-Moynihan advertising blitz started in New York City in mid-November.

□

The contribution is among a number of factors the Moynihan campaign and the National Democratic Congressional Campaign Committee are weighing in their decision on whether to file a complaint against NcPAC and Caputo before the Federal Elections Commission.

The Moynihan camp claims that Caputo and NcPAC are working in close harmony in New York State and their conduct disqualifies NcPAC from spending more than $5,000 in its effort against the senator.

Last month, NcPAC said it planned to raise $750,000 to defeat Moynihan, adding that it would spend $1 million against him if the committee could raise that amount.

□

Moynihan's office yesterday made public a letter it obtained which purports to show that Caputo's polling and political consulting company is also advising NcPAC on the content and placement of its ads in New York State.

The letter, from Time Buying Services Inc. of New York City, to Elaine Gomez, a staffer with NcPAC in Arlington, Va., discusses how to deal with New York City radio stations which rejected content of NcPAC advertisements.

A memo attached to the letter, which appeared to have been prepared by Time Buying Services, cited a number of stations which objected to broadcasting the advertisement claiming that "Moynihan created our runaway welfare system."

The letter said content was discussed with the NcPAC-Caputo consultant and that the possibility of using "substitute stations" also was discussed with the consultant.

A Caputo aide offered no comment when told about the release of the letter yesterday.

□

A letter from Robert F. Bauer, general counsel to the Democratic senate campaign committee, to Moynihan said the fact that Caputo and NcPAC have the same consultant is significant in predicting the outcome of a suit against NcPAC's New York State activities.

Bauer claimed the connection undermines NcPAC's status as an "independent" campaigner last year against Sen. Frank Church of Idaho, a liberal Democrat, and several other liberal U.S. Senators.

Caputo said his consultant is the "political consultant most in demand in the U.S." and could, if he wished, "move on to one of a dozen other candidates."

The candidate said that he is "ideally amused to talk to him" about the NcPAC connections.

The consultant, Caputo said, "may have other clients who are adamantly for causes that I voted against" while in Congress.

□

As for NcPAC, Caputo said that he is "obliged to recognize its right to make its case on the issues, but I wish they would find a way to make those issues in Hawaii."

"I don't want NcPAC in New York," Caputo said. "I didn't ask them to come, I don't want them here and I wish they'd go away. But I have no way of controlling what my constituency do."

At the same time, Caputo said, NcPAC has raised issues which are important. Among them, Caputo said, "are why Moynihan voted for busing (to ease school desegregation) and why he is for higher taxes."

NcPAC also accused Moynihan of voting to send foreign aid to Communist countries and of voting against the death penalty. Moynihan did not cast either vote, because neither issue came to the Senate floor in those forms.

[illegible], NY
SUNDAY [illegible] June 21, 1981

Caputo aims to get fast jump on Moynihan

ALBANY (UPI) – Republicans have targeted Sen. Daniel Patrick Moynihan, D-N.Y., for defeat in next year's election, and former Rep. Bruce Caputo is already scrambling to sew up the GOP nomination.

While New York's top Republicans are lining up for a chance to challenge Gov. Hugh Carey next year, Caputo is the only candidate who has voiced any interest in taking on Moynihan. He hopes it will stay that way.

In March 1980, when the 37-year-old Yonkers native launched a primary challenge to former Sen. Jacob Javits, he discovered he was too late. Alfonse D'Amato already had locked up the support of key party chairmen and went on to win Javits' seat.

"This time, I wanted to be the guy way out front," Caputo said.

So, the lawyer-businessman is spending his days traveling around the state wooing county chairmen in the Republican and Conservative parties. He already has the right to the endorsement.

"I expect to be the Republican nominee of both parties," he said confidently.

While noting that one or two candidates may shift their sights by next year, several Republicans said privately Caputo has a good shot at the party nod because Moynihan is viewed as a much tougher prospect than Carey.

Caputo, who resigned from Congress in 1978 to run as lieutenant governor on the ticket Carey trounced, is convinced they're wrong.

The Senate Republican Campaign Committee has named Moynihan as one of its key targets in 1982 and is expected to provide $1 million to the candidate who challenges him.

A committee poll concluded Moynihan is not that well known statewide and is even vulnerable in a Democratic primary.

"There is a good opportunity to beat him. He is not like an entrenched incumbent," said Caputo.

Caputo said he would hammer away at Moynihan's voting record. While he has a conservative image, Moynihan has not supported President Reagan's budget and tax cut plans, Caputo said. The Democrat senator also has voted against the death penalty for certain federal offenses and has supported busing.

Caputo, however, has some liabilities, too. His last two efforts to win election have failed, and, by his own admis-



Former Rep. Bruce Caputo, left, is the only Republican who has announced he is interested



in Sen. Daniel Patrick Moynihan's seat. Moynihan is up for re-election next year.

Record file photos

sion, "most New Yorker's don't know who I am."

He's planning a $3 million to $4 million campaign to solve that problem, noting that Moynihan in 1976 bumped off incumbent Sen. James Buckley with a $1.2 million war chest.

Philosophically, Caputo puts himself squarely in Reagan's camp, but defends mass transit spending as a "prudent investment," believes new defense dollars should go to spare parts, ammunition and flight training instead of new weapon systems, and thinks tax cuts should focus more on investment incentives.

Within his own party, Caputo evokes distinct emotions.

One former Assembly colleague recalls, "Bruce was always looking for the television cameras." In Washington, he angered many colleagues with his aggressive probe of influence peddling in Congress by Korean lobbyists.

Yet, he worked hard for Reagan last year and is still viewed as an attractive candidate prepared to help bankroll his own campaign. And since his rising star got sidetracked in 1978, he has learned a lot about statewide politics.

"It was the right thing to try. I only regret losing," he said.

EXPIRES: 7-5-8

Pisani leans left and right

By MILTON HOFFMAN

When State Sen. Joseph Pisani, R-C-New Rochelle, said after the recent riot at the Westchester County Jail that he would have retaken the jail "by force with gas" if he had been county executive, he projected a tough, hard-hat image, directed, perhaps at winning conservative votes.

This may have endeared him to those who support "get tough" line hands against the prisoners, votes possibly in his camp already. But it might have turned off some moderate voters whom he needs to defeat County Executive Alfred DelBello, a Democrat.



Joseph Pisani

It is recalled that, when DelBello won handily four years ago, it was the moderate Republican voters who swung to his column. Many Democratic voters in the southern cities of the county stayed home that day because of the drenching rains as Republicans turned out in usual numbers to elect other members of their ticket.

However, strategists will be mistaken if they think Pisani's "get-tough" image is the only one he will project this fall as the Republican-Conservative standardbearer for county executive of Westchester.

During his 16-year career in the state Legislature, Pisani has been all over the political spectrum and considers that he is not identifiable with a particular political philosophy.

"I detest the hyphenated politician. I find a lot of difficulty in [illegible] cal box," he says.

As if to accentuate he remarks he gave a free-wheeling address last week at the Robert A. Taft Institute at Pace University in which, directly, he gave lectures a word or two to Pisani, advocate of conservatism and Joe Heap, advocate of liberalism, although he did not label himself as either.

"One of the most insidious problems of government," he said, was the rule-making by administrative agencies, which, he claimed, often exceed the legislative intent of new laws. "It's a small seed of cancer in the body public and no one seems to be concerned about it."

Pisani concedes that legislators themselves have caused the problem. "Fundamentally, laws are to be made by lawmakers," and if they make bad laws, they have to answer for them when they stand for election.

But, he says, "in the Legislature, we have been too damn lazy to pass complete, comprehensive laws. The lawmakers merely put laws and give the administrators the power to make rules and regulations to carry out the legislative intent of the laws. "It's a power that lends itself to abuse. Administrative agencies are creeping into the daily lives of people."

Pisani's solution, he told the Taft fellows, is to give the commissioners the authority to develop rules and regulations but then send them back to the legislature for final approval. His proposal would give one of the two houses of the Legislature the right to suspend a rule both houses could reject it permanently.

During the same speech however, Pisani turned a more liberal cheek to his listeners when he discussed his career in the field of child welfare. It [illegible] to capitalize in November. Laws he authored were aimed at protecting the child even at the expense of traditional family values that gave parents sole authority over their children. Pisani contends that the laws pushed through by his Committee on Child Welfare have turned the child welfare system around in seven years.

Pisani says he is against the warehousing of children and that society must have the courage to place a child in a home where there is psychological stability. One piece of legislation passed this year, of which he was a principal sponsor, would allow termination of parental rights on grounds of parental abuse. "We are saying that if you abuse your child, you lose the right of a parent."

That bill is awaiting approval or disapproval of the governor as is another Pisani bill that would let the state speed adoption of children by foster parents by subsidizing the child often, he says, particularly in cases where there are medical or other problems that make it costly to maintain a child, the foster parents are fearful of adopting a child they love on the grounds that the state would drop medical payments. Pisani's law would continue part of the medical payments after adoption.

There are just a few insights into Pisani, a man whose words and past governmental deeds will come under strict scrutiny in the coming election.

Caputo's bid

Former Rep. Bruce Caputo, R-Yonkers, officially launched his bid for GOP senator Wednesday with the announcement of a campaign committee that will be chaired by [illegible]

Anthony Colavita, Caputo [illegible] the Republican and Conservative [illegible] against Democratic incumbent Daniel P. Moynihan, who will complete his first term next year. The election will be in November 1982.

"Bruce Caputo has a clear path to the most [illegible] office in state [illegible] Democrat Moynihan, who others think is [illegible] vulnerable. A year ago Caputo dropped out of the running for the Senate nomination, letting Alfonse D'Amato fight it out with incumbent Jacob Javits for the GOP and D'Amato won. Leaders of the Conservatives and now the Republicans are grateful to Caputo for dropping out for he would have split the anti-Lavitt vote, providing a situation that could have led to the election of Democrat Liz Holtzman.



Bruce Caputo

During yesterday's conference at the Hotel Roosevelt in New York as well as later at the White Plains Hotel, substantial support was expected to line up behind Caputo from GOP leaders Joseph Margiotta of Nassau, Anthony Pinderti of Suffolk, John Calandra of the Bronx and Ethel Black of Dutchess as well as leaders from Brooklyn to Syracuse.

Caputo's campaign chairman will be Robert Wilson of Bronxville, a 43-year-old former partner and now limited partner of Goldman Sachs, formerly head of Republicans Abroad when he was assigned to [illegible] Rome to London.

Milton Hoffman is [illegible] for Gannett West[illegible]

EXHIBIT 13

8 3 0 4 0 7 5 1 1 0

AUBURN AREA



- Weedsport
- Port Byron
- Skaneateles
- Cato

Caputo stumps early for GOP support

By Jim Vivona
Staff Writer

AUBURN — Bruce Caputo had a message to deliver at Auburn's Holiday Inn Building Saturday.

Caputo told county Republicans confident U.S. Sen. Daniel Patrick Moynihan can be defeated in the 1982 statewide Senatorial race, and he is the man to beat him.

"Senator Moynihan is a very beatable candidate," the 37-year-old Republican hopeful said, "he is against everything the people of New York state for."

Caputo said according to a statewide poll 15 per cent of Moynihan's constituents do not even know who he is and 15 per cent more thought he was a senator from another state.

Caputo also said Moynihan has "failed the voters of New York state" in three critical issues: crime, defense, and spending.

"Moynihan voted against the death penalty, voted for all of President Carter's anti-balance budget programs and voted to pardon draft evaders." Caputo, said he has a long history of being for the death penalty, for a balanced budget and advocates increases in military spending.

"The majority of people in New York state feel the same way I do," he said.

Caputo asked county Republicans for early support and told his audience Moynihan's vulnerability is appealing to the National Republican Committee, which will give $1 million to the campaign of the state Republican senate candidate.

Caputo said he is seeking "conservative, moderate" status which will enable him to receive Republican National aid sooner than the primary, scheduled just six weeks before the election.

He also said he already has the support of Westchester County, and anticipates official support from Nassau and Suffolk county this Wednesday.

He said he will write Cayuga County for support soon.

"We must learn up, organize, and get at the senator right away."

Caputo said he "doesn't forecast a primary in the Republican Party," because many key Republicans, like state Comptroller Ned Regan and Gov. Hugh Carey, told him they will be seeking the gubernatorial nomination.

According to Caputo, only one top state Republican Congressman Jack Kemp, is unsure of his future. But he said he had talked to Kemp recently who hinted he will either run for re election or throw his hat into the gubernatorial ring.

Caputo, a former Yonkers representative to the state Legislature and a congressman from 1975 to 1978, ran unsuccessfully as Perry Duryea's lieutenant governor in the 1978.

He told Republicans he would be a more active senator than Moynihan in working for his constituents.

Caputo said he would implement nearby district offices to help him keep abreast of local news.

"Moynihan doesn't have these offices and with a district office near Auburn, he would have had someone to read the papers and follow the Columbian Rope Co. deal."

Caputo told Republicans he would have been relayed message about Columbia Rope from his district office and then taken action. "I would have asked Bill Brock (Federal Trade Regulator) what it would have taken to keep Columbia Rope there," Caputo said.

"New York was at one time the Empire State but that's all changed. We need a bread and butter Senator now, and I'm that man."



Bruce Caputo

SYRACUSE
HERALD-JOURNAL

SYRACUSE, N.Y., THURSDAY, AUGUST 27, 1981

VOL. 105, NO. 21 211

Caputo expects to win GOP nod

By BENN PETERS



DAVID F. CAPUTO

[illegible] Caputo, a former state assemblyman and member of Congress, said the man who wants to face Democratic U.S. Sen. Daniel Patrick Moynihan for election next year is in a study he conducted so he gave about the state during the bid. [illegible] he hopes will be all to his own [illegible]

Calling himself an "early starter," Caputo said today he has already raised $1 million committed to the campaign from the state Republican Senatorial Campaign Committee. He has 60 percent of the state committee [illegible]

[illegible] he is an "early starter," Caputo said, but just a good one but [illegible] former President Jimmy Carter was an "early starter."

[illegible] Caputo said he also has a promise that President Ronald Reagan will come to New York State at least twice on his behalf and [illegible] presidency. Vice President [illegible] Bush also will visit the state to campaign for Caputo.

In addition to all the things [illegible] David Caputo would be to use the [illegible] role of the senate seat Moynihan [illegible] He created [illegible]

[illegible] Caputo said selling [illegible] million about. Caputo said the reason [illegible] is proving his first six years [illegible] from already has appeared [illegible] Carter in his campaign was that, and he expects Moynihan will be able to raise at least another $1 million.

Much of the money Caputo will need is being made available because Moynihan has [illegible] the White House and [illegible] have targeted him as a man they want to beat in the 1982 election.

Caputo said he also has a promise that President Ronald Reagan will come to New York State at least twice on his behalf and three of the presidency. Vice President [illegible] Bush also will visit the state to campaign for Caputo.

In addition to all the things [illegible] David Caputo would be to use the [illegible] role of the senate seat Moynihan [illegible] He created [illegible]

EXHIBIT 55-3

7 1 1 1 5 2 0 4 0 6 8

THE NEW YORK TIMES

SEPTEMBER 16, 1981

Notes on People

Senator Moynihan Gets a Challenger for 1982

The campaign for the 1982 New York Senate election got an early start yesterday when Bruce F. Caputo, a 35-year-old former United States Representative, announced that he was a candidate for the Republican nomination to oppose the incumbent, Daniel Patrick Moynihan, a Democrat.

According to Mr. Caputo's supporters, the announcement was designed to "focus on the nomination early." Mr. Moynihan is regarded as a formidable opponent, and no other state Republicans seem likely to challenge him.

Mr. Caputo, who said he had already won the backing of 36 of the state's 62 Republican county leaders, pointed out that the Democrat was a "big-time spender," "the father of the runaway Federal welfare system" and "one of the architects of big government."

Mr. Caputo, a wealthy management consultant from Westchester County, portrayed himself as a conservative Republican who supported President Reagan's economic and defense policies.

To help assure his nomination, Mr. Caputo has retained Arthur Finkelstein, a political consultant who helped Alfonse M. D'Amato in his successful campaign for the United States Senate last year.



The New York Times/Ernest Lenoir

Bruce F. Caputo

EXHIBIT 25-E

September 17, 1976

Caputo to Seek GOP Senate Nod; Attacks Moynihan

NEW YORK (AP) — Former Congressman Bruce Caputo announced Tuesday that he will seek the Republican nomination for U.S. Senate, and he denounced the incumbent, Democrat Daniel Patrick Moynihan, for "bleeding dry the hard-working taxpaying middle class citizens."

Caputo said he was for smaller government and lower taxes.

"Most people are unaware that Daniel Moynihan is the father of runaway federal welfare," Caputo said at a news conference announcing his candidacy.

"He is the last of a dying breed that still fervently believe in taking money from those of us who have earned it and is giving it to those who have not."

Caputo called Moynihan "one of the principal architects of big government, a system that penalizes hard work and rewards laziness, a system that is bleeding dry the hard-working, tax-paying middle class citizens."

Caputo [illegible] said he has the support of [illegible]. He said he has the backing of [illegible] Republican county chairmen [illegible] a number of Republican members of the state Assembly [illegible] and a state senator [illegible].

He made his announcement at the start of a four-day exploratory announcement tour through the state.

Caputo, who as a congressman from Westchester gained fame during the Watergate investigation, was vice chairman of the Reagan-Bush campaign in New York State last year.

He was the party's candidate in 1970 for lieutenant governor on the unsuccessful ticket led by former Assembly Speaker Perry Duryea.

EXHIBIT 11-T

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BINGHAMTON, NY

SUN-BULLETIN

SEPTEMBER 27, 1981

Caputo, Emery carry Reagan banner

By PHIL FAIRBANKS

Carrying the Reagan economic banner, two Republicans seeking higher office brought their campaigns to Chenango County last night.

Former congressman Bruce F. Caputo, an announced candidate for U.S. Senate, and Assembly Minority Leader James L. Emery, an unannounced candidate for governor, enthusiastically endorsed the Reagan economic program in speeches to the Chenango County Republican Women's Club.

Caputo, a former state assemblyman, said the Reagan administration is committed to a nation that is economically and militarily strong. The Westchester Republican is seeking to unseat Sen. Daniel P. Moynihan, D-N.Y.

At a news conference before his speech, Caputo said his platform emphasizes many of the same elements proposed by the Reagan administration.

The Republican pledged to work to reduce big government, increase the nation's military capabilities, and to strengthen laws against crime. He criticized his Democratic opponent for being weak in all three areas.

"Moynihan's record on those three items is atrocious. He resists efforts to balance the budget. He's voted against some of the most important weapons programs," Caputo said.

He praised the administration for its decision not to defer the cost of living raises for social security recipients.

"I think the social security system ought to be strengthened. It's a pension plan, not a welfare plan," he said.

Emery said the Reagan program for federal tax and spending cuts will return $36 billion to the pockets of New Yorkers over the next three years.

"While each of us may not agree with every spending cut advocated by President Reagan, let's be sure we know the numbers before we start shooting at the program," he said.

Pointing to the spending cuts at the federal level, Emery charged Gov. Hugh L. Carey, a Democrat, has increased state spending 73 percent during his seven years in office.

The Republican said continued high taxes in New York and the high cost of welfare programs have been key factors in driving jobs and people out of the state.

"The fact is that if we had could keep pace with the growth in New Jersey, Massachusetts, Connecticut and the rest of our neighbors, we would have 400,000 more people at work in New York than we have today," Emery said.

Emery said his recent tour across the state has led him to believe there is support for his candidacy, if he should decide to seek the governor's office.

"I would have to say at this point it is very positive," Emery said at a press conference before his speech.

He said his decision to run, which is expected in mid-October, would not be based on the decision of other candidates.

"If I make the decision to run it will not be based on what candidates are in or out of the race," he said.

Emery also denounced a recent poll by The *Albany Times Union* which indicated GOP county chairmen view him as one of the weakest gubernatorial candidates. The poll showed Rep. Jack Kemp, R-Hamburg, was the clear favorite among Republican chairmen.

"It wasn't a weighted poll so it was relatively meaningless. I don't put any credence in it," Emery said, adding the poll put an emphasis on the more heavily populated counties.

Caputo said he has received 43 endorsements from Republican county chairmen across the nation, nearly securing him of the nomination.

"I think nomination on the first ballot is a likelihood, although a politician," he said.

Caputo has received an endorsement from the Chenango County GOP committee, and he is expected to gain the support of the Republican committees in Broome, Tioga and Delaware counties as well.



Assembly Minority Leader James L. Emery, R-Geneseo, makes a point while talking with Assemblyman Clarence D. Rappleyea (left), R-Norwich, and Arthur P. Ives, Republican candidate for Oxford supervisor, at last night's county Republican Women's Club meeting in Norwich.

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STATEN ISLAND

OCTOBER 4, 1981

Republican candidate attacks city comptroller

By MICHAEL AZZARA

The city is headed for another fiscal crisis with a budget deficit of $1.3 billion projected for 1983, Richard Bernstein said yesterday, "and instead of investigating, our comptroller spends all his time being investigated."

Bernstein, the Republican candidate for city comptroller, said that the city has been and continues to be in fiscal trouble while the incumbent Democrat, Harrison J. Goldin, is also in trouble with

"The two... he audit... seem to go hand in hand."

Speaking at a luncheon of the Women's Republican Club of Richmond County in the New Yorker Restaurant, Dongan Hills, Bernstein referred to investigations into Goldin's conduct in connection with a bus shelter franchise and the looting of a major union's welfare fund.

In the bus shelter case, Goldin's office was criticized in a report by the City Investigation Department for practices that may have unfairly favored one bidder over another. In the union case, the comptroller's office has been accused of suppressing an audit showing misuse of welfare funds. The union, Local [illegible] of the Teamsters, supported Goldin's bid for election as state comptroller in 1978, actually [illegible] time the audit was conducted.

Bernstein restated his assertion that the incumbent has conducted only three major audits of transportation operations and that all three dealt with concessions — two of them with Nedick's restaurants.

"He just wanted to see that you got the best hot dog for your dollar," Bernstein declared. "When the subway system stops running, the people will have a good hot dog while they're waiting to be rescued."

The Republican challenger reported that in a recent debate, Goldin challenged him to define the Metropolitan Transportation Authority. His reply, Bernstein continued, was, "It's an asylum being run by the inmates."

"Isn't it time we got a dollar's worth of service for a dollar?" asked the candidate, a Manhattan businessman. "Isn't it time we had a change? Isn't it time we had an honest comptroller?"

Former Westchester Congressman Bruce Caputo reported that he has been endorsed in next year's race for the U.S. Senate by 44 of the state's 62 Republican county leaders. The 44 [illegible] represent a majority of [illegible] at the state convention.

[illegible] Sen. Daniel P. Moynihan said that the Republican National Committee has singled out New York as a state in which a Democratic incumbent is vulnerable.

A GOP poll indicates that 18 percent of the voters are for Moynihan no matter who his opponent is, 14 percent are against him no matter who carries the GOP banner, and 68 percent "don't have an answer."

"Sixty-eight percent," he repeated. "This spells opportunity to me."

Caputo contended that Republicans can win elections in the near future, including this year, on the issue of crime. The public perception is that Republicans will do more than Democrats in this area, he said.

He, Congressman Guy V. Molinari and several other speakers predicted an extremely low turnout in the November election and suggested that this would help Republican candidates, provided Republican workers get out their vote.

Robert Jackson, the GOP candidate for [illegible], said a deterioration in the quality of life has taken place the last 15 years while Democrats have been in office.

Crime has been increasing, Jackson continued, while inefficiency in the borough and city administrations and "the preponderance of judges" are "liberal Democrats."

Other speakers included [illegible] Republican County Chairman

George Hart, Assemblyman Robert A. Straniere, Joseph Aiello, [illegible] and the [illegible]

EXHIBIT 25-M

92040751116

THE HERALD STATESMAN
YONKERS, NY

DECEMBER 3, 1981

Caputo backed for Senate bid

NEW YORK (AP) — It seems that former Rep. Bruce Caputo will get not only the Repub. nomination in his bid for the U.S. Senate but also those of the Conservative and Right to Life parties.

Caputo, of Yonkers, who represented the 23rd District, said Wednesday he practically has the GOP spot locked up with support from 50 of the state's 62 county leaders.

"I'm working on the other 12," he said.

Conservative Party spokesman Serphin Maltese said the Conservatives have backed Caputo in the past and that, against Democratic incumbent Sen. Daniel Moynihan, "He has as good a chance as any and better than most."

The Westchester Conservative Committee already has endorsed him, Caputo said, and he expects other county organizations to back him individually before the party convention next June.

Mary Jane Tobin, state chairman of the Right to Life Party, said, "Mr. Caputo has received our moral commitment," adding that her party finds Moynihan "totally unacceptable."

GOP state chairman George Clark said Wednesday he thinks "it is a foregone conclusion Bruce Caputo is going to be the Republican candidate for the U.S. Senate.

"My candidate, personally, is Bruce. ... I will do everything I can to support him."

Caputo was endorsed by the Conservatives when he was elected to two terms in the state Assembly and when he successfully ran for Congress in 1977. He gained national attention as a persistent questioner during the Watergate investigation.

He gave up his congressional seat to become then-Assemblyman Perry Duryea's running mate in the latter's unsuccessful bid to unseat Democratic Gov. Hugh Carey in 1978.

Caputo, 38, who so far is uncontested in his bid to join fellow Republican Alfonse D'Amato in the Senate, said he already has raised $140,000 in his effort oust Moynihan.

He said he expects to raise much more and also get another $1 million from the national Republican Senate Committee after he nails down the nomination at the party convention in June.

He said his effort to unseat Moynihan, who is completing his first term, could be the most expensive U.S. Senate campaign in New York's history.

EXHIBIT 25-1

For U.S. Senate

Caputo Sees Nomination As 'Locked Up'

By BOB McCARTHY
Cattaraugus Co. Bureau Chief

Bruce Caputo believes he will be the Republican-Conservative nominee to challenge incumbent Democrat Daniel Patrick Moynihan for the U.S. Senate next year.

In fact, the former Westchester County congressman believes it's all "locked up."

With 50 county chairman expressing their support, and 78 percent of the state Republican convention counted on his side along with almost certain backing from the Conservative Party, Mr. Caputo is certain even a last minute candidacy of another candidate barring Jack Kemp, will not stop his drive to the nomination.



FORMER CONGRESSMAN Bruce Caputo explains how he believes he has locked up the Republican and Conservative nominations for the right to take on Senator Patrick Moynihan for the U.S. Senate next year during a visit to Times Herald offices Monday. Mr. Caputo believes he has secured the support of New York state's 62 Republican county chairmen and 78 percent of the 1978 convention's support. The Associated Press reported Sen. Buckley and Caputo met Monday as well as a fitting with Cattaraugus County Republican [illegible]

Times Herald Photo

"The fact that no other candidate showed up at Conservative Party openings held in New York over the weekend suggests it's over," he said during a visit to Times Herald offices Monday.

MR. CAPUTO, who was Perry Duryea's running mate in the 1974 gubernatorial election, has been running hard since early this year in an attempt to sew up the nomination before anyone else has even started. He has raised $ 50,000 so far and expects to receive as much as $1.25 million in funds from the Republican and Conservative organizations.

Why is he so "smug" about his hold on the nomination?

"Because about this point in time most candidates start talking about running. He estimates [illegible] percent of the convention already [illegible] with a magic number of 75 percent, no other candidate is allowed on the floor.

"He [illegible] preempting the field [illegible] Senator Buckley.

"In the primary we [illegible] now less than a year away Mr. Caputo sees Daniel Moynihan as a vulnerable opponent. He considers much more vulnerable than Gov. Hugh Carey.

"He doesn't have the powers of the incumbency as Carey has," he says. "And there are people who have no opinion about Hugh Carey." Mr. Caputo says he believes few people in New York state have any opinion about Daniel Moynihan, leaving room to challenge his reputation as an "architect of the cash welfare system."

He's voted for all the big spending programs and has always believed most problems can be solved from Washington through government, with big spending and high taxes. [illegible] Carey, New Yorkers [illegible] more

The candidate recites a [illegible] of party issues gaining support from the incumbent: busing, gun control, [illegible] of draft evaders, opposition to restoration of capital punishment, all issues which he says don't especially matter much in counties like Cattaraugus.

"I believe if the people in Cattaraugus go to the polls evaluating on the guy who will stop spending and beer taxes and Moynihan is the guy who is, while for more spending and higher taxes [illegible]

Mr. Caputo, who gained national prominence during the [illegible] congressional hearings into the Nixon case, believes the Democratic party is [illegible] the candidate pertaining to [illegible] by Ronald Reagan, Edward Regan, George Bush and the [illegible] race waged by Gerald Ford in 1976.

And when he talks to Democrats who are [illegible] Ronald Reagan philosophy, he takes issue with the president's position in a number of areas, such as Social Security.

That program has to be strengthened and the [illegible] made to see immediately [illegible] what he calls [illegible] Mr. Caputo says.

[illegible] A SENATOR from New [illegible] Bruce Caputo

[illegible] promises to change the [illegible] more prominent in agricultural affairs, belong to the only [illegible] New York's majority [illegible]

He would seek tax [illegible] in expansion of the food processing industry in New York [illegible] to absorb agricultural [illegible] and control [illegible] information on [illegible] products [illegible] Florida and Sidney [illegible]

He [illegible] that New [illegible] that [illegible] against economic [illegible] who have studied the [illegible] to [illegible] such proposals.

The candidate predicts [illegible] in Florida, many [illegible] of metropolitan area [illegible] and [illegible] is [illegible] [illegible] is the least area as [illegible] [illegible] is [illegible] interest in [illegible] issues like the issues which [illegible] spending that be [illegible] [illegible] [illegible]

93107511119

Buffalo Courier Express
December 18, 1981

Lehrman Announces Gubernatorial Bid In GOP Primary Fight

By Ray Herman

Wealthy Manhattan businessman Lewis E. Lehrman, a conservative Republican, served notice here yesterday that he's in next year's gubernatorial election "to the end." He said if it came to it, he'd "aggressively campaign" on the Conservative Party ballot line alone an event which ironically would put him against a fellow Republican in the 1982 general election campaign.

At the same time, Lehrman, the founder and chairman of the board of the Rite Aid pharmacy chain, told the Courier Express editorial board that he'll seek the Republican gubernational nomination in next year's primary elections, a move which could put him on a collision course with such GOP notables as State Comptroller Edward V. Regan of Buffalo and former Republican State Chairman Richard M. Rosenbaum of Rochester.

In a telephone interview yesterday, Republican State Chairman George L. Clark openly predicted a GOP primary fight, adding that "at the moment, Ned Regan, based on what I've seen, appears to be the guy to beat ... the other candidates would gain sufficient momentum to win but that is not for me to say."

Clark said that his belief that "at this moment, Ned appears to be the strongest candidate" does not constitute a Clark endorsement. He added that he'll invite the party's 62 county chairmen to a meeting in early January to discuss a 1982 state ticket with the governor's race heading the agenda.

While most party leaders seem convinced that a 1982 primary pitting Lehrman and Rosenbaum against Regan, the Republican leader in recent gubernatorial polls has cast some doubt on such assumptions by noting that the Conservative endorsement would be an extremely important factor in deciding whether a run for governor by Lehrman appears to have the same charm on the Conservative line. An assessment which Clark [illegible]

How the Republicans and Conservatives interface next year on governor could be crucial in terms of the GOP-Conservative wish to replace Democratic Gov. Hugh L. Carey, who is expected to seek re-election.

In several recent statewide elections, Conservative support for GOP candidates has been pivotal. President Reagan and Sen. Alfonse M. D'Amato carried New York last year with the Conservative ballot line spelling the difference and Regan was elected comptroller on the strength of his Conservative vote three years ago in a state which has 1 million more Democrats than Republicans.

Accordingly, Clark said yesterday that "my game plan is to sit down with Conservative leaders and try to agree on the best person to run for governor ... it won't be a case of us telling them who to run or them telling us who to run."

The sensitive GOP-Conservative situation is fraught with political danger. In for example the 1982 scenario sees Republican Lehrman on the Conservative line and Regan for example on the GOP line, Lehrman and Regan would probably split the GOP vote with Carey easily winning the race.

Clark also disclosed that former Congressman Bruce F. Caputo of Yonkers has the GOP Senate endorsement hauled down last year in the party's bid to unseat Democrat incumbent Daniel P. Moynihan.

During his meeting with the editorial board, Lehrman proposed a sweeping array of state tax reductions including a 40 percent decrease in state income tax rates over eight years, ending state taxes, scrapping for tax purposes the difference between earned and unearned income, the elimination of the capital gains tax over a four year period and abolishing corporate taxes on small businesses.

Lehrman, however, appeared to judge somewhat on how the immediate shortfall in tax revenues could be made up. He said that aid to education, a sacred cow in the State Legislature, and Medicaid funding should be cut back but he declined to give details, declaring that he'll spell out his positions after he formally announces for governor next month.

He said the tax reductions, which also included putting a cap "by statute" on local property taxes, were designed to make New York competitive with neighboring states in fostering economic development.

Lehrman and Caputo attended a $20 per person state Conservative Party fund raising reception last night at D'Youville College Center. They were joined by Serphin R. Maltese, executive director of the state Conservative organization and County Conservative Chairman George A. Vossler.

Four persons received special Conservative awards for public service. They were Chester R. Hart, former chairman of the Niagara Frontier Transportation Authority.

EXHIBIT 25-Y

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Dominic J. Baranello, Chairman
New York State Democratic Committee
60 East 42nd Street
New York, New York 10166

Dear Mr. Baranello:

This letter is to acknowledge receipt of your complaint of January 27, 1982, against National Conservative Political Action Committee, Caputo For Senate Committee, John T. Dolan, Arthur Finkelstein, and Arthur Finkelstein & Associates which alleges violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. The respondents will be notified of this complaint within 5 days and a recommendation to the Federal Election Commission as to how this matter should be initially handled will be made 15 days after the respondents' notification.

You will be notified as soon as the Commission takes final action on your complaint. Should you have or receive any additional information in this matter, please forward it to this office. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Phyllis A. Kayson

Phyllis A. Kayson
Docket Chief

Enclosure

cc: Melvin L. Schweitzer

2042751121

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Caputo For Senate Committee
2 West 45th Street, Suite 1703
New York, New York 10036

Re: MUR 1424

Dear Sir:

This letter is to notify you that on January 28, 1982 the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1424. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate, in writing, that no action should be taken against your Committee in connection with this matter. Your response must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

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

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If you have any questions, please contact Lee Andersen, the attorney assigned to this matter at (202) 523-5071. For your information, we have attached a brief description of the Commission's procedure for handling complants.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

2204275112 5

Enclosures

1. Complaint
2. Procedures
3. Designation of Council Statement

cc: Bruce Caputo

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Conservative Political Action Committee
1500 Wilson Boulevard, Suite 1500
Arlington, Virginia 22209

Re: MUR 1424

Dear Sir:

This letter is to notify you that on January 28, 1982 the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1424. Please refer to this number in all future correspondence.

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2 0 0 4 0 7 5 1 2 4

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Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

9204075112 5

Enclosures

1. Complaint
2. Procedures
3. Designation of Council Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John T. Dolan
National Conservative Political Action Committee
1500 Wilson Boulevard, Suite 513
Arlington, Virginia 22209

Re: MUR 1424

Dear Mr. Dolan:

This letter is to notify you that on January 28, 1982 the Federal Election Commission received a complaint which alleges that your Committee may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1424. Please refer to this number in all future correspondence.

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9204075126

If you have any questions, please contact Lee Andersen, the attorney assigned to this matter at (202) 523-5071. For your information, we have attached a brief description of the Commission's procedure for handling complants.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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Enclosures

1. Complaint
2. Procedures
3. Designation of Council Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Arthur J. Finkelstein
Arthur J. Finkelstein & Associates
117 Smith Avenue
Mt. Kisco, New York 10549

MUR 1424

Dear Mr. Finkelstein:

This letter is to notify you that on January 28, 1982 the Federal Election Commission received a complaint which alleges that you may have violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") or Chapters 95 and 96 of Title 26, U.S. Code. A copy of this complaint is enclosed. We have numbered this matter MUR 1424. Please refer to this number in all future correspondence.

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Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

9224075129

Enclosures

1. Complaint
2. Procedures
3. Designation of Council Statement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 3, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur Finkelstein & Associates
117 Smith Avenue
Mt. Kisco, New York 10549

Re: MUR 1424

Dear Sir:

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Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

2204075.131

Enclosures

1. Complaint
2. Procedures
3. Designation of Council Statement

2089469 RECEIVED
Acct# 7198
82 FEB 18 P12: 51

MILGRIM THOMAJAN JACOBS & LEE

PROFESSIONAL CORPORATION

THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
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GEORGE L. GRAFF
ROBERT A. JACOBS
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SAMUEL D. ROSEN
ROBERT THOMAJAN

JAMES E. BECKWITH*
EUGENE A. DANAHER
ANDREW L. DEUTSCH
MICHAEL L. ETTINGER
MICHAEL S. GILLILAND
A. DAVID GRAUS
JAMES D. KLEINER
MARC M. LEVEY*
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LAWRENCE N. MULLMAN
JOHN M. SCAGNELLI
JEANNE L. SCHROEDER
JUDITH SCOLNICK
SIMON TAYLOR*
LAWRENCE I. WEINSTEIN

February 12, 1982

FEB 18 4:39 PM '82
FEC

Lee Andersen, Esq.
Federal Election Commission
1325 A Street, N.W.
Washington, D.C.

Re: MUR 1424
Our File 1445-5

Dear Mr. Andersen:

We represent the Caputo For Senate Committee, Inc. (one of the respondent's in the above-referenced complaint), and acknowledge receipt of your letter containing the complaint on February 7, 1982. We respectfully request an adjournment of the time within which respondent may answer the complaint from Monday, February 22 to Monday, March 22, 1982. I am the principal counsel for Caputo For Senate Committee and will be on vacation from Friday, February 12 through February 22.

Would you kindly acknowledge receipt of the enclosed and confirm your consent to such adjournment by countersigning the enclosed copy of this letter.

Very truly yours,

Roger H Kimmel

Roger H. Kimmel

RHK/ce
6722F
cc: Mr. Bruce Caputo
Mr. A. MacDonald Caputo

RECEIPT ACKNOWLEDGED AND
ADJOURNMENT CONFIRMED:

_____

2089469

RECEIVED
82 FEB 18 P12:

STATEMENT OF DESIGNATION OF COUSEL

NAME OF COUNSEL: MILGRIM THOMAJAN JACOBS & LEE, P.C.

ADDRESS: The Chrysler Building, 405 Lexington Avenue, New York, NY 10174

TELEPHONE: (212) 867-6660

Roger H. Kimmel, Esq.
George L. Graff, Esq.

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

Date _____ Signature _____

NAME: Austin T. Fragomen, Jr., Esq.
Fried, Fragomen & Del Rey, P.C.
ADDRESS: 515 Madison Avenue
New York, New York 10022

HOME PHONE:

BUSINESS PHONE: (212) 688-8555

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SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 1100

8300 GREENSBORO DRIVE

McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
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JANIS A. CHERRY
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WASHINGTON, D.C. 20006
(703) 821-1000

TELEX: 710-831-0898

CABLE: SEDAMHERGE

82 FEB 18 P4:39

February 15, 1982

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: Lee Andersen, Esq.

Re: MUR 1424

Dear Mr. Gross:

We are writing with reference to your letter to National Conservative Political Action Commiteee, dated February 5, 1982, with which was enclosed a copy of a complaint filed with the Federal Election Commission by the New York State Democratic Committee and which has been numbered MUR 1424.

Enclosed herewith, for your records, is the Statement of Designation of Counsel of National Conservative Political Action Committee, designating the undersigned as its counsel in connection with this matter.

According to our calculation, the initial reply to the complaint by National Conservative Political Action Committee is due on or before February 20, 1982. In view of the number of allegations by the complainant, the number of exhibits and the need to discern a number of facts, we respectfully request an extension of time, to March 5, 1982, within which to submit our client's initial reply.

Sincerely yours,

J. Curtis Herge

2004648

STATEMENT OF DESIGNATION OF COUSEL

NAME OF COUNSEL: J. Curtis Herge
Sedam & Herge

ADDRESS: 8300 Greensboro Dr. Suite 1100
McLean, VA 22102

TELEPHONE: (703) 821-1000

RE: MUR 1424

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

NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

February 5, 1982
Date

BY: Leif E. Noren
Signature
Leif E. Noren - Asst. Treasurer

NAME: National Conservative Political Action Committee

ADDRESS: 1500 Wilson Blvd. #513, Arlington, VA 22209

HOME PHONE: (703) 941-4226

BUSINESS PHONE: (703) 522-2800

2274027511335

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 1982

Roger H. Kimmel
Milgrim, Thomajan, Jacobs & Lee
The Chrysler Building
405 Lexington Ave.
New York, New York, 10174

Re: MUR 1424

This is in response to your letter of February 12, 1982, requesting an extension of time to make an initial response to the Commission's notification of complaint, received by you on February 7, 1982. The statutory time period for making such a response is fifteen (15) days, and allowing three (3) days for mail delivery, we would normally expect to receive your response by February 25, 1982.

You have requested a thirty (30) day extension for the reason that you will be on vacation until February 22, 1982. Since you will be back from your vacation on February 22, 1982, however, a twenty (20) day extension from the due date of February 25, 1982 will provide you with more than the usual fifteen (15) days from the date of your return to make a reply to the Commission. In the interest of avoiding any unnecessary delays, therefore, the Office of General Counsel grants you an extension of time to respond to the complaint filed against your client, the Caputo for Senate Committee, until March 15, 1982.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 22, 1982

J. Curtis Herge
SEDAM & HERGE
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Herge:

This is in response to your letter of February 15, 1982, requesting an extension of time until March 5, 1982, to file an initial response to the Commission's notification of complaint, dated February 3, 1982. The Office of General Counsel hereby grants the extension of time you request. If you have any further questions, please call R. Lee Andersen, the attorney assigned to this matter at (202) 523-4071.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

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FEC # 726E
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March 2, 1982

82 MAR 4 AM 10:07

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Attention: R. Lee Andersen, Esq.
Office of General Counsel

Re: MUR 1424

Dear Mr. Gross:

This letter constitutes a response on behalf of our clients, National Conservative Political Action Committee and its Chairman, Mr. John T. Dolan, to a complaint filed with the Federal Election Commission by the New York State Democratic Committee, which has been numbered MUR 1424.

In its complaint, the New York State Democratic Committee (hereinafter "the Complainant") alleged that expenditures made by National Conservative Political Action Committee (hereinafter "NCPAC") in opposition to the nomination of Senator Moynihan for election to the United States Senate from the State of New York were not independent expenditures as defined in 2 U.S.C. 431(17), but were in-kind contributions to the Caputo for Senate Committee as defined in 11 CFR 109.1(c). In support of that allegation, the Complainant argues that there

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is evidence that the Caputo for Senate Committee, or its agent, directly cooperated, consulted or coordinated with NCPAC in the making of its expenditures. Specifically, it is alleged that this cooperation, consultation and coordination took place through Mr. Arthur J. Finkelstein, of Arthur J. Finkelstein & Associates, who served as a consultant to the Caputo for Senate Committee and who assisted NCPAC in the planning and placement of its advertisements in opposition to Senator Moynihan. The Caputo for Senate Committee is the principal campaign committee of Mr. Bruce Caputo, a candidate for the Republican nomination for election to the United States Senate from the State of New York.

Mr. Dolan and NCPAC assert that the Complainant's allegations fail to support a finding that respondents have violated the Federal Election Campaign Act of 1971, as amended, and welcome this opportunity, pursuant to 11 CFR 111.6(a), to demonstrate that no action should be taken on the basis of the complaint.

NCPAC is a multicandidate political committee subject to the provisions of the Federal Election Campaign Act of 1971, as amended. It is a matter of record that, as a part of its programs, NCPAC makes independent expenditures in opposition to the nomination for election or election of certain clearly

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identified candidates. In 1981, NCPAC commenced a program of making independent expenditures advocating the defeat of Senator Moynihan, a candidate for the Democratic nomination for election to the United States Senate from the State of New York. A copy of the script of the advertisement produced and broadcast by NCPAC in that connection is enclosed. In conducting that program, NCPAC has complied with, and has been guided by, the provisions of 2 U.S.C. 431(17); 11 CFR 109.1(a) and (b); and, Advisory Opinion 1979-80. As a result, it is submitted that the complaint fails to allege a violation of the Federal Election Campaign Act of 1971, as amended, and that the Federal Election Commission is required to dismiss the complaint as a matter of law.

An independent expenditure is defined at 2 U.S.C. 431(17), as follows:

> The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

Commission regulations, at 11 CFR 109.1(b)(4), provide that an expenditure will not be deemed independent if there has been "any arrangement, coordination, or direction by the

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candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication." An expenditure is presumed not to be independent when it is:

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or
>
> (B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent.

Thus, as the regulations indicate, an expenditure is presumed not to be independent if it is based upon information about the candidate's plans, projects or needs provided to the expending person by the candidate, or candidate's agents, with a view toward having an expenditure made; or is made by or through persons falling into specified categories. 11 CFR 109.1(b)(4)(i)(A) and (B). The Federal Election Commission has previously determined, however, that the provisions of 11 CFR 109.1(b)(4) are not applicable to the matter at hand.

In Advisory Opinion 1979-80, dated March 13, 1980, the Federal Election Commission responded to a number of specific questions concerning NCPAC's ability to use certain vendors while making independent expenditures. Certain of those responses are

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dispositive of this matter. For example, NCPAC asked if it could engage an advertising firm for the purpose of designing the layout and text of print advertisements advocating the defeat of a candidate for the Democratic nomination for President if that same firm had been engaged by the campaign committee of a candidate for the Republican nomination for President. The Commission responded, in Answer 1, that NCPAC's ability to make independent expenditures would not be compromised by engaging the advertising firm, because "these are two distinct races, the Democratic candidate and the Republican candidate are not opponents" until the Republican candidate for nomination becomes the nominee. This and other responses in the Advisory Opinion indicate that, in a primary campaign, the candidate seeking the nomination of the Republican Party is in a separate and distinct race from, and is not an opponent of, the candidate seeking the nomination of the Democratic Party for election to the same office. Furthermore, NCPAC may make independent expenditures advocating the defeat of the candidate for the Democratic nomination for the Senate through a person who is an agent of the candidate for the Republican nomination for the Senate, until the Republican candidate for nomination becomes the nominee. Mr. Caputo and Mr. Moynihan were, during the period at issue, in two

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distinct races. Thus, the provisions of 11 CFR 109.1(b)(4)(i)(B) are not applicable to this matter.

Under 11 CFR 109.1(b)(4)(i)(A), an expenditure is presumed not to be independent when it is based upon information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents, with a view toward having an expenditure made. This separate issue was also addressed in Advisory Opinion 1979-80. In response to the question whether NCPAC may engage in any communication with a particular candidate for the Republican nomination when it is making independent expenditures in opposition to a candidate for the Democratic nomination for election to the same office, the Commission stated, in Answer 8:

> "During the primary election period NCPAC may communicate with the Republican candidate....However, if the Republican candidate should become the nominee, that communication could preclude NCPAC from making independent expenditures regarding the candidates in the general election...."

The Advisory Opinion contained no restriction or qualification upon the nature or content of the communication had with the Republican candidate under the described circumstances. As a consequence, it is not necessary to delve into the factual allegations made by the Complainant, the Advisory Opinion being dispositive of the issue as a matter of law.

The Complainant argues that Advisory Opinion 1979-80 is not dispositive because there was no indication in the Advisory Opinion, or in the advisory opinion request, that the candidate for the Republican nomination had directly cooperated, consulted,or coordinated with NCPAC in the making of its expenditures in opposition to the candidate for the Democratic nomination for election to the same office. That argument is without merit, it having been summarily rejected by the Federal Election Commission in MUR 1231.

In that matter, the South Dakota Democratic Party complained that NCPAC's expenditures in opposition to Senator McGovern's nomination were not independent, because "NCPAC worked systematically to bring Mr. [James] Abdnor into the race for the South Dakota Republican U.S. Senate nomination" by making poll results available to Rep. Abdnor and by encouraging Rep. Abdnor to become a candidate for the Republican nomination for election to the United States Senate from South Dakota. As does the Complainant, the South Dakota Democratic Party argued that there was evidence of on-going coordination with the Abdnor campaign after Abdnor became a candidate. In submitting the complaint to the Federal Election Commission, the General Counsel analyzed Answer 1 and Answer 8 in Advisory Opinion 1979-80 and, in light

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of indications that NCPAC had cooperated, consulted or coordinated with the Abdnor campaign, recommended that the Commission find reason to believe that NCPAC violated the Act by making excessive in-kind contributions to Friends for Jim Abdnor. The reasoning of the General Counsel was, as follows:

> The narrow question presented in question 1 of the AO [Advisory Opinion 1979-80] was whether the presumption of non-independence called for by 11 C.F.R. §109.1(b)(4)(i)(B) (use of person compensated by the candidate) would apply. Unlike the present situation there was no indication in the advisory opinion request that the candidate supported by NCPAC had directly cooperated, consulted, or coordinated with NCPAC in the making of its expenditures. If a primary candidate of one party does cooperate, consult, or coordinate with a person making expenditures in opposition to a primary candidate of the other party, the funds so expended are by the terms of the statute contributions to the requesting candidate, even though the candidates do not then oppose each other. The AO only indicated that in the absence of such evidence of cooperation with the candidate, the use of a firm compensated by the candidate supported will presumptively make the expenditures contributions to the candidate supported when the candidate is the nominee in the general election.
>
> Also without merit is NCPAC's argument that the response in AO 1979-80 to question 8 indicates that under no circumstances could communications to a primary candidate affect whether the expenditures made by the communicating party against a primary candidate of another party are independent rather than contributions. The Commission there stated that communications to a primary candidate could preclude the person from making truly independent expenditures in the general election if that candidate became his party's nominee. The AO should not be read to mean that only if

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> two candidates are opponents in the general election could communications with one candidate compromise the ability to make independent expenditures against the other candidate. As indicated above, if a primary candidate cooperates, consults, and coordinates with a person regarding expenditures against a primary candidate of a different party, the person making the expenditures would plainly be making a contribution to the candidate consulted as a result of such communication.

On July 29, 1980, the Commission rejected the interpretation and recommendation of the General Counsel and voted, 4-2, to close the file on MUR 1231.

Complainant argues that the result in MUR 1231 is not dispositive, because there was insufficient evidence in that case of consultation, cooperation or coordination between NCPAC and the Abdnor campaign to warrant a reason to believe finding. Such an argument is without merit. As in the case of the instant complaint, the South Dakota Democratic Party alleged specific facts as evidence of coordination. The General Counsel, in the First General Counsel's Report in MUR 1231, stated: "These facts, we believe, would support a determination that there is reason to believe more than $5,000 worth of the expenditures undertaken by NCPAC against Senator McGovern were made in cooperation or consultation with, or through coordination by, Representative Abdnor and were thus contributions to him in excess of 2 U.S.C. 441a(a)(2)(A)." The rejection by the

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Commission of that observation and recommendation can be justified rationally only on the grounds that the Commission found the legal principles in Advisory Opinion 1970-80 to be controlling.

In a futile attempt to change the conclusion dictated by Advisory Opinion 1979-80, as interpreted by the Commission in MUR 1231, the Complainant argues that Mr. Caputo should be considered the de facto nominee of his party against Senator Moynihan. Current press reports do not indicate that that is necessarily the case. In any event, the Commission has never drawn a legal distinction between an opposed and an unopposed primary candidate. See AO 1975-9; AO 1978-41 and AO 1979-80.

In conclusion, therefore, the activities complained of by the Complainant are indistinguishable in all material aspects from the activities complained of by the South Dakota Democratic Party in MUR 1231. As a result and in light of Answer 1 and Answer 8 in Advisory opinion 1979-80, as interpreted by the Commission in MUR 1231, the Commission is required by 2 U.S.C. 437f(c) to close the file on this matter. Section 437f(c) provides:

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Persons entitled to rely upon opinions; scope of protection for good faith reliance.

(1) Any advisory opinion rendered under [2 U.S.C. 432f(a)] may be relied upon by -

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is a indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not as a result of any such act, be subject to any sanction provided by this Act or by Chapter 95 or Chapter 96 of title 26.

We respectfully request that the Federal Election Commission review the complaint and this response on an expedited basis.

Sincerely yours,

J. Curtis Herge
Counsel to National Conservative
Political Action Committee

2 0 4 0 7 5 1 - 4 9

National Conservative
Political Action Committee
1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-2800

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SCRIPT OF MOYNIHAN RADIO AD(GAME SHOW FORMAT)

ANNOUNCER: WHO WAS THE MOST LIBERAL UNITED STATES SENATOR IN 1980?

WOMAN: OH, I KNOW, UH UH, TED KENNEDY.

ANNOUNCER: I'M SORRY, THAT'S WRONG. THE MOST LIBERAL SENATOR WAS DANIEL MOYNIHAN.

WOMAN: YOU'RE KIDDING. WHO SAYS?

ANNOUNCER: THE AMERICAN CONSERVATIVE UNION.

WOMAN: NO, MORE LIBERAL THAN GEORGE MCGOVERN?

ANNOUNCER: WELL, MOYNIHAN TIED MCGOVERN FOR MOST LIBERAL.

WOMAN: I DON'T BELIEVE IT.

ANNOUNCER: WELL, HE VOTED TO GIVE AWAY THE PANAMA CANAL, AND HE OPPOSED CUTTING BACK ON GOVERNMENT SPENDING. AND YOU KNOW, HE HELPED DEVELOP OUR RUNAWAY WELFARE SYSTEM.

WOMAN: MOYNIHAN SHARES RESPONSIBILITY FOR OUR WELFARE SYSTEM?

ANNOUNCER: YES, DANIEL MOYNIHAN MUST SHARE RESPONSIBILITY FOR OUR RUNAWAY WELFARE SYSTEM.

WOMAN: GEE, I DIDN'T KNOW THAT.

ANNOUNCER: AND HE VOTED AGAINST CAPITAL PUNISHMENT, OPPOSED THE B-1 BOMBER, HE SUPPORTS INCREASED TAXES, HE EVEN VOTED FOREIGN AID TO COMMUNIST COUNTRIES LIKE CUBA, CAMBODIA AND VIETNAM.

WOMAN: WAIT, WAIT ENOUGH. WHAT WOULD HAPPEN IF THE PEOPLE KNEW THIS?

ANNOUNCER: HE'D BE DEFEATED. WHICH IS WHY NEW YORK STATE TAXPAYERS ARE FED UP WITH MOYNIHAN AND WHY THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE HAS PAID FOR THIS COMMERCIAL. (NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.)

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN, A PROJECT OF THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.

2 50844

RECEIVED
Gc# 7364
82 MAR 16 P12:38

MILGRIM THOMAJAN JACOBS & LEE
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GEORGE L. GRAFF
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LEO G. KAILAS
ROGER H. KIMMEL
LAWRENCE A. KOBRIN
DAVID P. LANGLOIS

JAMES R. LEDLEY
ALFRED T. LEE
RAYMOND A. MANTLE
ROBINSON NARREL
ROBERT A. MEISTER
ROGER M. MILGRIM
GRIFFITH B. PRICE, JR.
SAMUEL D. ROSEN
ROBERT THOMAJAN

JAMES E. BECKWITH
EUGENE A. DANAHER
ANDREW L. DEUTSCH
MICHAEL L. ETTINGER
MICHAEL B. GILLILAND
A. DAVID GRAUS
JAMES D. KLEINER
MARC M. LEVEY
STUART H. MEISTRICH
LAWRENCE N. MULLMAN
JOHN M. SCAGNELLI
JEANNE L. SCHROEDER
JUDITH SCOLNICK
SIMON TAYLOR
LAWRENCE I. WEINSTEIN

March 15, 1982

FEDERAL EXPRESS

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

Attention: R. Lee Andersen, Esq.
Office of General Counsel

Re: MUR 1424
New York State Democratic Committee, Petitioner, v. National Conservative Political Action Committee, et al., Respondents.
Our File 1445-5

Dear Mr. Andersen:

On behalf of the Caputo for Senate Committee, I enclose herewith an Affidavit of Bruce Caputo, which serves as the Committee's answer to the above-captioned complaint.

Would you kindly acknowledge receipt of the enclosed Affidavit by counter-signing the enclosed copy of this letter and returning same to me in the envelope provided.

We appreciate your extension of our time to answer.

Sincerely,

Roger H. Kimmel

RHK:eag
Enclosure
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BEFORE THE FEDERAL ELECTION COMMITTEE

In the matter of	)	
	)	
NATIONAL CONSERVATIVE	)	
POLITICAL ACTION COMMITTEE, CAPUTO	)	MUR 1124
for SENATE COMMITTEE, JOHN T. DOLAN,	)	
ARTHUR FINKELSTEIN and ARTHUR	)	AFFIDAVIT OF
FINKELSTEIN & ASSOCIATES	)	BRUCE CAPUTO
	)	

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

BRUCE CAPUTO, being duly sworn, deposes and says:

1. I am a former candidate for the Republican nomination for United States Senator from New York. I have read the complaint filed by the New York State Democratic Committee in the above matter and am making this affidavit to describe to the Commission the nature of the relationship between my campaign committee and the National Conservative Political Action Committee ("NCPAC") which is the subject of the complaint.

2. The complaint characterizes Mr. Arthur Finkelstein as the "Key Strategist" who directed a coordinated effort on the part of the Caputo campaign committee and NCPAC to seek the defeat of the incumbent Senator Moynihan. From this it asks the Commission to rule that NCPAC expenditures were "in cooperation or concert" with our campaign and that, accordingly, NCPAC

expenditures should have been treated by us as contributions in kind.

3. At the outset, I wish to state unequivocally that at no time did my campaign, or any of its officials, control, coordinate, approve or otherwise seek to influence NCPAC's campaign against Senator Moynihan. NCPAC is a large national organization which seeks the defeat of congressional figures who oppose its views on various issues. Although I agree with many of NCPAC's positions, I disagree with their stand on others. For that reason and others totally unrelated to the question of campaign funding, my campaign committee maintained complete independence from NCPAC and other ideological groups.

4. Specifically, we never sought to direct or influence the efforts of NCPAC, coordinate its efforts with ours, or use its campaign to defeat Mr. Moynihan as part of our own campaign in any way. Thus, in some instances, NCPAC criticized Senator Moynihan for taking the very same positions which I had taken while I was in Congress--for example, both of us voted against the B-1 bomber. Obviously, I would not have consented to NCPAC's criticism of Moynihan on that ground if I had any say in the matter.

5. In attempting to create a link between NCPAC and my campaign committee, the complaint substantially exaggerates the

role of Mr. Arthur Finkelstein. Mr. Finkelstein is a professional pollster and consultant who was retained to assist us in planning our campaign. He had no authority to make policy or raise and expend funds. So far as I know, he played a similar role at NCPAC; he was a consultant who was retained to perform particular services. I do not believe he is currently part of NCPAC's management or has any ongoing role in that organization.

6. When we first became aware that NCPAC had retained Mr. Finkelstein (sometime after we retained Mr. Finkelstein for our own campaign) we were advised by counsel that, so long as we were engaged in a primary campaign for the Republican nomination and NCPAC's activities were directly solely at Mr. Moynihan, it was not improper for Mr. Finkelstein to provide services to both organizations. The distinction between a primary campaign and the election campaign was no mere formality; despite the confidence I expressed in my ultimate success, my attainment of the Republican nomination was never assured. At the time of the NCPAC campaign, the Republican nominee was not going to be selected for another eleven months; there were other candidates with substantial support--Jack Kemp and Lou Lehrman for example; there were questions about my ability to finance the campaign; Mr. D'Amato, the Republican Senator from New York, had reservations about my candidacy; several Republican leaders expressed

doubt about my ability to attract support from the Conservative Party, and I considered myself struggling--as it turned out, unsuccessfully--to obtain the nomination.

7. Although I was anxious to persuade my fellow Republicans that I could successfully oppose Mr. Moynihan, my campaign was, in law and fact, a campaign against other Republicans for the nomination and not against Senator Moynihan. And, the mere fact that NCPAC employed Mr. Finkelstein to assist its campaign against Senator Moynihan--an effort which would presumably benefit all Republicans--is hardly sufficient to convert NCPAC's efforts into a contribution in kind to my campaign to obtain the nomination.

8. Although we retained services of the same consultant, there was no coordination or cooperation whatsoever between my campaign and NCPAC. I have no knowledge as to whether NCPAC may have used any of my campaign literature, but I do know that we never suggested, authorized or consented to such use.

9. Far from supporting the allegations of the complaint, the incident involving our return of $4,400 to NCPAC illustrates our arm's length relationship. It is my understanding that NCPAC contributed that amount to my campaign as an

outright gift and I was quite surprised when I learned NCPAC asked for its money back. Although I was disappointed, it has always been my policy, if a contributor seeks return of his money, to give it back. But, my decision to do so can hardly be construed as a contribution to NCPAC.

10. In sum, the Caputo campaign did not cooperate, consult or act in concert with NCPAC's campaign against Senator Moynihan. Although Mr. Finkelstein, an outside consultant, did provide services to both organizations, we understood and we still believe that, during the period we were engaged in a primary campaign for the Republican nomination, such a relationship was entirely lawful. NCPAC's campaign against the democratic incumbent was completely separate and independent from my own unsuccessful effort to obtain the Republican nomination and I believe that the attempt by the New York State Democratic Committee to characterize NCPAC's effort as a contribution to my campaign is entirely without merit.

Bruce Caputo

Sworn to before me
this 12 day of March 1982

Notary Public

GEORGE L. CRAFF
Notary Public, State of New York
No. 31-4675503
Qualified in New York County
Commission Expires March 30, 1982

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G.C. # 7473
82 APR 2 A11 : 49

NEW YORK STATE DEMOCRATIC COMMITTEE

DOMINIC J. BARANELLO, *Chairman*

MELVIN L. SCHWEITZER, *Counsel*
Chairman of Law Committee

200 PARK AVENUE
SUITE 5200
NEW YORK, N. Y. 10017
212 - 972-7023

March 29, 1982

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

Re: New York State Democratic Committee
v. National Conservative Political
Action Committee, et al.

Dear Mr. Anderson:

I am writing on behalf of the New York State Democratic Committee ("State Committee") with respect to the State Committee's Complaint in the captioned matter.

Since the filing of the Complaint on January 27, 1982, certain revelations have appeared in the press concerning Bruce F. Caputo which have caused him to announce his withdrawal from the race against Senator Daniel Patrick Moynihan. The State Committee wishes to reaffirm its Complaint at this time. The Complaint alleges violations of the Federal Election Campaign Act of 1971, as amended which already have been committed by the National Conservative Political Action Committee ("NCPAC") and by Mr. Caputo's campaign committee, among others. The consideration by this Commission of whether these violations have occurred is in no way affected by Mr. Caputo's withdrawal.

Although the legal argument section of the Complaint contains a discussion of then candidate Caputo's status as unopposed for the Republican nomination, the violations complained of are not

60 EAST 42ND STREET, NEW YORK, N. Y. 10017 212 - 986-2955

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predicated upon this fact. See MUR 1231.

Also, since the filing of this Complaint, the State Committee has obtained additional documentary proof that respondent Arthur Finkelstein has consulted with NCPAC in connection with its media expenditures against Senator Moynihan while at the same time acting for and receiving compensation from the Caputo Committee as its campaign and media strategist. Attached hereto is a copy of a letter from NCPAC's counsel, J. Curtis Herge to the Chairman of the Federal Communications Commission dated September 22, 1981. The letter requests the FCC to investigate and act on certain alleged attempts by Senator Moynihan to persuade the New York State Broadcasters Association (the "Association") not to do business with NCPAC, in part, because of the content of the NCPAC-sponsored advertisements. In the letter Mr. Herge requests a meeting for himself and NCPAC's Chairman John T. Dolan (another respondent herein) with the FCC's Chairman to discuss the matter further.

The letter was annexed to motion papers that were filed by the Association to dismiss a lawsuit brought by NCPAC against it and a number of United States Senators, including Senator Moynihan. The letter attached to the motion papers clearly shows that respondent Arthur Finkelstein received a carbon copy of it.

It is submitted that the attached letter demonstrates further Mr. Finkelstein's more extensive involvement with the substantive problems encountered by NCPAC in gaining media acceptance for its commercials. It is additional evidence that NCPAC has coordinated its expenditures with the Caputo Committee in violation of the Act.

Respectfully submitted,

Melvin L. Schweitzer

Enclosure

NO. 81-3061
RECEIVED
82 APR 2 All : 49

Tab 3

ATTACHMENT A

8204075158

September 22, 1981

The Honorable Mark S. Fowler
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D. C.

Dear Chairman Fowler:

This firm represents the National Conservative Political Action Committee (hereinafter "NCPAC"). In that capacity, we are writing to request that the Federal Communications Commission (hereinafter the "FCC") investigate and take appropriate measures regarding attempts by identified Federal candidates, their official committees, their supporters, and other groups, to intimidate licensees in an effort to deny NCPAC access to broadcast facilities. In addition, we request that the FCC re-examine its position regarding the right of access of an independent political committee to a broadcasters' facilities and determine that NCPAC and other similarly-situated independent political committees enjoy such a reasonable right of access.

NCPAC is the largest independent political committee in the nation. NCPAC frequently sponsors advertisements which are critical of the past voting record or candidacy of certain identified political candidates. The FCC has previously considered the impact of both equal opportunity and fairness doctrine issues upon licensees which broadcast such advertisements.1/ The FCC has concluded that the broadcast of NCPAC-sponsored advertisements by a licensee will not result in the imposition of equal opportunity or fairness doctrine obligations to offer free response time to the candidate, his committee, or his supporters.2/

1/ FCC letter to Honorable Thomas F. Eagleton, 61 FCC 2d 423 (1980).

2/ Supra.

CERTIFIED MAIL- RETURN RECEIPT REQUESTED.

NCPAC has advised us that it has encountered difficulties in placing NCPAC-sponsored advertisements which are critical of the past voting record or candidacy of certain identified Federal candidates. The reluctance of some broadcasters to accept these advertisements appears to be caused by apparent intimidation by opponents of NCPAC directed at licensees.

For example, Senator Moynihan has forwarded two memoranda to members of the New York State Broadcasters Association (hereinafter "NYSBA"), the first of which contains a plea to members of the NYSBA "not to do business with [NCPAC]." The second memorandum addressed certain substantive issues regarding the NCPAC-sponsored advertisements and leaves the reader with the mistaken impression that acceptance of NCPAC-sponsored advertisements will result in the licensee assuming burdensome obligations. These attempts to intimidate licensees and to persuade them not to accept NCPAC-sponsored advertisements, including instances where no advertisement has been produced for the licensees' market, appear to be little different from the prior unsuccessful attempts of the Carter/Mondale Reelection Committee to intimidate licensees into rejecting certain NCPAC-sponsored advertisements during the past Presidential election. The FCC rejected the position of the Carter/Mondale Reelection Committee that the advertisements sponsored by NCPAC and other independent committees invoked equal opportunity issues and thereby nullified the central argument underlying the Carter/Mondale effort. That decision was upheld by the United States Court of Appeals for the District of Columbia Circuit.3/

NCPAC has advised us that attempts to intimidate licensees not to accept the NCPAC-sponsored advertisements have not been confined to identified political candidates, their committees, and supporters. The Democratic Congressional Campaign Committee (hereinafter the "DCCC") has recently circulated a memorandum, dated July 24, 1981, entitled "How to fight a NCPAC attack." That memorandum contains a section entitled "Keep NCPAC off the Air."

3/No. 80-2217

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This portion of the memorandum instructs the candidate how to intimidate licensees for the purpose of preventing NCPAC's advertisements from being broadcast. Measures described in the memorandum include informing all broadcasting outlets of NCPAC's "propensity for sensationalism," emphasizing that there is no obligation to accept the advertisements and that additional stations are refusing to do so, emphasizing that the station is liable in libel for the content of the ads, and the recommendation to encourage the media to "denounce NCPAC's intervention [in the campaign]."

The memorandum circulated by the DCCC amounts to a direct and concentrated scheme of intimidation and interference with licensees and ignores the public's right to know. The fact that the Moynihan and DCCC memoranda have been circulated in markets where no actual advertisements have been produced by NCPAC underscores the purpose of these schemes to summarily deny NCPAC access to broadcast facilities without licensees independently evaluating proposed advertisements.

For example, a common issue addressed in both the Moynihan and the DCCC memoranda is the issue of liability of a licensee for libelous remarks. Obviously, because of the scope of potential liability, licensees will tend to reject NCPAC-sponsored advertisements where this issue has been raised in this manner, without considering the text of the advertisements, their purpose, and the protections afforded political speech under the Constitution.

The FCC has previously classified NCPAC-sponsored advertisements as belonging in the "political arena."4/ The Supreme Court has stated, in addressing the issue of the effect of civil liability upon critics of official conduct, that a public official cannot recover damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with "actual malice" - that is, with knowledge that it was false or with reckless disregard of whether it was false.5/ The discussion of public issues and debate on the qualification of candidates are integral to the operation of the system of government established by our Constitution.6/ The Supreme Court has noted that

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4/FCC letter to Honorable Thomas F. Eagleton, supra, p.427.
5/New York Times v. Sullivan, 376 U.S. 254 (1964).
6/Buckley v. Valeo, 424 U.S. 1, at 14.

there is practically universal agreement that a major purpose of the First Amendment was to protect the free discussion of governmental affairs, including the discussion of candidates.7/ Although NCPAC does not use the Sullivan decision as a shield to prepare advertisements which are otherwise libelous, an assertion that liability for libel prohibits the broadcast of NCPAC-sponsored advertisements places a chilling effect upon the broadcaster and results in the very evil which the Supreme Court has sought to avoid: the inhibition of speech which may not legitimately be regulated.

We request that your office investigate and take appropriate measures regarding these attempts to intimidate licensees. NCPAC has reason to believe that other parallel efforts have been made by its opponents to deny NCPAC access to broadcast facilities. Accordingly, we request that in consideration of the burden which these efforts have placed upon licensees, the free expression of political ideas, and the concomitant effects upon the citizenry to make informed choices among candidates, that the FCC re-evaluate its position concerning the right of access of independent political committees to the broadcast facilities of a licensee. A determination that such a right exists would be consistent with the Commission's recent attempts to eliminate burdens on freedom of speech.

Mr. Dolan and I would like to meet with you to discuss this matter with you in further detail.

We enclose copies of all memoranda discussed herein.

Sincerely,

(Sgd) J. Curtis Herge

J. Curtis Herge

enclosures

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee

bcc: Mr. Arthur J. Finkelstein

7/ Buckley v. Valeo, supra; Mills v. Alabama, 384 U.S. 214 (1966).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1982

Arthur J. Finkelstein
Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

Re: MUR 1424

Dear Mr. Finkelstein:

On April 2, 1982, the Commission received the attached letter from Melvin L. Schweitzer, counsel for the complainant in the above styled matter under review, Dominio J. Barnello of the New York State Democratic Committee. I am sending a copy to you for your information.

If you have any questions, please call R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1982

J. Curtis Herge
SEDAM & HERGE
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22101

Re: MUR 1424

Dear Mr. Herge:

On April 2, 1982, the Commission received the attached letter from Melvin L. Schweitzer, counsel for the complainant in the above styled matter under review, Dominio J. Barnello of the New York State Democratic Committee. I am sending a copy to you for your information.

If you have any questions, please call R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1982

Roger H. Kimmell
MILGRIM, THOMAJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Kimmell:

On April 2, 1982, the Commission received the attached letter from Melvin L. Schweitzer, counsel for the complainant in the above styled matter under review, Dominio J. Barnello of the New York State Democratic Committee. I am sending a copy to you for your information.

If you have any questions, please call R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION: 4/16/82

MUR 1424
DATE COMPLAINT RECEIVED BY OGC: 01/28/83
DATE OF NOTIFICATION TO RESPONDENTS: 02/03/82
STAFF MEMBER: Lee Andersen

COMPLAINANT'S NAMES: Dominic J. Barnello, Chairman of the New York State Democratic Committee

RESPONDENTS' NAME: National Conservative Political Action Committee, Caputo for Senate Committee, John T. Dolan, Arthur J. Finkelstein, and Arthur J. Finkelstein & Associates

RELEVANT STATUTES: 2 U.S.C. §§ 431(17), 437f and 441a
11 C.F.R. § 109.1

INTERNAL REPORTS CHECKED: Caputo for Senate Committee Statement of Candidacy and Year End Report

FEDERAL AGENCIES CHECKED: None

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SUMMARY OF ALLEGATIONS

A signed and sworn complaint was filed by Dominic J. Barnello, Chairman of the New York State Democratic Committee on January 28, 1982, against the National Conservative Political Action Committee ("NCPAC"), John T. Dolan, the Caputo for Senate Committee, Arthur J. Finkelstein, and Arthur J. Finkelstein & Associates ("AFA"). The complaint alleges that NCPAC violated 2 U.S.C. § 441a of the Federal Election Campaign Finance Act of

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1971, § 431 et seq. (the "Act" or "FECA") by mischaracterizing certain in-kind contributions to CSC as independent expenditures.

Mr. Barnello alleges that the mischaracterization of in-kind contributions came about through the efforts of Arthur J. Finkelstein, a political consultant and pollster, in concert and in consultation with both John T. Dolan of NCPAC and persons associated with Mr. Bruce Caputo's campaign for the United States Senate. The complainant maintains that NCPAC's expenditures advocating the defeat of incumbent Senator Patrick Moynihan "have been and continue to be made though a conspicuous and largely uncontradicted pattern of 'cooperation [and] consultation with' the Caputo Committee" (see complaint at page 2). In support of these allegations there are attached 25 exhibits purportedly showing how, when, and where the alleged coordination and consultation between NCPAC and the Caputo campaign organization occurred.

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FACTUAL AND LEGAL ANALYSIS

AO 1979-80 Does Not Immunize Respondents

Since 2 U.S.C. § 437f(c)(2) effectively immunizes any person against Commission enforcement procedures if that person relies upon an advisory opinion that covers a specific transaction (or a transaction factually indistinguishable), a threshold problem in the Commission's consideration of this matter is determining

whether advisory opinion AO 1979-80 bars this complaint. 1/ NCPAC maintains that AO 1979-80 is dispositive of this matter requiring that the Commission dismiss the complaint "as a matter of law." (See Attachment 1 at page 6).

However, it is apparent that none of the nine factual situations described by NCPAC in their advisory opinion request is the same transaction that is complained about in this matter. Several of the situations are similar in some respects to the one complained of here, but none are "indistinguishable in all material aspects" from any of the nine discussed in AO 1979-80 as is necessary to trigger 2 U.S.C. § 437f(c). There are various factual differences among the nine situations discussed in AO 1979-80, but there is one important, material difference between the facts alleged in this matter and any of the nine situations discussed in the advisory opinion. In none of the situations described in AO 1979-80 is it contemplated that there was actual consultation and cooperation between NCPAC and the candidate who would presumaby benefit from NCPAC's independent expenditure campaign as is alleged here.

It is not disputed that Mr. Caputo, at the time of this complaint a leading contender for the Republican nomination, mounted an attack against Senator Moynihan, the incumbent from the Democratic party, as part of his bid for the Republican

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1/ AO 1979-80 was issued by the Commission in response to a request submitted by J. Curtis Herge, attorney for NCPAC, in which the Commission was asked to give an opinion on the legality of a number of different fact situations involving independent expenditures, candidates and common vendors.

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nomination. And, the complaint alleges that the funds reported by NCPAC as independent expenditures against Moynihan were, in fact, expended in cooperation and consultation with the Caputo campaign organization. If cooperation and consultation have occurred between the Caputo campaign and NCPAC as alleged, the expenditures made by NCPAC against Senator Moynihan cannot be considered independent and must be reported as in-kind contributions by NCPAC to the Caputo campaign.

In their March 2, 1982 response to the Commission's notification of complaint, counsel for NCPAC asserts that the allegations in the complaint are themselves evidence that NCPAC has complied with 2 U.S.C. § 431(17), 11 C.F.R. § 109.1(a) and (b), and AO 1979-80. Therefore, NCPAC maintains, no violation is alleged and the complaint must be dismissed with no further inquiry into the facts. (Attachment 1 at pages 6-11).

Section 431(17) defines independent expenditure as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

Commission regulations at 11 C.F.R. § 109 provide further clarification of the concepts of cooperation and consultation and provide for the application of certain presumptions against the

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independence of expenditures under specified circumstances. 11 C.F.R. § 109.1(b)(4)(A) and (B). Thus an expenditure is presumed not to be independent if it is: (A) based upon information about the candidate's plans, projects or needs provided to the expending person by an agent of the candidate with a view toward having the expenditure made or (B) if it is made by a person who is or has been authorized to raise or expend funds, is an officer of an authorized committee or has been receiving compensation from the candidate, candidate committee, or agent.

NCPAC maintains that response numbers one and eight in AO 1979-80, when considered along with the Commission's determination in MUR 1231, must be read to provide immunity for NCPAC's expenditures, whether or not coordinated with Caputo's campaign (see Attachment 1 at page 6). The core of NCPAC's claim of immunity under Section 437g(c) is that the primary campaign and the general election are two distinct races in which the Democratic and the Republican candidates in the respective primaries are not yet opponents (Id. at page 5). NCPAC argues, therefore, that it may make independent expenditures advocating the defeat of the candidate for the Democratic nomination through a person who is the agent of the candidate for the Republican nomination until the Republican candidate becomes his or her party's nominee and is brought into the primary against the Democratic candidate. As we have stated above, AO 1979-80 does

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not discuss, nor did it contemplate, the facts alleged in a matter such as this where an authorized campaign committee such as CSC, through a political strategist such as Mr. Finkelstein, would consult and cooperate with NCPAC in mounting an attack against an incumbent candidate from the opposing party who is also the subject of a NCPAC independent expenditure program.

Moreover, AO-1979-80 would not provide NCPAC with immunity against the presumption in Section 109.1(b)(4)(i)(B) permitting NCPAC to compensate Finkelstein for creating a media campaign against Moynihan at the same time that Finkelstein was being compensated by the Caputo committee to do the same thing. The independence of any expenditures so made would be compromised and must be considered in-kind contributions in favor of the Caputo campaign by NCPAC.

Citing 11 C.F.R. § 109.1(b)(4)(i)(A) and AO 1979-80, NCPAC argues that communications between itself and the Caputo campaign had no effect upon the independence of expenditures made in opposition to Caputo's putative adversary in the general election, Senator Moynihan. NCPAC emphasizes that because the Commission's response to situation number eight in AO 1979-80 made no mention of cooperation or consultation, such factors are not relevant to the Commission's analysis of the allegations in the complaint. (See Attachment 1 at page 6). However, AO 1979-80 does not automatically exempt NCPAC from the presumption of cooperation and consultation in 11 C.F.R. § 109.1(b)(4)(A)(i) merely because NCPAC's advisory opinion request failed to make

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specific all material aspects of the matter in question. To the contrary NCPAC's argument bolsters the conclusion that the NCPAC advisory opinion request supplied insufficient factual information upon which to base a determination that the facts in the present matter are indistinguishable in all material aspects from those NCPAC presented in AO 1979-80.

Next, the NCPAC response attempts to anticipate some of our objections to the application of AO 1979-80 as a bar to this matter by citing a Commission determination in another matter interpreting AO 1979-80. MUR 1231 concerned alleged cooperation and consultation by NCPAC and the James Abdnor campaign. In MUR 1231 the complainant alleged that NCPAC's expenditures made in opposition to Senator McGovern's nomination were in-kind contributions to representative Abdnor because NCPAC had encouraged Abdnor to become a candidate for the Senate race in South Dakota. The Office of General Counsel recommended in that MUR that the Commission find reason to believe that cooperation and consultation had occurred between NCPAC and the Abdnor campaign tainting NCPAC's claim that the expenditures were independent.

The Commission did not adopt the Office of General Counsel's recommendation in MUR 1231. However, the record will not easily bear the inference sugested by NCPAC in their March 2, 1982 response that rejection of the Counsel's recommendation can be "justified rationally only on the grounds that the Commission found the legal principles in Advisory Opinion 1970-80 [sic.] to

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be controlling" (see Attachment 1 at page 10). The conclusion supported by the closing letters in MUR 1231 is that the evidence of cooperation and consultation in MUR 1231 was insufficient to warrant proceeding further.

The situation in AO 1979-80 which most closely resembles the facts of the present matter is the second part of situation number five, and it is unfavorable to NCPAC. The fact pattern suggested by NCPAC in number five is described in the opinion as follows:

> Suppose NCPAC has a previously existing exclusive agency contract with a direct-mail firm and that firm subsequently accepts as a client a potential or actual opponent of a candidate who is the subject of NCPAC's independent expenditure program. May NCPAC continue to utilize the services of the firm?

While Finkelstein may be more than a direct-mail firm, and there may or may not be an "exclusive contract" between NCPAC and Finkelstein, the business relationship between NCPAC and the agency contractor (here read Finkelstein) is analogous. Finkelstein's acceptance of another client who is the "potential or actual opponent of a candidate who is the subject of NCPAC's independent expenditure program ..." (here read the Caputo campaign) is likewise similar to the facts of situation number five. To the question posed by NCPAC in the second part of situation number five, "[m]ay NCPAC continue to utilize the services of the firm," the Commission answered an unequivocal "no." The Commission's reasoning seems to be that if

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expenditures were made through Finkelstein to elect Caputo, NCPAC would be precluded from utilizing the services of Finkelstein to make independent expenditures because the services made available to NCPAC would become, of necessity, in-kind contributions from NCPAC to Caputo. 2/

From the preceding discussion of the factual issues raised in the complaint, it is apparent that AO 1979-80 does not, as a matter of law, require dismissal of this matter. The evidence surrounding the allegations of cooperation and consultation must be examined in order to reach a determination whether NCPAC's expenditures against Senator Moynihan were, in fact, in-kind contributions to the Caputo campaign.

Before continuing with the legal and factual analysis of the issue of cooperation and consultation, it is necessary to pause briefly on the response submitted by Caputo campaign. The response, dated March 12, 1982, is in the form of an affidavit signed by Bruce Caputo (see Attachment 2). This affidavit does

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2/ This part of the advisory opinion seems to turn on the assumption that the direct-mail solicitations made by the direct-mail firm in question advocated the election or defeat of clearly identified candidates. Expenditures made through Finkelstein or his firm, AFA, for NCPAC, also appear to have advocated the defeat of a clearly identified candidate, Senator Moynihan. It is alleged that Finkelstein created the anti-Moynihan, "first wave" of NCPAC radio spots and Caputo's initial fund-raising letter. Both the radio spots and the fundraising letter clearly advocated the defeat of Moynihan.

not deny that Finkelstein helped to plan the Caputo campaign (see Attachment 2 at page 3). Nor does it deny that the Caputo campaign continued to employ Finkelstein after learning that NCPAC was being retained by NCPAC (Id.) Nor does the affidavit deny that Finkelstein received compensation for his work on the Caputo campaign. 3/ Instead, the affidavit sets out a general denial that the Caputo campaign ever did "control, coordinate, approve or otherwise seek to influence NCPAC's campaign against Senator Moynihan." (Id. at page 2). The affidavit further denies that Finkelstein had authority to "make policy or raise or expend funds." Finally, the affidavit reemphasizes the Caputo/NCPAC view that coordination and consultation are impossible, as matter of law, during a primary campaign where the subject of a NCPAC independent expenditure campaign is the incumbent and apparent nominee of the candidate from an opposing party.

Cooperation and Consultation

In order for an expenditure to qualify as an independent expenditure pursuant to 2 U.S.C. § 431(17) of the Act, it must not be made "with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate." Commission regulation 11 C.F.R. § 109.1 clarifies the meaning of this provision of the statute with the following:

3/ As of December 31, 1981, Commission reports show that CSC had paid Arthur J. Finkelstein & Associates a total of $17,833.

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> (i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is -

Following this subsection are two further provisions describing when the presumption shall apply to an expenditure. After we have conducted an investigation of this matter, it may well be possible to determine that the activities of Mr. Finkelstein resulted in cooperation and consultation between NCPAC and CSA through either of the presumptions. 4/ However, the information presently in the possession of the Commission is sufficient to raise the presumption against independence at least under Section 109.1(b)(4)(i)(B) of the Commission's regulations. This section states, in relevant part, that an expenditure is not independent when "[m]ade by or through any person ... who is or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent."

The uncontroverted evidence is: (1) that NCPAC made substantial expenditures through Finkelstein in the form of payments for polls and surveys in New York relating to the race for the Senate seat held by Moynihan (see complaint at pages 5 and 6 and accompanying exhibits); (2) that the Caputo campaign

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4/ It is not now possible to determine whether the facts of this matter warrant the conclusion that Finkelstein was an agent of the Caputo Committee. Thus, we cannot determine yet if the presumption of 11 C.F.R. § 109.1(b)(4)(i)(A) is also applicable to this matter. The Office of General Counsel will be examining the evidence that Finkelstein was Caputo's agent as part of its investigation.

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employed Finkelstein as a political consultant to help discredit Moynihan paying Finkelstein nearly $18,000 in compensation during 1981, a period of time when Finkelstein also worked for NCPAC (see Complaint at page 8 and Attachent 3); and (3) that Finkelstein was consulted by a time buying company concerning the placement of anti-Moynihan of radio spot advertisements paid for by NCPAC (see Complaint at pages 11-15). 5/ Thus it is alleged that NCPAC made expenditures "through" Finkelstein at a time when he was being compensated by the Caputo campaign raising the presumption of cooperation and consultation in 11 C.F.R. § 109.1(b)(4)(i)(B) in connection with the expenditures NCPAC made to defeat Senator Moynihan.

In addition to uncontroverted evidence, the complaint offers other evidence bearing on the question of whether there was cooperation and consutation between NCPAC and the

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5/ On April 2, 1982, the Commission received a letter from counsel for the complainant, Melvin L. Schweitzer (see Attachment 4). The letter's purposes were to reaffirm the complainant's desire for the Commission to proceed with the complaint even though Mr. Caputo has withdrawn from the Senate race and to supply the Commission with additional information regarding the factual issue of cooperation and consultation. Schweitzer's letter enclosed a copy of a letter from NCPAC's counsel, J. Curtis Herge, to the Chairman of the Federal Communications Commission dated September 22, 1981. The letter requests the FCC to conduct an investigation of certain alleged attempts by Senator Moynihan to persuade the New York Broadcasters Association to not do business with NCPAC. The letter was attached to a motion filed by the Broadcasting Association to dismiss a lawsuit brought by NCPAC against it and a number of United States Senators. Herge's letter shows that Arthur J. Finkelstein received a copy. This occurred during the period of time that Finkelstein was being compensated for his work in the Caputo campaign and is submitted by complainant as further evidence of the involvement of Finkelstein in NCPAC's effort to gain acceptance of its anti-Moynihan radio spots.

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Caputo campaign. The complaint cites the Commission to press coverage of statements by NCPAC spokesmen that are tacit admissions of the cooperation and consultation between NCPAC and the Caputo campaign through the offices of Arthur J. Finkelstein. These NCPAC statements in the press set forth the theory that during the primary phase of elections, cooperation and consultation between NCPAC and primary candidates are not possible (see complaint at pages 9-11). According to NCPAC's interpretation of the Act, not until Caputo is officially nominated by his party to oppose the Democratic candidate could there be cooperation or consultation capable of compromising the independence of NCPAC's expenditure campaign against Moynihan (see Attachment 1 at pages 5-6). While it is not the intention of the Office of General Counsel to offer the statements by NCPAC cited in the complaint as proofs of cooperation or consultation, they do suggest that NCPAC intended to disregard possible FECA problems in cooperating or consulting with the Caputo campaign during the primary election period.

Another interesting piece of circumstantial evidence contained in the complaint is a comparison of NCPAC's "first wave" of anti-Moynihan radio spots (about which the TBS time buyer apparently consulted Finkelstein) and Caputo's initial fundraising letter. The complaint supplies the Commission with a table showing the contents of the two anti-Moynihan communications. As stated in the complaint, "[i]n style and language, they are remarkably similar." (See Complaint at pages 14 and 15). It is a reasonable inference at this stage of the

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Commission's proceedings to take into consideration this similarity in deciding whether consultation and coordination between the respondent committees occurred.

Finally, there is the matter of a $4,400 contribution originally made by NCPAC to the Caputo campaign in August of 1981. NCPAC's original report to the Commission, as well as Caputo's affidavit of March 15, 1982, clearly state that at its inception, the $4,400 was considered a direct contribution from NCPAC to CSC. Only later, did NCPAC make it known to Caputo that it wanted the contribution returned (see Attachment 2 at pages 4 and 5). Thus Caputo's return of the $4,400 without any apparent obligation to do so can hardly be described as anything but a contribution to NCPAC. As noted by the complainant, Mr. Barnello, even if the Commission were to accept the notion that respondents NCPAC and CSC had amended their understanding of the transfers of the $4,400 back and forth, this is in itself further evidence of cooperation and consultation between the two committees.

Complainant makes the argument that since the $4,400 was returned to NCPAC by CSC before the first wave of anti-Moynihan radio spots, and since there is no evidence to contradict the liklihood that the $4,400 was commingled with NCPAC's other campaign funds, the $4,400 contribution became an expenditure by Caputo through NCPAC against Moynihan and presumptively incapable

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under 11 C.F.R. § 109.1(b)(4)(i)(B) of being legally reported as an independent expenditure by NCPAC (see complaint at page 17). This line of reasoning raises interesting questions about the effect of intent upon commingling of campaign funds, but the facts, as we understand them now, are not at variance with Mr. Barnello's interpretation.

Therefore, the Office of General Counsel recommends that the Commission find reason to believe that NCPAC committed violations of 2 U.S.C. § 434 of the Act by reporting as independent expenditures those which were properly reportable only as in-kind contributions to CSC. Further, the Office of General Counsel recommends that the Commission find reason to believe that CSC committed a violation of 2 U.S.C. § 434 of the Act for failing to report in-kind contributions from NCPAC. Finally, the Office of General Counsel recommends that the Commission find reason to believe that NCPAC violated 2 U.S.C. § 441a(a)(2)(A) by making in excess of $5,000 in contributions to CSC, and the Commission find reason to believe that CSC committed violations of 2 U.S.C. § 441a(f) for accepting from NCPAC in excess of the $5,000 limitation imposed by this section of Act.

Investigation of the Matter

There are several persons whose testimoney is pivotal to establishing probable cause to believe that the alleged

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violations in this matter occurred. 6/ None of the respondents have opted to concern themselves with the facts concerning the issue of whether there was cooperation or consultation between NCPAC and the Caputo campaign on expenditures made by NCPAC through Finkelstein. However, before the Office of General Counsel requests authority to subpoena these persons for deposition, we will seek production of documents from respondents to further clarify the factual issues in this matter.

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RECOMMENDATIONS

The Office of General Counsel reommends that the Commission find:

1. reason to believe that the National Conservative Political Action Committee committed violations of 2 U.S.C. § 434 of the Act by reporting as independent expenditures those which were properly reportable only as in-kind contributions to the Caputo for Senate Committee;

6/ From the complaint it seems clear that Michael Donovan from the Time Buying Services Corporation would be in a position to relate to the Commission important facts about the assistance provided to him by Finkelstein in arranging for the radio stations to pick up NCPAC's initial wave of radio advertisements against Moynihan. Obviously, Finkelstein himself is an essential witness to the proposed investigation of this matter, and the Counsel's office expects to request authority to take Finkelstein's deposition.

It will probably be necessary to take depositions of persons at NCPAC and at the Caputo campaign who were involved with Finkelstein at each organization. However, it is not possible to determine specifically the identity of such persons at this time, so we are requesting documents from the respondents as an initial step in the investigation of this matter.

2. reason to believe that the Caputo for Senate Committee committed violations of 2 U.S.C. § 434 of the Act by failing to report in-kind contributions from the National Conservative Political Action Committee;

3. reason to believe that the National Conservative Political Action Committee committed violations of 2 U.S.C. § 441a(a)(2)(A) by making in excess of $5,000 in contributions to the Caputo for Senate Committee;

4. reason to believe that the Caputo for Senate Committee from the National Conservative Political Action Committee committed violations of 2 U.S.C. § 441a(f) by accepting in excess of the $5,000 limitation imposed by Act; and

5. send the attached letters and requests for production of documents to respondents.

April 16, 1982
Date

Charles N. Steele
General Counsel

BY: [signature]
Kenneth A. Gross
Associate General Counsel

Attachments

1. Response of counsel for NCPAC dated March 2, 1982 (12 pages)
2. Response of Counsel for the Caputo for Senate Committee dated March 15, 1982 (7 pages)
3. Letters and requests for document production for respondents (18 pages)
4. Letter from counsel for complainant dated March 28, 1982 (8 pages)

8204275187

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY CUSTER

DATE: April 21, 1982

SUBJECT: OBJECTION - MUR 1424 - FIRST GENERAL COUNSEL'S REPORT dated April 16, 1982, Received in OCS on April 16, 1982 at 4:26

The above-named document was circulated to the Commission on a 48 hour basis at 11:00 on April 19, 1982.

Commissioner Elliott submitted an objection on April 21, 1982 at 9:31.

This matter will be placed on the agenda for the Executive Session of April 27, 1982.

8204075118 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: **CHARLES STEELE**

FROM: **MARJORIE W. EMMONS** MWE
OFFICE OF THE SECRETARY TO THE COMMISSION

DATE: April 22, 1982

SUBJECT: OBJECTION - MUR 1424 FIRST GENERAL COUNSEL'S REPORT dated April 16, 1982; Received in OCS on April 16, 1982 at 4:26

You were notified previously of an objection by Commissioner Elliott on April 21, 1982.

Commissioner Aikens has also submitted an objection on April 21, 1982 at 5:18.

This matter will be discussed in executive session on April 27, 1982.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee,	)	MUR 1424
Caputo for Senate Committee,	)	
John T. Dolan,	)	
Arthur J. Finkelstein, and	)	
Arthur J. Finkelstein & Associates	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on April 27, 1982, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 1424:

1. find reason to believe that the National Conservative Political Action Committee committed violations of 2 U.S.C. §434 of the Act by reporting as independent expenditures those which were properly reportable only as in-kind contributions to the Caputo for Senate Committee;

2. find reason to believe that the Caputo for Senate Committee committed violations of 2 U.S.C. §434 of the Act by failing to report in-kind contributions from the National Conservative Political Action Committee;

3. find reason to believe that the National Conservative Political Action Committee committed violations of 2 U.S.C. §441a(a)(2)(A) by making in excess of $5,000 in contributions to the Caputo for Senate Committee;

4. find reason to believe that the Caputo for Senate Committee committed violations of 2 U.S.C. §441a(f) by accepting in excess of the $5,000 limitation imposed by the Act from the National Conservative Political Action Committee; and

5. send the letters and requests for production of documents to respondents as recommended in the General Counsel's April 16, 1982 report in this matter.

Commissioners Harris, McDonald, McGarry, and Reiche cast affirmative votes for the decision; Commissioners Aikens and Elliott dissented.

Attest:

4-27-82
Date

Marjorie W. Emmons
Secretary of the Commission

9204075119

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1982

J. Curtis Herge
SEDAM & HERGE
8300 Greensboro Drive
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Herge:

The Federal Election Commission notified you on February 3, 1982, of a complaint which alleges that your client, the National Conservative Political Action Committee, had violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on April 27, 1982, determined that there is reason to believe that your client has violated 2 U.S.C. § 434 and 441a(a), provisions of the Act. Specifically, it appears that your client failed to report in-kind contributions to the Caputo for Senate Committee and made contributions to the same committee in excess of $5,000.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding the matter in question. Please respond to the enclosed request for production of documents within 10 days of receipt of this letter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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

If you have any questions, please contact Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Frank P. Reiche

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosures
Procedures

2204275187

BEFORE THE FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

REQUEST TO PRODUCE DOCUMENTS

TO: J. Curtis Herge
SEDAM & HERGE
8300 Greensboro Drive
McClean, Virginia 22102

As used in this request to produce documents, the terms are defined as follows:

1. The term "Act" shall mean the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

2. The term "copy" shall mean the original of any writing and any reproduction, duplicate, or transcript of a writing, whether electronic or mechanical which differs in any way from the original (e.g. margin notes). Where the original is not available, please produce a duplicate.

3. The term "CSC" shall mean the Caputo for Senate Committee.

4. The term "document" shall mean a printed or written record of any kind.

5. The term "Finkelstein" shall mean both Mr. Arthur J. Finkelstein and Arthur J. Finkelestein & Associates.

6. The term "identify" with reference to any individual, shall mean the full name and last known residence and business address and telephone numbers of the individual.

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7. The term "NCPAC" shall mean the National Conservative Political Action Committee.

The Federal Election Commission (hereinafter the "Commission") requests that the National Conservative Political Action Committee produce for inspection and copying the documents listed below that are in their possession or control or in that of their agents, staff members or employees. If a request for production of documents has not been fully complied with, please state the objection to such request for production of documents and the reason for the objection in lieu of an answer to the request for production of the documents.

Please produce for inspection and copying at the Office of General Counsel of the Federal Election Commission at 1325 K Street, N.W., Washington, D.C. 20463, the following documents:

1. copies of any employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation;

2. copies of any employment contracts or agreements summarizing any arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation;

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3. copies of any job description or instructions stating the requirements set by NCPAC for the performance of any duties which Finkelstein undertook during the course of employment by NCPAC;

4. copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC;

5. copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC;

6. copies of any reports, summaries or notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC;

7. copies of any memoranda or notes memorializing discussions between Finkelstein and Mr. Michael Thomas Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan;

8. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of NCPAC; and

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9. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of CSC.

Please submit responses to these requests for production of documents along with any additional information or response you wish to provide, within ten (10) days of your receipt of this letter.

2204075191

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1982

Roger H. Kimmel
MILGRAM, THOMAJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Kimmel:

The Federal Election Commission notified you on February 3, 1982, of a complaint which alleges that your client, the Caputo for Senate Committee, had violated certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on April 27, 1982, determined that there is reason to believe that your client has violated 2 U.S.C. § 434 and 441a(a), provisions of the Act. Specifically, it appears that your client failed to report in-kind contributions from the National Conservative Political Action Committee and accepted in excess of $5,000 from that same committee.

Your response to the Commission's initial notification of this complaint did not provide complete information regarding the matter in question. Please respond to the enclosed request for production of documents within 10 days of receipt of this letter.

The Office of General Counsel would like to settle this matter through conciliation prior to a finding of probable cause. However in the absence of any information which demonstrates that no further action should be taken against your client, the Office of General Counsel must proceed to the next compliance stage as noted on page 2, paragraph 2 of the enclosed procedures.

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

If you have any questions, please contact Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Frank P. Reiche

Frank P. Reiche
Chairman for the
Federal Election Commission

Enclosures
Procedures

2742751193

BEFORE THE FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

REQUEST TO PRODUCE DOCUMENTS

TO; Roger H. Kimmel
MILGRAM, THOMOJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

As used in this request to produce documents, the terms are defined as follows:

1. The term "Act" shall mean the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

2. The term "copy" shall mean the original of any writing and any reproduction, duplicate, or transcript of a writing, whether electronic or mechanical which differs in any way from the original (e.g. margin notes). Where the original is not available, please produce a duplicate.

3. The term "CSC" shall mean the Caputo for Senate Committee.

4. The term "document" shall mean a printed or written record of any kind.

5. The term "Finkelstein" shall mean both Mr. Arthur J. Finkelstein and Arthur J. Finkelestein & Associates.

6. The term "identify" with reference to any individual, shall mean the full name and last known residence and business address and telephone numbers of the individual.

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7. The term "NCPAC" shall mean the National Conservative Political Action Committee.

The Federal Election Commission (hereinafter the "Commission") requests that the Caputo for Senate Committee produce for inspection and copying the documents listed below that are in their possession or control or in that of their agents, staff members or employees. If a request for production of documents has not been fully complied with, please state the objection to such request for production of documents and the reason for the objection in lieu of an answer to the request for production of the documents.

Please produce for inspection and copying at the Office of General Counsel of the Federal Election Commission at 1325 K Street, N.W., Washington, D.C. 20463, the following documents:

1. copies of any employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation;

2. copies of any employment contracts or agreements summarizing any arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation;

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3. copies of any job description or instructions stating the requirements set by NCPAC for the performance of any duties which Finkelstein undertook during the course of employment by NCPAC;

4. copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC;

5. copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC;

6. copies of any reports, summaries or notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC;

7. copies of any memoranda or notes memorializing discussions between Finkelstein and Mr. Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan;

8. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of NCPAC; and

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9. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of CSC.

Please submit responses to these requests for production of documents along with any additional information or response you wish to provide, within ten (10) days of your receipt of this letter.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1982

Arthur J. Finkelstein
Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

Re: MUR 1424

Dear Mr. Finkelstein:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached request for information has been issued. At this time the Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this request for information. However, we ask that you submit the information within ten days of your receipt of this letter.

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If you have any questions please direct them to R. Lee Andersen, the attorney handling this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclsoure
Request for Production of Documents

22240751199

BEFORE THE FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

REQUEST TO PRODUCE DOCUMENTS

TO: Arthur Finkelstein
Arthur Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

As used in this request to produce documents, the terms are defined as follows:

1. The term "Act" shall mean the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

2. The term "copy" shall mean the original of any writing and any reproduction, duplicate, or transcript of a writing, whether electronic or mechanical which differs in any way from the original (e.g. margin notes). Where the original is not available, please produce a duplicate.

3. The term "CSC" shall mean the Caputo for Senate Committee.

4. The term "document" shall mean a printed or written record of any kind.

5. The term "Finkelstein" shall mean both Mr. Arthur J. Finkelstein and Arthur J. Finkelestein & Associates.

6. The term "identify" with reference to any individual, shall mean the full name and last known residence and business address and telephone numbers of the individual.

7. The term "NCPAC" shall mean the National Conservative Political Action Committee.

The Federal Election Commission (hereinafter the "Commission") requests that Arthur J. Finkelstein produce for inspection and copying the documents listed below that are in his possession or control or in that of his agents, staff members or employees. If a request for production of documents has not been fully complied with, please state the objection to such request for production of documents and the reason for the objection in lieu of an answer to the request for production of the documents.

Please produce for inspection and copying at the Office of General Counsel of the Federal Election Commission at 1325 K Street, N.W., Washington, D.C. 20463, the following documents:

1. copies of any employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation;

2. copies of any employment contracts or agreements summarizing any arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation;

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3. copies of any job description or instructions stating the requirements set by NCPAC for the performance of any duties which Finkelstein undertook during the course of employment by NCPAC;

4. copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC;

5. copies of any reports, summaries or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC;

6. copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC;

7. copies of any memoranda or notes memorializing discussions between Finkelstein and Mr. Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan;

8. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of NCPAC; and

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9. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein, in any way, in the performance of any tasks or projects undertaken on behalf of CSC.

Please submit reponses to these requests for production of documents, along with any additional information or response you wish to provide, with ten (10) days of your receipt of this letter.

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GCC#7771

MILGRIM THOMAJAN JACOBS & LEE

PROFESSIONAL CORPORATION

THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NEW YORK 10174
(212) 867-6660

CABLE: "MILATOM" NYC
TELEX: 12-6965

RAYMUND A. BECK
NICHOLAS J. CREHE
ROBERT F. FINK
SUSAN A. GOLDBERG
GEORGE L. GRAFF
ROBERT A. JACOBS
LEO G. KAILAS
ROGER H. KIMMEL
LAWRENCE A. KOBRIN
DAVID P. LANGLOIS
JAMES R. LEDLEY
ALFRED T. LEE
RAYMOND A. MANTLE
ROBINSON MARKEL
ROBERT A. MEISTER
ROGER M. MILGRIM
GRIFFITH B. PRICE, JR.
SAMUEL D. ROSEN
ROBERT THOMAJAN

JAMES E. BECKWITH*
STEVE M. BEDERMAN
EUGENE A. DANAHER
ANDREW L. DEUTSCH
MICHAEL L. ETTINGER
MICHAEL S. GILLILAND
A. DAVID GRAUB
JAMES D. KLEINER
LAWRENCE N. MULLMAN
ALBERT N. PODELL
JOHN M. SCAGNELLI
JEANNE L. SCHROEDER
J. KATHERINE SWISHER*
SIMON TAYLOR*
LAWRENCE I. WEINSTEIN

* NOT ADMITTED IN NEW YORK

82 MAY 18 P12:46

May 14, 1982

82 MAY 18 A10:26

Mr. Frank P. Reiche,
Chairman, Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

MUR1424

Dear Mr. Reiche:

Enclosed please find the response of our client, the Caputo for Senate Committee, to the Request to Produce Documents contained in your letter dated April 30, 1982.

I am also including three additional documents not specifically called for in your request:

1. Attachments I and II are media purchase agreements with Murphy/Powers Media Inc., an entity which, we believe, is related to Arthur J. Finkelstein and Associates Inc.

2. Attachment III is an outline of the Caputo Campaign Organization. It is the only other document we have been able to locate which refers to Mr. Finkelstein's role in the organization.

As the enclosed documents indicate, Mr. Finkelstein was, quite simply, a consultant to the Caputo campaign who was fully paid for the services he rendered. The Caputo campaign had no knowledge of, and certainly no control over, the activities of NCPAC. And, whatever services Mr. Finkelstein may have perform- ed for that organization were independent of and unnrelated to his services for Caputo.

Although we are disappointed that the Commission has decided to proceed with this matter, we still believe that, upon a closer examination of the facts, you and your staff will conclude that there has been no unreported "contribution in kind" or any other violation of the Act. To that end, we will be pleased to provide you with any other information you may

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require and I would welcome the opportunity to speak with the representatives of the office of General Counsel with a view towards arranging a final disposition of this matter prior to any finding of probable cause.

Very truly yours,

George M. Graff

Encls.
cc: Mr. Bruce Caputo,
Roger H. Kimmel, Esq.

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9204075120

RESPONSES TO FEC REQUEST TO PRODUCE DOCUMENTS (CSC)

AM 8 P2:03

1. Copies of employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation.

   None in possession of CSC.

2. Copies of any employment contracts or agreements summarizing arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation

   An Agreement between Arthur J. Finkelstein & Associates and CSC is attached. No other contracts or agreements summarizing arrangements between Arthur J. Finkelstein & Associates are possessed by CSC.

3. Copies of any job description or instructions stating requirements set by NCPAC for the performance of any such duties which Finkelstein undertook during the course of employment by NCPAC.

   None in possession of CSC.

4. Copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC.

   Finkelstein was never employed by CSC; CSC retained Finkelstein as a consultant. CSC did not give Finkelstein written instructions for the performance of duties he undertook other than the services contract described in (2) above.

5. Copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC.

   None in possession of CSC.

6. Copies of any reports, summaries, notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC.

   None in possession of CSC.

7. Copies of any memoranda or notes memorializing discussions between Finkelstein and Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan.

   None in possession of CSC.

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8. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstien in any way in the performance of any tasks or projects undertaken on behalf of NCPAC.

None in possession of CSC.

9. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of CSC.

While we have no copies of documents which specify or reveal the identity of officers or staff members at CSC, one staff member at CSC was responsible for contact with Arthur Finkelstein to assure Finkelstein's advice was executed properly: John Sheehan, Campaign Manager. The only other persons authorized to contact Finkelstein were Bruce Caputo, the candidate, and Robert G. Wilson, the Campaign Chairman. Other staff members were instructed to channel requests for information from Finkelstein through the Campaign Manager, John Sheehan.

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Responses provided by Lucia Trovato for the
Caputo for Senate Committee

AGREEMENT made as of the 3rd day of March, 1981 by and between ARTHUR J. FINKELSTEIN & ASSOCIATES, INC. with an address at 117 Smith Avenue, Mt. Kisco, New York 10549 ("AFA") and CAPUTO FOR SENATE, a political committee organized pursuant to federal election law ("Committee"), with an address c/o Austin Fragomen, Jr., Esq., Fried, Fragomen & Del Rey, P.C., 515 Madison Avenue, New York, New York 10022.

W I T N E S S E T H:

WHEREAS, AFA is a corporation duly organized and existing under the laws of the State of New York, and

WHEREAS, the Committee is the principal campaign committee of Bruce F. Caputo and has been organized for the purpose of supporting the election of Bruce F. Caputo as Senator from the State of New York, and

WHEREAS, the Committee desires to retain AFA as a political consultant,

NOW THEREFORE, in consideration of the sum of One (1) Dollar and other good and valuable considerations as set forth herein, the parties hereto agree as follows:

1. Subject to the consulting fees to be paid under section 2, AFA covenants and agrees to provide the Committee consulting services with respect to:

1.1 Election strategy;

1.2 Election techniques;

1.3 Campaign techniques;

1.4 Media advice;

1.5 Scheduling advice;

1.6 Issues significant to the public;

1.7 Campaign staffing advice.

2. The Committee shall to pay AFA $60,000, as earned, in accordance with the following schedule:

2.1 Ten thousand dollars ($10,000) on or before March 22, 1981;

2.2 Five thousand dollars ($5,000) on or before June 1, 1981;

2.3 Five thousand dollars ($5,000) on or before September 1, 1981;

2.4 Five thousand dollars ($5,000) on or before January 1, 1982;

2.5 Five thousand dollars ($5,000) on or before April 1, 1982;

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2.6 Five thousand dollars ($5,000) on or before August 1, 1982;

2.7 Twenty-five thousand dollars ($25,000) on or before September 20, 1982.

3. In the event of (a) the death or disability of Bruce F. Caputo, (b) Bruce F. Caputo's declaration of Senate candidacy for FCC purposes and subsequent withdrawal, or (c) Bruce F. Caputo's failure to declare his Senate candidacy for FCC purposes and his written notice to AFA that he shall not become a candidate for FCC purposes, then in any of the foregoing events, the consulting fees specified in section 2 shall be due only to the date of death, disability, withdrawal or written notice ("Event") and if the date of the Event is between the section 2 payment dates, the payment next due shall be pro rated to the date of the Event.

4. In addition to the fees to be paid AFA under section 2, the Committee shall reimburse AFA for all reasonable and necessary expenses incurred by AFA directly resulting from the services to be rendered under section 1. The Committee shall reimburse AFA within thirty (30) days after presentation of receipts therefore in accordance with federal election law. No expenses in excess of

$ 500.00 shall be incurred without the prior approval of an authorized representative of the Committee.

5. AFA agrees that in addition to its other employees, Arthur Finkelstein will be available for consulting with the Committee a minimum of two (2) days per month.

6. This agreement shall be governed by the laws of the State of New York.

7. AFA shall look solely to the estate and property of the Committee and AFA, its successors and assigns shall not have any claim against the (chairman, treasurer or any officer, employer or agent thereof, for the satisfaction of AFA's remedies, including, but not limited to, the satisfaction of a judgment (or other judicial process) requiring payment of money by the Committee in the event of any default or breach by the Committee with respect to any of the terms, covenants or conditions of this agreement to be observed and/or performed by the Committee.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year written above.

CAPUTO FOR SENATE COMMITTEE

By _____

ARTHUR J. FINKELSTEIN
& ASSOCIATES

By _____

5778E

2224075121 2

Attachment 1

Murphy/Powers Media Inc.

117 SMITH AVENUE • MOUNT KISCO, N. Y. 10549
(914) 666-2750

January 14, 1982

Mr. Bruce Caputo
Caputo for Senate Committee
2 West 45th St. - Suite 1703
New York, N.Y. 10036

Dear Bruce:

It is agreed by Bruce Caputo and Murphy/Powers Media Inc. that Murphy/Powers Media will do all the time buying for the Bruce Caputo for Senate Campaign Committee. The agreed upon agency fee will be seven percent. If the time buying should exceed one million dollars, then the agency fee will be reduced to five percent.

If the above agreement meets with your approval, please sign below.

Sincerely,

Ronald W. Finkelstein

Bruce Caputo

1/21/82

Date

Murphy/Powers Media, Inc.

1/15/82

Date

RWF:dhd

2 1 4 0 7 5 1 2 1 3

Attachment II

Send to Kimmitt

Kimmitt
BC

Murphy/Powers Media Inc.

117 SMITH AVENUE • MOUNT KISCO, N. Y. 10549
(914) 666-2750

February 5, 1982

Mr. Bruce Caputo
Caputo For Senate, Inc.
2 West 45th St., Room 1703
New York, N.Y. 10036

Dear Bruce:

It is agreed by Caputo For Senate, Inc. and Murphy/Powers Media, Inc. that Murphy/Powers Media will do all the time buying for Caputo For Senate, Inc.. The agreed upon agency fee will be seven percent. If the time buying should exceed one million dollars, then the agency fee will be reduced to five percent.

If the above agreement meets with your approval, please sign below.

Sincerely,

Ronald W. Finkelstein

Caputo For Senate, Inc.

2/12/82
Date

Murphy/Powers Media, Inc.

2/5/82
Date

RWF:dhd

3 0 7 5 1 2 1 4

CAMPAIGN ORGANIZATION

Each geographic area will have its own campaign organization. There are several component parts.

AREA CAMPAIGN MANAGER

The Area Campaign Manager is responsible for organizing and running the local organization. Each Area Manager will have an Assistant Campaign Manager who will be responsible for day-to-day management, assuring that every aspect of the campaign is carried out.

RESEARCH DEPARTMENT

In New York, a large research effort is underway. Each area will have a complimentary research unit of its own. The area research will support the effort of the central research group in obtaining past election returns, the names and addresses of present and past:

- Elected officials
- Party officials
- Special interest group leaders
- Contributors to campaigns for state, local and federal office
- Volunteers
- Reporters and other press contacts
- Civic and clergy leadership

PRESS UNIT

There will be a Press Secretary in New York. Each area will have one or more people to support the New York based Press Secretary for preparation and distribution of:

- Press releases to daily and weekly newspapers
- Radio bumpers
- Television appearances

Of particular importance for the local press manager is assuring that each visit by Bruce to that area generates a picture and press release which is delivered before deadline to each local weekly newspaper.

POLITICAL ORGANIZATION

There will be a state wide political manager in New York City. The local political director will be responsible for assembling lists of past Republican primary voters, organizing telephone banks, and maintaining relations with local Republican, Conservative and Right-To-Life organizations.

FUND RAISING

The most important part in any campaign is raising money. There will be a large fund raising effort in New York City, but each area is expected to raise significant amounts of money too. There will be a local finance chairman who coordinates with the state finance chairman.

SCHEDULING

Bruce's schedule is prepared in New York. But each area should appoint someone to develop ideas for scheduling opportunities and assure all local invitations are properly handled (answered and attended by someone from the campaign).

CENTRAL STAFF

In addition to all these units, in New York there will be a central staff including a law department, computer systems department to keep on-line most of the information obtained by the regions, accounting department to maintain books and internal reports , and a treasurer responsible for federal election commission filings.

EXISTING STAFF

Bob Wilson is the overall Campaign Manager in New York. The Senior Advisor to the campaign is Bruce's brother, Mac Caputo, and the Campaign Consultant is Arthur Finkelstein. The central law department in New York is run by Roger Kimmel. Auston Fragoman is the Treasurer. John Samerjan is running the state wide Research Department. Adair Beutel is raising money with PACs. Sheila Downey is raising money from prospective contributors of $1000 or less. And Marie Vale is raising money from large contributors and special events. Other units are in formation. Phone numbers are available for each of these persons from Bruce's special assistant, Susan Tillman at (212) 697-1900 or 1936. The New York City campaign headquarters' address and phone numbers are: 2 West 45 Street, NY, NY 10036 (212) 944-8330,-8331, -8332.

C 2 0 4 0 7 5 1 2 1 5

6 cc# 7784

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 1100

8300 GREENSBORO DRIVE

McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

JANIS A. CHERRY
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(703) 821-1000

TELEX: 710-831-0896

CABLE: SEDAMHERGE

May 19, 1982

P 1:41

Lee Andersen, Esq.
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424

Dear Mr. Andersen:

Pursuant to the letter from the Chairman of the Federal Election Commission to me, dated April 30, 1982, with which was enclosed a Request to Produce Documents in connection with the above-captioned matter, the National Conservative Political Action Committee (NCPAC) herewith produces the following documents. (The paragraph numbers below refer to paragraph numbers in the Request.)

1. None.

2. None.

3. None.

4. None.

5. Copy of a poll prepared by Arthur J. Finkelstein & Associates for NCPAC, captioned "New York State, August, 1981."

6. None.

7. None.

8. Copy of a letter from Miss Bendis, of NCPAC, to Mr. Finkelstein, dated March 16, 1982, relative to appearances by Mr. Finkelstein as a speaker at the Candidate Training Seminars sponsored by NCPAC. Copy of a letter from Mr. Finkelstein to Miss Bendis, dated March 25, 1982, relative to the topic Mr. Finkelstein discusses at those Seminars.

9. None.

We are advised that NCPAC has not withheld any requested documents.

Please note that NCPAC requests the return of the poll described in paragraph 5 within ten days, which should provide you with ample time to inspect or copy the document.

Sincerely,

J. Curtis Herge

enclosures

0040750218

National Conservative
Political Action Committee
Suite 513, 1500 Wilson Boulevard
Arlington, Virginia 22209

(703)522-2800

March 16, 1982

Mr. Arthur J. Finkelstein
117 Smith Avenue
Mt. Kisco, NY 10549

Dear Arthur:

I am writing to thank you for taking your time to speak at our Candidate Training Seminar the morning of March 10.

I feel the candidates who attended our seminar have benefited greatly from your presentation on Campaign Overview and The Poll.

I look forward to hearing you speak at the remainder of our seminars. I have given Debbie the following dates to mark on her calendar, April 26, May 24, June 28, and July 26. The same time will be kept for your presentation at each seminar. You will speak at 9:30 am to 11:00 am on Campaign Overview and 11:00 am to 12:30 on The Poll.

If you have any suggestions to better these seminars we would like to hear your input.

I apologize for the nine boxes, I will change it for the next school so you may continue to speak of seven boxes without explanation.

Thank you again for a great presentation!

Sincerely,

Cheryl

Cheryl A. Bendis

a2040751219

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N.Y. 10549
(914) 666-2750

March 25, 1982

Ms. Cheryl Bendis
NCPAC
1500 Wilson Blvd
Suite 513
Arlington, VA 22209

Dear Cheryl:

I just want to comment on the break-up of the time allotted me. From 9:30 am to 12:30 pm I am to speak on Campaign Overview and polling. The polling section can frankly be limited to 45 minutes or less, rather than equal to a topic that could take 6 hours. Why don't we just entitle it, 9:30a to 12:30 Campaign Overview and The Poll, without forcing me to divide the time.

I hope the response was positive. I would be curious as to their comments.

Best,

Arthur J. Finkelstein

AJF:dhd

8204075120

CC # 7792

MAY 20 AM 10:46

Arthur J. Finkelstein & Associates

117 Smith Avenue

Mount Kisco, N.Y. 10549

(914) 666-2750

May 18, 1982

92:4:25

Mr. R. Lee Andersen, Esq.
Federal Election Commission
1325 K St., NW
Washington, D.C. 20463

Dear Mr. Andersen:

Enclosed please find the information Mr. Gross requested.

The written numbers on each batch correspond to the list of documents requested (specifically pages B-2, 3, and 4) in the letter dated 4/30/82. Please note, we do not have anything for #'s 1, 3, 6, and 8.

The enclosed computer printout must be returned to us after you are finished with it.

If you have any questions, please do not hesitate to call me.

Sincerely,

Ronald W. Finkelstein

RWF:dhd

Enclosures

9204075122 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 30, 1982

Arthur J. Finkelstein
Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

Re: MUR 1424

Dear Mr. Finkelstein:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached request for information has been issued. At this time the Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this request for information. However, we ask that you submit the information within ten days of your receipt of this letter.

2 3 0 4 0 7 5 1 2 2 2

If you have any questions please direct them to R. Lee Andersen, the attorney handling this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

By: Kenneth A. Gross
Associate General Counsel

Enclsoure
Request for Production of Documents

2 2 0 4 0 7 5 1 2 2 3

RECEIVED
82 MAY 20 A10:46

BEFORE THE FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

REQUEST TO PRODUCE DOCUMENTS

TO: Arthur Finkelstein
Arthur Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

As used in this request to produce documents, the terms are defined as follows:

1. The term "Act" shall mean the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

2. The term "copy" shall mean the original of any writing and any reproduction, duplicate, or transcript of a writing, whether electronic or mechanical which differs in any way from the original (e.g. margin notes). Where the original is not available, please produce a duplicate.

3. The term "CSC" shall mean the Caputo for Senate Committee.

4. The term "document" shall mean a printed or written record of any kind.

5. The term "Finkelstein" shall mean both Mr. Arthur J. Finkelstein and Arthur J. Finkelestein & Associates.

6. The term "identify" with reference to any individual, shall mean the full name and last known residence and business address and telephone numbers of the individual.

9204075122 4

7. The term "NCPAC" shall mean the National Conservative Political Action Committee.

The Federal Election Commission (hereinafter the "Commission") requests that Arthur J. Finkelstein produce for inspection and copying the documents listed below that are in his possession or control or in that of his agents, staff members or employees. If a request for production of documents has not been fully complied with, please state the objection to such request for production of documents and the reason for the objection in lieu of an answer to the request for production of the documents.

Please produce for inspection and copying at the Office of General Counsel of the Federal Election Commission at 1325 K Street, N.W., Washington, D.C. 20463, the following documents:

1. copies of any employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation;

2. copies of any employment contracts or agreements summarizing any arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation;

3 3 0 4 0 7 5 1 2 2 3

3. copies of any job description or instructions stating the requirements set by NCPAC for the performance of any duties which Finkelstein undertook during the course of employment by NCPAC;

4. copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC;

5. copies of any reports, summaries or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC;

6. copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC;

7. copies of any memoranda or notes memorializing discussions between Finkelstein and Mr. Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan;

8. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of NCPAC; and

9. copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein, in any way, in the performance of any tasks or projects undertaken on behalf of CSC.

Please submit reponses to these requests for production of documents, along with any additional information or response you wish to provide, with ten (10) days of your receipt of this letter.

3204075122 7

RECEIVED
02 MAY 20 A10:46

AGREEMENT made as of the 3rd day of March, 1981 by and between ARTHUR J. FINKELSTEIN & ASSOCIATES, INC. with an address at 117 Smith Avenue, Mt. Kisco, New York 10549 ("AFA") and CAPUTO FOR SENATE, a political committee organized pursuant to federal election law ("Committee"), with an address c/o Austin Fragomen, Jr., Esq., Fried, Fragomen & Del Rey, P.C., 515 Madison Avenue, New York, New York 10022.

9204075122 8

W I T N E S S E T H:

WHEREAS, AFA is a corporation duly organized and existing under the laws of the State of New York, and

WHEREAS, the Committee is the principal campaign committee of Bruce F. Caputo and has been organized for the purpose of supporting the election of Bruce F. Caputo as Senator from the State of New York, and

WHEREAS, the Committee desires to retain AFA as a political consultant,

NOW THEREFORE, in consideration of the sum of One (1) Dollar and other good and valuable considerations as set forth herein, the parties hereto agree as follows:

1. Subject to the consulting fees to be paid under section 2, AFA covenants and agrees to provide the Committee consulting services with respect to:

1.1 Election strategy;

1.2 Election techniques;

1.3 Campaign techniques;

1.4 Media advice;

1.5 Scheduling advice;

1.6 Issues significant to the public;

1.7 Campaign staffing advice.

2. The Committee shall to pay AFA $60,000, as earned, in accordance with the following schedule:

2.1 Ten thousand dollars ($10,000) on or before March 22, 1981;

2.2 Five thousand dollars ($5,000) on or before June 1, 1981;

2.3 Five thousand dollars ($5,000) on or before September 1, 1981;

2.4 Five thousand dollars ($5,000) on or before January 1, 1982;

2.5 Five thousand dollars ($5,000) on or before April 1, 1982;

2.6 Five thousand dollars ($5,000) on or before August 1, 1982;

2.7 Twenty-five thousand dollars ($25,000) on or before September 20, 1982.

3. In the event of (a) the death or disability of Bruce F. Caputo, (b) Bruce F. Caputo's declaration of Senate candidacy for FCC purposes and subsequent withdrawal, or (c) Bruce F. Caputo's failure to declare his Senate candidacy for FCC purposes and his written notice to AFA that he shall not become a candidate for FCC purposes, then in any of the foregoing events, the consulting fees specified in section 2 shall be due only to the date of death, disability, withdrawal or written notice ("Event") and if the date of the Event is between the section 2 payment dates, the payment next due shall be pro rated to the date of the Event.

4. In addition to the fees to be paid AFA under section 2, the Committee shall reimburse AFA for all reasonable and necessary expenses incurred by AFA directly resulting from the services to be rendered under section 1. The Committee shall reimburse AFA within thirty (30) days after presentation of receipts therefore in accordance with federal election law. No expenses in excess of

9204075-230

$_____ shall be incurred without the prior approval of an authorized representative of the Committee.

5. AFA agrees that in addition to its other employees, Arthur Finkelstein will be available for consulting with the Committee a minimum of two (2) days per month.

6. This agreement shall be governed by the laws of the State of New York.

7. AFA shall look solely to the estate and property of the Committee and AFA, its successors and assigns shall not have any claim against the (chairman, treasurer or any officer, employer or agent thereof, for the satisfaction of AFA's remedies, including, but not limited to, the satisfaction of a judgment (or other judicial process) requiring payment of money by the Committee in the event of any default or breach by the Committee with respect to any of the terms, covenants or conditions of this agreement to be observed and/or performed by the Committee.

2274075-231

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year written above.

CAPUTO FOR SENATE COMMITTEE

By_____

ARTHUR J. FINKELSTEIN
& ASSOCIATES

By_____

5778E

9224275123732

RECEIVED
82 MAY 20 A10:46

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

DATE: June 1, 1981

TO: Bruce Caputo

FROM: Arthur J. Finkelstein

RE: Moynihan vulnerability

CONFIDENTIAL

Moynihan is more vulnerable than most people believe. He received only 54% in 1976 coming off a well publicized stint at the U.N., riding Carter's coattails in New York, and receiving conservative credentials from Bill Buckley's National Review (Man of the Year) and Bill Safire's endorsement.

Undoubtedly, Moynihan's almost hysterical liberal voting record has disappointed his conservative supporters (Panama Canal, pay raise, anti-death penalty, anti-Reagan budget cuts, etc.).

His favorable rating is not outstanding. His behavior in Washington sometimes leaves colleagues and others aghast. Blacks have always resented him. Buckley even received 24% of the black vote. He's been a political opportunist for so long that most of his natural constituencies are at his throat.

The Liberal Party will probably find an opponent for him. Speculation has centered around Elizabeth Holtzman, Herman Badillo, or Carol Bellamy. Any one of these could beat him in a Democratic Primary (Badillo and Bellamy should be watched closely in this regard, even if the Market Opinion Research poll said Holtzman would beat Moynihan in a primary).

The Right-to-Life Party endorsement for Caputo will help undermine some of Moynihan's Catholic base. He is also wrong on a whole series of "Catholic Issues". A Conservative Party endorsement of Caputo should keep Moynihan fighting for a shrinking middle ground.

Moynihan will have money, but so will the Caputo Campaign. We can, I think, count on the Senate Campaign Committee for almost a million dollars in the fall. Our problem will be early money. Remember, Buckley never really attacked Moynihan, so Moynihan had almost a free ride. He is so vulnerable both on personal deportment and voting.

8204075123

D'Amato's and Reagan's elections produced new confidence among New York Republicans. They think they can win this with help. There does not appear to be any Republican primary developing and a unified party can be counted on.

The Caputo image still tends to be vague but very positive. You've always had a good base in the Hudson Valley and this is an area of extreme weakness for Moynihan. (In fact, outside of Albany and perhaps central Buffalo, Moynihan's weakness North of New York City is astonishing.)

You will be superb on television - one on one with Moynihan in debate is desirable. He's not what he was and frankly, you're probably brighter.

The Republican base in New York is growing as it is everywhere. The host of new G.O.P. Congressmen, LeBoutillier, Carman, Wortley, Molinari, McGrath, etc. will give any Republican candidate more local base support than previously.

With Reagan in the White House, finally we'll have a friend working towards your election rather than neutrality or in opposition. (Moynihan's vote, along with just a handful of Liberals against the Reagan budget cuts, could not have endeared him to Ronald Reagan.)

I talk of four resources necessary to conduct a strong campaign: 1) Money - we will have late money, we're starting National Direct Mail and Local Donor programs now, PAC money is crucial but can be expected; 2) People - we are putting together a top notch team - everybody I've wanted is coming on board with perhaps one exception and he promised me an answer by February; 3) Candidate - I've always felt you were a star in training. As for Moynihan, he is by all accounts deteriorating - the world has changed; and 4) Time - we're starting early enough - important.

8 9 0 4 0 7 5 - 2 3 4

82 MAY 20 AM 10 : 46

TBS

TIME BUYING SERVICES INC.

1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

29 October 1981

Mr. Donald L. Gorski
National Sales Manager
WCBS-AM
51 West 52 Street
New York, NY 10019

Dear Don:

On October 21, 1981, I discussed the acceptance of advertising copy on WCBS-FM, in behalf of the NCPAC with you. At that time, you advised me it was not acceptable on WCBS-AM because of station policy restrictions, against such copy.

At the behest of the NCPAC, I request you provide me with a written statement defining the reasons for non-acceptance.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson

bcc: Elaine Gansz
Sheryl Bendis
Archer Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

16 October 1981

Ms. Elaine Ganse
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

Dear Elaine:

Nice meeting with you and Cheryl. Pursuant to our discussion regarding the Metro New York market radio activity for NCPAC, we have issued letters to each of the selected stations' General Managers; copy to their sales representatives. We have attached copy of the announcement draft, and the desired schedule. We have requested clearance and pricing. We will follow through early next week. At that time, we should learn a lot regarding acceptance, and any need for copy variations, etc. We will report back to you next week with the status of this project.

Attached is copy of the correspondence and the list of stations we directed it to.

Thank you. Regards.

Very truly yours,

Michael J. Donovan

MJD:CR
Atts.

cc: Ms. Cheryl Bendis - NCPAC
S. Dietz/R. Erickson - TBS
J. Caplan - TBS
R. Baxter - TBS

C C 0 4 0 7 5 - 2 3 6

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

COPY DRAFT

NCPAC 60-Second Announcement

New York Market

ANNOUNCER: (Bing, Bing) Who was the most Liberal United States Senator in 1980?

WOMAN'S VOICE: (Somewhat hysterical) Oh, I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.

WOMAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

WOMAN'S VOICE: No more Liberal than George McGovern.

ANNOUNCER: Well, you are right. Moynihan tied McGovern for most Liberal.

WOMAN'S VOICE: I don't believe it.

ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.

WOMAN'S VOICE: Moynihan is responsible for our welfare system?

ANNOUNCER: Yes, Moynihan created our runaway welfare system.

WOMAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he

WOMAN'S VOICE: (Interrupts) Wait, enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

A Division of RDR ASSOCIATES, INC.

8 9 4 0 7 5 1 2 3 7

8 2 0 4 0 7 5 1 2 3 8

NCPAC

MARKET: New York
MEDIUM: Radio

COMMERCIAL LENGTH: 60's

START DATE: T.B.A.
WEEKS: 1

DAYPART (N.Y.T.)	MON.	TUE.	WED.	THU.	FRI.	SAT.	SUN.	TOTAL
AM Drive 6-10AM (M-F)	3	3	2	2	2	2	2	16
PM Drive 3-8PM (M-F)	2	2	1	1	1	1	1	9

10.15.81

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

15 October 1981

Mr. John C. Moler
WRFM
485 Madison Avenue
New York, NY 10022

Dear Mr. Moler:

NCPAC (National Conservative Political Action Committee) will be placing a one week 60-second spot radio schedule in the New York market in the near future through TBS.

Attached is a draft of the copy which will be produced on tape for airplay and a prototype schedule of sixteen AM and nine PM drive time positions Monday-Sunday (25 announcements).

Please provide us with acceptance of this copy, along with a cost estimate for this schedule.

We will be contacting you by phone within a few days regarding this.

Very truly yours,

Michael J. Donovan
V.P. Group Head

MJD:CR
Atts.

cc: Mr. Gordon Gray

22040751239

NCPAC

New York Market
Station List

35-45,000

WRFM

WHN

~~WCBS-AM~~ ~~25,000~~

WVNJ

WNEW-AM 5000

WFAS 25 50

~~WCBS-FM~~

WNEW-FM

WPAT-AM/FM

WHLI

WOR

- WINS

930407512240

10.16.81

NCPAC file

TBS

TIME BUYING SERVICES INC.

1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WFAS and WWYD-FM	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WHLI	3
No	
WCBS-AM WCBS-FM WOR	3

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine aftet having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WKHK
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WNEW-FM	--	$4,980
WVNJ	--	$1,250
WFAS & WWYD	--	$1,827

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Mike.

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

TIME BUYING SERVICES INC.

NCPAC

NEW YORK MARKET
STATION CLEARANCE STATUS REPORT

STATION	CLEARANCE STATUS	COMMENTS
WCBS-AM	No	"Will not sell time to independent political committees for the purpose of discussing political issues - only sell to legally qualified candidates." I am requesting this response in writing.
WCBS-FM	No	Same as above.
WNEW-AM	Yes	Subject to documentation of claims in the copy that Moynihan was the father of our runaway welfare system... responsible for our welfare system...created our runaway welfare system.
WNEW-FM	Yes	Same as above.
WHN	Yes	Subject to the ommission of the claims that Moynihan created our runaway welfare system.
WOR	No	Station claims copy is subject to Fairness Doctrine. I am writing letter with legal opinion - will follow through.
WINS	Yes	Subject to substantiation of the claim that Moynihan is father of our runaway welfare system, etc.

STATION	CLEARANCE STATUS	COMMENTS
WPAT-AM/FM	Undecided	Believes advertising is subject to Fairness Doctrine and they have concerns about claims in the copy. I am sending copy of the legal opinion on the Fairness Doctrine and have requested a response in writing. Will follow through.
WVNJ	Yes	Accepted copy with no change.
WRFM	Yes	Subject to documentation of claims regarding Moynihan voting record and that he is the father of our runaway welfare system.
WHLI	Undecided	Station management has proposal under consideration. I am pursuing a resolution.
WFAS	Yes	Currently no copy change. Station sent representative in with "candidate" advertising forms to be filled out. I substituted with copy of legal opinion on Fairness Doctrine. Station suggests we add sister FM station, WWYD-FM, at 80% increase in schedule cost. We recommend schedule be added.

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

Executive Committee and Board of Directors
New York State Broadcasters Association
90 State St., Suite 530
Albany, NY 12207

December 22, 1981

Gentlemen:

Last summer New York Senator Daniel Moynihan made a prsentation to the Association's annual meeting. Among other topics, he discussed independent expenditure groups and their impact on political campaigns. As a follow-up he sent a personal letter to many radio and television executives on July 24, 1981, which contained numerous quasi-legal opinions against broadcast media accepting independent expenditure group advertising. The official nature of the inherent threats contained in these messages was enhanced by Moynihan's use of U.S. Senate stationery. The New York State Broadcasters Association continued to play Moynihan's game by issuing a statement to the membership on November 11, 1981, alerting the membership about the controvery of whether or not to accept such political advertising. The message was clear - if you accept the ads you are looking for trouble. No other points of view were addressed.

Our committee is a project of the National Conservative Political Action Committee (NCPAC), and our mission is to educate the voters of our state about the incumbent Senator's voting record. By aiding and abetting the likes of powerful politicians, the Association is encouraging the suppression of free speech - a right for which broadcasters have been fighting for years. As the Association conducts all its other business, it must also treat with compete fairness the question of accepting political ads. Just because Moynihan is a sitting Senator and a personal friend of some of the Association's members does not give NYSBA the right to be a vehicle for his partisan pronouncements with no opportunity for opposing views, legal opinions, or access to your memorandum writers.

NCPAC is contemplating legal action against Senator Moynihan and many broadcast stations that refused to carry this project's ads. Moynihan's strategy is to avoid discussion of legitimate issues by raising legal issues and putting pressure on his friends. The voters demand that this side-stepping of the real issues be stopped.

I know the Association's members, as advocates of a free press, will not wish to be bullied by a politician. Our committee will be happy to supply the Association or any of its members with detailed legal briefs supporting our position. I only hope you will be as generous in your dissemination of our views as you have been of Moynihan's.

Sincerely yours,

Robin B. Martin, Chairman

P.S. We also are ready to discuss each and every issue in Moynihan's record that we oppose. Please call me at 212-599-3303.

cc: Vince Wasilewski, NAB

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

December 16, 1981

Mr. Max Frankel
Editorial Page Editor
THE NEW YORK TIMES
229 West 43rd Street
New York, NY 10036

Dear Mr. Frankel:

Your editorial on the activities of the National Conservative Political Action Committee (NCPAC) of November 18, 1981, casts serious doubt as to the true position of the Times. At once, your readers are to believe that free speech and the right of individual expression are fundamental to our society, and also that certain groups, like NCPAC, are not to be allowed access to the media, even through paid advertisements. The Times editorial of September 29, 1981, outlines an aggressive position with regard to media access (particularly broadcasting) for the airing of various political views.

Who should be able to exercise such rights of access? The NCPAC editorial strongly suggests that only qualified office-holding politicians or candidates, and only those who live in a particular state, should be allowed to participate in the political dialogue. Do not all discussions of issues contribute to the democratic consensus that shapes the eventual resolution of priorities and policies? The Times must recognize that NCPAC and its New York project, New York State Taxpayers Fed Up With Moynihan, are only the embodiments of the voters who form these groups. NCPAC is not a monolith of anti-liberalism, but a group dedicated to the principles its supporters espouse. Our New York group was founded by local residents who feel strongly about the issues in the Senatorial record of Daniel Moynihan. All we desire is the ability to discuss the issues with the voters. Senator Moynihan and the Times would rather suppress those views.

Would the tables be turned and the editorial slant different if there were a National Liberal Political Action Committee? To avoid the charge of duplicity the Times must recognize the right of all parties, whether individual or groups, acting within the letter and spirit of the law, to express their views in all the media.

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

It is ironic to note that a powerful newspaper can raise questions of access to the media, when access to broadcast media by political candidates is guaranteed under federal law, and the print media have no obligation whatsoever to provide access to anyone. The Times has exercised its ultimate power by deciding which issues to raise about the NCPAC campaign. The real issue is the liberal record of Senator Moynihan. The Times ignored the discussion of the Moynihan voting record because it is indefensible. He is out of touch with New York and should be defeated.

Sincerely yours,

Robin B. Martin
Chairman

RBM:elr

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

Jerry - F41

AJF - copy

TBS

TIME BUYING SERVICES INC.

1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

16 October 1981

Ms. Elaine Ganse
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

Dear Elaine:

Nice meeting with you and Cheryl. Pursuant to our discussion regarding the Metro New York market radio activity for NCPAC, we have issued letters to each of the selected stations' General Managers; copy to their sales representatives. We have attached copy of the announcement draft, and the desired schedule. We have requested clearance and pricing. We will follow through early next week. At that time, we should learn a lot regarding acceptance, and any need for copy variations, etc. We will report back to you next week with the status of this project.

Attached is copy of the correspondence and the list of stations we directed it to.

Thank you. Regards.

Very truly yours,

Michael J. Donovan

MJD:CR
Atts.

cc: Ms. Cheryl Bendis - NCPAC ✓
S. Dietz/R. Erickson - TBS
J. Caplan - TBS
R. Baxter - TBS

C00407512 49

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

COPY DRAFT

NCPAC 60-Second Announcement

New York Market

ANNOUNCER:	(Bing, Bing) Who was the most Liberal United States Senator in 1980?
WOMAN'S VOICE: (Somewhat hysterical)	Oh, I know, uh uh, Ted Kennedy.
ANNOUNCER:	(Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.
WOMAN'S VOICE:	You're kidding. Who says?
ANNOUNCER:	The American Conservative Union.
WOMAN'S VOICE:	No more Liberal than George McGovern.
ANNOUNCER:	Well, you are right. Moynihan tied McGovern for most Liberal.
WOMAN'S VOICE:	I don't believe it.
ANNOUNCER:	Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.
WOMAN'S VOICE:	Moynihan is responsible for our welfare system?
ANNOUNCER:	Yes, Moynihan created our runaway welfare system.
WOMAN'S VOICE:	Gee, I didn't know that.
ANNOUNCER:	(Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he
WOMAN'S VOICE:	(Interrupts) Wait, enough. What would happen if the people knew this?
ANNOUNCER:	He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

A Division of PEPPER ASSOCIATES INC.

8204075125O

3 2 0 4 0 7 5 1 2 5 1

NCPAC

MARKET: New York
MEDIUM: Radio

COMMERCIAL LENGTH: 60's

START DATE: T.B.A.
WEEKS: 1

DAYPART (N.Y.T.)	MON.	TUE.	WED.	THU.	FRI.	SAT.	SUN.	TOTAL
AM Drive 6-10AM (M-F)	3	3	2	2	2	2	2	16
PM Drive 3-8PM (M-F)	2	2	1	1	1	1	1	9

10.15.81

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

15 October 1981

Mr. John C. Moler
WRFM
485 Madison Avenue
New York, NY 10022

Dear Mr. Moler:

NCPAC (National Conservative Political Action Committee) will be placing a one week 60-second spot radio schedule in the New York market in the near future through TBS.

Attached is a draft of the copy which will be produced on tape for airplay and a prototype schedule of sixteen AM and nine PM drive time positions Monday-Sunday (25 announcements).

Please provide us with acceptance of this copy, along with a cost estimate for this schedule.

We will be contacting you by phone within a few days regarding this.

Very truly yours,

Michael J. Donovan
V.P. Group Head

MJD:CR
Atts.

cc: Mr. Gordon Gray

0 2 2 0 4 0 7 5 1 2 5 4

NCPAC

New York Market
Station List

WRFM

WHN

WCBS-AM

WVNJ

WNEW-AM

WFAS

WCBS-FM

WNEW-FM

WPAT-AM/FM

WHLI

WOR

9374075125 53

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WFAS and WWYD-FM	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WHLI	3
No	
WCBS-AM WCBS-FM WOR	3

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine after having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WKHK
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WNEW-FM	--	$4,980
WVNJ	--	$1,250
WFAS & WWYD	--	$1,827

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Mike.

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

0 2 2 4 0 7 5 1 2 5 6

NCPAC

NEW YORK MARKET
STATION CLEARANCE STATUS REPORT

STATION	CLEARANCE STATUS	COMMENTS
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WOR	No	Station claims copy is subject to Fairness Doctrine. I am writing letter with legal opinion - will follow through.
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STATION	CLEARANCE STATUS	COMMENTS
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TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

29 October 1981

Mr. Dave Smith
WOR
1440 Broadway
New York, NY 10018

Dear Dave:

You advised me on October 27, 1981 that WOR would not accept advertising copy from the NCPAC because your attorney had advised the station that such copy is subject to the Fairness Doctrine.

I enclose copy of a legal opinion from the NCPAC law firm which positions political action advertising as not being subject to the Fairness Doctrine. Please pass this on to your attorney for restudy and advise.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR
Enc.

cc: S. Dietz/R. Erickson
Mr. Frank Shakespeare - Pres., RKO

bcc: Elaine Gansz
Cheryl Sendis
Arthur Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

A Division of RDR ASSOCIATES, INC

82040751259

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(703) 821-1000
TELEX: 710-831-0898
CABLE: SEDAMHERGE

October 26, 1981

Mr. Michael Donovan
Vice President
Time Buying Services, Inc.
1345 Avenue of the Americas
New York, New York 10105

Re: National Conservative
Political Action Committee

Dear Mr. Donovan:

The purpose of this letter is to forward to you, for your consideration and the consideration of broadcasters with whom you do business, a memorandum addressing fairness doctrine and equal opportunity issues pertaining to advertisements sponsored by the National Conservative Political Action Committee (NCPAC), which are critical of the past voting record and candidacy of Federal candidates. NCPAC requested that we forward this memorandum to you to assist you in your dealings with broadcasters who have raised these issues in considering whether to accept these advertisements for broadcast.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

J. Curtis Herge

Enclosure

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee
(w/encl.)

9204075126O

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 370
1700 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, D. C. 20006
(703) 821-1000
TELEX: 710-831-0898
CABLE: SEDAMHERGE

October 26, 1981

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MEMORANDUM

To: Mr. John T. Dolan
Chairman
National Conservative Political
Action Committee

From: Sedam & Herge, P.C.

Re: Broadcast of Certain Advertisements Sponsored by the National Conservative Political Action Committee

Purpose

The purpose of this memorandum is to provide authority resolving equal opportunity and fairness doctrine issues which, we understand, have been raised by certain licensees concerning the broadcast of NCPAC-sponsored advertisements which are critical of the past voting record, and/or are directed against the candidacy, of certain identified Federal officials.

I. THE BROADCAST OF THE NCPAC-SPONSORED ADVERTISEMENTS BY A LICENSEE WILL NOT RESULT IN THE IMPOSITION OF EQUAL OPPORTUNITY OR FAIRNESS DOCTRINE OBLIGATIONS TO OFFER FREE RESPONSE TIME TO THE CANDIDATE, HIS COMMITTEE, OR HIS SUPPORTERS

You have advised us that on behalf of the National Conservative Political Action Committee (hereinafter "NCPAC"), you have encountered difficulties in placing certain NCPAC-sponsored advertisements which are critical of the past voting

record or candidacy of certain identified Federal candidates. The reluctance of some broadcasters to accept these advertisements appears to be caused by a misunderstanding with respect to the obligations of the licensee once the advertisements are broadcast.

The primary issue which has repeatedly been a source of confusion on behalf of licensees, is the question whether licensees which broadcast NCPAC-sponsored advertisements thereby become obligated to offer free opportunities for opponents to respond. The FCC has determined that, whenever an independent committee purchases time to broadcast advertisements which are critical of the past voting record or directed against the candidacy of a particular candidate for Federal office, that equal opportunity and Fairness Doctrine considerations do not impose an obligation upon the licensee to offer free, roughly equivalent time to the candidate, his committee, or his supporters. FCC letter to Honorable Thomas F. Eagleton, 81 FCC 2d 423 (1980).

The Eagleton decision concerned NCPAC-sponsored advertisements which were critical of the past voting record and directed against the candidacy of Senator Eagleton. The FCC interpreted Nicholas Zapple, 23 FCC 2d 707(1970), to require only that comparable time be sold where spokesmen or supporters of a candidate purchase time and criticize a candidate. The FCC concluded that the NCPAC-sponsored advertisements do not constitute a "use" within the purview of Section 315(a) of the Communications Act of 1934 [47 U.S.C. §315(a)] so as to invoke equal opportunity issues. Paid NCPAC spots create only the obligation to offer comparable time on a paid basis to the supporters of the candidate. FCC letter to Honorable Thomas F. Eagleton, supra, at 426-427.

In addition to resolving the equal opportunity issue, the Eagleton decision addressed the question whether the Fairness Doctrine would require that free time be provided to a candidate or his supporters where an independent committee sponsors advertisements critical of a candidate. (On October 9, 1980, a supplement to Senator Eagleton's original complaint was filed, which specifically addressed the Fairness Doctrine issue. Supra, p.427.)

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Senator Eagleton argued that the Fairness Doctrine and, specifically, Cullman Broadcasting Co., Inc., 40 FCC 576 (1963), would require free equal time. In Cullman the FCC held that licensees are obligated to provide free access for the presentation of contrasting viewpoints concerning controversial issues of public importance where paid response time cannot be had, to ensure the public's right to know. In response, the FCC noted that it has consistently held that Cullman is not applicable to the "political arena." The FCC concluded that the Fairness Doctrine does not require a licensee to grant candidates or their supporters free time to counterbalance time sold to their opponents or the supporters of their opponents. Notwithstanding the above, the FCC continued to note that even if Fairness Doctrine principles applied in such a case, that Senator Eagleton had not demonstrated sufficient facts to entitle him or his Committee to access to the licensee for the purpose of expressing views contrary to those expressed in the NCPAC advertisements. A successful complainant would be required to show an imbalance in the station's overall programming that is such that the public has not been adequately informed on an issue of public importance.

Accordingly, neither equal opportunity nor fairness doctrine obligations are incurred by a licensee which accepts these advertisements for broadcast. In 1981, NCPAC has sponsored radio and television advertisements critical of the past voting record and directed against the candidacy of a number of identified Federal candidates. Among those states wherein such advertisements have been broadcast are Montana, Texas, Maryland, New Jersey, New York, North Carolina, Washington, D.C., and Connecticut.

9204075126 3

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Mr. Ken Lamb
WPAT-AM/FM
605 Third Avenue
New York, NY 10158

Dear Mr. Lamb:

As discussed, enclosed is copy of the legal opinion from the NCPAC attorneys which positions the NCPAC broadcast copy as not being subject to the Fairness Doctrine.

Please forward this to the proper parties for review and response in writing to our request for clearance.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR
Enc.

cc: S. Dietz/R. Erickson

bcc: Elaine Gansz
Cheryl Mendis
Arthur Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

9 1 0 4 2 7 5 1 2 6 4

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

29 October 1981

Mr. Rod Calarco
General Sales Manager
WCBS-FM
51 West 52 Street
New York, NY 10019

Dear Rod:

On October 21, 1981, I discussed the acceptance of advertising copy on WCBS-FM, in behalf of the NCPAC with you. At that time, you advised me it was not acceptable on WCBS-FM because of station policy restrictions, against such copy.

At the behest of the NCPAC, I request you provide me with a written statement defining the reasons for non-acceptance.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson

bcc: Elaine Gansz
Cheryl Bendis
Arthur Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

BRUCE CAPUTO CAMPAIGN

02 MAY 20 A10:47

ADDRESS & PHONE NUMBERS

Bruce Caputo
Booz Allen & Hamilton Inc.
245 Park Avenue
New York, N.Y. 10167
office: 697-1936

Mack Caputo
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438

Sheila Downey
399 E. 72nd Street - Apt. 9F
New York, N.Y. 10021

Roger H. Kimmel
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
Office: 867-6660

Arthur J. Finkelstein
117 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750

Adair Beutel
900 Park Avenue
New York, N.Y. 10021
home: 737-3739

Robert G. Wilson
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
office: 676-5033 or 5034

John Samerjan
68-12 Yellowstone Boulevard
Forest Hills, N.Y. 11375
459-4691

Austin T. Fragomen, Jr.
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555
home: 914/591-8561

Mr. Cookie Gibb
555 North Street
Greenwich, Conn. 06830
office: 203/622-0060
home: 203/869-5914

Goldman Sachs & Co
55 Broad Street | New York, New York 10004
Tel 212-676-5033

Robert G. Wilson
Limited Partner

Goldman Sachs

C 2 7 4 0 7 5 1 2 6 0

CAPUTO FOR SENATE-STAFF ROSTER 10-15-81

Caputo for Senate-Headquarters
2 West 45th Street--Suite 1701
New York, New York 10036
(212) 944-8330

BRUCE CAPUTO
200 Park Ave. Suite 5401
New York, N.Y. 10166
(o) 212-687-5552

ROBERT G. WILSON
42 Masterton Road
Bronxville, N.Y. 10708
(o) 212-676-5033 (Goldman Sachs)
(o) 212-661-2300 (Pan Am)

ARTHUR J. FINKELSTEIN
117 Smith Ave.
Mt. Kisco, N.Y. 10549
(o) 914-666-2750

A. MACDONALD CAPUTO
Morgan Stanley, Inc.
1251 Ave. of the Americas
New York, N.Y. 10020
(o) 212-974-4438

AUSTIN T. FRAGOMEN, JR.
Fragomen, Delkey & Bernsen
515 Madison Avenue- 14th Floor
New York, New York 10022
(o) 212-688-8555

Roger H. Kimmel
Milgrim,Thomajan,Jacobs & Lee
405 Lexington Ave.
New York, N.Y. 10174
(o) 212-867-6660

Alan Gottlieb
Merrill Associates
1601 114th St. SE, Alderwood Bldg.
Bellevue, WASHINGTON 98004
(o) 206-454-7711

JOHN T. SHEEHAN
13532 Leith Court
Chantilly, VA. 22121
(o) 202-225-4436 (until 11-1-81)

LUCIA TROVATO
432 Park Hill Avenue
Yonkers, N.Y. 10705

JOHN SAMERJAN
68-12 Yellowstone Blvd.
Forest Hills, N.Y. 11375

PAUL C. LOWERRE
210 East 68th St.
New York, N.Y. 10021

ADAIR BEUTEL
1220 Park Avenue
New York, N.Y.

PETER P. BUCKLEY
Taconic Petroleum Corp.
103 East 37th St.
New York, N.Y. 10016
(o) 212-689-8060

STACEY CANTRELL
555 Main Street
New York, N.Y. 10044

ROBIN B. MARTIN
141 East 44th St. Suite 1001
New York, N.Y. 10022
(o) 212-935-8181

ROBERT PERKINS
Polygon Diamond Trading Network
575 Lexington Ave. Suite 2700
New York, N.Y. 10022
(o) 212-935-8181

BRUCE CAPUTO CAMPAIGN

ADDRESS & PHONE NUMBERS

AS OF 8/15/81

BRUCE CAPUTO
Private Office
Pan Am Building
200 Park Avenue - Room 5401
New York, N.Y. 10166
office: 212/687-5552

CAPUTO FOR SENATE
Campaign Headquarters
2 West 45th Street
Room 1703
New York, N. Y. 10036
212/944-8330-31-32

ROBERT G. WILSON (Campaign Manager)
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
212/676-5033 or 5034
Creative Capital Associates, Inc.
Room 5401
Pan Am Building
200 Park Avenue
New York, N.Y. 10166
212/661-2036 or 2038 or
212/661-2300

ARTHUR FINKELSTEIN (Political Advisor)
117 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750

A. MACDONALD CAPUTO (Special Advisor)
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438

AUSTIN T. FRAGOMEN, JR. (Treasurer)
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555

ROGER H. KIMMEL (Counsel)
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
office: 212/867-6660

MISS LUCIA TROVATO (Office Manager)
432 Park Hill Avenue
Yonkers, New York 10705

JOHN SAMERJAN (Director of Research & Press)
68-12 Yellowstone Boulevard
Forest Hills, New York 11375
office: 212/263-5202

ADAIR BEUTEL (Advisor PACs)
900 Park Avenue
New York, N.Y. 10021

ROBERT J. PERKINS (Financial Advisor)
Polygon Diamond Trading Network, Inc.
575 Lexington Avenue
Suite 2700
New York City, N.Y. 10022
office: 212/935-8181

ROBIN B. MARTIN (Political Manager)
Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, N.Y. 10017
office: 212/599-3303

PETER P. BUCKLEY
Taconic Petroleum Corporation
103 East 37th Street
New York, New York 10016
office: 212/689-8060

ALAN GOTTLIEB (Direct Mail)
Center For Defense of Free Enterprise
1601 114 S.E.
Alderwood Building
Bellevue, Washington, D.C. 98004
office: 206/454-4911

CURTIS KELLY (Special Events)
Reader's Digest
200 Park Avenue - 32nd Floor
New York, N.Y. 10166
office: 212/972-6166

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

82 JUL 9 P12: 09

July 9, 1982

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1424

On April 21, 1982, the Commission found reason to believe that the National Conservative Political Action Committee, Inc. ("NCPAC") and the Caputo For Senate Committee (the "Caputo Committee") committed violations of 2 U.S.C. § 434 of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 432 et seq., by failing to report properly certain in-kind contributions. On that date the Commission also found reason to believe that NCPAC and the Caputo Committee committed violations of Section 441a(a)(2)(A) of the Act, NCPAC by making, and the Caputo Committee by accepting, in excess of the $5,000 contribution limitation imposed by the Act. The Commission authorized the Office of General Counsel to send requests for production of documents to the respondents and Arthur J. Finkelstein & Associates ("Finkestein"), political consultants also named in the complaint. By May 20, 1982, the Office of General Counsel had received responses to these requests for documents.

We are now requesting authority to subpoena four persons for deposition in connection with the investigation of this matter. We must determine whether or not consultation and coordination between the Caputo Committee and NCPAC occurred through Finkelstein thus compromising the independence of expenditures made by NCPAC against the Democratic candidate, Senator Patrick J. Moynihan. The documents we have received to date support the Commission's reason to believe determinations that such consultation and coordination occurred, but it will be necessary to examine witnesses from each of the organizations involved in the alleged violations of the Act to complete our factual investigation.

2 1 5 2 7 0

Therefore, the Office of General Counsel requests authority to subpoena the following persons for deposition: (1) Arthur J. Finkelstein, political consultant and pollster for both NCPAC and the Caputo Committee; (2) Michael J. Donovan, employee of Time Buying Services, Inc. who allegedly consulted with Mr. Finkelstein for NCPAC on certain anti-Moynihan radio spots while Mr. Finkelstein was working for the Caputo Committee; (3) Robert G. Wilson, campaign manager for the Caputo Committee; and (4) John T. Sheehan, liaison between the Caputo Committee staff and Arthur J. Finkelstein. In addition, we anticipate that in the near future we will request authority to subpoena at least one person associated with NCPAC. However, at the present time it is not possible to determine the identity of such person or persons. We anticipate that following the deposition of Mr. Finkelstein, we will be able to identify the appropriate employee or officer of NCPAC in a position to give testimony concerning Mr. Finkelstein's work for NCPAC on their anti-Moynihan independent expenditure campaign.

Recommendation

The Office of General Counsel recommends that the Commission authorize the attached subpoena and approve sending the attached letters for the following:

1) Arthur J. Finkelstein;
2) Michael J. Donovan;
3) Robert G. Wilson; and,
4) John T. Sheehan.

3 2 1 4 0 5 1 2 7 1

Attachment
Letters and Subpoenas for each proposed deponent

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY RANSOM

DATE: JULY 14, 1982

SUBJECT: OBJECTION - MUR 1424 Memorandum to the Commission dated July 9, 1982; Received in OCS, 7-9-82, 12:09

The above-named document was circulated to the Commission on July 12, 1982 at 11:00.

Commissioner Aikens submitted an objection at 10:37, July 14, 1982.

This matter will be placed on the agenda for the Executive Session of Tuesday, July 20, 1982.

2040751272

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee	)	MUR 1424
Caputo for Senate Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on July 20, 1982, do hereby certify that the Commission decided by a vote of 5-1 to authorize the subpoenas attached to the General Counsel's July 9, 1982 report and approve the sending of the subpoenas and letters to the following four individuals:

1) Arthur J. Finkelstein;
2) Michael J. Donovan;
3) Robert G. Wilson; and,
4) John T. Sheehan

Affirmative votes for the decision were cast by Commissioners Elliott, Harris, McDonald, McGarry, and Reiche. Commissioner Aikens filed a dissenting vote.

Attest:

7-20-82
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: JULY 22, 1982

SUBJECT: SUBPOENAS RE: MUR 1424 JCR

The attached subpoenas regarding MUR 1424, which were Commission approved in Executive Session of July 20, 1982 by a vote of 5-1, have been signed and sealed this date.

Attachment

2 0 0 4 0 7 5 1 2 7 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John T. Sheehan
13552 Leith Court
Chantilly, Virginia 22121

Re: MUR 1424

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached subpoena which requires you to appear and give sworn testimony on August 5, 1982, at 9:30 a.m. has been issued. The Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us, in writing, of the name and address of your attorney prior to the date of deposition.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00, plus mileage at the rate of 22.5 cents per mile. You will be given a check for your witness fee and mileage at the time of the deposition.

If you have any questions please direct them to Lee Andersen, the attorney handling this matter, at (202)523-5071 or on our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena

2204075127 0

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

Subpoena to Appear for Deposition Upon Oral Examination and to Produce Books, Records and other Relevant Documents

TO: John T. Sheehan

RE: Matter Under Review 1424

At the instance of the Federal Election Commission pursuant to section 437d of Title 2 of the United States Code, you are hereby subpoenaed to appear for deposition as a witness in connection with the Commission's investigation of possible violations of 2 U.S.C. § 434 and § 441a(a) by the Caputo For Senate Committee and by the National Conservative Political Action Committee. Specifically, it appears that the National Conservative Political Action Committee may have made and the Caputo For Senate may have received in-kind contributions in excess of $5,000. Notice is hereby given that the deposition is to be taken at the Federal Election Commission, 7th Floor, 1325 K Street, N.W., Washington, D.C. 20463, beginning at 9:30 a.m. on August 5, 1982, and continuing each day thereafter as necessary.

Purusuant to section 437d of Title 2, United States Code, you are hereby subpoenaed to produce on August 5, 1982, at the above stated location:

(a) any documents or materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements

9 3 0 4 0 7 5 1 2 7 7

produced by the National Conservative Political Action Committee, the Caputo For Senate Committee, or Arthur J. Finkelstein & Associates; and

(b) any documents or materials in your possession evidencing consultation or cooperation between the National Conservative Political Action Committee and the Caputo For Senate Committee or Arthur J. Finkelstein & Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 22nd day of July, 1982.

Frank P. Reiche
Frank P. Reiche
Chairman
Federal Election Commission

ATTEST:

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael J. Donovan
Time Buying Services, Inc.
1345 Avenue of the Americas
New York, New York 10105

Re: MUR 1424

Dear Mr. Donovan:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached subpoena which requires you to appear and give sworn testimony on August 23, 1982, at 9:30 a.m. has been issued. The Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us, in writing, of the name and address of your attorney prior to the date of deposition.

2 0 4 0 7 5 1 2 7 4

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00, plus mileage at the rate of 22.5 cents per mile. You will be given a check for your witness fee and mileage at the time of the deposition.

If you have any questions please direct them to Lee Andersen, the attorney handling this matter, at (202)523-5071 or on our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena

9204075120

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

Subpoena to Appear for Deposition Upon Oral Examination and to Produce Books, Records and other Relevant Documents

TO: Michael J. Donovan

RE: Matter Under Review 1424

At the instance of the Federal Election Commission pursuant to section 437d of Title 2 of the United States Code, you are hereby subpoenaed to appear for deposition as a witness in connection with the Commission's investigation of possible violations of 2 U.S.C. § 434 and § 441a(a) by the Caputo For Senate Committee and by the National Conservative Political Action Committee. Specifically, it appears that the National Conservative Political Action Committee may have made and the Caputo For Senate may have received in-kind contributions in excess of $5,000. Notice is hereby given that the deposition is to be taken at the Jacob J. Javits Federal Building, 26 Federal Plaza, Building Manager's Office, Room 131, New York, New York 10278, beginning at 9:30 a.m. on August 23, 1982, and continuing each day thereafter as necessary.

Purusuant to section 437d of Title 2, United States Code, you are hereby subpoenaed to produce on August 23, 1982, at the above stated location:

(a) any documents or materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements

2204075121

produced by the National Conservative Political Action Committee, the Caputo For Senate Committee, or Arthur J. Finkelstein & Associates; and

(b) any documents or materials in your possession evidencing consultation or cooperation between the National Conservative Political Action Committee and the Caputo For Senate Committee or Arthur J. Finkelstein & Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 22nd day of July, 1982.

Frank P. Reiche
Frank P. Reiche
Chairman
Federal Election Commission

ATTEST:

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

2204075128 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert G. Wilson
42 Masterton Road
Bronxville, New York 10708

Re: MUR 1424

Dear Mr. Wilson:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached subpoena which requires you to appear and give sworn testimony on August 23, 1982 at 2:00 p.m. has been issued. The Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us, in writing, of the name and address of your attorney prior to the date of deposition.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00, plus mileage at the rate of 22.5 cents per mile. You will be given a check for your witness fee and mileage at the time of the deposition.

If you have any questions please direct them to Lee Andersen, the attorney handling this matter, at (202)523-5071 or on our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena

9204075129 4

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

Subpoena to Appear for Deposition Upon Oral Examination and to Produce Books, Records and other Relevant Documents

TO: Robert G. Wilson

RE: Matter Under Review 1424

At the instance of the Federal Election Commission pursuant to section 437d of Title 2 of the United States Code, you are hereby subpoenaed to appear for deposition as a witness in connection with the Commission's investigation of possible violations of 2 U.S.C. § 434 and § 441a(a) by the Caputo For Senate Committee and by the National Conservative Political Action Committee. Specifically, it appears that the National Conservative Political Action Committee may have made and the Caputo For Senate may have received in-kind contributions in excess of $5,000. Notice is hereby given that the deposition is to be taken at the Jacob J. Javits Federal Building, 26 Federal Plaza, Building Manager's Office, Room 131, New York, New York 10278, beginning at 2:00 p.m. on August 23, 1982, and continuing each day thereafter as necessary.

Purusuant to section 437d of Title 2, United States Code, you are hereby subpoenaed to produce on August 23, 1982, at the above stated location:

(a) any documents or materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements

2 0 4 0 7 5 1 2 8 3

produced by the National Conservative Political Action Committee, the Caputo For Senate Committee, or Arthur J. Finkelstein & Associates; and

(b) any documents or materials in your possession evidencing consultation or cooperation between the National Conservative Political Action Committee and the Caputo For Senate Committee or Arthur J. Finkelstein & Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 22nd day of July, 1982.

Frank P. Reiche
Frank P. Reiche
Chairman
Federal Election Commission

ATTEST:

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

2014075128

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 22, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur J. Finkelstein
Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, New York 10549

Re: MUR 1424

Dear Mr. Finkelstein:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached subpoena which requires you to appear and give sworn testimony on August 24, 1982, at 10:00 a.m. has been issued. The Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us, in writing, of the name and address of your attorney prior to the date of deposition.

2074751287

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00, plus mileage at the rate of 22.5 cents per mile. You will be given a check for your witness fee and mileage at the time of the deposition.

If you have any questions please direct them to Lee Andersen, the attorney handling this matter, at (202)523-5071 or on our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure
Subpoena

2204075128

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

Subpoena to Appear for Deposition upon Oral Examination

TO: Arthur J. Finkelstein

RE: Matter Under Reivew 1424

At the instance of the Federal Election Commission pursuant to section 437d of Title 2 of the United States Code, you are hereby subpoenaed to appear for deposition as a witness in connection with the Commission's investigation of possible violations of 2 U.S.C. § 434 and § 441a(b) by the Caputo For Senate Committee and by the National Conservative Political Action Committee. Specifically, it appears that the National Conservative Political Action Committee may have made and Caputo For Senate Committee may have received in-kind contributions in excess of $5,000. Notice is hereby given that the deposition is to be taken at the Jacob J. Javits Federal Building, 26 Federal Plaza, Building Manager's Office, Room 131, New York, New York 10278 beginning at 10:00 a.m. on August 24, 1982, and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 22nd day of July, ~~1980~~ 1982.

Frank P. Reiche

Frank P. Reiche, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

2117512849

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82 AUG 10 A10:12

SIGMUND A. BECK
NICHOLAS J. CREME
ROBERT F. FINK
SUSAN A. GOLDBERG
GEORGE L. GRAFF
ROBERT A. JACOBS
LEO G. KAILAS
ROGER H. KIMMEL
LAWRENCE A. KOBRIN
DAVID P. LANGLOIS
JAMES R. LEDLEY
ALFRED T. LEE
RAYMOND A. MANTLE
ROBINSON MARKEL
ROBERT A. MEISTER
ROGER M. MILGRIM
GRIFFITH B. PRICE, JR.
SAMUEL D. ROSEN
ROBERT THOMAJAN

MILGRIM THOMAJAN JACOBS & LEE
PROFESSIONAL CORPORATION
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NEW YORK 10174
(212) 867-6660
CABLE: "MILATOM" NYC
W. U. 12-6965
W U. I. 662124

JAMES E. BEDSWORTH*
STEVE M. BEDERMAN
EUGENE A. DANAHER
ANDREW L. DEUTSCH
MICHAEL L. ETTINGER
MICHAEL B. GILLILAND
A. DAVID GRAUS
PHILIP J. KEUPER
JAMES D. KLEINER
LAWRENCE N. MULLMAN
ALBERT N. PODELL
JOHN M. SCAGNELLI
JEANNE L. SCHROEDER
LOUIS SCHULMAN
J. KATHERINE SWISHER*
SIMON TAYLOR*
LAWRENCE I. WEINSTEIN

*NOT ADMITTED IN NEW YORK

August 5, 1982

Mr. Frank P. Reiche, Chairman
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Attention: Lee Anderson, Esq.

MUR 1424

Dear Sir:

In accordance with your letter of April 30, 1982, we would like to enter into discussions with your Office of General Counsel with a view to settling this matter through conciliation prior to a finding of probable cause.

I would welcome the opportunity to discuss the facts and issues in the case in an open and informal manner and I look forward to your response.

Very truly yours,

George L. Graff

cc: Mr. Bruce Caputo
Roger H. Kimmel, Esq.

1766g

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Cert#8342
82 AUG 10 A10:42

LAW OFFICES
H. RICHARD MAYBERRY, JR.
SUITE 960
1889 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, D.C. 20036
AREA 202 822-9622

August 5, 1982

82 AUG 10 P1:29

Lee Andersen, Esq.
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424-Deposition of
John T. Sheehan

Dear Mr. Andersen:

Please be advised that this firm will serve as counsel to Mr. Sheehan in the above-captioned matter.

This letter also confirms your agreement to the rescheduling of the deposition from August 5, 1982, until 9:30 A.M. August 25, 1982, at the Commission's office.

Sincerely yours,

H Richard Mayberry Jr

H. Richard Mayberry, Jr.

HRM/cc
cc: John T. Sheehan

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2002381 (#8253
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82 AUG 12 AM : 26

SIGMUND A. BECK
NICHOLAS J. CREME
ROBERT F. FINK
SUSAN A. GOLDBERG
GEORGE L. GRAFF
ROBERT A. JACOBS
LEO G. KAILAS
ROGER H. KIMMEL
LAWRENCE A. KOBRIN
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MILGRIM THOMAJAN JACOBS & LEE
PROFESSIONAL CORPORATION
THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NEW YORK 10174
(212) 867-6660
CABLE "MILATOM" NYC
W. U. 12-6965
W. U. I. 662124

JAMES E. BECKWITH*
STEVE M. BEDERMAN
EUGENE A. DANAHER
ANDREW L. DEUTSCH
MICHAEL L. ETTINGER
MICHAEL S. GILLILAND
A. DAVID GRAUS
PHILIP J. KEUPER
JAMES D. KLEINER
LAWRENCE N. MULLMAN
ALBERT N. PODELL
JOHN M. SCAGNELLI
JEANNE L. SCHROEDER
LOUIS SCHULMAN
J. KATHERINE SWISHER*
SIMON TAYLOR*
LAWRENCE I. WEINSTEIN

*NOT ADMITTED IN NEW YORK

August 10, 1982

Kenneth A. Gross, Esq.
Associate General Counsel
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Attention: Lee Anderson, Esq.

MUR 1424

Dear Mr. Gross:

This will confirm my recent conversation with Lee Anderson, Esq., in which I advised Mr. Anderson that we have been retained by Robert G. Wilson to represent him in connection with your subpoena to take his testimony in the above matter.

It was agreed between Mr. Anderson and myself that the deposition of Mr. Wilson will take place on Wednesday, September 15, 1982, at 2:00 p.m., at room 131, Jacob J. Javits Federal Building, 26 Federal Plaza, New York, New York.

If you, or any member of your staff, wishes to discuss this matter further, please contact the undersigned.

Very truly yours,

George L. Graff

1773g

2002381294
82 AUG 12 PM 2:11

RECEIVED
Ccc# 8293
02 AUG 20 A10:27

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

JANIS A. CHERRY
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(703) 821-1000

TELEX: 710-831-0896

CABLE: SEDAMHERGE

August 18, 1982

AUG 20 P1:06

Mr. Lee Andersen
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424

Dear Mr. Andersen:

This will confirm our telephone agreement that the deposition of Arthur J. Finkelstein, previously scheduled for 10:00 a.m., August 24, 1982, in New York City, has been reset for 2:00 p.m., August 31, 1982, at the offices of the Commission.

I have asked Mr. Finkelstein to send to the Commission, to your attention, a letter of representation designating this firm as his legal representative in this matter. If you have not received such a letter by the date of the deposition, I will deliver a letter to you at that time.

We have left unresolved, but we have discussed the possibility of Mr. Finkelstein's coming to Washington at his own expense and receiving from the Commission a check for his $30.00 witness fee and mileage at the rate of 22.5 cents per mile of distance between New York and Washington, D.C.

Please feel free to contact me if you have any questions in this matter.

Sincerely,

Robert R. Sparks, Jr.

cc: Arthur J. Finkelstein

2 2 1 4 0 7 5 1 2 9 3

GCC# 8344

BURNS SUMMIT ROVINS & FELDESMAN

445 PARK AVENUE NEW YORK 10022

212-980-3200

JOSEPH D. ALPERIN
JOHN L. AMABILE
HOWARD BINDELGLASS
JEROME J. BORG
ARNOLD I. BURNS
ERWIN CHEROVSKY
JOEL A. COHEN
JUSTIN W. D'ATRI
ROGER DUBROFF
RALPH M. ENGEL
GUY R. FAIRSTEIN
WALTER FELDESMAN
MORRIS J. FELLNER
MORTIMER N. FELSINGER
STEPHEN R. FIELD
ALAN D. GALLAY
STANLEY GARRETT
LAWRENCE C. GIBBS
ALAN B. HYMAN
HERBERT P. JACOBY
HAROLD I. KAHEN
ARTHUR L. KIMMELFIELD
HOWARD L. KLEIN
SELIG J. LEVITAN
JOSEPH E. LOW
GARY L. MADDOCK
RUBIN H. MARCUS
HERBERT L. ORTNER
SAMUEL F. OTTENSOSER
ALLAN A. PINES
LEONARD ROVINS
STUART G. SCHWARTZ
MICHAEL G. SHANNON
EVAN J. SPELFOGEL
MAX D. SPITZER
WYNNE B. STERN, JR.
STUART A. SUMMIT
WALTER E. WASHINGTON*
RICHARD A. WILSKER
*D.C. BAR ONLY

BURNS SUMMIT
ROVINS & WASHINGTON
1025 15 STREET, N.W.
WASHINGTON, D.C. 20005
202-659-3300

NORMAN A. HOWARD
HOWARD SHELDON
COUNSEL

CABLE: BURNLEX
TELEX: 14-8376

August 25, 1982

2 AUG 30 A9:09

BY HAND

Lee Anderson, Esq.
Federal Election Commission
1325 K Street, N.W.
Seventh Floor
Washington, D.C. 20463

Re: Michael J. Donovan/TBS

Dear Mr. Anderson:

This letter is to confirm our telephone conversation of August 18, 1982 in which I advised you that we would be appearing as counsel for Michael J. Donovan and Time Buying Services, Inc. in connection with Mr. Donovan's appearance, oral examination, and production of documents pursuant to subpoena in connection with Matter Under Review 1424 on the adjourned date of August 27, 1982.

Sincerely,

Gary L. Maddock

GLM:bw

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

82 AUG 31 P1:31

August 31, 1982

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1424

On August 10, 1982, the Commission received a written request from counsel for respondent, Caputo for Senate Committee (the "Caputo Committee"), to begin informal conciliation pursuant to 11 C.F.R. § 111.18(d). Since we are in the midst of taking the depositions regarding the alleged violations in this matter, it would be premature to discuss conciliation at the present time. When the Commission has completed its discovery of the facts in this matter, we will review the request again and make further recommendations to the Commission.

Recommendation

The Office of General Counsel recommends that the Commission reject the request to begin informal conciliation pending the completion of the discovery in this matter, and that the Commission approve the attached letter to the Caputo Committee.

Attachments

1. Letter from Caputo for Senate Committee dated August 5, 1981 (1 page)
2. Letter to the Caputo for Senate Committee (1 page)

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1424
Caputo for Senate Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 2, 1982, the Commission decided by a vote of 4-0 to take the following actions in MUR 1424:

1. Reject the request to begin informal conciliation pending the completion of the depositions in this matter.

2. Approve the letter to the Caputo Committee as attached to the August 31, 1982 Memorandum to the Commission.

Commissioners Elliott, Harris, McDonald and McGarry voted affirmatively in this matter; Commissioner Aikens abstained and Commissioner Reiche did not cast a vote.

Attest:

9-3-82
Date

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

Received in Office of Commission Secretary: 8-31-82, 1:31
Circulated on 48 hour tally basis: 8-31-82, 4:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 3, 1982

George L. Graff
MILGRAM, THOMAJAN, JACOBS
AND LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

This is in response to your letter of August 5, 1982, requesting conciliation prior to a finding of probable cause to believe that a violation has been committed. 11 C.F.R. § 111.18(d). Because factual discovery in this matter is still proceeding, the Commission is unable to propose a conciliation agreement at the present time.

When discovery has been completed, the Office of General Counsel will contact you for further discussion of the terms of conciliation. If you have any questions, please contact R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071 or call our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

9 3 0 4 0 7 5 1 2 9 7

GCC# 8372

RECEIVED
GENERAL COUNSEL

'82 SEP 1 A11:28

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Robert R. Sparks, Jr.
J. Curtis Herge

ADDRESS: Sedam & Herge, P.C.
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

TELEPHONE: (703)821-1000

RE: MUR 1424

The above-named individual(s) are hereby designated as my counsel and are authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

ARTHUR J. FINKELSTEIN

Dated: 8/31/82

NAME: Arthur J. Finkelstein

ADDRESS: AJF & Associates, Inc.
117 Smith Avenue
Mt. Kisco, New York 10549

TELEPHONE: (914)666-2750

82047751298

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
82 SEP 2 P5: 12

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

September 2, 1982

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

SUBJECT: MUR 1424

On April 21, 1982, the Commission found reason to believe that the National Conservative Political Action Committee, Inc. ("NCPAC") and the Caputo For Senate Committee (the "Caputo Committee") committed violations of 2 U.S.C. § 434 of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 432 et seq., by failing to report properly certain in-kind contributions. On that date the Commission also found reason to believe that NCPAC and the Caputo Committee committed violations of Section 441a(a)(2)(A) of the Act, NCPAC by making, and the Caputo Committee by accepting, in excess of the $5,000 contribution limitation imposed by the Act. The Commission authorized the Office of General Counsel to send requests for production of documents to the respondents and Arthur J. Finkelstein & Associates ("Finkelstein"), political consultants also named in the complaint. By May 20, 1982, the Office of General Counsel had received responses to these requests for documents.

On July 20, 1982, the Commission authorized the issuance of subpoenas for deposition to the following persons: (1) Arthur J. Finkelstein; (2) Michael J. Donovan; (3) Robert G. Wilson; and (4) John T. Sheehan. To date the Office of General Counsel has taken the depositions of all except Mr. Wilson, whose deposition is scheduled for September 15, 1982. In our July 9, 1982 Memorandum to the Commission, we indicated that we would be seeking authority to subpoeana at least one person from NCPAC. We have identified this person as Mr. Robin B. Martin who, according to documentary and other evidence, may have worked against the election of Senator Moynihan in association with both NCPAC and the Caputo Committee during 1981.

Recommendation

The Office of General Counsel recommends that the Commission authorize the attached subpoena and approve the sending of the attached letter for Mr. Robin B. Martin.

Attachment
Letter and subpoena for Mr. Martin

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Robin B. Martin)

MUR 1424

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 8, 1982, the Commission authorized by a vote of 4-0 the subpoena to Robin B. Martin as attached to the Memorandum to the Commission dated September 2, 1982, and approved the sending of the letter.

Commissioners Elliott, Harris, McDonald and McGarry voted affirmatively; Commissioners Aikens and Reiche did not cast votes in this matter.

Attest:

9-8-82
Date

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

Received in Office of Commission Secretary: 9-2-82, 5:12
Circulated on 48 hour tally basis: 9-3-82, 2:00

2204075130

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: SEPTEMBER 13, 1982

SUBJECT: SUBPOENA RE: MUR 1424

The attached subpoena regarding MUR 1424 was signed and sealed on September 10, 1982.

Attachment

9704075130 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 14, 1982

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robin B. Martin
Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, New York 10017

Re: MUR 1424

Dear Mr. Martin:

The Federal Election Commission, established in April, 1975, has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26 Internal Revenue Code of 1954. In connection with an investigation being conducted by the Commission, the attached subpoena which requires you to appear and give sworn testimony on September 23, 1982, has been issued. The Commission does not consider you a respondent in this matter; but rather as a witness only.

Since this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) apply. This section of the Act prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be so represented, please advise us, in writing, of the name and address of your attorney prior to the date of deposition.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00, plus mileage at the rate of 20 cents per mile. You will be given a check for your witness fee and mileage at the time of the deposition.

If you have any questions please direct them to Lee Andersen, the attorney handling this matter, at (202)523-5071 or on our toll free line at (800)424-9530.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Coounsel

Enclosure
Subpoena

2204075130 4

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

Subpoena to Appear for Deposition Upon Oral Examination and to Produce Books, Records and other Relevant Documents

TO: Robin B. Martin

RE: Matter Under Review 1424

At the instance of the Federal Election Commission pursuant to section 437d of Title 2 of the United States Code, you are hereby subpoenaed to appear for deposition as a witness in connection with the Commission's investigation of possible violations of 2 U.S.C. § 434 and § 441a(a) by the Caputo For Senate Committee and by the National Conservative Political Action Committee. Specifically, it appears that the National Conservative Political Action Committee may have made and the Caputo For Senate may have received in-kind contributions in excess of $5,000. Notice is hereby given that the deposition is to be taken at 1 St. Andrews Plaza, Rm 525, New York, New York 10007 beginning at 9:30 am on Thursday, September 23, 1982, and continuing each day thereafter as necessary.

Pursuant to section 437d of Title 2, United States Code, you are hereby subpoenaed to produce on September 23, 1982, at the above stated location:

(a) any documents or materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements

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produced by the National Conservative Political Action Committee, the Caputo For Senate Committee, or Arthur J. Finkelstein & Associates; and

(b) any documents or materials in your possession evidencing consultation or cooperation between the National Conservative Political Action Committee and the Caputo For Senate Committee or Arthur J. Finkelstein & Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 10th day of September , 1982.

Frank P. Reiche

Frank P. Reiche
Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

2040750305

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 28, 1982

George L. Graff
Milgrim, Thomajan, Jacobs & Lee
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

This letter is to confirm your conversation with Lee Andersen concerning the re-scheduling of the deposition of your client, Robert Wilson. As per the telephone conversation, the deposition will be taken on Friday, October 22, 1982 at One St. Andrews Plaza, Fifth Floor, New York, New York 10007 beginning at 9:30 a.m.

If you have any further questions, please contact Lee Andersen at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 28, 1982

Robert R. Sparks, Jr.
Sedam & Herge
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

This letter is to confirm your conversation with Lee Andersen concerning the re-scheduling of the deposition of your client, Robin Martin. As per the telephone conversation, the deposition will be taken on Friday, October 22, 1982 at One St. Andrews Plaza, Fifth Floor, New York, New York 10007 beginning at 1:00 p.m.

If you have any further questions, please contact Lee Andersen at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 30, 1982

Ms. Diane Ekizian
Acme Reporting Co.
1411 K Street, N.W.
Washington, D.C. 20005

Re: MUR 1424

Dear Ms. Ekizian:

This letter is to confirm arrangements made with your office for the services of a court reporter. The arrangements were made by Judy Thedford and concern the taking of depositions of two individuals on Friday, October 22, 1982. The depositions are scheduled to begin at 9:30 a.m. and 1:00 p.m. at One St. Andrews Plaza, Room 525, New York, New York 10007.

If you have any further questions, please contact Judy Thedford at (202)523-4529.

Sincerely,

Gary L. Johansen

Gary L. Johansen
Assistant General Counsel

2240751379

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOTE: DEPOSITIONS TAKEN IN MUR 1424 ARE FILED AT THE END OF THE CASE.

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202961

GC # 8610

SEDAM & HERGE

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 1100

8300 GREENSBORO DRIVE

McLEAN, VIRGINIA 22102

(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

JANIS A. CHERRY
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 700
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(703) 821-1000
TELEX: 710-831-0898
CABLE: SEDAMHERGE

2001 OCT 6 P

October 5, 1982

Mr. R. Lee Andersen
Office of the General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424

Dear Mr. Andersen:

I enclose a copy of the passenger receipts from tickets used by Mr. Finkelstein for his deposition taken on August 31, 1982, at the offices of the Federal Election Commission.

Mr. Finkelstein requests reimbursement for his airplane tickets in the amount of $120.00 total, as well as the $30.00 witness fee due him for his appearance at the deposition.

Thank you for your attention to this matter. Please feel free to contact me if you have any questions.

Sincerely,

Robert R. Sparks, Jr.

Enclosure

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EASTERN
WE HAVE TO LEARN OUR WINGS EVERY DAY

NORMAL FARE 60.00
OFF PEAK 40.00

PASSENGER'S RECEIPT

FINKELSTEIN/MJ

08/31/82 DCA/DCA

8479

2103 572

3710 154547 11002

NOT GOOD FOR PASSAGE
Sold Subject to Tariff Regulations
Issued by Eastern Air Lines Inc

85



EASTERN
WE HAVE TO LEARN OUR WINGS EVERY DAY

NORMAL FARE 60.00
OFF PEAK 40.00

PASSENGER'S RECEIPT

FINKELSTEIN/MJ

08/31/82 DCA/LGA

8479

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3710 154547 11002

NOT GOOD FOR PASSAGE
Sold Subject to Tariff Regulations
Issued by Eastern Air Lines Inc

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Gen # 8752

STATEMENT OF DESIGNATION OF COUNSEL

NAME OF COUNSEL: Robert R. Sparks, Jr.
J. Curtis Herge

ADDRESS: Sedam & Herge, P.C.
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

TELEPHONE: (703) 821-1000

RE: MUR 1424

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

ROBIN B. MARTIN

Dated:

NAME: Robin B. Martin

ADDRESS: Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, New York 10017

TELEPHONE: (212) 599-3303

9204075131 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 15, 1982

Robert Sparks, Esquire
SEDAM & HERGE
Suite 1100
6300 Greensboro Drive
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

Enclosed are checks for your clients, Mr. A. Finkelstein and Mr. R. Martin, in the amount of $150.00 and 32.80 each for witness fees and travel expenses associated with their depcsitions for the Federal Election Commission in MUR 1424.

The Commission wishes to thank Mr. Finkelstein and Mr. Martin for their cooperation, but reminds them that the confidentiality provisions of the Federal Election Campaign Act are in effect until the matter is closed. Therefore, they should refrain from publicly discussing their testimony during the Commission's depositions until the files have been completely closed in MUR 1424.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosures

4 1 3 5 7 0 4 0

TREASURY
FISCAL SERVICE
DIVISION OF DISBURSEMENT

WASHINGTON, D. C.

Check No. 97,011,934
SYMBOL 3004

United States Treasury 15-51/000

PAY TO THE ORDER OF ROBIN MARTIN

DOLLARS	CTS.
$****32	00

MONTH	DAY	YR.
11	05	82

95350001

FEE AMOUNT

FE2AM003 WITNESS FEE
PLR 1424

DO NOT FOLD, SPINDLE OR MUTILATE
KNOW YOUR ENDORSER . . REQUIRE IDENTIFICATION

⑈3004⑈ ⑆000000518⑆ 97011934⑈

TREASURY
FISCAL SERVICE
DIVISION OF DISBURSEMENT

WASHINGTON, D. C.

Check No. 97,011,936
SYMBOL 3004

United States Treasury 15-51/000

PAY TO THE ORDER OF ARTHUR J FINKELSTEIN

DOLLARS	CTS.
$****150	00

MONTH	DAY	YR.
11	05	82

95350001

FEE AMOUNT

FE2AM007 WITNESS FEE
PLR 1424

DO NOT FOLD, SPINDLE OR MUTILATE
KNOW YOUR ENDORSER . . REQUIRE IDENTIFICATION

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 15, 1982

George L. Graff
MILGRIM, THOMAJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

Enclosed is a check for your client, Robert G. Wilson, in the amount of $36.80 for witness fees and travel expenses associated with his deposition for the Federal Election Commission in MUR 1424.

The Commission wishes to thank Mr. Wilson for his cooperation, but reminds him that the confidentiality provisions of the Federal Election Campaign Act are in effect until the matter is closed. Therefore, Mr. Wilson should refrain from publicly discussing his testimony during the Commission's depositions until the files have been completely closed in MUR 1424.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

Enclosure

2204075316

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TREASURY
FISCAL SERVICE
DIVISION OF DISBURSEMENT

WASHINGTON, D. C.

Check No. 97,011,935
SYMBOL 3004

DO NOT FOLD, SPINDLE OR MUTILATE
KNOW YOUR ENDORSER -- REQUIRE IDENTIFICATION

United States Treasury 15-51 000

PAY TO THE
ORDER OF ROBERT WILSON

DOLLARS	CTS.
******36	00

MONTH	DAY	YEAR
11	05	82

95350001

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WASH DC
W3CCE

FE3AWCC3 WITNESS FEE
ALR 1424

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee and the Caputo for Senate Committee	)	MUR 1424

82 NOV 22 A10:01

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

GENERAL COUNSEL'S REPORT

I. Introduction

This is a report to update the Commission on progress in the above captioned matter. On April 21, 1982, the Commission found reason to believe that the National Conservative Political Action Committee ("NCPAC") and the Caputo for Senate Committee ("Caputo Committee"), violated 2 U.S.C. §§ 441a and 434 of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431 et seq. (the "Act"). The alleged violations occurred through NCPAC making and the Caputo Committee accepting in excess of the $5,000 contribution limitation prescribed by the Act and through the improper reporting of certain contributions as independent expenditures. On July 20, 1982, and again on September 10, 1982, the Commission authorized the issuance of subpoenas for the deposition of witnesses. The depositions were completed on October 22, 1982, thus finishing the investigation of this matter.

II. Discussion

Having received extensive responses and production of documents and taken the deposition testimony of five witnesses

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in MUR 1424, the Office of General Counsel is now analyzing the resultant materials and preparing a brief for the Commission's review. We will submit this brief to the Commission as soon as possible.

9204075319

III. Recommendation

The Office of General Counsel recommends that the Commission

reject respondent Caputo for Senate Committee's request for pre-probable cause conciliation and send the attached letter.

Charles N. Steele
General Counsel

November 19, 1982
Date

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachment
Letter to Caputo for Senate Committee

9204075130

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ JAN SAVAGE

DATE: NOVEMBER 23, 1982

SUBJECT: OBJECTION - General Counsel's Report dated November 22, 1982
MUR 1424

The above-named document was circulated to the Commission on November 22, 1982 at 4:00.

Commissioner Elliott submitted an objection to this matter on November 23, 1982, at 10:46.

This matter will be placed on the agenda for the executive session of Tuesday, November 30, 1982.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JAN SAVAGE JS

DATE: NOVEMBER 24, 1982

SUBJECT: ADDITIONAL OBJECTION - MUR 1424
General Counsel's Report dated
November 22, 1982

You were notified previously of an objection by Commissioner Elliott.

Commissioner Reiche submitted an additional objection to this matter on November 24, 1982 at 1:42.

This matter will be discussed in executive session on Tuesday, November 30, 1982.

9240751322

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee and the Caputo for Senate Committee	)	MUR 1424

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on November 30, 1982, hereby certify that the Commission decided by a vote of 4-1 to reject respondent Caputo for Senate Committee's request for pre-probable cause conciliation, and send the letter attached to the General Counsel's November 19, 1982 report on MUR 1424.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision; and Commissioner Elliott dissented. Commissioner Aikens did not cast a vote.

Attest:

12-1-82
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1982

George L. Graff
MILGRAM, THOMAJAN,
JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

RE: MUR 1424

Dear Mr. Graff:

This is in response to your letter of August 5, 1982, requesting conciliation prior to a finding of probable cause to believe that a violation has been committed and your subsequent discussions with Commission attorneys.

Based upon the restrictions which you have placed upon your client's request for pre-probable cause conciliation, the Commission has rejected this request. If you have any questions, please contact R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel

9204075132 4

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

83 FEB 7 P3: 30

February 7, 1983

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1424

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe was mailed on February 7, 1983. Following receipt of the respondents' reply to the notices, this Office will make a further report to the Commission.

Attachments
1. Brief
2. Letters to respondents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee,	)	MUR 1424
	)	
	)	
Caputo for Senate Committee, and Austin Fragomen, Jr., Treasurer	)	

GENERAL COUNSEL'S BRIEF

I. Statement of the Case

Dominic J. Barnello filed a complaint against John T. Dolan and the National Conservative Political Action Committee ("NCPAC"), the Caputo for Senate Committee ("Caputo Committee"), and Arthur J. Finkelstein and Arthur J. Finkelstein & Associates, on January 28, 1982. The complaint alleges that independent expenditures reported by NCPAC against incumbent candidate, Daniel P. Moynihan, were actually in-kind contributions to the Caputo Committee.

The complaint states that excessive contributions by NCPAC in favor of the Caputo Committee came about principally through the activities of NCPAC pollster and political consultant Arthur J. Finkelstein. It is alleged that during 1981 Finkelstein simultaneously performed services for both NCPAC and the Caputo Committee for the purpose of defeating Democratic incumbent Senator Moynihan thus compromising the independence of NCPAC's independent expenditure campaign against Senator Moynihan.

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On August 21, 1982, the Commission found reason to believe that both NCPAC and the Caputo Committee violated 2 U.S.C. § 434 of the Federal Election Campaign Act of 1971, as amended, (the "Act") by failing to report in-kind contributions from NCPAC to the Caputo Committee. Further, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive contributions to the Caputo Committee. The Commission also found reason to believe that the Caputo Committee violated 2 U.S.C. § 441a(f) by accepting excessive contributions from NCPAC. 1/

Following receipt of responses from NCPAC, the Caputo Committee and Finkelstein, the Commission authorized the Office of General Counsel to take the depositions of key witnesses to the alleged violations. Accordingly, the Office of General Counsel deposed John T. Sheehan (Caputo Committee campaign director), Michael J. Donovan (an employee of Time Buying Services, Inc. ("TBS"), which served as the media time buyer for the NCPAC independent expenditure campaign against Senator Moynihan), Arthur J. Finkelstein (political pollster and media strategist), Mr. Robert G. Wilson (chairman and chief fund raiser for the Caputo Committee), and Robin B. Martin (chairman of the New York headquarters of NCPAC's anti-Moynihan campaign).

1/ Austin Fragomen, Jr., Treasurer of the Caputo for Senate Committee, has been added as a respondent in this matter to preserve continuity should the Committee terminate its existence. As of January 10, 1983, the Committee had not filed any reports in over six months.

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II. Factual and Legal Analysis

A. NCPAC's Expenditures For Its Anti-Moynihan Campaign Were Made in Cooperation and Consultation with the Caputo Committee.

Section 431(17) of Title II defines "independent expenditure" as:

> an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

Part 109 of the Commission's regulations clarifies the meaning of "independent expenditure" in the following language:

> (a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

11 C.F.R. § 109.1(a). Further clarification of Section 109.1(a) is provided in Section 109.1(b)(4)(i) which states that an expenditure will be presumed to be made in cooperation and consultation with a committee when:

> (A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or the candidate's agents, with a view toward having an expenditure made;

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> (B) Made by or through any person who is, or has been... receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent (emphasis added).

Thus, if NCPAC's anti-Moynihan expenditures for communications expressly advocating the defeat of Senator Moynihan were made with the "cooperation", "prior consent of", "in consultation with" or "at the request or suggestion of" the Caputo Committee, or if the NCPAC expenditures were made "through" Finkelstein while he was receiving compensation from the Caputo Committee, the expenditures were not independent. Commission regulation 11 C.F.R. § 109.1(c) requires that these expenditures, if not independent, are to be considered in-kind contributions to the Caputo Committee.

Finkelstein and NCPAC

Finkelstein served on NCPAC's Board of Directors for approximately one year in 1979 and has done extensive work for the organization as a pollster and political strategist since its establishment in 1975. As with previous projects that he undertook for NCPAC, Finkelstein performed a full range of services in connection with the New York polls he conducted for the 1982 Senate race. 2/ Finkelstein denies suggesting that

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2/ Finkelstein testified that "polling" for a client includes analyzing issues, developing themes for the campaign and scripting media pieces. Finkelstein stated that he was capable of providing for production of political advertisements through a subsidiary of Arthur J. Finkelstein & Associates, Murphy/Powers, Inc. He noted, however, that for such production services he requires payment in addition to that made by a client for "polling."

NCPAC conduct an anti-Moynihan campaign, but admits that his polls formed the basis for the issues that NCPAC used in its anti-Moynihan radio broadcasts. As Finkelstein testified concerning the purpose of the polling he did for NCPAC in New York, "[it was] to determine the strength, the weaknesses of Moynihan, how best to run a campaign against him, or to find those groups and issues where he would be most vulnerable."

After participating in the planning stages of the anti-Moynihan campaign, Finkelstein became involved in its execution. The original script for the radio spot that was the core of the NCPAC anti-Moynihan project was drafted by Finkelstein, and he was consulted by TBS regarding the placement of the spot with radio stations in metropolitian New York City. In October 1981 when TBS encountered resistance by some radio stations to the accusation contained in the radio spot that Senator Moynihan was the "father of the welfare system", Donovan, the TBS time buyer on the NCPAC project, discussed the problem with Finkelstein as he had been advised by NCPAC's Washington staff to do. (Donovan testified that he was more or less directed by NCPAC to accept any recommendations that Finkelstein might make with regard to alternative radio stations).

Finally, in October and November of 1981, Finkelstein was paid $20,000 by NCPAC for his services in the anti-Moynihan campaign -- reported by NCPAC as independent expenditures against Moynihan. This was over one fourth of the of $73,755 total

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reported by NCPAC for its campaign conducted from April of 1981 through August of 1982 and is hard evidence that Finkelstein played a significant part in the NCPAC anti-Moynihan campaign.

Finkelstein and the Caputo Committee

Finkelstein testified that he has known Bruce Caputo for approximately eight years -- having worked both for and against him in two previous elections. Finkelstein urged Caputo to run for Moynihan's seat and joined the Caputo Committee very early on in the campaign. 3/

Although he was sought out by Caputo for counsel and advice previous to his formal hiring as consultant to the Committee, Finkelstein began working under contract for the Caputo Committee in March of 1981 staying on at least until Caputo's withdrawal in March of 1982. The contract with the Caputo Committee was, according to Finkelstein, a standard one and required him to provide a variety of essential political services throughout the course of the campaign. 4/ In addition, the Caputo Committee had the direct benefit of two polls taken by Finkelstein. One was paid for, in part, by the Caputo Committee and the other was

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3/ Robert G. Wilson, one of the initial campaign staff members and long-time friend of Caputo, found Finkelstein working for the Caputo Campaign when the former arrived as its first and only chairman in April of 1981.

4/ The contract called for Finkelstein to provide consulting services with regard to: election strategy; election techniques; media advice; issues significant to the public and campaign staffing advice. The contract further called for the Caputo Committee to pay Finkelstein a total of $60,000 in accordance with a specified schedule.

paid for by the Republican Senatorial Campaign Committee. Finkelstein collected over $28,000 in consulting fees from the Caputo Committee from April of 1981 through March of 1982.

According to Robert Sheehan, the campaign manager, and Robert Wilson, the campaign chairman, as well as according to his own testimony, Finkelstein was the chief architect of the Caputo campaign. 5/ He was probably the first one on board the Caputo Committee and testified that he was the last one to tell Caputo to remain in the race when everyone else advised quiting. 6/

Based upon issues derived from various New York polls he had taken over a period of years, Finkelstein developed the Caputo Committee's primary strategem -- to run against incumbent Senator Moynihan's record. The Committee wished to avoid, if possible, the necessity of running a costly primary campaign, and to this end sought to make Caputo the Republican candidate acknowledged by both parties, thus pre-empting any serious opposition in the primary. Involved in every aspect of the campaign, but especially in media advertisement, Finkelstein authored, in large

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5/ Finkelstein also controlled access to the candidate, at least as far as the Caputo Committee was concered. He chaired the Committee's staff meetings and, according to his testimony, permitted those persons who he "felt good about" to attend the meetings.

6/ Caputo withdrew from the Senate race before the primary election.

part, two television commercials that the Caputo Committee aired before concluding their campaign. The message in both the commercials was the same: defeat Monynihan -- elect Caputo.

Finkelstein also helped prepare Caputo's announcement speech. Finkelstein took credit for the attack on Moynihan found in Caputo campaign materials and the NCPAC radio spot calling Moynihan the "father of the welfare system," and identified other issues in which New York voters were divided into liberal and conservative blocks. According to Finkelstein this reflected the strategy of the Caputo Committee to exploit Moynihan's weakness on such issues. Not surprisingly many of these same statements characterizing the Moynihan record as "too liberal" for the state of New York can also be found in the radio spot written by Finkelstein for the NCPAC anti-Moynihan campaign. 7/ Thus it is apparent from the sworn testimony elicited during the Commission's investigation, as well as the supporting documents, that Finkelstein, working as a paid consultant, was the key strategist and author of the Committee's campaign theme: to defeat Moynihan and elect Caputo.

The NCPAC Independent Expenditure Campaign Was Compromised by Connections to the Caputo Committee

Coordination between the Caputo Committee and NCPAC's anti-Moynihan campaign is evidenced by Finkelstein's recruitment of

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7/ See Complaint at p. 4,5.

Robin B. Martin (whom Finkelstein met at the Caputo Committee) to become the chairman of the New York office of the NCPAC anti-Moynihan campaign called "New York Taxpayers Fed Up With Moynihan" ("Taxpayers"). Martin testified that he had been invited to assume the position of campaign manager for the Caputo Committee, but turned down the offer due to conflicting demands on his time. He continued to frequent the Caputo Committee campaign headquarters, however, and was permitted to attend staff meetings even after he had taken on the chairmanship of Taxpayers. 8/ Finkelstein testified that based upon his personal approval, Martin was permitted to attend Caputo Committee staff meetings which were not open to the general public. Thus, two persons with access to the Caputo Committee's campaign strategy were deeply involved in the NCPAC anti-Moynihan campaign.

The evidence demonstrates that the NCPAC expenditures made for communications expressly advocating the defeat of incumbent Senator Moyhihan were accomplished, in significant part, through payment to Finkelstein for polling, developing issues, scripting media material and buying radio time during 1981. Simultaneously, Finkelstein was employed by the Caputo Committee

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8/ Martin met Finkelstein in the summer of 1981. Martin testified that he left the Caputo Committee because there was no place for him unless he was willing to devote full time efforts to the campaign and because Finkelstein suggested that he contact NCPAC regarding their anti-Moynihan campaign. As chairman of Taxpayers, Martin worked with NCPAC's Washington, D.C., headquarters to develop the strategy of the project after Finkelstein had outlined for him the basic thrust of the campaign.

to perform essentially the same services. Finkelstein was in a position to play a significant role in the formulation of campaign policy and strategy for both campaigns, and clearly did so.

Here we have a case where expenditures were made by a political action committee through the employment of a key strategist hired to plan and execute a campaign generating communications expressly advocating the defeat of an incumbent candidate while the same strategist performed a nearly identical function for a primary candidate's committee. Where the same political strategist is employed during the same time period by two campaigns expressly advocating the defeat of the same candidate, the expenditures for the campaigns must be deemed to be coordinated. See C.F.R. § 109.1(a). Finkelstein was employed by both NCPAC and the Caputo Committee during 1981 and 1982 in their respective campaigns advocating the defeat of Moynihan, and the expenditures for these campaigns were, therefore, coordinated, one with the other. In addition, NCPAC used Robin Martin, who was privy to Caputo Committee strategy sessions, to head the New York end of its anti-Moynihan campaign. NCPAC's independent expenditure campaign against Senator Moyhihan was, therefore, compromised by Finkelstein and Martin through the coordination of their attack on Senator Moynihan with Bruce Caputo's bid for the Republican nomination in violation of 2 U.S.C. § 431(17) and 11 C.F.R. § 109.1(a).

The prohibition against coordination and consultation in an independent expenditure campaign is, furthermore, specifically embodied in Commission regulation 11 C.F.R. § 109.1(b)(i) which presumes coordination, cooperation and consultation when expenditures are made "through any person ... who is, or has been, receiving any compensation or reimbursement from the ... candidate's committee." The regulation recognizes that illegal coordination, consultation or cooperation must be presumed where, as here, one person is employed by both campaigns.

Therefore, the Office of General Counsel recommends that the Commission find probable cause to believe that the $73,755 in expenditures made by NCPAC for their campaign to defeat Senator Moynihan were unqualified under the Act and Commission regulations to be independent expenditures and must be considered to have been in-kind expendiutres made in favor of the Caputo Committee in violation of 2 U.S.C. § 441a(a). Such a determination by the Commission also entails a finding that these in-kind contributions were improperly accepted by the Caputo Committee in violation of 2 U.S.C. § 441a(f) and that both the Caputo Committee and NCPAC failed to report them properly as contributions, in violation of 2 U.S.C. § 434 of the Act.

B. Advisory Opinion 1979-80 Does Not Bar Further Proceedings in this Matter

NCPAC's assertion that, as a matter of law, AO 1979-80 9/ immunizes the respondents in this matter from any possible violation of the independent expenditure provisions of the Act is a misreading of that advisory opinion as well as Section 437f(c) of the Act. Prefacing the Commission's discussion of the nine situations presented in A.O. 1979-80 is a paragraph cautioning the reader that if there are any indicia of coordination or consultation outside the facts presented in the request, "an expenditure which appears to be independent ... may not in fact be so." AO 1979-80 at p. 10,527. NCPAC has failed to heed this warning instead pressing the Commission to accept the independence of their anti-Moynihan expenditures under facts that clearly evidence coordination and cooperation between NCPAC and the Caputo Committee.

To be immunized from sanctions for violating the Act, a political committee must be involved in the specific transaction about which the opinion is rendered or an activity or transaction that is "indistinguishable in all its material aspects" from the activity or transaction for which an opinion was rendered. 2 U.S.C. § 437f(c)(1) and (2). See also A.O. 1981-44. However,

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9/ AO 1979-80 was issued by the Commission in response to a request by NCPAC. In the request the Commission was asked to give opinions on nine different factual scenarios involving the use of third parties for independent expenditures. Advisory Opinion 1979-80, 1 Fed. Elec. Camp. Guide (CCH) P. 5469 (1979).

none of the nine situations described by NCPAC in their advisory opinion request is the same transaction that is complained of in this matter. Several of the situations discussed in A.O. 1979-80 are similar in some respects to the one complained of here, but none meet the statutory standard of indistinguishability necessary to trigger the protection of Section 437f(c). Specifically, in none of the situations in A.O. 1979-80 did NCPAC describe actual cooperation and consultation between itself and the candidate who would benefit from NCPAC's "independent expenditure" campaign as is alleged in this matter.

Therefore, A.O. 1979-80 does not act as a bar to the Commission's finding probable cause to believe that violations occurred in this matter. Indeed, as the previous discussion of the evidence demonstrates, the allegations of cooperation and consultation made by the complainant are fully justified.

III. Recommendations

The Office of General Counsel recommends that the Commission find probable cause to believe that:

1. the National Conservative Political Action Committee violated 2 U.S.C. § 434 of the Act by reporting as independent expenditures $73,755 which was properly reportable only as an in-kind contribution to the Caputo for Senate Committee;

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2. the Caputo for Senate Committee and Austin Fragomen, Jr., Treasurer, violated 2 U.S.C. § 434 of the Act by failing to report in-kind contributions from the National Conservative Political Action Committee;

3. the National Conservative Political Action Committee violated 2 U.S.C. § 441a(a)(2)(A) by making in excess of $5,000 in contributions to the Caputo for Senate Committee; and

4. the Caputo for Senate Committee and Austin Fragomen, Jr., Treasurer, violated 2 U.S.C. § 441a(f) by accepting in excess of the $5,000 limitation on contributions imposed by the Act from the National Conservative Political Action Committee.

4 February 1983
Date

Charles N. Steele
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1983

Austin T. Fragomen, Jr., Esquire
Treasurer, Caputo for Senate
Committee
FRIED, FRAGOMEN, DEL RAY,
BERNSEN & O'ROURKE, P.C.
515 Madison Avenue
New York, New York 10022

Re: MUR 1424

Dear Mr. Fragomen:

Based on a complaint filed with the Commission on January 28, 1982, and information supplied by the Caputo for Senate Committee, the Commission determined on April 27, 1982, that there was reason to believe that the Committee had violated 2 U.S.C. §§ 434 and 44la(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement.

Should you have any questions, please contact R. Lee Andersen at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1983

George L. Graff
MILGRAM, THOMAJAN, JACOBS
& LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10124

Re: MUR 1424

Dear Mr. Graff:

Based on a complaint filed with the Commission on January 28, 1982, and information supplied by your client, the Caputo for Senate Committee, the Commission determined on April 27, 1982, that there was reason to believe that your client had violated 2 U.S.C. §§ 434 and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter.

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Should you have any questions, please contact R. Lee Andersen at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1983

Robert R. Sparks, Jr.
SEDAM & HERGE
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

Based on a complaint filed with the Commission on January 28, 1982, and information supplied by your client, the National Conservative Political Action Committee, the Commission determined on April 27, 1982, that there was reason to believe that your client had violated 2 U.S.C. §§ 434 and 441a(a)(2)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"), and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within fifteen days of your receipt of this notice, you may file with the Secretary of the Commission a brief (10 copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of General Counsel if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request to the Commission for an extension of time in which to file a brief. The Commission will not grant any extensions beyond 20 days.

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A finding of probable cause to believe requires that the Office of General Counsel attempt for a period of not less than thirty, but not more than ninety days to settle this matter through a conciliation agreement.

Should you have any questions, please contact R. Lee Andersen at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Brief

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LOUIS SCHULMAN
J. KATHERINE SWISHER*
SIMON TAYLOR
LAWRENCE I. WEINSTEIN

*NOT ADMITTED IN NEW YORK

2 PM 1:30

February 25, 1983

Federal Election Commission

Washington, D.C. 20461

MUR - 1424
Our File No. 1445-5

Gentlemen

On February 14, 1983, we received a copy of the brief filed in the above matter by the office of General Counsel recommending a Finding of Probable Cause against our clients, the Caputo for Senate Committee and Austin T. Fragomen, Jr.

We have just received our copy of the transcript of testimony of Mr. Wilson, our campaign committee chairman, and for this and other reasons, we will be unable to complete our opposition brief by March 1, 1983.

Accordingly, we respectfully request an extension of time in which to file the brief for an additional 20 days, or until March 21, 1983.

Very truly yours,

George L. Graff

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February 25, 1983

P2:30

BY HAND

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424

Dear Mr. Steele:

In accordance with 11 CFR §111.18(d), National Conservative Political Action Committee (NCPAC) requests that the Federal Election Commission ("Commission") enter into negotiations directed toward reaching a conciliation agreement in this matter. Alternatively, and in the event the Commission declines to enter into negotiations to conciliate, NCPAC requests an extension of 20 days from the date of receipt of the grant of such extension to file a brief in response to the General Counsel's brief. Further, it is NCPAC's understanding that, in the event a conciliation agreement is not reached in this matter, NCPAC will still have at least 15 days in which to file a responsive brief.

In support of its request that the Commission enter into conciliation negotiations, and to aid the Commission in fashioning a proposed conciliation agreement, NCPAC submits the following information and argument:

1. NCPAC relied on A.O. 1979-80.

Whether or not such reliance was misplaced, and no matter how lawyers may now parse the issue after the fact, Arthur Finkelstein and Robin B. Martin clearly testified that they relied in good faith on what they considered to be the authority of A.O. 1979-80 for what was done in this case. See, e.g., Finkelstein deposition, at 74. NCPAC also relied on that authority, as has been demonstrated by the pleadings filed in this matter thus far by its counsel. It may be true that the

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degree of cooperation between NCPAC and Caputo (through Finkelstein) apparent in this case was not suggested in the fact situations presented by A.O. 1979-80. But it is also true that here, just as in A.O. 1979-80, NCPAC's anti-Moynihan activities were conducted in one of "two separate, distinct races." Caputo and Moynihan were not opponents at the time of NCPAC's anti-Moynihan activities. It was on this distinction that NCPAC, Finkelstein and Martin relied in this case. In that respect, the facts in this case and those in A.O. 1979-80 are "indistinguishable in all . . . material aspects," and may therefore be relied on by NCPAC. 2 U.S.C. ¢437f(c)(1)(b). Moreover, the fact that in Situation 1 in A.O. 1979-80 the candidates were in separate races was the operative distinction and the point on which the Commission's opinion seemed to turn in Situation 1. No wonder, then, that in its anti-Moynihan activities, NCPAC relied so heavily on the fact that Caputo was not yet the Republican nominee and was therefore not Moynihan's opponent. Indeed, Caputo never became the nominee of his party.

2. NCPAC's anti-Moynihan activities stopped as soon as the instant complaint was filed.

As proof of its good faith in the conduct of its anti-Moynihan campaign, and even though it had relied on A.O. 1979-80 as authority for that campaign, NCPAC stopped its anti-Moynihan activities as soon as it received notice that the instant complaint had been filed.

3. Not all of the expenditures reported by NCPAC as having been made in its anti-Moynihan campaign were made for anti-Moynihan communications to the public.

The General Counsel in his brief asserts that during the period April, 1981 through August, 1982, NCPAC spent $73,755.00 on its anti-Moynihan campaign. Not all of this was spent for advertisements critical of Moynihan. For instance, some portion of the expenditures were for overhead costs, such as payroll, taxes, travel, and insurance, apportioned by NCPAC among its various independent expenditure activities. For instance, for the period April, 1981 through January, 1982, NCPAC's reports to the Commission show that of $51,105.67 in anti-Moynihan expenditures, almost $4,000.00 of that amount was for overhead, and only $20,000.00 was paid to Finkelstein for polling and other services. Under even the Commission's interpretation of A.O.

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1979-80, expenditures for Finkelstein's poll or survey results alone would not be chargeable as contributions to the Caputo's campaign, absent communications between Finkelstein and NCPAC. Those communications are present in this case, but they occurred in a primary campaign concerning Moynihan, who was not then Caputo's opponent. The amount spent on list rental, mailing costs and media buys is substantial - more than $27,000.00 for April 1981 - January 1982 - but it is only a portion of the total amount reported by NCPAC, and more accurately reflects the extent of NCPAC's anti-Moynihan activities.

For the foregoing reasons, NCPAC requests that the Commission enter into conciliation negotiations or, alternatively, grant an extension of time in which to respond to the General Counsel's brief.

Sincerely,

Robert R. Sparks, Jr.

2047549

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 8, 1983

George L. Graff
MILGRIM, THOMAJAN,
JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

This is in reply to your letter of February 25, 1983, requesting an extension of time until March 21, 1982, to file a brief in the above referenced matter. Your request for the extension of time to file is granted.

If you should have any questions regarding this matter, please contact R. Lee Andersen at (202)523-5071 or the Commission's toll free line at 1-800-424-9530.

Sincerely,

Kenneth A. Gross
Associate General Counsel

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SIGMUND A. BECA
NICHOLAS J. CREME
EUGENE A. DANAHER
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*NOT ADMITTED IN NEW YORK

March 21, 1983

FEDERAL EXPRESS

Federal Election Commission
Washington, D.C. 24063
Attention: R. Lee Anderson

MUR 1424

Gentlemen:

Enclosed please find the brief on behalf of the Caputo for Senate Committee and Austin Fragomen, Jr. in opposition to the recommendation of the General Counsel for a finding of probable cause in the above matter.

Very truly yours,

George L. Graff

Enclosure
GLG/cs

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservation Political Action Committee,	)	MUR 1424
	)	
Caputo for Senate Committee, and Austin Fragomen, Jr., Treasurer	)	

Brief of

Caputo for Senate Committee and Austin Fragomen Jr.

Preliminary Statement

On February 4, 1983, the General Counsel's office filed a brief in the above matter recommending, among other things, that the Commission find probable cause to believe that the Caputo for Senate Committee and its treasurer, Austin Fragomen, Jr., (collectively referred to as the "Caputo Committee") violated Section 304 of the Federal Election Campaign Act of 1971, 2 U.S.C. §434 (the "Act"). The gravamen of the General Counsel's position is that, by reason of the simultaneous employment of the same consultant by the Caputo Committee and the National Conservative Political Action Committee ("NCPAC"), all of the expenditures of NCPAC in its campaign against the incumbent Democratic Senator from New York should be treated as unreported "contributions in kind" to the Caputo Committee's unsuccessful campaign for the Republican nomination.

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The General Counsel's arguments are based upon a one-sided and inaccurate presentation of the facts which substantially exaggerates the role of the consultant in the Caputo campaign and, more importantly, implies that NCPAC's activities were somehow intended to benefit or support the Caputo campaign.* In fact, there is no evidence of any actual cooperation or coordination between the Caputo Committee and NCPAC. On the contrary, the evidence shows that NCPAC did not particularly favor Caputo's candidacy and that its anti-Moynihan campaign was not intended to, and did not in fact, provide any benefit to Caputo.

It is only by a forced and erroneous interpretation of the Commission's regulations -- an interpretation which is directly inconsistent with the language and the purpose of the Act as well as the Commission's own prior published rulings -- that the General Counsel is able to characterize NCPAC's activities as a "contribution" to Caputo's campaign.

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* The General Counsel's office refused to provide to the Caputo Committee or its attorneys copies of the transcripts of most of the testimony upon which it purports to rely. However, NCPAC's attorney was kind enough to provide counsel for the Caputo Committee with a transcript of Finkelstein's testimony. That transcript, along with the testimony of Robert Wilson, Caputo's campaign manager, and Mr. Caputo's own affidavit of March 12, 1982, a copy of which is included as appendix A to this brief, present a very different factual picture than is presented by the General Counsel's brief. Accordingly, we strongly urge the Commission to read the actual transcripts in full before making its determination.

Considering that the Caputo Committee had absolutely no actual control or influence over the activities of NCPAC which are being charged against it, and received no actual benefit, direct or indirect, as a result of NCPAC's activities, this would be a singularly inappropriate case for prosecution by the Commission.

Factual Background

The Parties Involved

The Caputo Committee. One of several candidates for the Republican nomination for Senator from New York in 1982 was Bruce Caputo. The Caputo Committee was the independent authorized political committee for the Caputo campaign. Mr. Caputo voluntarily withdrew from the race for the Senatorial nomination when it became apparent that his campaign was hopeless and the nomination ultimately went to Florence Sullivan.

NCPAC. NCPAC, as its name implies, is a national political action committee which, among other things, organizes campaigns in various states in an effort to defeat candidates who disagree with the political philosophy of its contributors. Although it organized a campaign to oppose New York's incumbent

Democratic Senator in the last election, it did not support Caputo's candidacy for the Republican nomination. Indeed, if it favored anyone, it was one of Mr. Caputo's major rivals, Jack Kemp. NCPAC's anti-Moynihan campaign began while Mr. Caputo was still a candidate but continued for sometime after Caputo dropped out of the race.

Arthur J. Finkelstein. The link between NCPAC and the Caputo Committee which forms the principal basis for the General Counsel's recommendation was Arthur Finkelstein.* Mr. Finkelstein heads a company called Arthur J. Finkelstein & Associates which provides polls, political advice and, through an affiliated advertising agency, media purchasing services to various political candidates and groups. Arthur J. Finkelstein & Associates has a full time staff of about 12 and employs as

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* The General Counsel's brief also tries to make something of significance out of the fact that the chairman of the local group formed by NCPAC for its anti-Moynihan campaign, Robin V. Martin, was, at one time, a volunteer fund raiser for Caputo who attended some staff meetings. However, Mr. Martin's involvement with the Caputo campaign was negligible and terminated entirely when he became involved with NCPAC. Appendix B is a reproduction of the portion of the transcript of Mr. Finkelstein's testimony describing Mr. Martin's role in the Caputo campaign. Appendix C is the testimony of Mr. Robert Wilson, Caputo's campaign manager, on the same subject.

many as 100 personnel during the campaign season. Neither Mr. Finkelstein nor his company has any permanent affiliation with any candidate, party or group and he generally performs services for several different and unrelated campaigns at the same time.

In the latter part of 1981, while he was being employed as a consultant and advisor by the Caputo Committee, Mr. Finkelstein was retained by NCPAC to conduct a poll and help prepare a radio commercial attacking the incumbent Democratic Senator, Patrick Moynihan. Because of Mr. Finkelstein's contemporaneous employment by the Caputo committee, the General Counsel takes the position that the entire cost of the NCPAC anti-Moynihan campaign was an unreported and unlawful "contribution in kind" to Caputo's unsuccessful campaign for the Republic nomination.

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The Relationship Between Finkelstein and the Caputo Committee

Based upon a selective and rather distorted description of the deposition testimony, the General Counsel's brief creates the impression that the Caputo campaign was, for all practical purposes, controlled by Arthur J. Finkelstein. However, the General Counsel's description of Mr. Finkelstein's role in the Caputo campaign is, to say the least, substantially exag-

gerated.* Mr. Finkelstein is a paid professional who, assuming certain fundamental compatibility of political views, will work for any candidate or group that hires him. His relationship with the Caputo Committee was strictly as an outside consultant whose advice and recommendations would either be accepted or rejected by the committee. The Caputo Committee was only one of several groups who employed Finkelstein in 1982. Two years earlier, Finkelstein had actively opposed Caputo's campaign for the Senate nomination.

Although the General Counsel's Brief claims that Finkelstein "controlled access to the candidate" (General Counsel's Brief, p.7) and otherwise implies that he dominated the day to day activities of the Caputo campaign, the facts, as shown in the deposition transcripts are directly contrary. Although he unquestionably provided advice and ideas, Mr. Finkelstein's active role consisted only of attending occasional

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* Thus, for example, the General Counsel's brief states (p. 7):

> "According to...Robert Wilson, the campaign manager,...Finkelstein was the chief architect of the Caputo campaign."

In fact, Mr. Wilson described Finkelstein's role as follows (Transcript, p. 26):

> "He was a hired hand. He was a consultant to us, and he would make recommendations, but we set the policy. I had all the authority as the chairman and the senior guy on this thing."

staff meetings at which the candidate was frequently absent. He had little direct contact with Mr. Caputo during the campaign and no authority whatsoever to act on behalf of the committee. He could not hire personnel or spend any money and his advice, as he complained in his testimony, was occasionally ignored. Thus, Mr. Finkelstein testified that he could not "do the hiring" or "offer jobs" (pp. 36-37). He complained that he wanted Caputo to begin buying media time "very very early, [but] he didn't do so." (p. 8). When asked if he had authority to obligate the committee, he said: "No, I don't deal with money. In other words, I can't say write a check." (p. 38). Finkelstein testified that the only person in the Caputo campaign with authority to spend money for media time was the candidate himself.

Most important, for present purposes, is the fact that, whatever degree of influence Mr. Finkelstein may have had on the Caputo campaign, the Caputo Committee had absolutely no influence, and certainly did not control, Mr. Finkelstein's activities on behalf of any of his other clients. In particular, the Caputo Committee was not consulted about and certainly did not authorize Mr. Finkelstein's employment by NCPAC for its campaign against Senator Moynihan. After the Caputo Committee was told that Mr. Finkelstein had been retained by NCPAC, it demanded and obtained an opinion from NCPAC's counsel as to the legality of

Mr. Finkelstein's employment by both organizations. Relying on the Commission's advisory opinion 1979-80, counsel advised the Caputo Committee that, so long as Mr. Caputo was not running against Moynihan directly, but was merely seeking the Republican nomination, it was lawful for Mr. Finkelstein to assist the NCPAC campaign. Caputo relied in good faith on that advice and that fact in itself would preclude any sanctions under the Act. See Section 308 (f)(2).

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The Relationship Between Finkelstein and NCPAC

Although the Caputo Committee has no direct knowledge of the details of Mr. Finkelstein's relationship with the NCPAC anti-Moynihan campaign, and has been denied access to much of the material cited by the General Counsel, it is nevertheless apparent that his influence on the NCPAC campaign is also exaggerated in the General Counsel's brief. For example, although it is true that Mr. Finkelstein had occasionally been retained by NCPAC to assist it in various campaigns, he has no ongoing relationship with NCPAC and has worked for candidates NCPAC has opposed. It is also clear that the NCPAC decision to conduct an anti-Moynihan campaign was made prior to and independent of its decision to hire Mr. Finkelstein, and was made entirely without the prior knowledge, consent or approval of anyone remotely affiliated with the Caputo Committee.

Although the General Counsel's Brief makes much of Mr. Finkelstein's alleged influence on the NCPAC campaign, there is no showing or even a claim that Mr. Finkelstein was acting for Caputo Committee in that effort. And, it is clear from Mr. Finkelstein's testimony that there was absolutely no actual co-ordination or cooperation between the two organizations. Thus, Mr. Finkelstein testified as follows. (Transcript pp. 68-69):

> "Q. Did you ever discuss NCPAC anti-Moynihan campaign with the Caputo Committee staff?
>
> A. No.
>
> Q. Was there ever an effort on your part to coordinate what you were doing with the Caputo Committee with what was going on in the anti-Moynihan campaign that NCPAC was operating?
>
> A. No, there were two separate operations. Ultimately -- well, there were just two separate operations, the Moynihan thing was to get money.
>
> As a matter of fact, in the radio commercial, there is a shot of Moynihan voting for the B-1 bomber. Caputo voted against the B-1 bomber, and NCPAC could have cared less about Caputo. They wanted to get Moynihan.*
>
> I don't know that they have any -- if they supported Caputo at all, except that he was a candidate against Moynihan.
>
> Q. Did you ever discuss Caputo with Dolan [NCPAC's principal officer].

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* Mr. Finkelstein's testimony has apparently been garbled. Both Mr. Moynihan and Mr. Caputo voted against the B1 bomber and Moynihan was criticized for that vote in NCPAC's commercial. Other issues upon which NCPAC and Caputo disagreed included the Equal Rights Amendment and common site picketing.

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A. Certainly.

Q. Did he ever indicate to you whether he supported --

A. He didn't like him.

Q. Did he say that he thought NCPAC would support Mr. Caputo?

* * *

A....[I]f Caputo was the nominee it would make me happy, it would not necessarily make NCPAC happy. They would much prefer Jack Kemp.

Q. NCPAC would have preferred Kemp?

A. Yes."*

Despite this testimony (which the General Counsel neglects to even mention in his brief) the General Counsel asks the Comission to find probable cause to believe that NCPAC's campaign against Senator Moynihan was a "contribution in kind" to Caputo's campaign. Such a finding, under the facts of this

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* Although not an announced candidate, Jack Kemp was considered to be the biggest threat to Caputo's candidacy and the entire Caputo campaign strategy was designed to keep him out of the race. Thus, Finkelstein testified (pp. 37-38):

> "There was a very real possibility at that time that Jack Kemp would be running for the Senate seat, and our job was to try to impress on people, particularly Kemp, that he not come into the race...that if he do, it would cost him some money and be somewhat a difficult thing for him to do."

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case, would be totally inconsistent with the language and purpose of the Act and we respectfully urge the Commission to reject the General Counsel's recommmendation.

Legal Argument

Point 1

The NCPAC Campaign Was an "Independent Expenditure" Within The Meaning of The Act.

Based on the evidence elicited to date, it is clear that the expenditures of NCPAC in support of its anti-Moynihan campaign were "independent expenditures" within the language and intent of Section 301(17) of the Act. That section defines an "independent expenditure" as:

> "An expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or authorized committee or agent of such candidate, and which is not made in concert with or at the request or suggestion of, any candidate, or any authorized committee, or agent of such candidate."

There is not the slightest suggestion, even in the one-sided presentation of the facts contained in the General Counsel's Brief, that NCPAC's expenditures on behalf of the anti-Moynihan campaign were made with the actual cooperation or consultation with the Caputo Committee, or that payments were in fact made "in concert with or at the request or suggestion

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of" Caputo or his committee. Nor is there any factual basis for concluding that, in performing services for NCPAC , or for any of the other campaigns he worked on, Finkelstein was actually functioning as Caputo's "authorized...agent."*

Rather, the General Counsel relies entirely on the presumption contained in Section 109.1(b)(4)(i) of the Commission's regulations which provides, in effect, that the statutory requirement of cooperation and consultation "will be presumed" when an expenditure is:

> "(B) Made by or through any person...who is, or has been, receiving any form of compensation from...the candidate's committee"

Leaving aside the very real question as to whether the NCPAC expenditures were made "by or through" Finkelstein, the General Counsel is seeking to make the regulation's presumption irrebutable; it argues that cooperation and consultation "will be presumed" even though all of the evidence affirmatively shows that they never actually occurred. This argument is inconsistent with the ordinary meaning of the word "presumed". See e.g. Federal Rules of Evidence, rule 301 (a presumption determines the burden of "going forward with evidence" but does not alter

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* Section 109.1(b)(5) of the Commission's Regulations defines an "agent" as one who has actual or apparent authority "to make or authorize the making of expenditures on behalf of client." Finkelstein was an outside, independent, part-time consultant who neither had nor reasonably appeared to have such authority.

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the burden of proof); McCormick, Evidence, § 669 ("a presumption is 'evidence' to be weighed and considered with the testimony in the case"). But, even more importantly, an interpretation of the prescription as absolute and irrebuttable would render unlawful expenditures which are clearly "independent" within the letter and purpose of the statute.

It is a fact of modern political life that campaigns are required to hire outside specialists to perform a number of services, such as polling, advertising, public relations and mail solicitation. The vendors of those services will necessarily provide them to several campaigns simultaneously. Most of those campaigns will be entirely unrelated; they may be for different offices and will often be in several different States. Yet, taken literally, the General Counsel's interpretation of the regulation would require that any independent political vendor of political services who works for one candidate cannot work for or against any other clearly identified candidate, regardless of any other connection between the two campaigns. Such a contention would obviously be absurd; there must be some logical relationship between the challenged expenditure and the interests of the candidate who is charged with receiving it before it can be deemed a "contribution" to his campaign.

The obvious intent of Section 109.1(b)(4)(i) is to assist enforcement of the Act by eliminating the need to affirm-

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atively prove actual cooperation where paid political operatives of a candidate are actively involved in making purportedly "independent" expenditures on their candidate's behalf. But, the regulation cannot be applied in such a manner as to indirectly circumvent the statutory definition of an "independent expenditure." When there clearly has been no actual "cooperation or consultation," the use by a political action committee of a vendor who has also received compensation from a candidate cannot, consistent with the statute, automatically render all expenditures by the committee a contribution to the candidate.

In the present case, it cannot be emphasized too strongly that, despite the similar themes of the two campaigns, Caputo was not intended to be, and could not have been, the beneficiary of NCPAC's effort. As Finkelstein testified, the principal thrust of the Caputo campaign for the nomination was to deter Jack Kemp from entering the race by creating the impression that Caputo had already clinched the Republican nomination. The fact that NCPAC was attacking Senator Moynihan without mentioning Caputo was of no conceivable benefit or help to Caputo in that effort.

Indeed, if the NCPAC anti-Moynihan campaign were to be deemed a "contribution" to anyone's campaign, it was certainly

not Caputo. One logical conclusion would be to treat it as a contribution to Mr. Moynihan's adversary at the time, his opponent for the Democratic nomination. On the other hand, the candidate who probably benefitted the most from the campaign was Florence Sullivan, the eventual Republican nominee. At best, Mr. Caputo was only a possible contingent beneficiary of NCPAC's effort and even that possibility disappeared while the NCPAC campaign went forward. To single him out as though he were the sole and direct recipient of NCPAC's entire expenditure is totally arbitrary and lacking in logical foundation.*

In sum, Section 301(17) of the Act requires that expenditures made "without cooperation or consultation of any candidate" be deemed "independent expenditures." Accordingly, if the presumption contained in regulation 109 1(b)(4) is valid, it must be rebuttable upon a showing of sufficient facts to establish that the challenged expenditure was, in fact, made

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* In its original complaint, the Democratic State Committee recognized that, in addition to the simultaneous employment of Finkelstein, they would have to show some connection between the activities of NCPAC and the interests of Caputo in order to justify their charges. Thus, relying heavily on Caputo's campaign publicity, the complaint argues, at great length, that Caputo was already the de facto Republican candidate and, thus, the real intended beneficiary of NCPAC's effort. Subsequent events conclusively demonstrated the falsity of that position and it has been abandoned by the General Counsel. The result, however, is to eliminate all logical justification for construing NCPAC's campaign as a contribution to Caputo.

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without such consultation or cooperation. Among the factors which would lead to that conclusion are (1) whether the person receiving the compensation is an independent contractor or a regular staff member of the candidate's committee; (2) whether the candidate controlled or influenced that person's activities for the group making the expenditure; (3) whether the plan for the expenditure was originated or actively promoted by the candidate and (4) whether any particular candidate can be singled out as the intended or actual beneficiary of the expenditure. An examination of each of these factors in the present case compels the conclusion that the NCPAC anti Moynihan campaign was, in law and fact, an "independent expenditure."

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Point 2

Prosecution of Caputo is Barred by Advisory Opinion 1979-80.

As already indicated, when several candidates are competing with each other for the nomination of one party, it is impossible to ascertain which, if any of them, will ultimately benefit from a campaign directed against the incumbent from the opposite party. Thus, it is hardly surprising that the General Counsel's brief is unable to cite a single prior case or opinion

which supports its contention that the efforts of a political action committee to oppose a candidate from one party should be deemed a contribution to a candidate who has not yet secured the opposite party's nomination. Quite the contrary, in its advisory opinion 1979-80 (CCH Fed. Elec. Camp. Fin. Guide ¶5469), the Commission made it quite clear that the simultaneous retention of the same vendor of campaign services by a candidate who was seeking but had not obtained the Republican nomination and a political action committee engaged in a campaign against a Democratic candidate would not be a violation of the Act.

Advisory Opinion 1979-80 was specifically written in response to a request from NCPAC for the Commission's views on its use of independent vendors in its campaigns against various Democratic candidates who also provide services to Republican candidates. Although the Commission responded that the presumption of §109(b)(4)(i)(B) would be applied, it was also clear that the presumption was not absolute. Thus, the Commission noted that, depending on the circumstances, the result "may be an in-kind contribution to the candidate". CCH p.10,527 (emphasis added).

The Commission then reviewed a series of specific situations posed by NCPAC and, in responding to several of them, the Commission made it clear that the most significant determining

factor was whether the candidate who used the same vendor was a direct adversary of the candidate opposed by NCPAC. Thus, in response the first situation posed, the Commission wrote:

> "[The] situation presented concerns an advertising firm engaged to do work for what in 1980 are two separate, distinct races; that is, provide services for NCPAC to make independent expenditures advocating the defeat of a candidate for the Democratic nomination for President when the firm has previously provided services to the campaign committee of a candidate for the Republican nomination for President. Since these are two distinct races the Democratic candidate and the Republican candidate are not opponents at this point. Thus the Commission concludes that it does not appear from these facts that the prior engagement by the Republican candidate's committee of the firm would preclude NCPAC from engaging the firm to make independent expenditures in opposition to the Democratic candidate for nomination." 1 Fed. Elect. Camp., Guide CCH ¶5459, pp. 10527-10528. (Emphasis is added.)

Similarly, in each of the other situations posed by NCPAC which included efforts to oppose specific Democratic candidates (e.g. Situations 2,3,4, and 8), the Commission indicated that NCPAC was free to use the same vendors used by, and even communicate directly with, candidates who were seeking, but had not yet obtained the nomination, though it would be precluded from doing so during the general election.

The distinction established by Advisory Opinion 1979-80 between the primary phase of an election (where opposing a

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Democratic candidate does not imply support of an identifiable Republican candidate) and the general election itself is well-founded and entirely consistent with the policy and language of the statute. Equally important, unless and until it is changed, candidates and political action committees are entitled to rely upon the opinion in planning their campaigns and filing their reports. Section 308(b)(2) of the Act provides:

> "Notwithstanding any other provision of law, any person who relies upon any provision or finding of an Advisory Opinion...and who acts in good faith in accordance with the provision and findings of the Advisory Opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by Chapters 95 or 96 of the Internal Revenue Code of 1954."

In its effort to avoid affording the Caputo Committee the protection of the Commission's advisory opinion, the General Counsel's brief points out that "none of the nine situations described by NCPAC in their advisory opinion request is the same transaction that is complained of in this matter" (General Counsel's brief p. 13). This may be true, but the General Counsel does not point to any distinctions which are sufficiently material to affect the conclusion that was reached.* And, section 308(c) of the Act affords the exact same protection to

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* The General Counsel's brief does note that none of the situations pointed to in the advisory opinion involve "actual cooperation and consultation" (General Counsel's brief p. 13). However, actual cooperation or consultation is not alleged in the present case either.

persons involved in transactions which are materially indistinguishable from the advisory opinion as it does to the participants in the particular transaction which was the subject of the opinion.

There is certainly nothing about the nature of Finkelstein's services, or the relationship between the Caputo campaign and NCPAC, which would justify a departure from the principle enunciated in the opinion; Caputo's campaign for the Republican nomination was part of an entirely "distinct race" from NCPAC's campaign against the Democratic incumbent. This distinction was firmly espoused by the Commission in Advisory Opinion 1979-80 and the Commission cannot, and should not, retroactively apply a different rule to the parties in the present case.

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Point 3

The Particular Facts of This Case Render Further Proceedings Inappropriate

As already indicated, the language and purpose of the Act does not require or justify the conclusion that NCPAC's campaign against Moynihan was a contribution to Caputo's campaign. And, indeed, the Commission's only prior ruling on the subject,

Advisory Opinion 1979-80, precludes that result. In addition, there are several factors in the present case which would render it particularly inappropriate for the Commission to conclude that there was probable cause to believe that NCPAC's campaign against Moynihan was a contribution in kind to the Caputo committee. Those factors include the following:

-Caputo's campaign for the Senate nomination was only one of Finkelstein's several campaigns in the 1982 election and the Caputo Committee had absolutely no influence on or control over Finkelstein's activities for anyone else, including NCPAC.

-NCPAC was actively opposed to Caputo's position on several issues and did not particularly favor Caputo's candidacy.

-NCPAC decided to conduct a campaign against Moynihan without any suggestion, approval or prior consultation with any representative of the Caputo Committee. Nor was there any such consultation or cooperation during the campaign itself.

-The NCPAC anti-Moynihan campaign, the entire expenditure for which the General Counsel seeks to characterize as a "contribution" to Caputo, actually continued for some time after Caputo had dropped out of the race.

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-The Caputo campaign for the Republican nomination was not intended to, and did not in fact, receive any benefit whatsoever from NCPAC's anti-Moynihan activities.

In short, it is difficult to conceive of a set of facts where the alleged violation, even if one arguably occurred, was so purely technical and where prosecution of an action would be so pointless. That the Caputo Committee should be subjected to the expense and embarrassment of defending an enforcement proceeding because NCPAC -- an unrelated, if not unfriendly group -- decided on its own to attack Senator Moynihan and hire Arthur Finkelstein is beyond logical justification. The Caputo Committee respectfully urges the Commission to reject the General Counsel's recommendation and find no probable cause.

Dated: March 21, 1983

Respectfully submitted

MILGRIM THOMAJAN JACOBS & LEE
PROFESSIONAL CORPORATION

By _____
A Member of the Firm
Attorneys for The Caputo For Senate Committee and Arthur Fragomen, Jr.
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405 Lexington Avenue
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Appendix A

BEFORE THE FEDERAL ELECTION COMMITTEE

In the matter of	)	
	)	
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, CAPUTO for SENATE COMMITTEE, JOHN T. DOLAN, ARTHUR FINKELSTEIN and ARTHUR FINKELSTEIN & ASSOCIATES	)	MUR 1124
	)	AFFIDAVIT OF BRUCE CAPUTO
	)	

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

BRUCE CAPUTO, being duly sworn, deposes and says:

1. I am a former candidate for the Republican nomination for United States Senator from New York. I have read the complaint filed by the New York State Democratic Committee in the above matter and am making this affidavit to describe to the Commission the nature of the relationship between my campaign committee and the National Conservative Political Action Committee ("NCPAC") which is the subject of the complaint.

2. The complaint characterizes Mr. Arthur Finkelstein as the "Key Strategist" who directed a coordinated effort on the part of the Caputo campaign committee and NCPAC to seek the defeat of the incumbent Senator Moynihan. From this it asks the Commission to rule that NCPAC expenditures were "in cooperation or concert" with our campaign and that, accordingly, NCPAC

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expenditures should have been treated by us as contributions in kind.

3. At the outset, I wish to state unequivocally that at no time did my campaign, or any of its officials, control, coordinate, approve or otherwise seek to influence NCPAC's campaign against Senator Moynihan. NCPAC is a large national organization which seeks the defeat of congressional figures who oppose its views on various issues. Although I agree with many of NCPAC's positions, I disagree with their stand on others. For that reason and others totally unrelated to the question of campaign funding, my campaign committee maintained complete independence from NCPAC and other ideological groups.

4. Specifically, we never sought to direct or influence the efforts of NCPAC, coordinate its efforts with ours, or use its campaign to defeat Mr. Moynihan as part of our own campaign in any way. Thus, in some instances, NCPAC criticized Senator Moynihan for taking the very same positions which I had taken while I was in Congress--for example, both of us voted against the B-1 bomber. Obviously, I would not have consented to NCPAC's criticism of Moynihan on that ground if I had any say in the matter.

5. In attempting to create a link between NCPAC and my campaign committee, the complaint substantially exaggerates the

role of Mr. Arthur Finkelstein. Mr. Finkelstein is a professional pollster and consultant who was retained to assist us in planning our campaign. He had no authority to make policy or raise and expend funds. So far as I know, he played a similar role at NCPAC; he was a consultant who was retained to perform particular services. I do not believe he is currently part of NCPAC's management or has any ongoing role in that organization.

6. When we first became aware that NCPAC had retained Mr. Finkelstein (sometime after we retained Mr. Finkelstein for our own campaign) we were advised by counsel that, so long as we were engaged in a primary campaign for the Republican nomination and NCPAC's activities were directly solely at Mr. Moynihan, it was not improper for Mr. Finkelstein to provide services to both organizations. The distinction between a primary campaign and the election campaign was no mere formality; despite the confidence I expressed in my ultimate success, my attainment of the Republican nomination was never assured. At the time of the NCPAC campaign, the Republican nominee was not going to be selected for another eleven months; there were other candidates with substantial support--Jack Kemp and Lou Lehrman for example; there were questions about my ability to finance the campaign; Mr. D'Amato, the Republican Senator from New York, had reservations about my candidacy; several Republican leaders expressed

doubt about my ability to attract support from the Conservative Party, and I considered myself struggling--as it turned out, unsuccessfully--to obtain the nomination.

7. Although I was anxious to persuade my fellow Republicans that I could successfully oppose Mr. Moynihan, my campaign was, in law and fact, a campaign against other Republicans for the nomination and not against Senator Moynihan. And, the mere fact that NCPAC employed Mr. Finkelstein to assist its campaign against Senator Moynihan--an effort which would presumably benefit all Republicans--is hardly sufficient to convert NCPAC's efforts into a contribution in kind to my campaign to obtain the nomination.

8. Although we retained services of the same consultant, there was no coordination or cooperation whatsoever between my campaign and NCPAC. I have no knowledge as to whether NCPAC may have used any of my campaign literature, but I do know that we never suggested, authorized or consented to such use.

9. Far from supporting the allegations of the complaint, the incident involving our return of $4,400 to NCPAC illustrates our arm's length relationship. It is my understanding that NCPAC contributed that amount to my campaign as an

outright gift and I was quite surprised when I learned NCPAC asked for its money back. Although I was disappointed, it has always been my policy, if a contributor seeks return of his money, to give it back. But, my decision to do so can hardly be construed as a contribution to NCPAC.

10. In sum, the Caputo campaign did not cooperate, consult or act in concert with NCPAC's campaign against Senator Moynihan. Although Mr. Finkelstein, an outside consultant, did provide services to both organizations, we understood and we still believe that, during the period we were engaged in a primary campaign for the Republican nomination, such a relationship was entirely lawful. NCPAC's campaign against the democratic incumbent was completely separate and independent from my own unsuccessful effort to obtain the Republican nomination and I believe that the attempt by the New York State Democratic Committee to characterize NCPAC's effort as a contribution to my campaign is entirely without merit.

Bruce Caputo

Sworn to before me
this 12 day of March 1982

Notary Public

GEORGE L. GRAFF
Notary Public, State of New York
No. 31-4910273
Qualified in New York County
Commission Expires March 30, 1982

15289

A I heard they had.

Q Did you discuss this with Elaine Gansz?

A No, I doubt it.

Q Do you recall discussing it with Mr. Dolan?

A Yes.

Q Do you recall the substance of that discussion?

A We thought that perhaps somebody who was behind the time was leaking this stuff to Moynihan.

Q One of the radio stations?

A No, we thought the time buyers.

Q Were you concerned about the possible leak from the time buyer?

A No.

Q You weren't concerned that having your name on here might create some sort of problem?

A No, of course not. When people take polls they ask me questions, always.

Q Do you know a person named Robin Martin?

A Yes.

Q When did you first make Mr. Martin's acquaintance?

A Sometime during the Caputo campaign.

Q When you made his acquaintance, was he working for the Caputo campaign?

2 0 0 1 4 0 7 5 1 3 7 9

A No, he never worked for the Caputo campaign; he was a distant peripheral friend of Mr. Caputo's, or acquaintance is probably a better way to put it.

MR. ANDERSEN: I have three campaign rosters I would like marked as Exhibit J.

(A 4-page document entitled Bruce Caputo Campaign, containing names and addresses, was marked Finkelstein Exhibit J for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing Exhibit J to the witness for his review. Would you please take a look at that. These campaign rosters were submitted by AJF to the Commission as part of the document production.

BY MR. ANDERSEN:

Q I direct your attention to page 2 of the second roster, the roster dated 8/15/81.

A Yes, sir.

Q Down about midway down the end to Robin B. Martin's name appears.

A Yes, sir.

Q With the apparent title Political Manager.

A Yes.

Q Is this correct in this designation?

A No, he had no official -- he was a guy who wandered in and out, I have a lot of respect for him, but he had no specific function in the campaign.

Q Why would his name be on this campaign roster?

A I don't know why Peter Buckley's name is; I never heard of Curtis Kelly. I don't know.

Q Did you prepare this roster?

A No.

Q Was it prepared by the Caputo campaign?

A I would think so.

Q Have you ever seen it before?

A No.

MR. SPARKS: Do you believe it is wrong?

THE WITNESS: Well, he certainly was not the political manager.

MR. ANDERSEN: I think he stated it was incorrect.

BY MR. ANDERSEN:

Q On the last page is another roster dated 10/15/81. Again, second to the last, Mr. Martin's name appears. Have you ever seen this roster before?

A No, I have not seen it.

Q Again, you would state that it was incorrect?

A What is incorrect?

Q He was not a staff member?

A Absolutely not.

Q When you said Mr. Martin wandered in and wandered out, what does that mean?

A Sometimes when we hold meetings he would come; sometimes he would not.

Q Would this be unusual for a person to come and go?

A Every campaign has it.

Q Could anyone come and go for a campaign meeting?

A Sure, if I felt good about him.

Q How do you know Mr. Martin?

A I just met him during the Caputo campaign.

Q Have you ever met him in connection with any of NCPAC's activities?

A No, I never met him before this.

Q Let me ask you about Mr.Martin. Did he talk at the meeting? Did he have anything to say?

A I cannot recall a thing he said. I'm sure he uttered words, but I don't recall a thing he said.

Q Was he involved in developing the strategy for the

Caputo campaign?

A No.

Q Did he offer suggestions as to strategy?

A Not that I recall.

Q Did he take notes?

A I have no idea.

Q Are you saying at some point he came in and you would see him sitting there?

A Yes, he was an advance man for Ford, and that is his background; he gets people from Place A to Place B.

MR. SPARKS: They are called balloon blowers in the trade.

MR. JOHANSEN: What is a balloon blower?

MR. SPARKS: It is a guy that comes into town the night before and blows all the balloons up for the candidate so when he comes to town all of the balloons come down.

BY MR. ANDERSEN:

Q And that is what Mr. Martin was?

A I don't know.

MR. ANDERSEN: I have here two documents. They are apparently on the stationery called New York State Taxpapers Fed up with Moynihan; one is dated December 16th and the other

A February 1982.

Q Did anyone else who worked for the Caputo for Senate Campaign Committee attend besides you and Mr. Caputo?

A No.

I take that back, John Sheehand came down for part of the day.

Q Did Mr. Sheehan speak at that seminar?

A Yes, he was on the panel with other political people.

Q But it wasn't a National Conservative Political Action Committee seminar?

A No, it was the Republican National Committee.

Q Do you know who Robin Martin is?

A Yes. He was one of the many volunteers that I got to know through this campaign.

Q He was not an employed staff member of the Caputo for Senate Committee?

A To my knowledge there was no -- he worked solely in a volunteer capacity, in my recollection again is on the fund raising side.

Q Do you know when his activities with the Caputo for Senate Committee began?

A I have no recollection of picking him out of

Appendix C

all the poeple I saw come and go, to pick him out and to say when he started, I don't remember.

Q Do you when activities with the Caputo for Senate Committee ended?

A This is a very set of arrangements with volunteers, they come and go. You ask them to make phone calls, to write reports up, and you hope you are going to get them working. When he ceased being with us, I think it was in November or so. I think, my recollecion, anyway is, that he became involved in the NCPAC group they were setting up their education program about Senator Moynihan.

Q Was he involved in formulating campaign strategy for the Caputo for Senate Committee at all?

A Not in anything that I was involved with, no.

Q Did he ever attend any of the meetings that you had with Mr. Finkelstein, these weekly meetings that you discussed earlier?

A My only recollection as to when hewould have been there was when we were talking about fund raising efforts for the Caputo for Senate Campaign Committee. And we would have asked for volunteers that we thought could help and for people to call twenty five people and

all that. That is the only time I remember him being present at one of these meetings where we were talking finaances.

Q You gave him specific directions as to what he should do for the Caputo for Senate Committee in terms of finances?

A We had a strategy for raising money which we fell far short of, in which I was trying to not leave an individual to coordinate it. So he and a lot of others were asked to make phone calls and to raise money and give money and all that kind of stuff.

MR. JOHANSEN: I have before me a list of Bruce Caputo campaign address and phone numbers in what proports to be dated 8/15/81. Let's have that marked as Government Exhibit Number 6.

(A document entitled Bruce Caputo campaign addresses and phone numbers as of 8/15/81 consisting of two pages was marked as Government Exhibit Number 6 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I hand this to the witness.

I ask the witness to review that document.

SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

83 APR 1 P3:14

In the Matter of	)	
	)	MUR 1424
National Conservative Political Action Committee	)	

GENERAL COUNSEL'S REPORT

I. Background

On August 21, 1982, the Commission found reason to believe that the National Conservative Political Action Committee ("NCPAC") and the Caputo for Senate Committee ("Caputo Committee") violated 2 U.S.C. § 434 of the Federal Election Campaign Act of 1971, as amended, (the "Act") by failing to report in-kind contributions from NCPAC to the Caputo Committee. Further, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive contributions to the Caputo Committee. The Commission also found reason to believe that the Caputo Committee violated 2 U.S.C. § 441a(f) by accepting excessive contributions from NCPAC.

Following receipt of responses from NCPAC, the Caputo Committee and Finkelstein, the Commission authorized the Office of General Counsel to take the depositions of witnesses to the alleged violations. Accordingly, the Office of General Counsel deposed John T. Sheehan, Michael J. Donovan, Arthur J. Finkelstein, Robert G. Wilson, and Robin B. Martin.

Based upon information obtained through the Commission's investigation as well as information included in the complaint

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filed in this matter, the Office of General Counsel prepared a brief that was mailed to counsel for respondents on February 7, 1983. Counsel for respondent Caputo Committee has requested an extension of time until March 21, 1983, to file a responsive brief. Counsel for respondent NCPAC has submitted a written request to begin pre-probable cause conciliation, pursuant to 11 C.F.R. § 111.18(d), that was received on February 25, 1983. NCPAC's request also includes factual and legal argument submitted for the Commission's consideration in the conciliation process. See Attachment 1.

II. Legal Analysis

The legal and factual basis for the General Counsel's recommendations are contained in this Office's brief circulated on February 7, 1983. That brief recommends that the Commission find probable cause to believe that NCPAC violated 2 U.S.C. § 434 by reporting as independent expenditures $73,755 what was properly reportable only as an in-kind contribution to the Caputo Committee, and, further, that the Commission find probable cause to believe that NCPAC violated 2 U.S.C. § 441a(a)(2)(A) by making in excess of $5,000 in contributions to the Caputo Committee.

III. Discussion of Conciliation and Civil Penalty

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IV. Recommendations

Approve and send the attached letter and proposed conciliation agreement to counsel for NCPAC.

March 31, 1983
Date

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

1. Respondent's request for pre-probable cause conciliation dated February 25, 1983
2. Letter to respondent enclosing proposed conciliation agreement

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: APRIL 6, 1983

SUBJECT: OBJECTIONS - MUR 1424 General Counsel's Report signed March 31, 1983

The above-named document was circulated to the Commission on Monday, April 4, 1993 at 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	X
Commissioner Elliott	
Commissioner Harris	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Reiche	X

This matter will be placed on the Executive Session agenda for Tuesday, April 12, 1983.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE,
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/ JAN SAVAGE JS

DATE: APRIL 6, 1983

SUBJECT: OBJECTION - MUR 1424 General Counsel's Report signed March 31, 1983

The above-named document was circulated to the Commission on April 4, 1983 at 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	X
Commissioner Elliott	
Commissioner Harris	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Reiche	

This matter will be placed on the Executive Session agenda for Tuesday, April 12, 1983.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES N. STEELE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JAN SAVAGE

DATE: APRIL 6, 1983

SUBJECT: ADDITIONAL OBJECTION - MUR 1424 General Counsel's Report signed March 31, 1983

You were notified previously of an objection by Commissioner Reiche.

Commissioner Harris submitted an additional objection on April 6, 1983 at 1:03.

This matter will be discussed in executive session on Tuesday, April 12, 1983.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: APRIL 6, 1983

SUBJECT: OBJECTIONS - MUR 1424 General Counsel's Report signed March 31, 1983

The above-named document was circulated to the Commission on April 4, 1983 at 11:00.

Objections have been received from the Commissioners as indicated by the name(s) checked: (Please note corrections)

Commissioner Aikens	X
Commissioner Elliott	
Commissioner Harris	X
Commissioner McDonald	
Commissioner McGarry	
Commissioner Reiche	X

This matter will be placed on the Executive Session agenda for Tuesday, April 12, 1983.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1424
National Conservative Political Action Committee	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on April 13, 1983, do hereby certify that the Commission decided by a vote of 6-0 to defer action with respect to the General Counsel's recommendation in the March 31, 1983 report on the above-captioned matter until such time as it could be considered in conjunction with the report on the Caputo for Senate Committee in MUR 1424.

Commissioners Aikens, Elliott, Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision.

Attest:

4-15-83
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 22, 1983

Robert R. Sparks, Jr.
SEDAM & HERGE
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22101

Re: MUR 1424

Dear Mr. Sparks:

This is in response to your request for pre-probable cause conciliation dated February 25, 1983. As Mr. Andersen indicated in his telephone conversation with you on April 13, 1983, the Commission has considered your request, but has determined to defer action on it until such time as it can review the entire record in this matter. We will contact you as soon as the Commission has made any further determination with respect to your request.

If you have any questions, please contact R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

83 MAY 16 P2: 43

83 MAY 16 P4: 50

May 16, 1983

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1424

EXECUTIVE SESSION
MAY 24 1983

Attached is a proposed conciliation agreement for the National Conservative Political Action Committee. This is to replace the one circulated on April 4, 1983, that has been revised in several non-substantive ways to conform with a proposed conciliation agreement for other respondents in this MUR also being circulated this day.

Attachment
Conciliation Agreement

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RECEIVED
OFFICE OF THE
SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

83 MAY 13 A 9:29

In the Matter of the	)	
	)	
Caputo for Senate Committee	)	MUR 1424
and Austin Fragomen, Jr.,	)	
Treasurer	)	

SENSITIVE

EXECUTIVE SESSION

MAY 24 1983

GENERAL COUNSEL'S REPORT

I. Background

On August 21, 1982, the Commission found reason to believe that the Caputo for Senate Committee ("Caputo Committee") and the National Conservative Political Action Committee ("NCPAC") violated 2 U.S.C. § 434, a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"), by failing to report in-kind contributions from NCPAC to the Caputo Committee. Further, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 44la(a)(2)(A) by making excessive contributions to the Caputo Committee, and that the Caputo Committee violated 2 U.S.C. § 44la(f) by accepting excessive contributions from NCPAC.

Following receipt of responses from NCPAC, the Caputo Committee and Arthur J. Finkelstein & Associates, the Commission authorized the Office of General Counsel to take depositions of witnesses. Accordingly, the Office of General Counsel deposed John T. Sheehan, Michael J. Donovan, Arthur J. Finkelstein, Robert G. Wilson, and Robin B. Martin.

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Based upon information obtained through the Commission's investigation as well as information included in the complaint, the Office of General Counsel prepared a brief that was mailed to respondents on February 7, 1983. The Caputo Committee requested an extension of time until March 21, 1983, to file a responsive brief, and the Commission received this brief on March 23, 1983. NCPAC submitted a written request to begin pre-probable cause conciliation, pursuant to 11 C.F.R. § 111.18(d), that was received on February 25, 1983. The Office of General Counsel has prepared a proposed conciliation agreement for NCPAC that was circulated to the Commission on April 4, 1983. The Commission considered this proposal on April 13, 1983, but determined to defer action on it pending consideration of the present report concerning the Caputo Committee.

II. Legal Analysis

The legal and factual basis for the General Counsel's recommendations is contained in this Office's brief circulated on February 7, 1983. That brief recommends that the Commission find probable cause to believe that the Caputo Committee and Austin Fragomen, Jr., the treasurer of the committee, violated 2 U.S.C. § 434 by failing to report in-kind contributions from NCPAC, and, further, that the Commission find probable cause to believe that the Caputo Committee and Mr. Fragomen violated 2 U.S.C. § 441a(f) by accepting in-kind contributions from NCPAC in excess of the $5,000 limitation imposed by the Act.

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In the brief filed March 23, 1983, on behalf of the Caputo Committee and Mr. Fragomen, respondents have raised several issues requiring a response from this Office. These are briefly addressed below.

Respondents criticize the Office of General Counsel's brief for exaggerating Mr. Frinkelstein's role in the Caputo campaign. Respondents suggest that because Finkelstein was a paid consultant to the campaign without the authority to act for or obligate the treasury funds of the Caputo Committee, Finkelstein was not a dominant force in the campaign. Quoting the campaign chairman, Robert Wilson, 1/ respondents argue that Finkelstein was a "hired hand" without authority to set policy. However, Wilson's testimony merely states the obvious. As a consultant, Finkelstein did not sign campaign checks or act as spokesman for the committee. That was not his function. However, according to respondents' campaign manager, Robert Sheehan, Finkelstein was running and directing the strategy of the campaign. As his

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1/ Respondents misquote page 7 of the General Counsel's brief leaving it to appear that Robert Wilson was the campaign manager rather than Robert Sheehan. Wilson was manager only until Sheehan came on board in November of 1981. After that time, Wilson held the title of campaign chairman. Wilson, a venture capitalist, was clearly more the chief fundraiser for the campaign than the person in charge of the day-to-day planning and policy making. However, even granting Wilson's authority to act for the Caputo Committee does not diminish in any way the strategic importance of Finkelstein's role in the campaign. Furthermore, the quotation gives the erroneous impression that the General Counsel's brief relied solely upon Wilson's testimony as the basis for the statement that Finkelstein was the chief architect of the Caputo campaign. In fact, this statement is based upon the testimony of Sheehan, Wilson and Finkelstein himself.

own testimony clearly shows, that is what Finkelstein was paid to do. There can be little doubt that Finkelstein was the idea man and the strategic force behind the Caputo campaign.

Second, respondents incorrectly conclude that Robin Martin's involvement with the Caputo Committee ceased before he became chairman of NCPAC's New York Taxpayers Fed Up With Moynihan ("Taxpayers"). Martin's testimony shows that he returned to Caputo Committee headquarters after he had assumed the chairmanship of Taxpayers and was present during discussions of campaign issues and topics.

Respondents further misinterpret the facts of this matter in their discussion of the degree of influence that Finkelstein may have had on the NCPAC and Caputo anti-Moynihan campaigns. While stating that they have no direct knowledge of the details of the relationship between Finkelstein and NCPAC, respondents would have the Commission believe that Finkelstein's knowledge of what both NCPAC and the Caputo Committee were about was not useful to either campaign against Moynihan. However, the very example used by respondents to make their point suggests the reverse.

Respondents state that Congressman Jack Kemp was considered to be the major threat to the Caputo campaign, and Finkelstein's testimony shows that he believed NCPAC to prefer Kemp over Caputo. Finkelstein is then quoted by respondents as favoring a strategy for the Caputo Committee to discourage Kemp from even entering the senate race by making a strong initial showing.

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Contrary to respondents' contention, Finkelstein's knowledge of NCPAC's alleged preference for Kemp over Caputo was useful information. It is information that may have formed the basis of Finkelstein's strategy to use all efforts to make Caputo look like the acknowledged candidate of both parties early in the campaign and illustrates the kind of benefit the Caputo Committee presumably derived from Finkelstein's close association with NCPAC. See 11 C.F.R. § 109.1(b)(4)(i).

III. Discussion of Conciliation and Civil Penalty

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IV. Recommendations

The Office of General Counsel recommends that the Commission:

1. find probable cause to believe that the Caputo for Senate Committee and Austin Fragomen, Jr., violated 2 U.S.C. § 434 of the Act by failing to report in-kind contributions from the National Conservative Political Action Committee;

2. find probable cause to believe that the Caputo for Senate Committee and Austin Fragomen, Jr., violated 2 U.S.C. § 441a(f) by accepting in excess of the $5,000 limitation on contributions imposed by the Act from the National Conservative Political Action Committee; and

3. send the attached letter and conciliation agreement.

12 May 1983
Date

Charles N. Steele
General Counsel

Attachments:
1. Letter to Respondents (2 pages)
2. Conciliation Agreement (5 pages)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee	)	MUR 1424
	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on May 24, 1983, do hereby certify that the Commission decided by a vote of 4-2 to approve the proposed conciliation agreement in the above-captioned matter as submitted with the General Counsel's report dated May 16, 1983.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision. Commissioners Aikens and Elliott dissented.

Attest:

5-25-83
Date

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Caputo for Senate Committee) MUR 1424

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on May 24, 1983, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in the above-captioned matter:

1. Find probable cause to believe that the Caputo for Senate Committee violated 2 U.S.C. §434 of the Federal Election Campaign Act by failing to report in-kind contributions from the National Conservative Political Action Committee.

2. Find probable cause to believe that the Caputo for Senate Committee violated 2 U.S.C. § 441a(f) by accepting in excess of the $5,000 limitation on contributions imposed by the Federal Election Campaign Act from the National Conservative Political Action Committee.

3. Send the letter and conciliation agreement attached to the General Counsel's May 12, 1983, report, as amended during the meeting.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

5/25/83
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 27, 1983

Robert R. Sparks, Jr.
Sedam & Herge
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

On August 21, 1982, the Commission found reason to believe that the National Conservative Political Action Committee violated 2 U.S.C. §§ 434 and 441a(a)(2)(A). At your request, the Commission determined on May 24, 1983, to enter into negotiations directed towards reaching conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible. If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact R. Lee Andersen, the attorney assigned to this matter, at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

2204075141

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 31, 1983

George L. Graff
MILGRIM, THOMAJAN,
JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

On May 24, 1983, the Commission determined there is probable cause to believe that your client, the Caputo for Senate Committee, committed violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 434 and 44la(f), in connection with the acceptance of in-kind contributions in excess of $5,000 from the National Conservative Political Action Committee.

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

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Danny L. McDonald
Chairman

Enclosure
Conciliation Agreement

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83 JUL 26 PM 1:10

SEDAM & HERGE
A PROFESSIONAL CORPORATION
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ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

JOHN ROBERT CLARK III
B. ERIC SIVERTSEN
SHARON L. POWERS
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WASHINGTON, D. C. 20006
(703) 821-1000
TELEX: 710-831-0898
CABLE: SEDAMHERGE

OF COUNSEL
JAMES EDWARD ABLARD
THOMAS J. FADOUL, JR.

July 15, 1983

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 1424

Dear Mr. Steele:

We have reviewed the Commission's proposed conciliation agreement in this matter. We cannot advise our client to sign such an agreement.

The gravamen of the complaint against NCPAC in this case is that, because it used as a pollster for its own independent expenditure efforts against Senator Moynihan the same person used by Mr. Caputo in his primary election campaign for the Republican nomination to run against Moynihan, NCPAC has made excessive and illegal contributions to Mr. Caputo's campaign. That is just not so.

In our letter, dated February 25, 1983, we listed three principal reasons why the Commission should enter into conciliation negotiations with NCPAC prior to finding probable cause against NCPAC in this case. We will not restate those reasons here; but we commend them to the Commission as reasons why no probable cause should now be found against NCPAC. We are aware, however, that such a finding is probably a foregone conclusion, and that the possibility that probable cause will not be found is almost a polite fiction at this point. After all, the Commission has already found probable cause against NCPAC's co-respondents herein, the Caputo for Senate Committee and its treasurer, Austin Fragomen, Jr.

In addition to the reasons given in our February 25 letter, there is a single, overriding reason why the Commission should not find probable cause against NCPAC: the Caputo

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campaign did not receive any palpable or discernible benefit from anything done by NCPAC or its pollster, Arthur Finkelstein. At the time of Mr. Finkelstein's activities on behalf of the Caputo campaign, NCPAC was focusing on a different campaign. Mr. Caputo was seeking the Republican nomination for the Senate. NCPAC was engaged in an independent expenditure campaign against Mr. Moynihan, the Democratic incumbent. It is true that if Caputo had been successful in his primary campaign, he would have run against Moynihan in the general election. But Mr. Caputo never received the nomination; he withdrew from the primary race; another Republican, Florence Sullivan, ran against Moynihan; and Moynihan won re-election. It is difficult to see what benefit Caputo gained from NCPAC's exertions against Mr. Moynihan.

Although common sense and the ordinary meaning of "contribution" would seem to require that there be a benefit conferred by the contributor, the Commission's regulations contain no such requirement. An expenditure is presumed not to be independent, and therefore to be a contribution to a candidate, if it is made by or through a person who has received compensation from the candidate or his committee. 11 C.F.R. 109.1(b)(4)(i)(B). That presumption does not make much sense in this case. Not only were NCPAC's efforts directed to a race other than Caputo's, but Caputo himself never received the nomination he was seeking. We do not dispute that Finkelstein was paid by both the Caputo committee and by NCPAC. But whatever efforts he exerted on behalf of his clients were plainly unavailing. Caputo did not receive the nomination, and Moynihan was re-elected.

The General Counsel's recommendation relies heavily on the presumption of coordination contained in the Commission's regulations. The Brief paints a lurid picture of the rankest sort of coordination, but omits testimony by witnesses which does not support that view. The Caputo committee's brief highlights that omitted testimony and points out the glaring fact that all that really happened in this case is that the Caputo committee and NCPAC happen to have used the same political consultant in two different primary campaigns in the same state.

The General Counsel has not demonstrated that there was any coordination or cooperation between NCPC and the Caputo campaign. It is true that a part of the advertising campaign of each was authored by Finkelstein, but merely coincident conduct is not necessarily coordinated conduct, no matter what

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presumptions may purportedly arise by regulation. A presumption of coordination should not serve as a substitute for evidence of coodination. The Commission's presumption of coordination, contained in 11 CFR 109.1(b)(4)(i)(B), should be rebuttable. For the reasons ably set forth in the Caputo committee's response to the General Counsel's Brief, we believe,that that presumption has been rebutted.

The Commission's regulations and the General Counsel's position in this case impose on those who would hire a consultant the duty to inquire into that consultant's other clients, and what services he may have performed for those clients. The Commission has ruled that certain services rendered to a candidate will not taint an independent expenditure campaign that also uses that same provider of services. A.O. 1979-80. But others - like those provided by Finkelstein - will. Thus, a political committee that intends to incur independent expenditures must make inquiry of any consultant it intends to hire to assist in those expenditures, and it must divine whether the consultant's services are permitted or prohibited under A.O. 1979-80. If the committee errs, it risks having its expenditures considered to be contributions to a candidate, with the penalties that NCPAC is facing in this case. An alternative is to seek an advisory opinion each time the committee wants to hire a consultant, with the attendant delay in awaiting the Commission's respons and, in so doing, telling the public at large - including the political opposition - the committee's plans, no doubt prompting a complaint like the one filed in this case.

The Commission should look past its regulations to the realities of the political arena which it supervises. Political consultants are a practical necessity in these times, and the more successful they are, the more they will be sought out by political committees and candidates alike. The Commission's regulations prevent a consultant from working for both a political committee engaged in independent expenditures in favor of a candidate, and for that candidate himself. That may be understandable, but it makes no sense to rule, as the General Counsel now urges, that a common consultant in different campaigns taints an independent expenditure program. Such a ruling is an unwarranted extension of existing law and may constitute unlawful restraint of trade by closing off yet more potential clients to political consultants.

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The Commission should put substance over form in this matter and refuse to find probable cause herein against NCPAC.

Sincerely,

Robert R. Sparks, Jr.
Counsel for National
Conservative Political
Action Committee

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of the	)	83 JUL 29 A10: 12
	)	
National Conservative Political Action Committee	)	MUR 1424
	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

Introduction

In its last consideration of this matter, the Commission on May 25, 1983, approved a proposed agreement for conciliation prior to finding probable cause to believe for respondent National Conservative Political Action Committee ("NCPAC"). See 11 C.F.R. § 111.18(d) of the Commission regulations. The proposed agreement was mailed to NCPAC on May 27, 1983. The Commission, however, did not receive a response to the proposed agreement from NCPAC until July 26, 1983.

Discussion

Once again NCPAC urges the Commission to find that it has not violated the Act. Because NCPAC's proposal is for dismissal on the merits rather than for conciliation, the Office of General Counsel recommends that the proposal be rejected.

9204075418

Recommendation

The Office of General Counsel recommends that the Commission reject the proposal of the National Conservative Political Action Committee dated July 15, 1983.

28 July 1983
Date

Charles N. Steele
General Counsel

Attachment
Letter from NCPAC dated July 15, 1983 (4 pages)

82074051419

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE, GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JODY C. RANSOM

DATE: AUGUST 1, 1983

SUBJECT: OBJECTION - MUR 1424 General Counsel's Report signed July 28, 1983

The above-named document was circulated to the Commission on Friday, July 29, 1983 at 2:00.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner Aikens	
Commissioner Elliott	X
Commissioner Harris	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Reiche	

This matter will be placed on the Executive Session agenda for Tuesday, August 9, 1983.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1424
National Conservative Political Action Committee	)	
	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on August 9, 1983, do hereby certify that the Commission decided by a vote of 4-2 to reject the proposal of the National Conservative Political Action Committee dated July 15, 1983.

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

Attest:

8-10-83
Date

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

9204075142 1

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 12, 1983

Robert R. Sparks, Jr.
SEDAM & HERGE
Suite 1100
8300 Greensboro Drive
McLean, Virginia 22102

Dear Mr. Sparks: MUR 1424

This is in response to your letter of July 15, 1983, received by the Commission on July 26, 1983, requesting that the Commission dismiss MUR 1424. On August 10, 1983, the Commission rejected this proposal.

We are terminating conciliation prior to finding probable cause due to your failure to make a responsive proposal to the Commission's conciliation agreement of May 27, 1983. You may file a brief with the Commission in response to the February 4, 1983 brief of the Office of General Counsel within fifteen (15) days of your receipt of this letter. No extensions will be permitted. If you have any questions, please contact R. Lee Andersen at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

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SENSITIVE

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY
83 SEP 16 P4:54

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of the)
)
National Conservative Political) MUR 1424
Action Committee)

EXECUTIVE SESSION
SEP 28 1983

GENERAL COUNSEL'S REPORT

I. Background

On August 21, 1982, the Commission found reason to believe that the Caputo for Senate Committee ("Caputo Committee") and the National Conservative Political Action Committee ("NCPAC") violated 2 U.S.C. § 434 of the Federal Election Campaign Act of 1971, as amended, (the "Act") by failing to report in-kind contributions from NCPAC to the Caputo Committee. Further, the Commission found reason to believe that NCPAC violated 2 U.S.C. § 441a(a)(2)(A) by making excessive contributions to the Caputo Committee. The Commission also found the Caputo Committee violated 2 U.S.C. § 441a(f) by acceping excessive contributions from NCPAC.

Following receipt of responses from NCPAC, the Caputo Committee and Arthur J. Finkelstein & Associates ("Finkelstein"), the Commission authorized the Office of General Counsel to take the depositions of witnesses to the alleged violations. Accordingly, the Office of General Counsel took the depositions of John T. Sheehan, Michael J. Donovan, Arthur J. Finkelstein, Robert G. Wilson, and Robin B. Martin.

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Based upon information obtained through the Commission's investigation as well as information included in the complaint, the Office of General Counsel prepared a brief that was mailed to respondents on February 7, 1983. The Caputo Committee requested an extension of time until March 21, 1983, to file a responsive brief. The Commission received this brief on March 23, 1983. NCPAC submitted a written request to begin pre-probable cause conciliation, pursuant to 11 C.F.R. § 111.18(d), that was received on February 25, 1983. The Office of General Counsel prepared a proposed conciliation agreement for NCPAC that was approved by the Commission on May 25, 1983. NCPAC responded to the proposed agreement on July 26, 1983.

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II. Legal Analysis

The legal and factual basis for the General Counsel's recommendations is contained in this Office's brief of February 4, 1983. That brief recommends that the Commission find probable cause to believe that NCPAC violated 2 U.S.C. § 434 by failing to report in-kind contributions to the Caputo Committee, and, further, that the Commission find probable cause to believe that NCPAC violated 2 U.S.C. § 441a(a) by making in-kind contributions to the Caputo Committee in excess of the $5,000 limitation imposed by the Act.

III. Discussion of Conciliation and Civil Penalty

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IV. Recommendations

The Office of General Counsel recommends that the Commission:

1. find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 434 of the Act by failing to report in-kind contributions to the Caputo for Senate Committee;

2. find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. § 441a(a) by making in excess of the $5,000 limitation on contributions imposed by the Act to the Caputo for Senate Committee; and

3. approve the attached letter and conciliation agreement.

16 September 1983
Date

Charles N. Steele
General Counsel

Attachments:
1. Letter-brief of respondent NCPAC dated July 15, 1983 (4 pages)
2. Letter of respondent NCPAC dated August 24, 1983 (1 page)
3. Letter to Respondent (2 pages)
4. Conciliation Agreement (5 pages)

2204075142 7

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee	)	MUR 1424
	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission executive session held on September 29, 1983, do hereby certify that the Commission decided by a vote of 4-2 to take the following actions in MUR 1424:

1. find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. §434 of the Act by failing to report in-kind contributions to the Caputo for Senate Committee;

2. find probable cause to believe that the National Conservative Political Action Committee violated 2 U.S.C. §441a(a) by making in excess of the $5,000 limitation on contributions imposed by the Act to the Caputo for Senate Committee; and

3. approve the letter and conciliation agreement attached to the General Counsel's report dated September 16, 1983.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

9-29-83
Date

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

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

83 SEP 22 P3:32

September 22, 1983

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: Conciliation Agreement MUR 1424

INTRODUCTION

Conciliation negotiations are continuing in MUR 1424.

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RECOMMENDATIONS

The Office of General Counsel recommends that the Commission:

1. accept the counter conciliation agreement of the Caputo for Senate Committee dated August 31, 1983; and

2. approve the attached letter to respondent Caputo for Senate Committee.

Attachment
A. Counter conciliation agreement of Caputo for Senate Committee dated August 31, 1983, with cover letter (8 pages).
B. Letter to respondent Caputo for Senate Committee (1 page).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 1424
Caputo for Senate Committee)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 29, 1983, the Commission decided by a vote of 5-0 to take the following actions in MUR 1424:

1. Accept the counter conciliation agreement of the Caputo for Senate Committee as submitted with the General Counsel's September 22, 1983 Memorandum to the Commission.

2. Approve the letter to respondent Caputo for Senate Committee as attached to the September 22, 1983 Memorandum to the Commission.

Commissioners Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter; Commissioner Aikens did not cast a vote.

Attest:

9-30-83
Date

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

Received in Office of Commission Secretary: 9-22-83, 3:32
Circulated on 48 hour tally basis: 9-23-83, 2:00

2240751431

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

September 30, 1983

Robert R. Sparks, Jr.
Sedam & Herge
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

On September 29,1983, the Commission determined there is probable cause to believe that your client, the National Conservative Political Action Committee committed violations of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 434 and 44la(a), in connection with the making of in-kind contributions in excess of $5,000 to the Caputo for Senate Committee.

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

We enclose a conciliation agreement that this office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it along with the civil penalty to the Commission within ten days. I will then recommend that the Commission approve the agreement. Please make your check for the civil penalty payable to the U.S. Treasurer.

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If you have any questions or suggestions for changes in the enclosed conciliation agreement, please contact R. Lee Andersen, the attorney assigned to this matter, at (202)523-5071.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation Agreement

2274075143

FEDERAL ELECTION COMMISSION

October 3, 1983

George L. Graff, Esquire
MILGRIM, THOMAJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

The Commission on September 29, 1983, determined to accept your draft conciliation proposal of August 31, 1983, as written. You should have an appropriate representive of the Caputo for Senate Committee execute a copy of this agreement and send the [illegible] along with a check for 53,[illegible] payable to the United States [illegible] to the Commission at your earliest convenience. Upon [illegible] the executed agreement and the civil penalty, the General Counsel's Office will place the matter on the public record. Also, a permanent file on this case. You will also receive a fully [illegible]

The Commission reminds you that the confidentiality [illegible] remains in effect until the entire matter is closed. Therefore, this matter will remain unavailable for public inspection until the entire matter is resolved. The Commission will notify you when the entire file has been closed.

Sincerely,

Charles N. Steele
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 3, 1983

George L. Graff, Esquire
MILGRIM, THOMAJAN, JACOBS & LEE
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

Lee Andersen spoke to Mr. Caputo on October 24 and 31, 1983, regarding the conciliation agreement now pending between the Commission and your client, the Caputo for Senate Committee. It is our understanding that Mr. Caputo has decided that the Caputo Committee will sign the agreement as proposed to the Commission in your letter of August 31, 1983.

Since nearly a month has passed since you were informed of the Commission's acceptance of your client's proposal, please have an executed copy of the agreement sent to the Commission as soon as possible. You will then have thirty days following our receipt of the agreement in which to submit the civil penalty of $3,000. If you have any questions, please call Mr. Andersen at (202) 523-5071.

Sincerely,

Charles N. Steele
General Counsel

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83 NOV 22 P1:33

MUR #1424

MILGRIM THOMAJAN JACOBS & LEE

PROFESSIONAL CORPORATION

THE CHRYSLER BUILDING
405 LEXINGTON AVENUE
NEW YORK, NEW YORK 10174
(212) 867-6660

TELECOPIER: GROUP I (212) 867-6660
GROUP II/III (212) 850-0302

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ARNOLD A. BECK
NICHOLAS J. CREME
EUGENE A. DANAHER
ALBERT F. FINK
MICHAEL S. GILLILAND
SUSAN A. GOLDBERG
GEORGE L. GRAFF
ROBERT A. JACOBS
LEO G. KAILAS
ROGER H. KIMMEL
LAWRENCE A. KOBRIN
DAVID P. LANGLOIS
JAMES R. LEDLEY
ALFRED T. LEE
RAYMOND A. MANTLE
ROBINSON MARKEL
ROBERT A. MEISTER
ROGER M. MILGRIM
LAWRENCE N. MULLMAN
GRIFFITH B. PRICE, JR.
SAMUEL D. ROSEN
ROBERT THOMAJAN
MICHAEL A. VARET

DANIEL J. BARBRY
STEVE M. BEDERMAN
VICTORIA A. CUNDIFF
ANDREW L. DEUTSCH
MARGARET HOINES HIRSCHFELD
ANDREW BAL HOFFMANN *
BONNIE KAYATTA-STEINGART
PHILIP J. KEUPER
JAMES D. KLEINER
JOHN JODY LEE
STEVEN D. LUNGHINO
JOEL I. MANDELBAUM
ALBERT N. PODELL
RICHARD J. SABELLA
JEANNE L. SCHROEDER
EMILY A. TABIN
LAWRENCE I. WEINSTEIN

* NOT ADMITTED IN NEW YORK

November 15, 1983

Charles N. Steel, Esq.
General Counsel
Federal Election Commission
Washington, D.C. 20463

Re: MUR 1424
Our File No.: 1445-5

Dear Mr. Steel:

As we have strongly expressed in our prior correspondence, and in our brief filed with the Commission, the Caputo for Senate Committee strongly disputes the findings of the Commission as expressed in the Conciliation Agreement and believes that its conduct was completely in conformity with the law, the regulations and the prior rulings of the Commission.

However, the Committee simply lacks the financial resources to defend itself in litigation against the resources of the Government. Accordingly, the Caputo for Senate Committee has authorized me to deliver the enclosed agreement and check.

Very truly yours,

George L. Graff

GLG/ym

ENCLOSURES
cc: Mr. Bruce Caputo
Roger Kimmel, Esq.

2850g

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CAPUTO FOR SENATE COMMITTEE

502

November 15 1983 1-1/210

PAY TO THE ORDER OF Treasurer of the United States $3,000.00

Three Thousand and 00/100 DOLLARS

FIRST BANK OF NEW YORK
660 PARK AVENUE, NEW YORK, N.Y. 10022

MEMO FEC reconciliation

Carol Caputo

⑈000502⑈ ⑆021000081⑆ ⑈09 1065⑈

RECEIPT
FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

29195

Merritt #24

13 DEC 1983
Date

The Federal Election Commission has received $ 3,000.00 in cash/check for the purchase of copies of documents on file at the Federal Election Commission, or for other materials made available by the Commission.

Federal Election Commission

Purchaser understands any information copied from reports and statements shall not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. 2 U.S.C. Section 438

9294075143437

Pay to the order of any Federal Reserve Bank or
Branch or General Depositary for credit to the
account of the Treasury. This check is in payment
of claims against the United States and must be
endorsed. Do not write non-payment.

11-23-83

LARRY D. MCCAY Dep ASST STATE DIR

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

...ment of this check does not con-
...ance by the Treasury Department
...ty of the endorsement of the indicated sig-
...ers. The proceeds of this check have
...credited to the indicated account in ac-
...ance with the instructions of the

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of the)
)
National Conservative) MUR 1424
Political Action Committee)

83 NOV 17 A10: 36

EXECUTIVE SESSION

NOV 29 1983

GENERAL COUNSEL'S REPORT

I. Background and Previous Commission Action

In its last consideration of this matter on September 29, 1983, the Commission determined that there was probable cause to believe that the National Conservative Political Action Committee ("NCPAC") violated 2 U.S.C § 441a(a) of the Federal Election Campaign Act of 1971, as amended, (the "Act") by making excessive contributions to the Caputo for Senate Committee (the "Caputo Committee"). Further, the Commission determined that there was probable cause to believe that NCPAC violated 2 U.S.C. § 434 of the Act by failing to report in-kind contributions to the Caputo Committee.

NCPAC requested conciliation prior to finding probable cause to believe on February 3, 1983, after the investigation in this matter was completed. See 11 C.F.R. § 111.18(d).

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II. Legal Analysis

Pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the Commission is required to attempt for a period of at least thirty days to correct or prevent violations of the Act by methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement. The Commission attempted to negotiate a conciliation agreement with NCPAC for nearly six months during the period of conciliation prior to finding probable cause to believe, and not one written proposal was offered by NCPAC in conciliation of this matter. As occurred during §111.18(d) conciliation, current negotiations have reached an impasse. The statutory minimum of thirty days expired on October 30, 1983, and NCPAC has given this office no reason to believe that it will consider any non-judicial resolution to this matter other than outright dismissal of the complaint by the Commission.

III. Recommendation

It is recommended that the Commission authorize the Office of General Counsel to file a civil suit for relief in the United States District Court against the National Conservative Political Action Committee and send the attached letter.

17 November 1983
Date

Charles N. Steele
General Counsel

Attachment
Letter to respondent, NCPAC (1 page)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
National Conservative Political Action Committee	)	MUR 1424
	)	

CERTIFICATION

I, Marjorie W. Emmons, Recording Secretary for the Federal Election Commission Executive Session on November 29, 1983, do hereby certify that the Commission decided by a vote of 4-2 to authorize the Office of General Counsel to file a civil suit for relief in the United States District Court against the National Conservative Political Action Committee and send the letter attached to the General Counsel's report dated November 17, 1983.

Commissioners Harris, McDonald, McGarry, and Reiche voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

12-1-83

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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SENSITIVE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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FEC MAIL ROOM
83 NOV 30 A 9:04

November 30, 1983

MEMORANDUM TO: The Commission

FROM: Charles N. Steele
General Counsel

SUBJECT: MUR 1424 Conciliation Agreement

Attached is a conciliation agreement that has been signed by the Deputy Campaign Manager of the Caputo for Senate Committee, Lucia A. Trovato. The attached agreement contains no changes from the agreement approved by the Commission, and a check for the civil penalty imposed by the Commission has been received.

The Office of General Counsel recommends the acceptance of this agreement and the closing of the file as to the Caputo for Senate Committee.

Attachments
1. Conciliation Agreement and photocopy of civil penalty check
2. Letter to respondent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 1424
Caputo for Senate Committee	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 2, 1983, the Commission decided by a vote of 5-0 to take the following actions in MUR 1424:

1. Accept the signed conciliation agreement from the Caputo for Senate Committee as submitted with the General Counsel's November 30, 1983 Memorandum to the Commission.

2. Close the file.

Commissioners Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter; Commissioner Aikens abstained.

Attest:

12-2-83
Date

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

Received in Office of Commission Secretary: 11-30-83, 9:04
Circulated on 48 hour tally basis: 11-30-83, 11:00

9204075144 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 2, 1983

Robert R. Sparks, Jr.
SEDAM & HERGE
8300 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Re: MUR 1424

Dear Mr. Sparks:

You were previously notified that on September 29, 1983, the Federal Election Commission found probable cause to believe that your client, National Conservative Political Action Committee violated 2 U.S.C. §§ 434 and 441a(a), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the captioned matter.

As a result of our inability to settle this matter through conciliation within the allowable time period, the Commission has authorized the institution of a civil action for relief in the U.S. District Court.

Should you have any questions, or should you wish to settle this matter prior to suit, please contact R. Lee Andersen at (202) 523-5071 by December 15, 1983.

Sincerely,

Charles N. Steele
General Counsel

2004075444

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 5, 1983

George L. Graff
Milgrim, Thomajan, Jacobs & Lee
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Re: MUR 1424

Dear Mr. Graff:

On December 2, 1983, the Commission accepted the conciliation agreement signed by your client, the Caputo for Senate Committee, and a civil penalty in settlement of violations of 2 U.S.C. §§ 434 and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter, as it pertains to your client and it will become a part of the public record within thirty days after this matter has been closed with respect to all other respondents involved. However, 2 U.S.C. § 437g(a)(4)(B) prohibits any information derived in connection with any conciliation attempt from becoming public without the written consent of the respondent and the Commission. Should you wish any such information to become part of the public record, please advise us in writing. The Commission reminds you, however, that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed.

Enclosed you will find a fully executed copy of the final conciliation agreement for your files.

Sincerely,

Charles N. Steele
General Counsel

Enclosure
Conciliation agreement

2071451445

DRAFT August 31, 1983

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of the	)	
	)	
Caputo for Senate Committee	)	MUR 1424

CONCILIATION AGREEMENT

This matter was initiated through a signed, sworn, and notarized complaint filed by Dominic J. Barnello, Chairman of the New York State Democratic Committee. An investigation has been conducted, and reason to believe has been found that the Caputo for Senate Committee ("Respondent") violated 2 U.S.C. § 434 of the Federal Election and Campaign Act of 1971, as amended (the "Act") by failing to report in-kind contributions to the Caputo for Senate Committee and 2 U.S.C. § 441a(f) of the Act by accepting contributions in excess of $5,000 from the National Conservative Political Action Committee.

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

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

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

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III. Respondent enters voluntarily into this agreement with the Commission.

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

1. Respondent Caputo for Senate Committee is an authorized Committee.

2. During calendar years 1981 and 1982, the National Conservative Political Action Committee reported expenditures of $73,775 for an independent expenditure campaign in opposition to the election of incumbent Senator Patrick D. Moynihan.

3. In 1982 Respondent employed Arthur J. Finkelstein paying him $28,000 for surveys and strategic political advice connected with an unsuccessful Campaign for the Republican nomination for Senator from New York.

4. During the same time period that Respondent employed Mr. Finkelstein for services described in paragraph No. 3, the National Conservative Political Action Committee employed Mr. Finkelstein paying him $20,000 for surveys and strategic political advice connected with its campaign against Senator Moynihan.

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VII. Seventy-three thousand seven hundred and seventy-five dollars ($73,775) in expenditures made by the National Conservative Political Action Committee for express advocacy communications in opposition to Senator Moynihan were made by the National Conservative Political Action Committee while the latter was in a position to obtain the views of Mr. Finkelstein and Mr. Martin, who were at the time involved in Respondent's campaign.

VIII. The express advocacy expenditures made by the National Conservative Political Action Committee in opposition to Senator Moynihan were made at a time when the National Conservative Political Action Committee could have learned important information about the Caputo campaign and are considered to be in-kind contributions made in favor of the Respondent.

IX. Respondent has been found to have violated 2 U.S.C. § 434 by failing to report the acceptance of $73,775 in in-kind contributions.

X. Respondent was permitted to accept $5,000 in contributions from the National Conservative Political Action Committee pursuant to 2 U.S.C. § 441a(2)(A).

XI. Respondent has been found to have violated 2 U.S.C. § 441a(f) by accepting $68,775 in excessive contributions from the National Conservative Political Action Committee.

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5. Robin B. Martin was chairman of the New York office of the National Conservative Political Action Committee's independent expenditure campaign against Senator Moynihan.

6. Mr. Martin attended some of the staff meetings of the Caputo for Senate Committee while he was chairman of the New York office of the National Conservative Political Action Committee's independent expenditure campaign against Senator Moynihan and communicated with Finkelstein about the progress of this campaign.

WHEREFORE, Respondent agrees:

V. The National Conservative Political Action Committee's independent expenditure campaign against Senator Moynihan was compromised by its employment and compensation of Mr. Finkelstein after Respondent had employed Mr. Finkelstein and while Mr. Finkelstein was still employed by Respondent.

VI. The National Conservative Political Action Committee's independent expenditure campaign against Senator Moynihan was further compromised by Mr. Martin's attendance at Respondent's meetings.

XII. Respondent shall pay a civil penalty to the Treasurer of the United States in the amount of three thousand dollars ($3,000) pursuant to 2 U.S.C. § 437g(a)(5)(A).

XIII. Respondent agrees that it shall not undertake any activity that is in violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq.

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

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

XVI. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement

and to so notify the Commission.

2 December 1983
Date

Charles N. Steele
General Counsel

November 14, 1983
Date

Lucia A. Trovato
Caputo for Senate
Committee
(Deputy CAMPAIGN MANAGER)

BY:

ITS:

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Coc# 8766

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Notary Public
D.C.-Va.-Md.

August 30, 1982

2001 25 P4:19

John Thomas Sheehan
13532 Leith Court
Chantilly, Virginia22021

Re: CAPUTO FOR SENATE COMMITTEE, MUR 1424

Dear Mr. Sheehan:

On behalf of counsel who took your deposition on August 25, 1982, you are hereby notified that the transcript of your deposition is now ready and available for reading and signing, as requested.

You may wish to get in touch with your counsel about making arrangements. If you would like to come to our offices to read, please call Fred Joyce at the above number to make a mutually convenient appointment for doing so.

If by October 1, 1982, we have not received any request for an extension of time or otherwise heard from you, it will be assumed that reading and signing are no longer desired and the original transcript of your deposition will be filed with the Federal Election Commission.

Should you have any questions, please call Mr. Joyce.

Sincerely,

Sandra Vinson

Sandra Vinson
Reporter/Notary

cc: Mr. Andersen
Mr. Mayberry
FEC
file

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ORIGINAL

Before the

FEDERAL ELECTION COMMISSION

SHEEHAN

In the matter of:

CAPUTO FOR SENATE COMMITTEE

MUR: 1424

Washington, D.C.

Wednesday, August 25, 1982

Deposition of

JOHN THOMAS SHEEHAN

a witness in the above-entitled matter, was called for examination by counsel for the Federal Election Commission, pursuant to notice, taken at the offices of the Commission, 1325 K Street, NW, Suite 700, Washington, D.C. 20463, beginning at 9:32 a.m., before Sandra Vinson, a notary public in and for the District of Columbia, when were present on behalf of the respective parties:

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Milton Reporting, Inc.
OFFICIAL REPORTERS
1601 Connecticut Ave., N.W., Suite 301
Washington, D.C. 20009
Phones: (202) 833-3598
833-3599

COT ON CONSENT

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For the Commission:

Gary Johansen
Office of the General Counsel
Federal Election Commission
1325 K Street, NW
Washington, D.C. 20463

R. Lee Andersen
Attorney, Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

For the Deponent:

H. Richard Mayberry
Attorney at law
Suite 960
1333 New Hampshire Avenue, NW
Washington, D.C. 20036

C O N T E N T S

WITNESS	EXAMINATION BY: Mr. Johansen	Mr. Mayberry
John Thomas Sheehan	3	54

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EXHIBITS (Continued):

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FEC Exhibit 5: Agreement between Bruce Caputo and Murphy/Powers Media Inc., January 14, 1982	32
FEC Exhibit 6: Agreement between Caputo for Senate and Murphy/Powers Media Inc., February 5, 1982	32
FEC Exhibit 7: Letter from Cheryl A. Bendis to Arthur J. Finkelstein, March 16, 1982	38
FEC Exhibit 8: Letter from Arthur J. Finkelstein to Cheryl Bendis, March 25, 1982	38
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Thereupon

JOHN THOMAS SHEEHAN

the witness, was called for examination by counsel for the Federal Election Commission and, after having been first duly sworn by the notary, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR
THE FEDERAL ELECTION COMMISSION

BY MR. JOHANSEN:

Q State your full name for the record.

A My name is John Thomas Sheehan.

Q And your home address?

A 13532 Leith Court, Chantilly, Virginia.

Q Are you married?

A Yes, I am.

Q What is your wife's name?

A Denise L.

Q What is your occupation, Mr. Sheehan?

A I'm a political consultant.

Q How long have you been in the business as a political consultant?

A Since November of 1981, on my own.

Q What did you do before November of 1981?

A. Immediately prior to that, I was administrative assistant to Congressman Dan Coates of Indiana.

Q. Are you represented by counsel today?

A. Yes, I am.

MR. JOHANSEN: Would counsel like to make a statement for the record?

MR. MAYBERRY: Yes. My name is Richard Mayberry. I'm representing Mr. Sheehan today in this deposition.

BY MR. JOHANSEN:

Q. Mr. Sheehan, you are here pursuant to a subpoena issued by the Federal Election Commission; that's true, is it not?

A. Yes, it is.

Q. The subpoena also asked that you produce certain documents and materials. If I might direct your attention to the subpoena which you received in the mail, we asked for any documents of materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements produced by the National Conservative Political Action Committee, the Caputo for Senate Committee, or Arthur J. Finkelstein & Associates. Did you have any such documents?

A. No. I searched my files at home and did not find any.

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Q. We also asked for any documents or materials in your possession evidencing consultation or cooperation between the National Conservative Political Action Committee and the Caputo for Senate Committee or Arthur J. Finkelstein & Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

Did you have any of those documents?

A. No, sir.

Q. Do you know if any such documents might exist elsewhere?

A. Not that I'm aware of.

Q. Did you use or review any writings or materials to refresh your memory for the purpose of testifying at this deposition today?

A. I didn't review any materials. I reviewed in my mind what my activities were during that time and I did discuss those with my counsel.

Q. Now, were you employed by the Caputo for Senate Committee?

A. I had a contract as an independent consultant. So, yes, I did work for that committee.

Q. When did you begin your work for the committee?

9 9 0 4 0 7 0 1 4 5 9

A. November 1, 1981.

Q. How long did you work for the Caputo for Senate Committee?

A. Until March 19, 1982.

Q. Why was your employment with the committee terminated?

A. Bruce Caputo withdrew from the Senate race in New York.

Q. You said you had a contract with the committee. Was that an employment contract?

A. Yes. As a consultant, a consultancy contract.

Q. Did you have any title with the Caputo for Senate Committee?

A. I held the title of manager.

Q. What were the responsibilities of the manager of the committee?

A. The responsibilities included day-to-day operation of the office, the supervising of the employees, expenditures that dealt with the office operation, to see that the nomination for the Senate was gained, the Republican conservative and Right to Life nominations for the state of New York.

Q. During this time, did you live in New York or did you remain at your home address?

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A. I commuted back and forth.

Q. How many days did you spend in New York?

A. Four to five days a week. It was pretty much full-time. I was home on weekends.

Q. Who hired you to work for the Caputo for Senate Committee?

A. Robert Wilson, the chairman, is the one that concluded the negotiations.

Q. How did you originally become involved with the Caputo for Senate Committee?

A. I received a telephone call from Arthur Finkelstein in October of 1981, asking whether I would be willing to leave the security of the House to possibly become involved in a campaign.

Q. Did you know Mr. Caputo before you began working for his campaign?

A. No. I had not met him.

Q. Did you meet him before you started working for the Caputo for Senate Committee?

A. Yes, I did.

Q. Did he interview you?

A. I saw Bruce Caputo in Washington, D.C., some time.

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I can't remember the date but, prior to going with him, I met with him at the Hay-Adams Hotel for about an hour.

Q Is he the one who hired you?

A It was he and Robert Wilson. Robert Wilson was the chairman of the Caputo for Senate Committee and really made that decision.

Q How long have you know Arthur Finkelstein?

A I believe I met him first in 1978 in connection with my duties with the U.S. Chamber of Commerce.

MR. MAYBERRY: Excuse me. If I can, may I consult with my client one minute while you're reviewing your next question?

MR. JOHANSEN: (Nods)

(Discussion off the record)

BY MR. JOHANSEN:

Q When Mr. Finkelstein contacted you in November of 1982 did he give you any indication of why he thought you should work for the Caputo for Senate Committee?

A No.

MR. JOHANSEN: We'll have this marked Commission Exhibit 1.

(The document referred to was marked for identification FEC Exhibit 1, a copy of which is attached to the original transcript of this deposition.)

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MR. MAYBERRY: Could you perhaps ask the previous question again, or have the court reporter read it back?

MR. JOHANSEN: Would you back the previous question?

(The reporter read the last previous question.)

BY MR. JOHANSEN:

Q. I believe you testified that he had contacted you in October of 1981; is that correct?

A. Yes, he did.

(Discussion off the record)

MR. MAYBERRY: Do you fully understand the question?

THE WITNESS: I think I was interpreting more in the question than I did. Mr. Finkelstein said that if he interviewed me it would be a career move for me to have a state race.

BY MR. JOHANSEN:

Q. In your conversation with him, what else did you talk about in terms of the Caputo campaign?

A. We discussed political friends in New York, D'Amato was gaining in the Senate nomination and that there were conservative movements.

Q. Did he indicate to you at the time as to what he was doing on the Caputo for Senate Committee?

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A. I don't recall that, but I understood it was as a consultant.

Q. So, at that time, you really had no idea of what his involvement with the Caputo for Senate Committee was?

A. Only that he was involved.

MR. JOHANSEN: I'm handing to the witness what's been marked Commission Exhibit 1.

This was submitted to the commission by the Caputo for Senate Committee.

MR. MAYBERRY: I'd like a minute to read it.

MR. JOHANSEN: Sure.

BY MR. JOHANSEN:

Q. I would like to direct the witness' attention to page 2 of this response, number 9.

You have read the document?

A. Yes, I have.

Q. Have you ever seen it before?

A. No, I have not.

Q. At the bottom it says responses provided by Lucia Trovato. Do you know that person?

A. Yes.

Q. Who is that person?

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A Scheduler for the Caputo campaign.

Q The response to number 9 starting with, "While we have no copies of documents," and continues, "which specify or reveal the identity of officers or staff members at CSC, one staff member at CSC was responsible for contact with Arthur Finkelstein to assure Finkelstein's advice was executed properly: John Sheehan, Campaign Manager."

Is that an accurate statement?

A Yes, it is.

Q Could you describe to me exactly what your responsibilities were in your contacts with Arthur Finkelstein?

A Well, on a somewhat regular basis Mr. Finkelstein would visit the Caputo campaign headquarters. At that time, we would have a general staff meeting to discuss the progress we were making in securing the Republican nomination. Then, we would discuss what things needed to be done to move that process along.

That's basically it and any possible earned press that might be going on, what releases to make on specific issue before the Senate.

Q How often did you talk with Mr. Finkelstein?

A About once a week, maybe once every ten days.

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Q. When you spoke to him, was it usually when he came to New York to visit the campaign headquarters or was it by phone?

A. Some of both.

Q. Did you write memoranda or letters back and forth?

A. Not to the best of my knowledge.

Q. These discussions that you had with Mr. Finkelstein: was he giving direction to the campaign or was this a give-and-take discussion about the campaign and you also gave information to him as to what they wanted him to do, what services he was to provide?

A. He was directing the campaign and we would sit and talk about which county leaders we had talked to or had agreements about. I would then listen to his suggestions on how to secure a particular county, what things needed to be done, and then we would carry them out.

Q. How about in the response, number 9, where it says the only other persons authorized to contact Finkelstein were Bruce Caputo and Robert Wilson? Is that a true statement, to your knowledge?

A. Yes.

Q. Do you know how often Bruce Caputo spoke with Mr.

3 3 0 4 0 7 1 4 6 6

Finkelstein? If you know.

A I have no way of knowing that.

Q How about Robert Wilson? Do you know how often he spoke to Mr. Finkelstein?

A No.

Q What was the role of Robert Wilson?

A He was the campaign chairman.

Q The last sentence in response number 9: "Other staff members were instructed to channel requests for information from Finkelstein through the campaign manager, John Sheehan."

Is that a true statement?

A I don't recall those instructions being given in that way.

Q Did individuals channel their requests for information from Mr. Finkelstein through you?

A I don't recall any such requests.

Q Would you say that Mr. Finkelstein basically was running the campaign?

A Yes. The strategy, yes.

Q When Mr. Finkelstein came to New York -- and maybe you have told me this already -- did you have a staff meeting or a campaign meeting that he attended?

A Yes.

R 3 0 4 0 7 1 4 6 7

Q. Who would attend those meetings?

A. The staff people that were employed by the Caputo campaign committee.

Q. Were they informal or formal meetings?

A. They were as formal as they could be under the circumstances, yes.

Q. Everyone on the staff -- how many people would attend those meetings usually?

A. Anywhere from three to six.

Q. Who, if you can remember, were the six people that would be at those meetings?

A. Mr. Finkelstein, myself --

MR. MAYBERRY: I'm going to object and ask that you lay a foundation as far as which meeting you are talking about, Mr. Johansen.

BY MR. JOHANSEN:

Q. Were there certain individuals that always attended these meetings?

A. I can't say always, no.

Q. Do you know how many such meetings were held?

A. No.

Q. Do you recall any meetings specifically that were held?

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A. Not one over another, no.

Q. Can you tell me, with regard to any of the meetings that were held that Mr. Finkelstein attended, any person that might have attended those meetings?

A. Can I tell you of any person that attended any meeting with Mr. Finkelstein in New York?

Q. (Nods)

A. Any member of the campaign staff was likely to have attended one or some of those meetings.

(Discussion off the record)

BY MR. JOHANSEN:

Q. Of these meetings that were held, do you have a general idea of how many such meetings were held that Mr. Finkelstein attended?

A. Maybe once every six weeks.

Q. So, from November of 1981 to March of 1982, approximately how many meetings were held?

A. Three to five.

Q. Did any particular person chair those meetings?

A. Arthur Finkelstein.

Q. Was campaign strategy discussed at those meetings?

A. Yes.

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Q And anyone on the staff might have attended those meetings?

MR. MAYBERRY: I'm going to object. I think it's been asked and answered and we are going over previous testimony.

MR. JOHANSEN: I would like for him to answer the question.

THE WITNESS: What was it?

BY MR. JOHANSEN:

Q Any one of the staff might have attended those meetings?

A Yes.

Q The five or six meetings that were held between November 1981 and March 1982?

A Yes.

Q Do you happen to know how Arthur Finkelstein became involved in the Caputo campaign?

A No, sir.

MR. JOHANSEN: I'll have this marked Commission Exhibit 2.

(The document referred to was marked for identification FEC Exhibit 2, a copy of which is attached to the original transcript of this deposition.)

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MR. JOHANSEN: I'm handing what purports to be an agreement between Arthur J. Finkelstein & Associations and the Caputo for Senate Committee.

MR. MAYBERRY: I would appreciate the opportunity to look at the document before it's handed to Mr. Sheehan.

MR. JOHANSEN: You can certainly look at them before I ask questions. I have no problem with that.

MR. MAYBERRY: Thank you.

BY MR. JOHANSEN:

Q. Have you ever seen Exhibit 2 before?

A. No, sir.

Q. Let me direct your attention to page 2 of Exhibit 2. On page 2 is what purports to be a list of services which Mr. Finkelstein carried out for the campaign committee. The first is election strategy.

A. Uh-huh.

Q. Would you agree that Mr. Finkelstein did provide election strategy for the Caputo campaign committee?

A. Yes.

Q. Could you describe in more detail what kind of campaign strategy he carried out for the committee?

A. Yes. He recommended what we needed to do to gain

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the Republican nomination, to secure the nomination for Bruce Caputo. There were other candidates potentially that could still enter that race.

Q. In terms of that election strategy, did he advise the Caputo for Senate Committee on the anti-Moynihan type advertisements?

A. Not to my knowledge, no.

Q. The second listing on Exhibit 2 is election techniques. Did he carry out that type of activity for the Caputo for Senate Committee?

A. Yes. He made recommendations.

Q. Could you describe what type of activity that was?

A. Election techniques: what to do to gain the nomination, what to do to prepare for the June nominating convention and gaining that nomination, the things we needed to do.

Q. What kind of things did you need to do?

A. Visits to the county chairmen and party leaders to insure that Caputo was the nominee.

Q. The third listing is campaign techniques. Did he provide those types of services?

A. I believe he may have. I don't know the difference between election techniques and campaign techniques.

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Q So your answer would be that election techniques would be the campaign techniques as well?

A Right.

Q Next is media advice. Did he provide media services?

A Yes, he did.

Q Could you describe exactly what kind of services those are?

A He talked about the amount of money that would be needed for Bruce Caputo to gain the nomination and to do the things necessary. He talked about the content of ads. Basically, that's it.

Q You say "content of ads." Could you describe what kind of advice he gave? Was it in terms of the advertisements that should be placed?

A Yes. He advised that Bruce Caputo was not perceived at the time as senatorial; therefore, the ads should portray him as strong as a senator, someone that people could perceive as a senator.

Q In your responsibilities, did you have any responsibility in terms of placing media ads?

A In time-buying?

Q Yes.

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A. No, sir.

Q. How about in making up those advertisements?

A. I worked with Mr. Finkelstein, yes.

Q. Did he give you direction as to what the ads should say?

A. He scripted the ads.

Q. He wrote them?

A. Yes.

Q. Was there input from the Caputo campaign committee, separate from Mr. Finkelstein's thoughts, about what should be in the media advertisements?

A. Yes, there was.

Q. Did any of the advertisements placed contain anti-Moynihan language?

A. Yes.

Q. And this anti-Moynihan type language: was it originated by Mr. Finkelstein?

A. I believe so, but I'm not sure.

Q. Do you ever recall anyone on the Caputo campaign staff indicating to you that they felt the media advertisements should contain anti-Moynihan material?

MR. MAYBERRY: I'll object to that. Mr. Sheehan

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can't testify to what other people felt.

MR. JOHANSEN: I'm sorry.

BY MR. JOHANSEN:

Q. Did any other individuals in the campaign indicate to you that they wanted the media advertisements to contain anti-Moynihan material?

A. No.

Q. Did Mr. Finkelstein advise the Caputo committee in the purchase of media time?

Let me be clearer.

Did he tell you when the ads should be run?

A. Yes.

Q. On what stations they should be run?

A. No.

Q. Were these ads radio ads?

A. No, sir.

Q. TV ads?

A. Yes, sir.

Q. How about printed ads?

A. No. No print ads.

(Discussion off the record)

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BY MR. JOHANSEN:

Q. Were any copies of ads retained by the Caputo committe, do you know?

A. Copies of ads?

Q. Written copies of advertisements as they would appear on the TV?

A. I don't know what records the Caputo committee kept.

Q. Do you have any such copies of advertisements?

A. I don't believe so.

Q. In these meetings, these five or six meetings you had with Mr. Finkelstein between November 1981 and March 1982, was the anti-Moynihan ad, that ad campaign, was that discussed if you recall?

A. You're asking about during the meeting?

Q. Yes.

A. I believe they were brought up, yes.

Q. Do you recall any of the discussions?

A. Not specifically. I know they were about the ads running, what the ads were on.

Q. Was the strategy of placing the ads discussed at any of the meetings?

A. No.

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Q Was the strategy of placing these ads discussed with you outside the meetings?

A No.

Q Is it fair to say that the anti-Moynihan advertisements were basically the creation of Mr. Finkelstein?

A I have no way of knowing that.

Q Getting back to Exhibit 2, number 5 is scheduling advice. Did Mr. Finkelstein provide these kinds of services for the committee?

A Yes.

Q Could you describe what kind of services were included in scheduling advice?

A Again, it was where we should have Bruce Caputo to gain the nomination, which counties were important, which were key pins to the other counties, and things that we needed to do about that.

Q The next service listed that was provided by Mr. Finkelstein was issues significant to the public. Did he provide services relating to what issues should be brought forward to the public?

A Yes.

Q Can you describe some of those issues that he

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suggested should be brought forward to the public?

A. Welfare spending, government spending in general, the death penalty.

Q. Do you know how Mr. Finkelstein identified such issues to bring forward to the voters of New York?

A. No, I don't know that.

Q. Do you know if he used a poll?

A. Not to my knowledge.

Q. The last service listed is entitled campaign staffing advice. Did he provide those types of services?

A. I guess he did, yes.

Q. Did he ever make recommendations to your committee as to who should be hired?

A. Not while I was there.

Q. Do you know if he did that before you were there?

A. I have no way of knowing that.

Q. During the meetings that you had with Mr. Finkelstein between November 1981 and March 1982, was the National Conservative Political Action Committee ever discussed?

A. In regard to their ads that were running.

Q. What did those discussions entail?

A. Only that they were running ads.

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Q. Did Mr. Finkelstein make any comments regarding the NCPAC ads?

A. I'm sure he did, yes.

Q. Do you recall what those comments were?

A. No.

Q. At any time outside the meetings in your discussions with him, did he talk to you about the NCPAC ads, the anti-Moynihan ads?

A. After they began running, yes.

Q. What did he say to you about those ads?

A. Had I heard the ads? What was my opinion? That kind of thing.

Q. Did you ever discuss with Mr. Finkelstein that the Caputo campaign strategy should parallel the NCPAC strategy in terms of both organizations or both committees running anti-Moynihan ads during the same time, or similar times during the campaign?

A. No, sir.

Q. Do you know whether Mr. Finkelstein ever wrote or scripted the NCPAC ads?

A. I have no way of knowing that.

Q. I think you've stated it was your recollection

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that Mr. Finkelstein basically scripted the anti-Moynihan ads for the Caputo committee?

A. He scripted the Caputo ads, yes.

Q. The contract includes no mention of polls. Do you know if Mr. Finkelstein conducted a poll on behalf of the Caputo committee?

A. I don't believe that he did.

Q. It also doesn't mention the time-buys. Did he ever make time-buys for the Caputo for Senate Committee?

A. No. He did not make time-buys.

Q. You made those time-buys?

A. We used a media service, a buying service.

Q. Was Mr. Finkelstein authorized to place any ads on behalf of the Caputo for Senate Committee?

A. I don't believe so, no.

Q. Did Mr. Finkelstein have the authority to obligate the Caputo committee in any way in terms of creating a financial obligation on behalf of the committee?

A. Not to my knowledge.

Q. Do you know if Mr. Finkelstein ever took any polls in the state of New York?

A. I'm not aware that he did.

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Q. Have you ever heard of a poll captioned "New York State, August 1981"?

A. I don't recall hearing of a poll by that title, by that caption.

Q. Did you hear of any poll that Mr. Finkelstein might have taken in New York?

A. I recall some questions being raised in the newspaper about a poll.

Q. What were those questions?

A. As I understand New York state law, any poll must be made public within a certain number of days and there were some challenges to the fact that he had or had not. It did not involve the Caputo campaign.

Q. You were never involved in that?

A. No.

Q. Mr. Finkelstein never discussed any poll that he might have taken in the state of New York?

A. No, sir.

I had asked Mr. Finkelstein for poll figures and I was told that he had not done one.

Q. When did you ask for such poll figures?

A. I'm not sure. It was during the campaign.

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Q Do you know if Mr. Finkelstein might have discussed a poll that he took in New York with anyone else associated with the Caputo for Senate Committee?

A I have no way of knowing that.

Q Did the Caputo for Senate Committee take any poll on its own?

A Only of the county chairmen, not of the public.

Q Was Mr. Finkelstein involved in that poll?

A No, sir.

MR. JOHANSEN: I'll have this marked Commission Exhibit 3.

(The document referred to was marked for identification FEC Exhibit 3, a copy of which is attached to the original transcript of this deposition.)

MR. JOHANSEN: I'm handing Exhibit 3 to the witness and his counsel.

BY MR. JOHANSEN:

Q Have you ever seen this document before?

A Yes, I have.

Q When did you see it?

A I don't recall the exact timing on it. It was some time between November and March.

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Q. Do you recall the circumstances of your becoming aware of the document?

A. The circumstances involved my duties as campaign manager.

Q. Did anyone in particular give it to you?

A. I don't recall anyone in particular.

Q. Do you know who wrote it?

A. It says here John Samerjan. I assume it was Mr. Samerjan or Mr. Caputo.

Q. Do you know that?

A. No.

Q. Do you if Arthur Finkelstein assisted in writing it?

A. No. I have no way of knowing that.

Q. Let me direct your attention to page 2 of the announcement, the first full paragraph on page 2.

A. Yes, sir.

Q. Was that type of language used in any of the media advertisements put out by the Caputo for Senate Committee?

It starts: "New York's present Senator Daniel Patrick Moynihan is one of the principal architects of big government."

MR. MAYBERRY: I'm going to ask you to rephrase that

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more specifically. In other words, it's vague as to what type of language you're referring to.

MR. JOHANSEN: I'm referring to the type of language used, the anti-Moynihan type language.

THE WITNESS: I'm trying to recall the advertising that was done. I don't think that any of the specific language here was used.

BY MR. JOHANSEN:

Q. You said, I believe, that you were aware of the NCPAC anti-Moynihan advertisements that were placed on the radio?

A. I knew they were on. I never heard those ads.

Q. Were you familiar with the language of those advertisements at all?

A. Only as they were reported to me by a New York Times reporter.

Q. Were you aware that the language was similar to the NCPAC anti-Moynihan ads placed on the radio?

A. No, I was not.

Q. You don't happen to know who wrote this paragraph, do you?

A. No.

Q. During your work on the Caputo campaign, did you ever

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learn or were you ever advised as to whether or not -- do you know if Mr. Finkelstein ever advised Mr. Caputo as to when to announce his candidacy?

A. I don't know that.

Q. Do you know if Mr. Finkelstein advised Mr. Caputo as to how he should announce his candidacy?

A. I don't know that either.

MR. JOHANSEN: Let me have this marked Commission Exhibit 4.

(The document referred to was marked for identification FEC Exhibit 4, a copy of which is attached to the original transcript of this deposition.)

MR. JOHANSEN: I'm handing this to the witness and his counsel.

BY MR. JOHANSEN:

Q. Have you ever seen this document before?

A. Yes, I have.

Q. Can you identify it?

A. It's a direct-mail fundraising appeal.

Q. Do you know when it was written?

A. No, I don't.

Q. When it was written was that after you had -- well,

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let me -- was it written after you started working for the Caputo for Senate Committee?

A. No, sir.

Q. Do you know who wrote it?

A. No, sir.

Q. Do you recall when you first saw it?

A. Again, sometime after I started with the campaign.

Q. Do you if Mr. Finkelstein wrote or assisted in the writing of it?

A. I have no way of knowing that.

Q. This appears to be a fundraising letter?

A. Yes.

Q. Were you involved in having the fundraising letter sent out?

A. No, sir.

Q. So, to your knowledge, it was sent out before you were involved with the Caputo for Senate Committee?

A. Yes.

MR. JOHANSEN: I have two documents here. Let me have them marked as Exhibits 5 and 6.

(The documents referred to were marked for identification FEC Exhibits 5 and 6, respectively, copies of which are attached to the original transcript of this deposition.)

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MR. MAYBERRY: Could the record reflect that Commission's Exhibit 4 is undated?

MR. JOHANSEN: Yes. I believe Mr. Sheehan indicated that he did not know when it was written, as well.

I'm handing Exhibits 5 and 6 to the witness and his counsel.

BY MR. JOHANSEN:

Q. Have you seen Exhibit 5 before?

A. Yes, I have.

Q. Have you seen Exhibit 6 before?

A. Yes.

Q. They purport to be contracts or agreements between the Caputo campaign committee and Murphy/Powers Media Inc.?

A. Yes.

Q. Did you have any involvement in arranging for Murphy/Powers to do time-buying services for the Caputo for Senate Committee?

A. Yes, I did.

Q. Could you describe what your involvement was?

A. Simply giving them that amount of money we had to spend and telling them when we wanted to start.

Q. I'm sorry: you're describing your activities in terms

of buying radio and TV ads?

A. I believe I was answering it in -- could we have your question read back?

Q. Sure.

(The reporter read the last previous question as follows: Question. "Could you describe what your involvement was?")

MR. JOHANSEN: Let me ask the question again.

BY MR. JOHANSEN:

Q. Were you involved in selecting Murphy/Powers Media as the time-buying agent for the Caputo for Senate Committee?

A. Yes, I was.

Q. How were you involved?

A. I interviewed a number of time-buying services to get the best deal for the Caputo campaign committee.

Q. How many time-buying services did you interview?

A. Two others that I'm aware of.

Q. Do you know if Mr. Finkelstein is associated with Murphy/Powers Media Inc.?

A. I have no way of knowing that other than the signature on there.

Q. Do you know Ronald W. Finkelstein?

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A Yes.

Q Who is he?

A Brother of Arthur.

Q Who did you interview at Murphy/Powers Media?

A A young lady. I can't recall her name, though I do have it available to me.

Q How did you find out about Murphy/Powers Media Inc.?

A I'm not sure if it was through Arthur Finkelstein or Ron Finkelstein.

Q Could you tell me -- I'm not familiar with what time-buying services do. Just what do they purport to do?

A They secure time with the TV and radio stations. In this case, TV.

Q And, basically, one provides them with the advertisement you want run?

A You supply them with the advertisement and the budget that you have to spend and then they go secure time based on that.

Q Do you indicate to them what radio or TV stations you want the advertisements run on?

MR. MAYBERRY: Mr. Johansen, who are you referring to when you say "them"? Is that in general or Murphy/Power?

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MR. JOHANSEN: Murphy/Powers.

THE WITNESS: In these particular cases, no, I did not. I said that there were X number of dollars; please do the best you can.

BY MR. JOHANSEN:

Q. And so Murphy/Powers Media Inc. made the decision as to what TV stations to run the advertisements on?

A. They made the proposal and they brought it back through the campaign committee.

Q. Do you know if Arthur Finkelstein was involved at all in determining what TV stations the advertisements should be run on?

A. I have no way of knowing that.

Q. You said previously that you interviewed a number of time-buying firms and that Murphy/Powers Media Inc. gave you the best deal?

A. Yes.

Q. And you made your decision solely on that?

A. Yes.

Q. Are you familiar with the $4,400 contribution or loan made to the Caputo for Senate Committee by the National Conservative Political Action Committee?

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A. I understand that there was money that changed hands, yes.

Q. Did anyone specifically tell you about that contribution or loan?

A. At some time during the campaign, I became aware that there had been a loan that had been repaid.

Q. You don't recall who you talked to about that loan?

A. I believe that it was Bruce Caputo or Robert Wilson.

Q. Do you recall what they told you about it?

A. Only that it was a loan.

Q. Did they indicate why NCPAC would make such a loan to the Caputo for Senate Committee?

A. No, they didn't.

Q. Are you familiar at all with the candidate training seminars held by Arthur Finkelstein?

A. No.

Q. Did you recommend candidate training seminars for the Caputo for Senate Committee staff?

A. Candidate training seminars?

Q. Yes.

A. Not that I'm aware of.

Q. Did you ever attend any candidate training seminar

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held by Arthur Finkelstein?

A. No, sir.

MR. JOHANSEN: I'll have these marked -- these two documents -- Exhibits 7 and 8.

(The documents referred to were marked for identification FEC Exhibits 7 and 8, respectively, copies of which are attached to the original transcript of this deposition.)

MR. JOHANSEN: And I'm handing those documents to the witness and his counsel.

BY MR. JOHANSEN:

Q. Have you ever seen these documents before?

A. No, sir, I haven't.

Q. After reading the documents -- both are letters and speak of the candidate training seminars -- does that term make more sense to you now?

A. Yes, it does.

Q. Could you describe what the candidate training seminars are?

A. NCPAC holds meetings to school candidates.

Q. Do you know if Mr. Caputo ever attended such a training seminar?

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A. I'm not aware that he did.

Q. You never attended one?

A. No, sir.

Q. Do you know if any of the Caputo committee staff attended such seminars?

A. I have no knowledge that anyone did.

MR. JOHANSEN: Let me have this document marked Exhibit 9.

(The document referred to was marked for identification FEC Exhibit 9, a copy of which is attached to the original transcript of this deposition.)

MR. JOHANSEN: I'm handing that to the witness and his counsel.

This purports to be a campaign organization memorandum of the Caputo for Senate campaign organization.

BY MR. JOHANSEN:

Q. Have you ever seen this document before?

A. No, sir, I have not.

Q. You have read it now?

A. Yes, I have.

Q. Is this an accurate description of the campaign organization of the Caputo for Senate Committee? Is this an

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accurate description of the campaign organization as it existed between November and March?

A. No.

Q. Was the campaign organization basically in place when you came on board the Caputo for Senate Committee?

A. Some of it was, yes.

Q. Were you involved in creating the organization? Was that one of your duties?

A. Yes. The county-by-county organization, yes.

Q. Was Mr. Finkelstein involved in creating the campaign organization for the Caputo for Senate Committee?

A. He made recommendations, yes.

Q. Who did he make the recommendations to?

A. To Bob Wilson and to myself.

Q. And those recommendations involved the entire campaign structure, not just the county-by-county structure.

MR. MAYBERRY: I'm going to object, Mr. Johansen. Mr. Sheehan can testify to those he's familiar with, but not those he's not familiar with. He would be speculating.

BY MR. JOHANSEN:

Q. You made the statement that Mr. Finkelstein advised you as to the campaign structure?

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A. Yes, sir.

Q. What advice did he give you?

A. That we needed to secure the organization county by county to gain the nomination.

Q. And he gave you no other advice on campaign structure?

A. No.

Q. As to the overall campaign structure for the Caputo for Senate Committee, how did that differ from what is laid out in this exhibit?

A. The difference would be this being the ideal and then reality.

Q. What was reality?

A. Fewer numbers of staff members and --

MR. MAYBERRY: Mr. Johansen, it's difficult, unless you want to go line by line, for Mr. Sheehan to distinguish reality from the ideal. He could speak in generalizations which may or may not refer to specific parts of this document that's marked number 9.

MR. JOHANSEN: I understand that.

BY MR. JOHANSEN:

Q. Why don't you give me a general, overall view of the campaign structure of the Caputo for Senate Committee?

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MR. MAYBERRY: Would you be more specific in your question as far as campaign structure?

BY MR. JOHANSEN:

Q. Who was head of the organization? What were the different departments or sections?

A. That I can do.

The chairman of the campaign was Robert Wilson. There was myself as campaign manager; there was John Samerjan, who was head of research and press; there was Lucia Trovato, who was the scheduler, and also Stacey Cantrell, who was finance chairman.

Q. Did Mr. Finkelstein have a slot in the campaign organization?

A. He was a consultant.

MR. JOHANSEN: Let me have this exhibit marked Commission's Exhibit 10.

(The document referred to was marked for identification FEC Exhibit 10, a copy of which is attached to the original transcript of this deposition.)

MR. JOHANSEN: This purports to be a listing of individuals who worked for Bruce Caputo on the campaign committee.

I'm handing the exhibit to the witness and his

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counsel.

BY MR. JOHANSEN:

Q. Have you ever seen this document before?

A. Not this particular document, no.

Q. Did you mention Mr. Beutel?

A. It's Mrs. Beutel.

Q. Adair Beutel?

A. Yes.

Q. She was the advisor to PACs?

A. Yes.

Q. What were her responsibilities in particular?

A. To keep contact with the political action committees to help raise funds.

Q. Do you know whether she had contact with the National Conservative Political Action Committee?

A. I have no way of knowing that.

Q. At the bottom of the page is Curtis Kelly. What were his responsibilities?

A. I never met him.

Q. Ann Gottlieb --

A. Alan Gottlieb.

Q. I'm sorry. Alan Gottlieb. What were his

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responsibilities?

A. He did our direct mail.

Q. Did he have any contact with Mr. Finkelstein as to how he should go about his duties with regard to direct mail?

MR. MAYBERRY: Objection. Mr. Sheehan cannot speak for Mr. Gottlieb.

BY MR. JOHANSEN:

Q. Do you know whether Mr. Finkelstein had any communications regarding direct mail with the Caputo for Senate Committee and campaign?

A. Not that I'm aware of.

Q. Do you know Robin B. Martin?

A. I have met Mr. Martin, yes.

Q. When did you meet him?

A. Sometime after I began the campaign.

Q. Next to his name is "political manager." What were his responsibilities as political manager for the Caputo for Senate campaign committee?

A. To the best of my knowledge, he had none. He did not work in our behalf during my tenure.

Q. Do you know why his name would have been listed on this?

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A. I can't speculate on that. I don't know.

Q. You said you met Mr. Martin once?

A. Yes.

Q. And -- I'm sorry; you may have answered -- when did you say you met Mr. Martin?

A. That isn't clear. It was some time after November 1.

Q. What did you discuss at that meeting?

A. I really don't recall.

Q. Do you recall where you met him?

A. At the Caputo headquarters, yes.

Q. Do you know what he was doing at the Caputo headquarters?

A. No. A courtesy call, as far as I know.

Q. Do you know whether or not Mr. Martin was associated with -- I assume it is Mr. Martin? His name is Robin?

A. Yes.

Q. Do you know whether or not he was associated with NCPAC in any way?

A. I understand that he was, yes.

Q. At the time that you met with him in November, do you know if he was associated with NCPAC at that time?

A. I don't recall that I did.

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Q When you interviewed time-buying services, did you ever interview the company Time-Buying Services, Inc., in New York City?

A Sounds familiar, yes.

Q Have you ever heard of Mr. Michael Sullivan who is associated with that firm?

A That name isn't familiar.

Q You don't recall whether you interviewed them or not?

A Not by that name.

Q Are you familiar with NCPAC's problems in getting radio stations in New York to run NCPAC anti-Moynihan ads?

A Yes, sir. Through the newspapers.

Q Did you ever speak to anyone associated with NCPAC regarding those problems?

A No, sir.

Q Did you ever speak to Mr. Finkelstein about NCPAC's problems in having the anti-Moynihan ads run?

A No, sir.

Q Do you know Cheryl Bendis, B-e-n-d-i-s.

A Only because I saw her name here.

Q You've never spoken to her or met her?

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A. No, sir.

Q. Do you know Elaine Gansz, G-a-n-s-z?

A. No.

Q. Do you know Terry Dolan?

A. I know of him.

Q. Have you ever met him?

A. I believe I have met him.

Q. Did you speak to him while you were associated with the Caputo for Senate Committee?

A. No, sir.

Q. The advertisements, the TV advertisements that you ran, did you ever have any difficulties getting those on the air?

A. No.

Q. Do you know of anyone associated with the Caputo for Senate campaign committee who ever had any communications with the National Conservative Political Action Committee regarding the Caputo campaign?

A. I don't know of anyone, no.

Q. Who was authorized to sign the Caputo campaign committee checks?

A. Austin Fragomen.

Q. He was the treasurer?

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A. Treasurer, yes, sir.

Q. And Mr. Finkelstein never had such authorization?

A. No, sir.

Q. Did you ever have such authorization?

A. No, sir.

Q. In preparing for the deposition today, did you discuss your testimony with any other person?

A. My attorney.

Q. Anyone other than your attorney?

A. No, sir.

MR. JOHANSEN: Why don't we take a short break at this time.

(Brief recess)

BY MR. JOHANSEN:

Q. I believe you stated that some time in 1978 you first met Arthur Finkelstein?

A. Yes, I did.

Q. Between that time and when you began working for the Caputo committee, were you involved in projects with Mr. Finkelstein?

A. Not with Mr. Finkelstain. I appeared on several panels or programs where he was also a presenter.

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Q. What kind of programs were these?

A. Business organizations, political action committees.

Q. So you knew Mr. Finkelstein fairly well then?

A. He was an acquaintance.

Q. And how did you know his brother, Ronald Finkelstein?

A. I have never met Ronald Finkelstein. I have spoken with him on the phone.

Q. Did you first speak with him on the phone when you were trying to arrange for time-buying services?

A. No, sir.

Q. When did you first speak to him on the phone?

A. He was the bill collector for Arthur J. Finkelstein & Associates.

Q. And you spoke to him then when you were with Caputo for Senate campaign committee?

A. Right.

Q. Do you know the dollar amount of the ads that Murphy/Powers Media bought for the Caputo committee?

A. I know what the original buy was, but it was canceled. It was stopped so I don't know the end figure.

Q. What was the original figure?

A. $150,000.

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Q. Do you know the different types of ads that were actually put on TV?

A. There were two ads.

Q. Could you describe the two ads? What their content was?

A. To the best of my recollection, I will.

The ad that I remember best was one that started out talking about the dead policemen, murdered policemen, and said that, if policemen aren't safe on the streets of New York, are you? And restore the death penalty; defeat Moynihan; elect Caputo; that our President has started our nation on a new path; blah, blah, blah. That was the end.

The other one was similar in that it was segmented. It talked about some other votes that Moynihan had cast and then Caputo got on looking senatorial.

Q. As to the first ad, do you know who scripted that?

Is "scripted" the right word? Does it mean "wrote" basically?

A. Yes, I would say so.

It was a combined effort between Robert Wilson and myself and Bruce Caputo and Arthur Finkelstein.

Q. As to the second ad, do you know who scripted that?

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A. It was put together the same way.

Q. Were these two ads put together during one of the five or six meetings that occurred from November to March?

A. Yes. The discussions took place then.

Q. Who had the most input in designing or writing the ads?

A. I would imagine that would depend on who you spoke to.

(Laughter)

(Continuing) It was pretty much give and take.

Q. These five or six meetings that you held, you said there were usually three to six people who attended these meetings?

A. Yes.

Q. Did Mr. Finkelstein usually attend?

A. Yes.

Q. Yourself?

A. Yes.

Q. Mr. Wilson?

A. Yes, sir.

Q. Mr. Caputo?

A. Only infrequently.

Q. Who else would frequently attend these meetings?

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A. Lucia Trovato, John Samerjan.

Q. Did Mr. Finkelstein have any assistants that you have spoken to that assisted him in his services for the Caputo campaign committe?

A. No. We dealt directly with Arthur.

Q. I think you may have answered this, but just to be clear: Did you say that you had discussed with Arthur Finkelstein the anti-Moynihan ads that were put out by NCPAC?

A. After the fact, yes.

Q. Do you remember when that was?

A. It was after a New York Times story on the ads.

Q. And do you recall what your discussions were?

A. No.

Q. Do you recall if you brought up the discussion or did Mr. Finkelstein?

A. I believe I did.

Q. Did you have a certain concern at that time about the ads that you brought them up?

A. No, not particularly; just that they had made the headlines.

Q. Why did you feel that you needed to bring this subject up to Mr. Finkelstein?

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A. There was a newspaper report.

Q. Did you feel those ads impacted on the Caputo for Senate campaign at all?

A. I don't think I really thought about it at all.

Q. Between the time of your starting to work with the Caputo for Senate Committee until it was terminated in March of 1982, did you know that Arthur Finkelstein was serving as a consultant to the National Conservative Political Action Committee?

A. I probably knew that but I didn't think about it in connection with the Caputo for Senate campaign.

Q. Did you discuss it with Mr. Finkelstein?

A. No, sir.

Q. Did you discuss it with anyone else associated with the Caputo for Senate campaign committee?

A. No, sir.

Q. To your knowledge, was the issue of Mr. Finkelstein serving as a consultant for the Caputo for Senate Committee and the National Conservative Political Action Committee ever raised as a potential issue in terms of any connection or connections between the Caputo for Senate Committee and the National Conservative Political Action Committee?

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MR. MAYBERRY: I'm going to object. It's a confusing question.

BY MR. JOHANSEN:

Q Was there any discussion, to your knowledge, as to whether or not Mr. Finkelstein's serving as a consultant to the Caputo for Senate Committee and the National Conservative Political Action Committee could pose potential problems with the Federal Election Commission's campaign laws?

MR. MAYBERRY: I'm going to object. Mr. Sheehan is not a lawyer. He's not familiar with election laws.

MR. JOHANSEN: I only asked if that was discussed. I'm not asking for a legal opinion, only if that was discussed.

THE WITNESS: Not that I recall. It wasn't a concern.

MR. JOHANSEN: I have no further questions at this time.

MR. MAYBERRY: Could we go off the record a minute?

MR. JOHANSEN: (Nods)

(Discussion off the record)

EXAMINATION BY COUNSEL FOR THE DEPONENT

BY MR. MAYBERRY:

Q Mr. Sheehan, I have a couple of questions.

When did you first become aware of the anti-Moynihan

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advertisements?

A. I became aware of those ads when they were reported in the New York newspapers and a reporter asked me, sometime after that, if I had heard them or had an opinion of them.

Q. Do you recall what date that was?

A. No, I don't. It was after the date they were run.

Q. Do you recall approximately what month you became aware of them?

A. I believe it was sometime in November.

Q. After the ads had run, did you take any action to influence the running of those ads or the stopping of those ads?

A. No, I did not.

MR. MAYBERRY: That's all I have.

MR. JOHANSEN: I have no other questions.

MR. MAYBERRY: I would ask that the documents be attached to the deposition and that we also have a chance to read the transcript.

MR. JOHANSEN: They are.

Thank you for coming.

(Thereupon, at 11:16 a.m., the taking of the deposition was concluded.)

(I have read the foregoing pages 3 through 55, inclusive, which contain a correct transcript of the answers by me to the questions therein recorded.)

_____

John Thomas Sheehan

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C E R T I F I C A T I O N

I, Sandra Vinson, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in shorthand and thereafter reduced to typewriting under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further that I am not a relative or an employee of any attorney or counsel employed by the parties thereto, nor financially or other wise interested in the outcome of the action.

Sandra Vinson

Notary Public in and for
the District of Columbia

My commission expires:
July 14, 1986

Milton Reporting, Inc.

General Stenotype Reporting

Official
Transcript



J. Lee Knowles, Esq.
Federal Election Commission
1325 K Street, N.W., 4th
Washington, D. C.

FEC EX. #1 A
SV 8-25-82

RESPONSES TO FEC REQUEST TO PRODUCE DOCUMENTS (CSC)

1. Copies of employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation.

   None in possession of CSC.

2. Copies of any employment contracts or agreements summarizing arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation

   An Agreement between Arthur J. Finkelstein & Associates and CSC is attached. No other contracts or agreements summarizing arrangements between Arthur J. Finkelstein & Associates are possessed by CSC.

3. Copies of any job description or instructions stating requirements set by NCPAC for the performance of any such duties which Finkelstein undertook during the course of employment by NCPAC.

   None in possession of CSC.

4. Copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC.

   Finkelstein was never employed by CSC; CSC retained Finkelstein as a consultant. CSC did not give Finkelstein written instructions for the performance of duties he undertook other than the services contract described in (2) above.

5. Copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC.

   None in possession of CSC.

6. Copies of any reports, summaries, notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC.

   None in possession of CSC.

7. Copies of any memoranda or notes memorializing discussions between Finkelstein and Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan.

   None in possession of CSC.

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8. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstien in any way in the performance of any tasks or projects undertaken on behalf of NCPAC.

None in possession of CSC.

9. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of CSC.

While we have no copies of documents which specify or reveal the identity of officers or staff members at CSC, one staff member at CSC was responsible for contact with Arthur Finkelstein to assure Finkelstein's advice was executed properly: John Sheehan, Campaign Manager. The only other persons authorized to contact Finkelstein were Bruce Caputo, the candidate, and Robert G. Wilson, the Campaign Chairman. Other staff members were instructed to channel requests for information from Finkelstein through the Campaign Manager, John Sheehan.

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Responses provided by Lucia Trovato for the Caputo for Senate Committee

FEC EX 2
SU 8-25-82

AGREEMENT made as of the 3rd day of March, 1981 by and between ARTHUR J. FINKELSTEIN & ASSOCIATES, INC. with an address at 117 Smith Avenue, Mt. Kisco, New York 10549 ("AFA") and CAPUTO FOR SENATE, a political committee organized pursuant to federal election law ("Committee"), with an address c/o Austin Fragomen, Jr., Esq., Fried, Fragomen & Del Rey, P.C., 515 Madison Avenue, New York, New York 10022.

W I T N E S S E T H:

WHEREAS, AFA is a corporation duly organized and existing under the laws of the State of New York, and

WHEREAS, the Committee is the principal campaign committee of Bruce F. Caputo and has been organized for the purpose of supporting the election of Bruce F. Caputo as Senator from the State of New York, and

WHEREAS, the Committee desires to retain AFA as a political consultant,

NOW THEREFORE, in consideration of the sum of One (1) Dollar and other good and valuable considerations as set forth herein, the parties hereto agree as follows:

1. Subject to the consulting fees to be paid under section 2, AFA covenants and agrees to provide the Committee consulting services with respect to:

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1.1 Election strategy;

1.2 Election techniques;

1.3 Campaign techniques;

1.4 Media advice;

1.5 Scheduling advice;

1.6 Issues significant to the public;

1.7 Campaign staffing advice.

2. The Committee shall to pay AFA $60,000, as earned, in accordance with the following schedule:

2.1 Ten thousand dollars ($10,000) on or before March 22, 1981;

2.2 Five thousand dollars ($5,000) on or before June 1, 1981;

2.3 Five thousand dollars ($5,000) on or before September 1, 1981;

2.4 Five thousand dollars ($5,000) on or before January 1, 1982;

2.5 Five thousand dollars ($5,000) on or before April 1, 1982;

2.6 Five thousand dollars ($5,000) on or before August 1, 1982;

2.7 Twenty-five thousand dollars ($25,000) on or before September 20, 1982.

3. In the event of (a) the death or disability of Bruce F. Caputo, (b) Bruce F. Caputo's declaration of Senate candidacy for FCC purposes and subsequent withdrawal, or (c) Bruce F. Caputo's failure to declare his Senate candidacy for FCC purposes and his written notice to AFA that he shall not become a candidate for FCC purposes, then in any of the foregoing events, the consulting fees specified in section 2 shall be due only to the date of death, disability, withdrawal or written notice ("Event") and if the date of the Event is between the section 2 payment dates, the payment next due shall be pro rated to the date of the Event.

4. In addition to the fees to be paid AFA under section 2, the Committee shall reimburse AFA for all reasonable and necessary expenses incurred by AFA directly resulting from the services to be rendered under section 1. The Committee shall reimburse AFA within thirty (30) days after presentation of receipts therefore in accordance with federal election law. No expenses in excess of

$ 500.00 shall be incurred without the prior approval of an authorized representative of the Committee.

5. AFA agrees that in addition to its other employees, Arthur Finkelstein will be available for consulting with the Committee a minimum of two (2) days per month.

6. This agreement shall be governed by the laws of the State of New York.

7. AFA shall look solely to the estate and property of the Committee and AFA, its successors and assigns shall not have any claim against the (chairman, treasurer or any officer, employer or agent thereof, for the satisfaction of AFA's remedies, including, but not limited to, the satisfaction of a judgment (or other judicial process) requiring payment of money by the Committee in the event of any default or breach by the Committee with respect to any of the terms, covenants or conditions of this agreement to be observed and/or performed by the Committee.

IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year written above.

CAPUTO FOR SENATE COMMITTEE

By _____

ARTHUR J. FINKELSTEIN
& ASSOCIATES

By _____

5778E

2004075188

Senate.

I am running b[illegible]
military threat i[illegible]
that can speak [illegible]
might and th[illegible] to defend

EXHIBIT C-2

I am r[illegible]ause I believe in an economically strong America and because I have seen [illegible] ades of liberal domination of Congress have sapped our economic vitality, pro[illegible] excessive inflation, and have undermined the private sector's ability to provide jobs for our people through economic expansion.

I am running because I support President Reagan in his efforts to turn our nation around and restore its military and economic strength.

I am running because crime has made all of us feel unsafe, from the streets of New York to villages, cities, and rural communities around the state. What we need from Washington is a program of crime prevention and control, including restoration of capital punishment. We need tougher judges, and more police who are better paid and better equipped.

I am running because the people of New York need access to the decision maker and as a Republican Senator I would have real influence in the Senate and the White House.

I have a record of hard work and achievement, a record that I am proud of. As a defense planner, New York State Legislator, United States Congressman, and private businessman. During the Vietnam era, I served in the Defense Department, working on military manpower needs in Southeast Asia, the SALT negotiations, and United States requirements for fighter attack aircraft, naval forces, and nuclear defense. In the New York State Assembly I supported legislation to strengthen criminal laws and reduce government spending. In Congress, I voted for a strong defense, for measures to cut waste and fraud out of welfare and other programs, and for a balanced budget.

-MORE-

EXHIBIT 17

FEC Ex #4
SV 8-25-82

THE U.S.
UNITED STATES SENATE

Dear Friend,

I need your help on one of the most important decisions of my life.

Let me get right to the point.

With the election last year of Ronald Reagan and a Republican Senate, we have taken the first step towards getting our nation's economy and skyrocketing inflation under control.

The President's Economic Recovery Program to reduce government spending, cut taxes, and balance the federal budget, is now being debated by the Senate.

Just the other day some of President Reagan's closest advisors told me of the high expectations the President has of success... ...but they also relayed to me a fear and concern the President has.

As you have read in the newspapers or seen on television, the President's plan will take three to four years to take effect.

It's a tough job to dismantle all those out dated liberal programs and remove burdensome federal regulations that have been stifling our economy for the past forty years. Particularly, with powerful old-line liberal special interest Senators working against the Reagan program.

Sadly--Patrick Moynihan voted against the wishes of New York's people and against the needs of our nation when he joined with Ted Kennedy and a handful of other ultra-liberals voting against President Reagan's budget cuts.

The Senate is held by the Republican Party, but only by a slim margin.

The Democrats have plans to retake the Senate in 1982, and if Republicans lose only four seats, then the liberals will take over again and and Ronald Reagan's dream for economic recovery.

That is why I am writing and asking friends and neighbors if I should help President Reagan by challenging liberal Senator Patrick Moynihan in the 1982 election.

Senator Moynihan has consistently voted for wasteful big spending programs, new government agencies and against new defense programs.

Paid for by Citizens for Senate Committee

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He has even voted against critical strengthening of our criminal laws!

Let's just take a quick look at Moynihan's voting record in Washington for the past five years:

- ✓ Voted to give away the Panama Canal.
- ✓ Voted to give himself a pay raise 4 times in 4 years!
- ✓ Voted for Foreign Aid to Communist Cambodia, Cuba, Laos, and Viet Nam.
- ✓ Voted against balancing the 1980 budget, the 1981 budget, and Ronald Reagan's 1982 budget.
- ✓ Voted against giving you a 10% income tax cut.
- ✓ Voted for raising your taxes on gasoline.
- ✓ Voted for a new plush $60 million Senate office building at your expense

and

- ✓ Voted against capital punishment.

Patrick Moynihan tries to portray himself as a "conservative" in New York, but his voting in Washington...is right down the line with Ted Kennedy and the other special interest liberals.

The truth needs to be told about Moynihan and his votes. Ronald Reagan needs another Senator from New York he can count on.

That's why I need your help.

Patrick Moynihan is vulnerable, very vulnerable...but liberals are massing hundreds of thousands of dollars in New York to help him retain his seat.

They know what happened to their other favorites last year like George McGovern and Frank Church. The liberals can't afford to lose Moynihan, and we who believe in Ronald Reagan can't afford to have him in the Senate rejecting the Reagan initiatives any longer.

Should I run for the Senate? For the next year and a half I will need to spend fourteen hours a day, six or seven days a week, campaigning if I'm to get our message - the Reagan Republican message - to the voters.

If I am to run, I must start today.

I must know if I can count on your support.

This is where you can help.

C 2 0 4 0 7 0 1 5 2 1

I've enclosed a pledge form and postage paid, self-addressed envelope. On the form, please fill it out and tell me if I should run against liberal Democrat Patrick Moynihan.

The Caputo campaign will be a grassroots campaign. A campaign involving thousands of volunteers working together to defeat Patrick Moynihan. Your involvement, even a few hours of your time could make the difference.

And as I reported, the liberal special interest groups are already filling Senator Moynihan's campaign chest.

Moynihan has already amassed three hundred thousand dollars because he knows how vulnerable he is.

While Moynihan has special interest money, I have only the generosity of you and other dedicated Americans who have the best interest of their country and state at heart.

I hope you will help me get my campaign started by mailing a check today.

Maybe you can send $25.

Or maybe you can send $50, $75, $100, or even $250, $500, or more.

Of course, even if you can only afford $10 or $15, you will be doing more for my campaign and helping President Reagan than you know.

I believe that America is destined to remain the greatest country in the world. Our Forefathers knew it when they founded our Republic.

I look forward to representing this great state and country as New York's U.S. Senator.

I know that, with your support, we can get the job done.

Sincerely,

Bruce Caputo

P.S. When I was Ronald Reagan's New York Campaign Vice Chairman, I learned how important an early start can be. Won't you take the time to fill out the enclosed card and help the President today?

P.S.S. My Campaign Manager is Bob Wilson. Why don't you call Bob at (212)944-8330. Thanks.

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Dear Bruce,

I agree! You should run for the United States Senate in 1982. We must defeat Patrick Moynihan before he and his ultra-liberal friends destroy President Reagan's programs that will make America great again.

Here's my contribution to kick off your campaign. Enclosed is a check in the amount of:

☐ $15 ☐ $25 ☐ $75 ☐ $100 ☐ $250

☐ $500 ☐ $1000 ☐ $ _____ Other

Federal law limits contributions to $1,000 per person.
No corporate contributions or cash donations, please.

Federal Law Requires We Ask the Following:

Name _____

Home Address _____

City _____ State _____ Zip _____

Title or Occupation _____

Name of Company (or Self Employed) _____

_____ City/State _____

Please make checks payable to: Caputo for Senate, 2 West 45th Street, Suite #1703, New York, NY 10036.

Paid for by Caputo for Senate. A copy of our report is filed, and is available from the Federal Election Commission, Washington, D.C. 20463

2204071523

Attachment I

Murphy/Powers Media Inc.

117 SMITH AVENUE • MOUNT KISCO, N. Y. 10549
(914) 666-2750

FEC Ex #5
SV 8-25-82

January 14, 1982

Mr. Bruce Caputo
Caputo for Senate Committee
2 West 45th St. - Suite 1703
New York, N.Y. 10036

Dear Bruce:

It is agreed by Bruce Caputo and Murphy/Powers Media Inc. that Murphy/Powers Media will do all the time buying for the Bruce Caputo for Senate Campaign Committee. The agreed upon agency fee will be seven percent. If the time buying should exceed one million dollars, then the agency fee will be reduced to five percent.

If the above agreement meets with your approval, please sign below.

Sincerely,

Ronald W. Finkelstein

Bruce Caputo

1/21/82

Date

Murphy/Powers Media, Inc.

1/15/82

Date

RWF:dhd

2204071524

Attachment II

Send to Kimmitt

Kimmitt BC

Murphy/Powers Media Inc.

117 SMITH AVENUE • MOUNT KISCO, N. Y. 10549
(914) 666-2750

FEC Ex #6
SV 8-25-82

February 5, 1982

Mr. Bruce Caputo
Caputo For Senate, Inc.
2 West 45th St., Room 1703
New York, N.Y. 10036

Dear Bruce:

It is agreed by Caputo For Senate, Inc. and Murphy/Powers Media, Inc. that Murphy/Powers Media will do all the time buying for Caputo For Senate, Inc.. The agreed upon agency fee will be seven percent. If the time buying should exceed one million dollars, then the agency fee will be reduced to five percent.

If the above agreement meets with your approval, please sign below.

Sincerely,

Ronald W. Finkelstein

Caputo For Senate, Inc.

2/12/82
Date

Murphy/Powers Media, Inc.

2/5/82
Date

RWF:dhd

2204075

National Conservative
Political Action Committee
Suite 513, 1500 Wilson Boulevard
Arlington, Virginia 22209

(703) 522-2800

March 16, 1982

FEC Ex #7
SV 8-25-82

Mr. Arthur J. Finkelstein
117 Smith Avenue
Mt. Kisco, NY 10549

Dear Arthur:

I am writing to thank you for taking your time to speak at our Candidate Training Seminar the morning of March 10.

I feel the candidates who attended our seminar have benefited greatly from your presentation on Campaign Overview and The Poll.

I look forward to hearing you speak at the remainder of our seminars. I have given Debbie the following dates to mark on her calendar, April 26, May 24, June 28, and July 26. The same time will be kept for your presentation at each seminar. You will speak at 9:30 am to 11:00 am on Campaign Overview and 11:00 am to 12:30 on The Poll.

If you have any suggestions to better these seminars we would like to hear your input.

I apologize for the nine boxes, I will change it for the next school so you may continue to speak of seven boxes without explanation.

Thank you again for a great presentation!

Sincerely,

Cheryl

Cheryl A. Bendis

2204075526

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N.Y. 10549
(914) 666-2750

FEC EX # 8
SV 8-25-82

March 25, 1982

Ms. Cheryl Bendis
NCPAC
1500 Wilson Blvd
Suite 513
Arlington, VA 22209

Dear Cheryl:

I just want to comment on the break-up of the time allotted me. From 9:30 am to 12:30 pm I am to speak on Campaign Overview and polling. The polling section can frankly be limited to 45 minutes or less, rather than equal to a topic that could take 6 hours. Why don't we just entitle it, 9:30a to 12:30 Campaign Overview and The Poll, without forcing me to divide the time.

I hope the response was positive. I would be curious as to their comments.

Best.

Arthur J. Finkelstein

AJF:dhd

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FEC EX #9
SV 8-25-82

CAMPAIGN ORGANIZATION

Each geographic area will have its own campaign organization. There are several component parts.

AREA CAMPAIGN MANAGER

The Area Campaign Manager is responsible for organizing and running the local organization. Each Area Manager will have an Assistant Campaign Manager who will be responsible for day-to-day management, assuring that every aspect of the campaign is carried out.

RESEARCH DEPARTMENT

In New York, a large research effort is underway. Each area will have a complimentary research unit of its own. The area research will support the effort of the central research group in obtaining past election returns, the names and addresses of present and past:

- Elected officials
- Party officials
- Special interest group leaders
- Contributors to campaigns for state, local and federal office
- Volunteers
- Reporters and other press contacts
- Civic and clergy leadership

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PRESS UNIT

There will be a Press Secretary in New York. Each area will have one or more people to support the New York based Press Secretary for preparation and distribution of:

- Press releases to daily and weekly newspapers
- Radio bumpers
- Television appearances

Of particular importance for the local press manager is assuring that each visit by Bruce to that area generates a picture and press release which is delivered before deadline to each local weekly newspaper.

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POLITICAL ORGANIZATION

There will be a state wide political manager in New York City. The local political director will be responsible for assembling lists of past Republican primary voters, organizing telephone banks, and maintaining relations with local Republican, Conservative and Right-To-Life organizations.

FUND RAISING

The most important part in any campaign is raising money. There will be a large fund raising effort in New York City, but each area is expected to raise significant amounts of money too. There will be a local finance chairman who coordinates with the state finance chairman.

SCHEDULING

Bruce's schedule is prepared in New York. But each area should appoint someone to develop ideas for scheduling opportunities and assure all local invitations are properly handled (answered and attended by someone from the campaign).

CENTRAL STAFF

In addition to all these units, in New York there will be a central staff including a law department, computer systems department to keep on-line most of the information obtained by the regions, accounting department to maintain books and internal reports , and a treasurer responsible for federal election commission filings.

EXISTING STAFF

Bob Wilson is the overall Campaign Manager in New York. The Senior Advisor to the campaign is Bruce's brother, Mac Caputo, and the Campaign Consultant is Arthur Finkelstein. The central law department in New York is run by Roger Kimmel. Auston Fragoman is the Treasurer. John Samerjan is running the state wide Research Department. Adair Beutel is raising money with PACs. Sheila Downey is raising money from prospective contributors of $1000 or less. And Marie Vale is raising money from large contributors and special events. Other units are in formation. Phone numbers are available for each of these persons from Bruce's special assistant, Susan Tillman at (212) 697-1900 or 1936. The New York City campaign headquarters' address and phone numbers are: 2 West 45 Street, NY, NY 10036 (212) 944-8330,-8331, -8332.

BRUCE CAPUTO CAMPAIGN

ADDRESS & PHONE NUMBERS

AS OF 8/15/81

BRUCE CAPUTO
Private Office
Pan Am Building
200 Park Avenue - Room 5401
New York, N.Y. 10166
office: 212/687-5552
home: 914/337-4958

CAPUTO FOR SENATE
Campaign Headquarters
2 West 45th Street
Room 1703
New York, N. Y. 10036
212/944-8330-31-32

FEC EX #10
SV 8-25-82

ROBERT G. WILSON (Campaign Manager)
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
212/676-5033 or 5034
Creative Capital Associates, Inc.
Room 5401
Pan Am Building
200 Park Avenue
New York, N.Y. 10166
212/661-2036 or 2038 or
212/661-2300
Home: 42 Masterton Road
Bronxville, New York 10708
914/337-3210

ARTHUR FINKELSTEIN (Political Advisor)
117 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750
home: 914/273-3998

A. MACDONALD CAPUTO (Special Advisor)
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438
home: 744-9354
Bronxville: 914/337-6640

AUSTIN T. FRAGOMEN, JR. (Treasurer)
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555
home: 914/591-8561

ROGER H. KIMMEL (Counsel)
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
office: 212/867-6660
home: 124 Victory Boulevard
New Rochelle, N.Y. 10804
914/636-4008 or 4009

MISS LUCIA TROVATO (Office Manager)
432 Park Hill Avenue
Yonkers, New York 10705
home: 914/963-3783

JOHN SAMERJAN (Director of Research & Press)
68-12 Yellowstone Boulevard
Forest Hills, New York 11375
office: 212/263-5202
home: 212/459-4691

ADAIR BEUTEL (Advisor PACs)
900 Park Avenue
New York, N.Y. 10021
home: 212/737-3739

ROBERT J. PERKINS (Financial Advisor)
Polygon Diamond Trading Network, Inc.
575 Lexington Avenue
Suite 2700
New York City, N.Y. 10022
office: 212/935-8181

ROBIN B. MARTIN (Political Manager)
Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, N.Y. 10017
office: 212/599-3303

PETER P. BUCKLEY
Taconic Petroleum Corporation
103 East 37th Street
New York, New York 10016
office: 212/689-8060

ALAN GOTTLIEB (Direct Mail)
Center For Defense of Free Enterprise
1601 114 S.E.
Alderwood Building
Bellevue, Washington, D.C. 98004
office: 206/454-4911
home: 206/641-2172

CURTIS KELLY (Special Events)
Reader's Digest
200 Park Avenue - 32nd Floor
New York, N.Y. 10166
office: 212/972-6166

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DONOVAN

BEFORE THE FEDERAL ELECTIONS COMMITTEE

In the Matter of: MUR 1424

CAPUTO FOR SENATE COMMITTEE ET AL.

26 Federal Plaza
Room 305B
New York, New York
August 27, 1982

The above-entitled matter came on for hearing pursuant to notice at 9:30 a.m.

BEFORE:

GARY JOHANSEN, Presiding Official

APPEARANCES:

R. LEE ANDERSON, Esq. — Office of the General Counsel; Federal Elections Committee; Washington, DC 20463. Appearing on behalf of the Federal Elections Commission.

GARY MADDOCK, Esq. — Burns, Summit, Rovins and Feldesman; 445 Park Avenue; New York, New York 10022. Appearing on behalf of Michael J. Donovan.

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I N D E X

Witness	Direct	Cross	Re-Direct	Re-Cross
Michael J. Donovan	3	--	--	--

E X H I B I T S

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PROCEEDINGS

(Time Noted: 9:49 a.m.)

MR. JOHANSEN: On the record. Would you swear the witness, please?

Whereupon,

MICHAEL J. DONOVAN,

having been called to give a deposition in this matter, was duly sworn, and was examined and testified as follows:,

DIRECT EXAMINATION

Q (By Mr. Johansen) Would you state your name, please?

A My name is Michael J. Donovan.

Q And your address?

A 214 Highbrook Avenue, Pelham, New York 10803.

Q Are you married, Mr. Donovan?

A Yes, I am.

Q And your wife's name?

A Her name is Therisia.

Q Would you spell that for the court reporter, please?

A T-H-E-R-I-S-I-A.

Q And your occupation?

A I am an advertising marketing consultant.

Q And who do you work for?

A One of the companies I work for is TBS.

Q What does TBS stand for?

A Time Buying Services.

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Q How long have you worked for TBS?

A About three years.

Q What is your business address?

A My business address is 1345 Avenue of the Americas, New York City.

Q What did you do before you worked for Time Buying Services?

A I worked for CBS.

Q Are you represented by counsel here today?

A Yes, I am.

Q Would counsel identify himself for the record, please?

MR. MADDOCK: Yes, Gary L. Maddock, M-A-D-D-O-C-K, of the firm of Burns, Summit, Rovins and Feldesman, 445 Park Avenue, New York, New York.

Q (By Mr. Johansen) Mr. Donovan, you're testifying here today pursuant to a subpoena issued by the Federal Election Commission, that's true, is it not?

A Yes, it is.

Q You were also aubpoenaed to produce certain documents and materials. Have you brought any documents or materials with you?

A I'd like to let my attorney answer.

MR. MADDOCK: Yes, we have.

MR. JOHANSEN: Would you turn those over now?

S K S Group, Ltd. — Court Reporters
(212) 962-5167

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(The documents were turned over.)

MR. MADDOCK: Let the record show that I am producing to, you're Mr. Anderson, right?

MR. JOHANSEN: Mr. Johansen.

MR. MADDOCK: Mr. Johansen a file about three inches thick, I guess, containing numerous documents, plus a tape, cassette tape, entitled "Moynihan Spot: 60".

MR. JOHANSEN: Are you going to want these documents back?

MR. MADDOCK: Yes, these are original documents that we have obtained from the files of our clients.

MR. JOHANSEN: Let me ask this question. In the subpoena there were two requests for documents. Are these documents categorized at all, pursuant to which request they're submitted for?

MR. MADDOCK: No, they are not, but what we did try to do to facilitate it is to put them in chronological order.

MR. JOHANSEN: Okay, thank you. Could we go off the record?

(There was a short pause.)

Back on the record. Other than the documents which you produced here today, did you use or review any other writing or material to refresh your memory for the purpose of testifying at this deposition?

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THE WITNESS: No.

MR. MADDOCK: For the record, just to clarify things, Mr. Donovan did with counsel go through a number of files and helped us cull out from those files the documents that were called for by the subpoena. As they did relate to the subpoena, I don't believe that it should be considered that he reviewed them in preparation for the testimony here.

THE WITNESS: I didn't mean to mislead you. I did go through files.

Q (By Mr. Johansen) Did you talk to anyone regarding your testifying here today?

A Yes.

Q Who?

A I've talked to Mr. Rod Erickson, who is co-chairman of Time Buying Services. I've talked to Mr. Bernard Weiss, who is a principal of Time Buying Services. I've talked to Mr. Lloyd Baxter, who is an officer of Time Buying Services, and was casually involved with the NCPAC business on an acquisition basis but not necessarily operationally.

Q Generally, what did you talk to Mr. Erickson about?

MR. MADDOCK: Before you answer that, were any of those conversations that you had with any of those three gentleman at a time when I was not with you in conference

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with them?

THE WITNESS: Yes.

MR. MADDOCK: I would suggest that you just relate those conversations that were outside of meetings with counsel.

THE WITNESS: The nature --

MR. JOHANSEN: You are indicating an attorney client privilege here, is that --

MR. MADDOCK: Yes, I would think so.

MR. JOHANSEN: And you've indicated that you also represent Time Buying Services, and these other individuals all work for Time Buying Services?

MR. MADDOCK: I believe that's correct.

THE WITNESS: Yes, sir. The nature of my conversations with those people prior to my meetings and conferences with attorneys was merely in the advisory sense of having been served the subpoena, and what we should do about it.

Q (By Mr. Johansen) Did you speak with anyone associated with the National Conservative Political Action Committee?

A No.

Q Did you talk to Mr. Arthur Finkelstein?

A No.

Q Have you spoken to anyone associated with the Caputo For Senate campaign committee?

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A No.

MR. MADDOCK: This is all in preparation for coming here today?

Q (By Mr. Johansen) In preparation for coming here today?

A No.

Q Have you ever seen a copy of the complaint filed with the Federal Election Commission?

A No.

Q Mr. Donovan, you indicated that you work for Time Buying Services Incorporated. Could you explain to me how Time Buying works? Generally?

A Time Buying Services is a full service media organization. We solicit business from advertisers and advertising agencies for the purpose of developing media plans and for executing those through placing schedules, placing broadcast schedules, placing newspaper schedules, or any other kind of media schedules.

Q Could you explain to me a little bit how one would go about placing say radio advertisements?

A Yes.

MR. MADDOCK: How one does with Time Buying Services or how Time Buying Services does it?

MR. JOHANSEN: I'm sorry, what was the distinction?

MR. MADDOCK: A client of Time Buying Services, how

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they would --

MR. JOHANSEN: No.

MR. MADDOCK: -- through Time Buying Services, or how Time Buying Services then goes out and does it?

MR. JOHANSEN: How Time Buying Services goes out and does it?

THE WITNESS: Time Buying Services would establish an agreement with a client for them to spend X amount of money, which would be planned and designed to reach a target audience group in specified geographic areas over specified periods in time, both horizontally and vertically, with some understandings of perhaps limitations regarding the kind of stations allowed under the schedule, and not allowed under the schedule.

Q (By Mr. Johansen) During 1981, did Time Buying Services arrange for the placement of any media advertisements for the National Conservative Political Action Committee?

A Yes.

Q How many such advertisements did you place in 1981?

A Two.

Q Two?

A Yes.

Q Could you generally describe those two advertisements?

A The schedules? The schedules we placed for them?

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Q Yes.

MR. MADDOCK: What do you mean by describing them?

Q (By Mr. Johansen) I'm sorry, maybe I didn't understand your question. You said that you placed two such advertisements?

A Schedules, yes.

Q Okay, could you define what a schedule is?

A A schedule is a claim representing a number of announcements by day part, by station, by market, over time, with budget limitation progress.

Q When was the first schedule placed?

A The first schedule was placed in October 1981.

Q And when was the second schedule placed?

A The second schedule was placed approximately in November.

Q Now, for the first schedule, there was a particular ad copy that went with that schedule?

A Yes.

Q Could you describe that ad copy?

A It was given to Jim Wright, a Congressman in the Dallas- Fort Worth area.

MR. MADDOCK: Excuse me for interrupting, but were both of these schedules or campaigns in connection with Moynihan?

THE WITNESS: No.

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MR. MADDOCK: Was one of them for Moynihan?

THE WITNESS: One was Moynihan.

MR. MADDOCK: And the other one was devoted to?

THE WITNESS: Jim Wright.

MR. MADDOCK: Jim Wright.

Q (By Mr. Johansen) The first one was devoted to Jim Wright?

A That's right.

Q Could you then describe the second ad copy, the ad copy that went with the second schedule?

A Yes, that was about Moynihan. It was a sixty second commercial, and copy is contained in that cassette. It was all radio. It was contained within the metropolitan New York.

Q Did Time Buying Sercies arrange for the placement of any media ads in January, February or March of 1982 for the National Conservative Politcal Action Committee?

A Yes.

Q Did any of those advertisements involve anti-Moynihan?

A No.

Q Could you describe your involvement in the placing of the second schedule, the anti-Moynihan ads?

A We developed a plan, based against the budget which was provided us, and presented it to the organization

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for approval, and proceeded to execute it.

Q Presented it to NCPAC?

A Yes.

Q Do you know how Time Buying Services got the National Conservative Political Action Committee for a client?

A Yes, I do.

Q Could you explain that?

A Yes. Mr. Brickson, who is co-chairman of the company had a contact with some people down in D.C. who were working for the NCPAC, and at that time NCPAC were looking for a new advertising agency, a new media placement service, because they felt they needed a stronger organization, and our company was recommended to NCPAC, and Mr. Erickson was introduced to the principals of the NCPAC, and they awarded us the business.

Q Do you know if Mr. Arthur Finkelstein was involved at all in that initial contact for the National Conservative Political Action Committee to get TBS?

A I'm reasonably sure he was not.

Q Do you recall when your first discussion was with anyone regarding the placing of the second schedule, or the anti-Moynihan ads?

A Yes, early October. The second schedule? There was only one schedule.

R 9 0 4 0 7 0 1 5 4 4

Q I'm sorry, you first described two schedules. The first schedule applied to Congressman Wright, Jim Wright. Maybe if I just call it, I'll just refer it from here on as the anti-Moynihan ads, so we're clear. That was early October, you said?

A Yes.

Q And who was present at that meeting?

A The early discussions were held on the telephone with a Ms. Elaine Gansz of the NCPAC staff and a Ms. Cheryl Bendis of the NCPAC staff.

Q And those conversations, telephone conversations took place in early October?

A To the best of my recollection, yes.

Q What was discussed?

A What was being discussed was the early thinking regarding the formation of the plan, the budget, the target audience, the geographic location, the time frame all these basic parts of planning a media schedule.

Q Did Ms. Gansz or Ms. Bendis, did they have, did they indicate to you what the budget would be?

A Yes.

Q Okay, how much was the budget?

A Approximately $25,000.

Q How about the target audience, did they indicate what target audience?

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at the October 14th meeting?

A Yes.

Q Do you know who wrote this advertisement?

A No, I don't.

Q And this advertisement was given to you by whom?

A It was given to me by Elaine Ganss.

Q At the October 14th meeting, was there any discussion of the objective of this advertisement?

A The objective only in the sense of the media planning.

Q Could you explain what you mean by media planning?

A Yes, the budget, the target audience, the time frame, the geographic location.

Q Was there any discussion of the Caputo campaign at that first meeting?

A No.

Q In terms of when this ad was to be run, was there any discussion that it should be run at the same time or in conjunction with similar ads being run by the Caputo campaign?

A No.

Q What took place after this first meeting then?

A After the first meeting, we did send a copy and sample schedule to the various stations on this list.

MR. MADDOCK: I'd like to indicate that the witness is referring to the last page of Government's Exhibit 1.

R 9 0 4 0 7 1 5 5 0

Q Can you identify it?

A Yes, I can.

Q Would you identify it?

A This is a letter with attachments I sent to Ms. Elaine Ganss of the NCPAC on October 16, which describes the kind of schedule we recommended placing for them, and also attaches a sample letter we had been sending to the various stations we recommended for this campaign, and the list of stations.

Q The attachments, four pages of attachments with this letter, they were the actual attachments that you sent with the letter?

A Yes.

Q The letter mentions a meeting that you had with Cheryl Bendis and Elaine Ganss.

A Yes.

Q Do you recall when that meeting took place?

A October 14th.

Q Was that meeting in Washington, D.C. or New York City?

A It was in New York.

Q And do you know who attended that meeting?

A Yes, it was attended by Cheryl Bendix, Elaine Gansz, Rod Erickson, Lloyd Baxter, Jack Caplan and myself.

Q The first attachment is a copy of a sixty second NCPAC advertisement. Was that a draft copy given to you

THE WITNESS: And were successful in placing a copy on three or four other stations. Several of the other stations would not accept it, the way it was originally written, and we advised NCPAC of the concern of the stations, station by station. They eventually made adjustments in the copy, and sent it back to us.

We resubmitted it to the stations who had refused to accept it, and several of them did, with the changes in the copy.

Q (By Mr. Johansen) You said you advised NCPAC. Who at NCPAC did you deal with, with regard to this ad?

A Ms. Gansz.

Q And she was the only person that you spoke to at NCPAC with respect to the advertisement?

A No, I also talked to Cheryl Bendis, and I talked to one or two other people on an occasional basis, when Ms. Gansz was not available.

Q At any time during 1981, did you discuss with Ms. Gansz or Ms. Bendis whether or not the ad should be run in conjunction with the Caputo campaign, similar ads being run by the Caputo campaign?

A No.

Q That was never an item of discussion?

A No.

Q Do you know a Mr. Arthur Finkelstein?

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A I'd have to say that I really don't know him. I've talked to him a couple of times, but I wouldn't necessarily consider that knowing him.

Q Have you ever met him in person?

A No, I've never met him in person.

Q Do you recall when you first spoke to him?

A Yes, I do. I spoke to him in late October or early November, when we were in the process of considering some alternative stations to the original list we put together because of the fallout on the part of several of the other stations.

It was suggested that I send him a copy of the letter that I had sent down to NCPAC, detailing the circumstance that I talked to him about the alternative stations we had under recommendation, which I did.

Q Who suggested that you talk to Mr. Finkelstein?

A That suggestion was made by Ms. Gansz.

Q Do you recall how many times you spoke to Mr. Finkelstein with regard to the anti-Moynihan ad?

A Once.

Q Only once?

A That time.

MR. JOHANSEN: Let me have this marked as Government's Exhibit No. 2.

R 9 0 4 0 7 0 1 5 5 3

(The document above-referred to was marked Government's Exhibit No. 2.)

This purports to be a letter from Mr. Donovan to Ms. Elaine Gansz. The letter consists of three pages. It also has two pages of attachments. I'm handing this to the witness and his counsel.

Q (By Mr. Johansen) Do you recognize this exhibit?

A I do.

Q Is this a letter that you wrote?

A Yes.

Q Let me direct your attention to page 2 of the exhibit, the second full paragraph of page two.

A Yes.

Q There's a statement, I have discussed this with Arthur Finkelstein.

A Yes.

Q Is that the discussion that you were speaking about earlier?

A Yes.

Q Could you describe to me to the best of your recollection the details of that discussion with Mr. Finkelstein?

A He had this, a copy of this letter in his hand by the time I talked to him, and it was in the nature of reviewing what was in the letter.

Q Do you know why Ms. Gansz asked you to talk to Mr.

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Finkelstein?

A No.

Q Did she, she never indicated to you why she wanted you to speak with him?

A She did tell me, the first meeting we had, that Mr. Finkelstein was a pollster for the NCPAC, and that they had some measure of confidence in his strategic ability in the area of political advertising.

Q Did she indicate that he did anything other than poll for National Conservative Political Action Committee?

A She did give me the first draft of this copy on his letterhead.

Q But you don't know whether or not he wrote the first draft of the copy?

A I don't know.

Q From that discussion, when she told you that he was a pollster for the National Conservative Political Action Committee up until when she suggested that you contact Mr. Finkelstein, did she ever mention him to you?

A No.

Q In the first paragraph on the second page, it seems to indicate that one of the problems with the advertisement was that it claimed that Moynihan was the father of our runaway welfare system.

A Yes.

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Q Was that something that you discussed with Mr. Finkelstein?

A Well, it's detailed in this, we had benefit of these comments from the stations, which frequently referred to that copy point problem.

Q So you did discuss that with him?

A Yes.

Q Do you recall what he said?

A No. He said very little about the copy. We were really talking more about the alternative station list.

Q Did he recommend any changes in the language of the copy?

A That I don't know. Not to me.

Q Not to you, in your conversations with him?

A No. My conversations with him focussed more on the alternative station considerations than on the copy.

Q Did you talk to him about the fairness doctrine at all, the problems with some of the stations, the problems some of the stations had with the fairness doctrine?

A No, but he had benefit of the feedback from the stations.

Q From the attachment that you had included with the letter?

A Yes.

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Q In the fifth paragraph, you indicated that you talked to Mr. Finkelstein about the considerations for substitute stations?

A Right.

Q Could you describe your discussion with regard to that issue?

A Yes, he generally approved our list of alternative stations with a few minor exceptions.

Q Did he give you any direction as to what stations the advertisements should be aired on?

A Only in that sense.

Q I'm sorry, in what sense?

A The sense that we did discuss these alternative stations, and he had some comment to make about a few of them.

Q Do you recall what his comments were?

A Yes, they had to do with his belief or understanding of the value of the audience profile of the stations within the context of this advertisement.

Q Did he make any recommendations to you?

A Yes, he did.

Q Do you recall what the recommendations were?

A I think I have a note on one of these documents sitting around here. He did suggest that we, he suggested that we not buy, I think, WNCA, I'm not sure, he didn't

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like us to be using WVNJ. That was pretty much the nature of it.

Q During your discussion with him, did he ever ask you why you were calling him?

A No.

Q Did you tell him that Ms. Gansz had suggested that you call him?

A Yes.

Q Let me clear up one thing. This letter is dated October 30th, and you indicated that Mr. Finkelstein had a copy of the attachment?

A Yes.

Q Do you know how he received a copy of the attachment?

A Yes, I sent it to him.

Q Before, the letter states that you had discussed these issues with Mr. Finkelstein. So you sent a copy of the advertisement to him before you sent him a copy of this letter?

A I talked to him first, and then I sent a copy of the letter.

Q But at the time that you spoke to him, he had a copy of the attachments?

A No, he did not.

Q So you basically explained what was on the attachment to Mr. Finkelstein?

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A Yes.

Q I believe earlier that you said that Mr. Finkelstein had a copy of the attachment when you spoke to him. I just wanted to clear that up.

A I was mistaken.

Q Okay, fine.

A What I did, I told him, I gave him benefit of where we were by way of station clearances etc. and where we were having problems, and we discussed the alternative station considerations, and then I sent him a copy of this.

Q Did you follow Mr. Finkelstein's advice with regard to what stations the advertisements should be run on?

A Yes, we did.

Q Did Ms. Gansz indicate that you were supposed to follow his advice?

A Yes, she did.

Q So when she told you to contact Mr. Finkelstein, she told you that whatever he advised was what Time Buying Services should do?

A Well, we discussed and considered values of what his suggestions were and our suggestions were, and we each gave somewhat on the issues at point, as far as the stations were concerned. But I did accept some of his suggestions, yes.

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Q Did you report back to Ms. Ganaz, or anyone else associated with the National Conservative Political Action Committee regarding your discussions with Mr. Finkelstein?

A Yes.

Q And do you recall when you did that?

A Oh, within a day or two.

Q And that was before you, let me withdraw that question. What did you tell Ms. Ganaz?

A That I had heard what Mr. Finkelstein had suggested to us, and the nature of our conversation, and what we came out with, by way of extended strategy.

Q Did you receive, did she give you an okay for where you and Mr. Finkelstein had come out?

A Yes.

Q Did she indicate to you that you should run the ads in that manner?

A Yes.

Q Did you feel that you needed to get, receive that okay from her?

A Yes, that was our ongoing way of doing business with a client.

Q And outside of this one telephone conversation, you never had any other discussions with Mr. Finkelstein?

A On this subject, no.

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Q You've had discussions with him on other subjects?
A Yes.
Q Not relating to any anti-Moynihan advertisements?
A That's correct.
Q Relating to, have you ever had any discussions with Mr. Finkelstein relating to the Caputo for Senate campaign?
A No.
Q During the conversation, the telephone conversation you had with Mr. Finkelstein, did you talk about the Caputo for Senate campaign at all?
A No.
Q Let me also direct your attention to the second page of the letter. In the second full paragraph, you indicated that RobertMartin called you asking for a report on your clearance status, and that you were sending him a copy of that report. Who is Robert Martin?
A Robert Martin was the New York State coordinator for the NCPAC.
Q When did, have you ever met Mr. Martin?
A No.
Q How did you learn that he was a New York State coordinator for the National Conservative Political Action Committee?
A I was advised by the NCPAC staff in D.C. what he was.
Q Do you know when they advised you about that?

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A Before this, I'd say the latter part of October.

Q Did they indicate to you that you were supposed to keep Mr. Martin informed of the --

A Yes.

Q -- status of running the advertisements?

A Yes.

Q And you did keep him informed?

A Yes, I did.

Q Did you talk to him at any other time, other than this one conversation?

A Several times, yes.

Q Several times?

A Yes.

Q Do you know whether or not Mr. Martin was, let me rephrase that question. Do you know if Mr. Martin was associated with the Caputo for Senate campaign committee?

A No, I don't.

Q Did he ever discuss the Caputo for Senate campaign committee with you?

A Never did.

Q Did Ms. Gansz indicate to you that you should carbon copy future letters to her concerning the anti-Moynihan advertisement to Mr. Finkelstein?

A I don't understand your question.

Q Let me ask this. In your further correspondence with

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Ms. Gansz --

A Yes?

Q Did you have such correspondence, did you write her letters --

MR. MADDOCK: From what date in time?

Q (By Mr. Johansen) From the 16th of October?

A Did I what?

Q Let me start over. After the 16th of October, 1981, did you write other letters to Ms. Gansz?

A Yes.

Q Did you carbon copy any of those letters to Mr. Finkelstein?

A Yes.

Q Did Ms. Gansz indicate to you that you should carbon copy those letters to Mr. Finkelstein?

A Yes.

Q Did Mr. Finkelstein, in the conversation that you had with him, did he request that you send him any materials or documents?

A No.

Q Did he ever send you any materials or documents?

A No.

Q Let me go back to your discussion, your telephone conversation with Mr. Finkelstein again. In that discussion, did you discuss with him how often the advertisement

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should be run in New York?

A No.

Q Did you discuss with him when they should be run, the time of day they should be run?

A No.

Q On what day they should be run?

A No.

Q Did you discuss with him at all the dollar amounts of the ads?

A No.

Q Did you discuss with him as to what market the ads NCPAC was seeking to reach through the advertisements?

A No.

Q But you did discuss with him which stations to run the advertisements on?

A Yes.

Q And did you discuss with him the language of the advertisement at all?

A No.

Q When you spoke to Mr. Finkelstein, I think you indicated that you knew he was a pollster for the National Conservative Political Action Committee?

A Yes.

Q Did you know whether or not he was employed in any other capacity with the National Conservative Political

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Action Committee?

A No.

Q Did you know whether or not he was --

A I told you before that the original copy that they brought up to me was on Finkelstein's letterhead, what he wrote.

Q I understand that, yes, thank you. Did you know if Mr. Finkelstein was serving as a consultant for the Caputo for Senate campaign committee?

A No.

Q Was that fact ever, did you ever learn of that fact?

A I learned of that fact from the newspapers.

Q And when was that?

A That was probably towards the latter part of the year.

Q This was after the anti-Moynihan advertisements had been run?

A Yes.

MR. MADDOCK: The end of the year meaning 1981?

THE WITNESS: Yes.

MR. JOHANSEN: Let's take a break here. Off the record.

(There was a short recess.)

Back on the record. Let me have this marked as Government Exhibit No. 3.

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(The document above-referred to was marked Government's Exhibit No. 3.)

It purports to be a letter from Mr. Donovan to a Mr. Donald L. Gerski of WCBS, dated 29 October 1981. I'm handing the letter to Mr. Donovan and his attorney.

Q (By Mr. Johansen) Do you recognize this document, Mr. Donovan?

A Yes, sir.

Q Can you identify it?

A Yes, it is a letter that I wrote to the national sales manager of WCBS AM, requesting a written statement defining the reasons why they did not accept the NCPAC copy we had submitted.

Q Let me direct your attention to the second paragraph of that letter.

A Yes.

Q It reads, "At the behest of NCPAC, I request you provide me with a written statement defining the reasons for non acceptance".

A Yes.

Q Who requested that you do that?

A Elaine Gansz.

MR. JOHANSEN: Let me have this marked as Government's Exhibit No. 4.

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(The document above-referred to was marked Government's Exhibit No. 4.)

This purports to be a letter from Mr. Donovan to a Mr. Dave Smith of WOR radio station, dated 29 October 1981. The letter is one page in length and it has four pages of attachments.

Q (By Mr. Johansen) Mr. Donovan, do you recognize this exhibit?

A Yes.

Q Can you identify Exhibit No. 4?

A Yes.

Q Would you identify it please?

A Yes, this is a letter I sent to Mr. Smith of WOR, recognizing the fact that the station had advised me they would not accept the advertising copy because their attorney advised the station that this copy is subject to the fairness doctrine, and they enclosed a copy of a legal opinion from the NCPAC law firm, which position is political action advertising as not being subject to the fairness doctrine.

Q The attachment that is attached to this letter, is that the attachment that was originally included with the letter?

A Yes.

Q Who requested that you send this material to Mr.

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Smith?

A Ms. Ganss.

Q Do you recall how you received a copy of the legal opinion, which is attached to the letter?

A It was sent directly to me by Mr. Herge of Segal and Herge law firm in D.C., who I believe was the law firm for NCPAC.

Q Mr. Herge's name is spelled H-E-R-G-E. Did you ever speak to Mr. Herge about this?

A Yes.

Q Could you describe your discussions with Mr. Herge about this memorandum?

A Yes, I was advised by NCPAC staff that such a memorandum existed, and that I should talk to Mr. Herge about receiving a copy of it for the purpose of trying to use it with this campaign to encourage stations.

Q Was Mr. Pinkelstein's name discussed during this conversation?

A No.

Q Was Mr. Martin discussed during these conversations, this conversation?

A With Mr. Herge?

Q Yes, with regard to the fairness doctrine?

A No.

MR. JOHANSEN: Let me have this introduced as the

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Government's Exhibit No. 5.

(The document above-referred to was marked Government's Exhibit No. 5.)

Government's Exhibit No. 5 was included with the complaint that was filed with the Federal Election Commission. The first page of the exhibit appears to be a draft of the Moynihan advertisement. The second page and the pages following are documentation of the National Conservative Political Action Committee Moynihan ad.

Q (By Mr. Johansen) Do you recognize this document?

A Yes.

Q Do you recall when you first saw it?

A I would say the latter part of October, early part of November.

Q Who provided it to you?

A It was provided by the NCPAC staff.

Q Do you know who prepared it?

A No.

Q How did you know that this document was available?

A I was advised by the NCPAC staff that it was available.

Q As I said, the exhibit was included with the complaint. The exhibit was one exhibit with the complaint. Strike that.

Government's Exhibit No. 5, all the items in Govern-

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ment's Exhibit No. 5 was included in the complaint filed with the Federal Election Commission as one exhibit. Do all of these items go together?

A Yes.

MR. MADDOCK: Did this letter which is attached to this October 26, 1981, addressed to you, come with the first sheet, the --

THE WITNESS: It came separately.

MR. MADDOCK: They came separately?

THE WITNESS: Yes. This is an incomplete copy of the --

MR. MADDOCK: Memorandum, referring to the memorandum attached, dated October 26, 1981.

THE WITNESS: Yes.

MR. MADDOCK: I'm just trying to clarify your answer that these all belong together.

THE WITNESS: They all belong together in the sense that they were used as a clearance document to each of the stations.

MR. MADDOCK: To the stations?

THE WITNESS: Yes.

MR. JOHANSEN: May I see the exhibit, please?

Q (By Mr. Johansen) You mentioned that the memorandum was an incomplete copy --

A I thought it was from looking at it. I'm not sure

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whether it is or isn't. It's probably complete. Let's see, cover letter, one, two, three. It's complete.

MR. JOHANSEN: Let me have this exhibit marked as Government's Exhibit 6.

(The document above-referred to was marked Government's Exhibit No. 6.)

Government's Exhibit 6 purports to be a script of the Moynihan radio ad on the National Conservative Political Action Committee letterhead.

Q (By Mr. Johansen) Do you recognize Exhibit No. 6?

A No.

Q You've never seen this document before?

A Let me look at it again. I don't believe I have.

Q Exhibit No. 5, let me bring your attention back to Exhibit No. 5.

A Yes.

Q You stated that you did recognize the first page of Exhibit No. 5?

A Yes.

Q Is this language that was used in the advertisement, the anti-Moynihan advertisement?

A It looks like it, yes.

Q Let me direct your attention to the middle of the page, and it says "Announcer: read quickly: While he voted to give away the Panama Canal and he opposed cutting

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back on government spending, and you know he helped develop our runaway welfare system." Was that language used in any of the radio advertisements that you placed?

A I would have to look at the copy which I brought with me, which represents the --

Q Why don't you pull out the document that you'd like to look at, and we could have that introduced as an exhibit.

A I don't see it in here.

MR. JOHANSEN: Let's go off the record for a minute.

(Off the record discussion.)

Back on the record. Mr. Donovan, you've now looked through the documents that you brought here today?

MR. DONOVAN: Yes.

Q (By Mr. Johansen) And you have refreshed your memory?

A Yes.

Q Do you now recognize the first page of Exhibit No. 5?

A Yes.

MR. MADDOCK: I believe that his prior testimony was that he recognized it, he just referred to an identical copy of it from his file to make sure that it was, as far as he knew, the copy, an exact copy of what was run.

Is that correct, Mr. Donovan?

THE WITNESS: Yes, it is.

Q (By Mr. Johansen) And the language that I read is the language that was run with regard to some of the anti-

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Moynihan advertisements?

A Would you read it again?

Q "Announcer: (read quickly) While he voted to give away the Panama Canal and he opposed cutting back on government spending, and you know he helped develop our runaway welfare system."

A Yes.

Q Was that language used on all the radio advertisements?

A Yes.

Q And this language was different from the original language submitted to you by NCPAC?

A Yes.

Q Do you know how the change was brought about, the change in the language?

A The change was brought about by the people writing the copy in D.C. who resubmitted it.

Q And who were those people?

A I don't know. I got it from Ms. Gansz, who was my NCPAC coordinator in this.

Q Did you discuss with Ms. Gansz the change in the language?

A No.

Q This was just sent to you and they indicated that this was the new language that they wanted to have run?

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A Yes.

Q You spoke, you said earlier that you had several --

MR. MADDOCK: Before you go on to a new topic, just for a point of clarification, we have brought here today a copy of the text that was run on a cassette tape. Now, I have listened to that, and I believe that you'll find just minor variations in one word or two from what is on the copy. I believe Mr. Donovan testified to that too.

So, when he says that, in his testimony, that what is on this document on NCPAC letterhead was exactly what was run with minor exceptions, an and or a but, I believe it may differ a little bit from the tape, but the tape is here if you want to run it and listen to it.

MR. JOHANSEN: Yes, we would like to run and listen to the tape. Possibly we could make an arrangement either to do it here today or to take it back to Washington and run it and then send it back to you.

MR. MADDOCK: Again, I would prefer it not go out of our hands. Is it possible to just go off the record for a minute and use the reporting equipment here? It's only a sixty second tape.

MR. JOHANSEN: That would be fine.

THE REPORTER: Sure.

MR. JOHANSEN: Let's go off the record.

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(The tape was played on the court reporting equipment.)

Back on the record. Let me ask you a question --

MR. MADDOCK: Just let the record indicate that the tape that we produced was played and compared with Government Exhibit 5.

MR. JOHANSEN: And is substantially the same as Government Exhibit No. 5.

Q (By Mr. Johansen) Let me ask you a question regarding the disclaimer that appeared at the very end of the advertisement. Was there any, ever, discussion as to the language of that disclaimer?

A No.

Q You indicated that you had several telephone conversations with Robert B. Martin regarding the running of this advertisement?

A Yes.

Q Could you describe Mr. Martin's role?

A Mr. Martin's role as it was described to me was resident New York State coordinator for NCPAC.

Q Did he ever give any direction to you as to how the advertisement should be run, or what form it should take?

A You're talking about the copy?

Q Yes.

A No.

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Q Did you ever discuss with him what stations the advertisement should be run on?

A Yes.

Q And he made suggestions to you?

A Yes.

Q Did you follow those suggestions?

A Yes.

Q Did you clear those suggestions with Ms. Gansz?

A Yes.

Q Did Mr. Martin discuss with you how often the ad should be run?

A No.

Q Did he discuss with you when they would be run?

A No.

Q Did he discuss with you the dollar amount that NCPAC wanted to spend?

A No.

Q Did he discuss with you what market NCPAC was seeking in running the advertisements?

A Yes.

Q Did he give you advice as to what market you were to shoot for?

A We had common agreement as to the market.

Q You may have answered this before, but let me ask again, in case you haven't. Did Ms. Gansz indicate that

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you were supposed to keep Mr. Martin informed?

A Yes.

Q Did Mr. Martin ever indicate that he had any conversations with Mr. Finkelstein regarding the running of the anti-Moynihan advertisement?

A Yes.

Q He did indicate that?

A Yes.

Q Did he indicate to you what Mr. Finkelstein's comments were with regard to the anti-Moynihan advertisements?

A Yes.

Q What did he say?

A Just that he had discussed the strategy.

Q With Mr. Finkelstein?

A Yes.

Q By strategy of the campaign, we're talking about the anti-Moynihan campaign run by NCPAC?

A That's correct.

Q Do you recall how many discussions you had with Mr. Martin in which he mentioned Mr. Finkelstein?

A Maybe two or three.

Q Do you recall when those discussions were?

A They would have come about in the latter part of October, early part of November.

Q Were those discussions after Ms. Gansz asked you

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to call Mr. Finkelstein?

A Yes.

Q Did Mr. Martin ever discuss with you the Caputo campaign committee?

A No.

Q Did you ever have any communications or conversations with anyone else associated with the National Conservative Political Action Committee regarding Mr. Finkelstein's activities with regard to the anti-Moynihan campaign?

A No.

Q Mr. Martin's role in this campaign, was he someone that you just kept informed, or was he someone that you would take direction from with regard to the anti-Moynihan ads?

A I would say I possibly kept him informed.

MR. JOHANSEN: Can we go off the record for a second?

(There was a slight pause.)

Back on the record. We have examined the documents which Mr. Donovan produced today, and have taken out and xeroxed a number of those documents.

At this time, I'll hand them to the court reporter and have her mark them as exhibits. The first one is a copy of the anti-Moynihan advertisement on Arthur J. Finkelstein and Associates stationery.

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(The document above-referred to was marked Government's Exhibit No. 7.)

We'll just do these one at a time, it might be simpler. I'm handing this to the witness and his counsel.

Q (By Mr. Johansen) Do you recognize this document?

A Yes.

Q Can you identify it?

A Yes. It is a draft of a copy for the campaign for the NCPAC, which was presented to me by Elaine Gansz I believe, on October 14th.

Q Exhibit No. 7, is this a copy that you referred to earlier when you said that one of the radio copies had been given to you on Arthur J. Finkelstein letterhead?

A Yes, it is.

Q Is the writing on Exhibit No. 7 yours?

A No.

Q Whose writing is that?

A I'm not sure. I believe it's, I don't know.

MR. JOHANSEN: Let me have the court reporter mark the next exhibit as Exhibit No. 8.

(The document above-referred to was marked Government's Exhibit No. 8.)

This exhibit consists of two pages. The first is stationery of Republican National Committee, inter office memorandum. The second page is a page that has a number

of notations on it that are handwritten.

The second page of the document has a date on it of October 14, 1981. I'm handing this to the witness and his counsel for their review.

Q (By Mr. Johansen) Do you recognize this document?

A I do.

Q Can you identify it?

A Yes.

Q Would you identify it?

A Yes, these are notes which were written by Cheryl Bendis following a meeting that we had in New York to discuss our working agreement with NCPAC, and the second assignment, which was the Moynihan campaign.

MR. MADDOCK: Let the record indicate that the witness is referring to the second page of Government's Exhibit 8.

Q (By Mr. Johansen) Who was at this meeting?

A This meeting was attended by Mr. Rod Erickson, Mr. Jack Caplan, Mr. Lloyd Baxter, Ms. Elaine Gansz and Ms. Cheryl Bendis.

Q Is this the same meeting that you referred to earlier in your testimony?

A Yes, it is.

Q How did you obtain a copy of this exhibit, Exhibit No. 8?

A It was given to me.

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Q By whom?

A By Ms. Bendis.

Q At the end of the October 14th meeting?

A Yes.

Q Let me direct your attention to one of the notations, which reads, Arthur Finkelstein, political consultant, big influence over Terry and NCPAC. All polling; has Terry's ear; he does media placement.

A Yes.

Q Do you recall any conversation with regard to Arthur Finkelstein?

A Only to that extent.

Q And do you recall who made those comments?

A Yes, those comments were made by Ms. Bendis.

MR. MADDOCK: You're referring now to that October 14th meeting?

THE WITNESS: Yes.

MR. JOHANSEN: Yes.

Q (By Mr. Johansen) What was the context in which Ms. Bendis made those comments?

A I suppose I asked her why this copy came on that letterhead, and who he was.

MR. MADDOCK: Let the record show that the witness is referring to Government Exhibit 7.

Q (By Mr. Johansen) Were there any other comments

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with regard to Ms. Bendis's statement?

A No.

MR. JOHANSEN: Let me have this document marked as Exhibit No. 9.

(The document above-referred to was marked Government's Exhibit No. 9.)

Exhibit No. 9 purports to be a letter from Mr. Donovan to Cheryl Bendis, dated October 28, 1982, in which a copy of a, or a memorandum of agreement between Time Buying Services and the National Conservative Political Action Committee is attached. Do you recognize this document?

THE WITNESS: Yes.

Q (By Mr. Johansen) Can you identify it?

A Yes.

Q Would you identify it?

A Yes, this is a cover letter of the two documents from me, representing TBS, which covers a memorandum of agreement between TBS and the NCPAC regarding services TBS will provide NCPAC and compensation for those services, along with another document which suggests operating procedures between TBS and NCPAC.

Q And these documents describe the nature of the relationship between TBS and the National Conservative Political Action Committee?

A Yes.

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MR. JOHANSEN: Let me have introduced as Government's Exhibit No. 10, let me have the court reporter mark Government's Exhibit No. 10.

(The document above-referred to was marked Government's Exhibit No. 10.)

This exhibit is, consists of two notes. The first note is undated. The second note has a date on it of December 4, 1981. The third part of the exhibit is a letter from Mr. Donovan to Elaine Gensz dated 30 October 1981.

Q (By Mr. Johansen) Do you recognize this document?

A Yes.

Q This is document No. 10. Can you identify it?

A Yes. The front undated notation is in my handwriting. It's Mr. Baxter, requesting the check on what he had done with his copy of this letter.

Q Could you read the notation, please?

A It says, check Lloyd Baxter as to what he might have done with this letter copy.

Q Did you ever check with Mr. Baxter?

A Yes, I did.

Q And did he indicate to you what he had done with this letter copy?

A Yes, he had filed it.

Q Go on to the second page of the exhibit.

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A The second page is a handwritten note by my secretary, reflecting a telephone call from Elaine Ganaz of NCPAC to the effect that the reporter from the Buffalo Courier Express called to tell her that someone from the Moynihan camp had a copy of this letter, and she wonders if we had any idea as to how they had gotten this copy.

She worried since Arthur Finkelstein's name was in the copy, and referred to in the text.

Q At the top of the page, there's a notation. It says, "Call Ealine Gansz". Did you ever return Ms. Gansz's call with regard to her phone call?

A Yes, I did.

Q What was the subject of that conversation?

A The subject of that conversation was to advise her that I had purposely checked the people within our organization.. We will provide a copy of this letter to determine whether the letter was still in hand, or whether they had done anything with it except file it.

Q Do you know how the Moynihan people received a copy of the October 30, 1981 letter?

MR. MADDOCK: I object to that. I don't know that there's any evidence or testimony that the Moynihan people had received a copy of that.

I just want to make the record clear.

Q (By Mr. Johansen) In your discussions with Ms.

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Gansz, did she tell you why she was concerned?

A No.

Q -- that Mr. Finkelstein had been carbon copied?

A No. She was not concerned that Mr. Finkelstein had been carbon copied, because she asked me to carbon copy Mr. Finkelstein. She was concerned that there was some report that a copy of this letter with him being copied and his name being referred to in the text of the letter had somehow, according to the reporter, been obtained by somebody in the Moynihan camp.

Q Did she indicate to you why she was concerned that his name had been referred to in the text of the letter?

A No.

Q And you never asked her why she was concerned with that?

A No, I didn't. What I said was, you had asked me to send him a copy of this. If you don't want me to send copies to him in the future, I won't, or I'll send blind copies.

Q Were you curious as to why Ms. Gansz was concerned with this?

A I was.

Q But you didn't ask her about it?

A No, I did not.

Q And she made no comments to you about it?

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A That's right, she did not.

Q Did you speak to anyone else connected or associated with the National Conservative Political Action Committee regarding the press's obtaining a copy of the October 30 letter?

A Yes, I did.

Q Who else did you speak to?

A Cheryl Bendis.

Q And when did that conversation take place?

A Shortly after this one.

Q And could you describe the nature of those discussions, of that discussion?

A Yes, I called her expressing my concern about their concern over this, and to try to find out from her more about all of this, which I couldn't.

Q You say you couldn't. She gave you no information?

A She did not.

Q Do you recall what she did say to you?

A Just that she didn't know anything more about all of this.

Q Did you ask her specifically why they were concerned that a copy of the letter had been distributed to the press with Arthur Finkelstein's name in it?

A No.

Q Did you speak to anyone else associated with NCPAC

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with regard to this same subject?

A No.

Q Did you ever speak to Mr. Finkelstein with regard to this?

A No.

Q Did you speak to Mr. Martin with regard to this subject?

A I believe I did, yes.

Q Do you recall what the nature of those conversations were? I'm sorry. How many times did you speak to Mr. Martin with regard to this subject?

A Once.

Q Do you recall what the nature of that conversation was?

A I also asked him if he had any idea how newspaper might have gotten this copy, as much as I had sent him a copy too. Did he still have his copy? What might he know about it?

Q And what was his response?

A He didn't know anything about it.

Q And your concern at this time was the fact that someone had received a copy of your letter, and NCPAC had phoned you up, wanting to know if you were the, if Time Buying Services was the entity which had released this letter?

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A Correct.

Q You really had no concern as to whether or not Arthur Finkelstein's name was mentioned or not?

A No.

MR. JOHANSEN: Let me have this document marked as Government's Exhibit 11.

(The document above-referred to was marked Government's Exhibit No. 11.)

This is a handwritten memo dated November 3, 1981. Do you recognize this document?

THE WITNESS: I do.

Q (By Mr. Johansen) Can you identify it?

A These are notes which I made following a telephone conversation with Robert Martin.

Q Can you generally describe what that conversation was about?

A Yes, it represented pretty much a culmination of the planning associated with the campaign, with an approved starting date and some notations regarding station changes.

Q As the campaign for the anti-Moynihan advertisements progressed, did Mr. Martin take on a greater role in giving direction to you with regard to that advertisement?

A Yes.

Q And Ms. Gansz played a lesser role?

A I wouldn't say she played a lesser role, no. I

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think it was more coordination between the two of them.

Q Let me go back to Government's Exhibit No. 10 again. Did you ever speak to anyone associated with the Segal and Herge law firm regarding the release of the October 30, I'm sorry, not the release, but the fact that the press received or got a hold of a copy of the October 30 letter?

A I'm not sure.

Q You just don't recall?

A Right.

Q Is there anything that might refresh your recollection as to whether or not you spoke with anyone associated with the Segal and Herge law firm with regard to this subject?

A I'm pretty sure that I did not discuss this with anybody in the law firm.

Q Did you ever discuss this subject with anybody associated with the Caputo for Senate campaign committee?

A No.

MR. JOHANSEN: Let me have this document marked as Government's Exhibit No. 12.

(The document above-referred to was marked Government's Exhibit No. 12.)

This purports to be a letter from Mr. Donovan to Ms. Elaine Gansz dated 19 November 1981. Attached to

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the letter is a newspaper article which purports to come from the New York Times, dated Wednesday, November 18, 1981. I'm handing this exhibit to the witness and his counsel.

Q (By Mr. Johansen) Do you recognize this exhibit?

A I do.

Q Can you identify it?

A Yes.

Q Would you identify it, please?

A Yes. This is a copy of an article in the New York Times, Wednesday 11/18/81, which ran on the Op/Ed page of the Times, devoted to NCPAC Moynihan campaign, which I sent down to Ms. Gansz for her information.

Q Why did you send this article to her?

A This is a normal part of people in my business, to try to assist your clients and keep them current with a campaign or business that they are involved with.

Q Did you send a copy of this to Mr. Finkelstein?

A I did not.

Q Let me direct your attention to the newspaper article. One of the paragraphs of the article reads: "The organization doesn't consist of much besides Mr. Dolan, a talented fund-raiser -- it's difficult to read, I think it says and a board.

A Let me see. "And a board", yes.

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Q The copy is difficult to read, the right hand portion of it. Maybe we could look at the original copy, it might be easier.

A May I help you?

Q Yes, maybe you could read it, if you --

A What are you trying to read?

Q This paragraph here.

A The organization doesn't consist of much beyond Mr. Dolan, a talented fund-raiser, and a board. Something for independence. New York provides clue. Moynihan boosters point to strong overlaps between NCPAC and Caputo campaign. Both employ the same political consultant. NCPAC had already provided $4,400 to Caputo, applied from the much larger sums its anti-Moynihan advertising would require. Mr. Caputo may depend more on NCPAC than vice versa, but the effect is the same either way. The contribution limit is evaded.

Q Did you ever talk to Ms. Gansz with regard to that paragraph?

A No.

Q Did you ever talk to anyone associated with NCPAC with regard to that paragraph?

A No.

Q Did you ever talk to anyone associated with NCPAC with regard to this article in general?

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A I sent it to them.

Q So you never had any discussions with anyone associated with NCPAC after you sent it to them?

A No.

Q Did you ever talk to anyone associated with NCPAC with regard to the $4,400 contribution that was mentioned in the newspaper article?

A No.

MR. JOHANSEN: Let me have the reporter mark this document as Government's Exhibit No. 13.

(The document above-referred to was marked Government's Exhibit No. 13.)

This is a letter from Mr. Donovan to Elaine Gansz, dated December 9, 1981, and it also has affixed as an attachment an article dated December 14, 1981, from what paper I'm not sure.

THE WITNESS: This is from the New Yorker magazine, I believe.

Q (By Mr. Johansen) Do you recognize that document?

A Yes, I do recognize it. New York magazine.

Q Can you identify it?

A Yes, this is a copy of a major article New York magazine December 14, 1981, entitled "Cheap Shots at Moynihan", which I sent to Ms. Elaine Gansz for her information.

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Q Did you ever discuss the article with Ms. Ganz?

A No.

MR. JOHANSEN: Let me have the reporter mark this document as Government's Exhibit No. 14.

(The document above-referred to was marked Government's Exhibit No. 14.)

This purports to be a memo from Mr. Donovan to S. Dietz, R. Erickson, dated 30 December 1981, consisting of two pages.

Q (By Mr. Johansen) Do you recognize that document?

A I do.

Q Can you identify it?

A Yes.

Q Did you write it?

A I wrote it. This is a memorandum to co-chairman of TBS, Mr. Dietz and Mr. Erickson, describing a preliminary plan from NCPAC through Mr. Robert Martin to extend the anti-Moynihan campaign into several additional New York State markets, starting the first week of January 1982.

Q Was that campaign ever carried forward?

A No.

Q Do you know why it was not carried forward?

A No.

Q Outside of the original anti-Moynihan advertisement,

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was any other advertisement campaign with regard to Moynihan carried out by NCPAC, using the services of Time Buying Services Incorporated?

A No.

MR. JOHANSEN: Let me have this exhibit marked as Government's Exhibit No. 18.

THE REPORTER: We're up to 15.

MR. JOHANSEN: 15, I'm sorry.

(The document above-referred to was marked Government's Exhibit No. 15.)

This purports to be anotation of some sort. I'm handing the Exhibit, No. 15, to the witness and his counsel.

Q (By Mr. Johansen) Do you recognize that document?

A Yes, I do.

Q Can you identify Exhibit No. 15?

A Yes, Exhibit No. 15 are notes that I made identifying Mr. Finkelstein's location among a few other personal notes. My purpose was to call him to solicit the right business from him on behalf of TBS.

Q You made a statement earlier I think that you had had other conversations with Mr. Finkelstein that did not involve the anti-Moynihan advertisements?

A That's correct.

Q Were you referring to --

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CONFIDENTIAL

A To that.

Q To this?

A Yes.

Q Other than what you have indicated so far in your testimony here today, did on any other occasion or any other time, did you discuss with anyone associated with the National Conservative Political Action Committee Mr. Finkelstein's role in the anti-Moynihan campaign?

A No.

Q The documents that you produced today under the subpoena, they were all the documents that you had in your possession?

A Associated with this?

Q Yes.

A Yes.

Q And they were also all the documents in the possession of Time Buying Services Incorporated?

A Yes.

Q Associated with this?

A Yes.

MR. MADDOCK: All that related to the areas in the subpoena.

MR. JOHANSEN: To the areas requested by the subpoena.

THE WITNESS: Yes.

MR. MADDOCK: Except for duplicate copies of the

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same, that were identical, to the extent that we had copies that were in any way significantly not identical, except for a copy that may have been a checkmarked copy to another individual. If there was any handwriting or anything on them, we produced them, we took those copies as well.

MR. JOHANSEN: That's fine. I have no further questions. Would you like to make any examination?

MR. MADDOCK: No.

MR. JOHANSEN: I just want to thank Mr. Donovan for appearing here today. We do owe you a witness check, and we will send that to you in the mail shortly.

THE WITNESS: There was also a notation to the effect that I would also be reimbursed for travel expenses.

MR. JOHANSEN: Yes, what was your mileage?

THE WITNESS: I would estimate 50 miles.

MR. JOHANSEN: 50 miles?

THE WITNESS: Yes.

MR. JOHANSEN: Okay, that's fine.

THE WITNESS: I would also like to know if we're going to get a copy of the transcript of this deposition?

MR. JOHANSEN: You will have an opportunity to review the transcript, and to sign it, if you so wish, unless you and your counsel want to waive signature.

MR. MADDOCK: I think that if you're going to transcribe it that we would want to take a look at it and

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have him personally sign it, if you're going to transcribe it.

MR. JOHANSEN: Yes, we will transcribe it. Can we go off the record for a moment?

(Off the record discussion.)

Back on the record. Because of the confidential nature of the investigation, as required by the statute 2 USC, Section 437(g)(a)(12)(a) --

MR. MADDOCK: Could you repeat that, please?

MR. JOHANSEN: 2 USC, Section 437(g)(a)(12)(a), we would request that you not discuss or make a copy of the deposition available to other individuals.

(Continued on next page).

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It's my understanding that you're going to review it and sign the copy.

THE WITNESS: Yes.

MR. JOHANSEN: Off the record.

(Whereupon, at 12:18 p.m., the hearing in the above-entitled matter was closed.)

I have read the foregoing pages, 1 through 63, and they are a true and accurate record of my testimony therein recorded.

_____

MICHAEL J. DONOVAN

Subscribed and sworn before me

this _____day of _____, 1982

_____

Notary Public

My Commission Expires:_____

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CERTIFICATE OF COURT REPORTER/NOTARY PUBLIC

I, Virginia Zeblisky , the officer before whom the foregoing testimony was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken stenographically by me and thereafter reduced to typewriting by me or under my supervision; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto; nor am I financially or otherwise interested in the outcome of the action.

Court Reporter/Notary Public

My commission expires:

Gen. f - F41

AJF - Copy

TBS

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

16 October 1981

Ms. Elaine Ganse
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

Dear Elaine:

Nice meeting with you and Cheryl. Pursuant to our discussion regarding the Metro New York market radio activity for NCPAC, we have issued letters to each of the selected stations' General Managers; copy to their sales representatives. We have attached copy of the announcement draft, and the desired schedule. We have requested clearance and pricing. We will follow through early next week. At that time, we should learn a lot regarding acceptance, and any need for copy variations, etc. We will report back to you next week with the status of this project.

Attached is copy of the correspondence and the list of stations we directed it to.

Thank you. Regards.

Very truly yours,

Michael J. Donovan

MJD:CR
Atts.

cc: Ms. Cheryl Bendis - NCPAC ✓
S. Dietz/R. Erickson - TBS
J. Caplan - TBS
R. Baxter - TBS

A Division of RDR ASSOCIATES, INC.

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

COPY DRAFT
NCPAC 60-Second Announcement

New York Market

ANNOUNCER: (Bing, Bing) Who was the most Liberal United States Senator in 1980?

WOMAN'S VOICE: (Somewhat hysterical) Oh, I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.

WOMAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

WOMAN'S VOICE: No more Liberal than George McGovern.

ANNOUNCER: Well, you are right. Moynihan tied McGovern for most Liberal.

WOMAN'S VOICE: I don't believe it.

ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.

WOMAN'S VOICE: Moynihan is responsible for our welfare system?

ANNOUNCER: Yes, Moynihan created our runaway welfare system.

WOMAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he

WOMAN'S VOICE: (Interrupts) Wait, enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

A Division of R/P ASSOCIATES INC.

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NCPAC

MARKET: New York
MEDIUM: Radio

COMMERCIAL LENGTH: 60's

START DATE: T.B.A.
WEEKS: 1

DAYPART (N.Y.T.)	MON.	TUE.	WED.	THU.	FRI.	SAT.	SUN.	TOTAL
AM Drive 6-10AM (M-F)	3	3	2	2	2	2	2	16
PM Drive 3-8PM (M-F)	2	2	1	1	1	1	1	9

10.15.81

TBS
TIME BUYING SERVICES INC.
545 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

15 October 1981

Mr. John C. Moler
WRFM
485 Madison Avenue
New York, NY 10022

Dear Mr. Moler:

NCPAC (National Conservative Political Action Committee) will be placing a one week 60-second spot radio schedule in the New York market in the near future through TBS.

Attached is a draft of the copy which will be produced on tape for airplay and a prototype schedule of sixteen AM and nine PM drive time positions Monday-Sunday (25 announcements).

Please provide us with acceptance of this copy, along with a cost estimate for this schedule.

We will be contacting you by phone within a few days regarding this.

Very truly yours,

Michael J. Donovan
V.P. Group Head

MJD:CR
Atts.

cc: Mr. Gordon Gray

A Division of RDR ASSOCIATES INC.

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NCPAC

New York Market
Station List

WRFM

WHN

WCBS-AM

WVNJ

WNEW-AM

WFAS

WCBS-FM

WNEW-FM

WPAT-AM/FM

WHLI

WOR

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WPAS and WWYD-FM	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WHLI	3
No	
WCBS-AM WCBS-FM WOR	3

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine after having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WKHK
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WKEW-FM	--	$4,980
WVNJ	--	$1,250
WFAS & WWYD	--	$1,827

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

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up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

9204075167

NCPAC

NEW YORK MARKET
STATION CLEARANCE STATUS REPORT

STATION	CLEARANCE STATUS	COMMENTS
WCBS-AM	No	"Will not sell time to independent political committees for the purpose of discussing political issues - only sell to legally qualified candidates." I am requesting this response in writing.
WCBS-FM	No	Same as above.
WNEW-AM	Yes	Subject to documentation of claims in the copy that Moynihan was the father of our runaway welfare system... responsible for our welfare system...created our runaway welfare system.
WNEW-FM	Yes	Same as above.
WHN	Yes	Subject to the ommission of the claims that Moynihan created our runaway welfare system.
WOR	No	Station claims copy is subject to Fairness Doctrine. I am writing letter with legal opinion - will follow through.
WINS	Yes	Subject to substantiation of the claim that Moynihan is father of our runaway welfare system, etc.

STATION	CLEARANCE STATUS	COMMENTS
WPAT-AM/FM	Undecided	Believes advertising is subject to Fairness Doctrine and they have concerns about claims in the copy. I am sending copy of the legal opinion on the Fairness Doctrine and have requested a response in writing. Will follow through.
WVNJ	Yes	Accepted copy with no change.
WRFM	Yes	Subject to documentation of claims regarding Moynihan voting record and that he is the father of our runaway welfare system.
WHLI	Undecided	Station management has proposal under consideration. I am pursuing a resolution.
WFAS	Yes	Currently no copy change. Station sent representative in with "candidate" advertising forms to be filled out. I substituted with copy of legal opinion on Fairness Doctrine. Station suggests we add sister FM station, WWYD-FM, at 80% increase in schedule cost. We recommend schedule be added.

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82 MAY 20 AM 9:46

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

29 October 1981

Mr. Donald L. Gorski
National Sales Manager
WCBS-AM
51 West 52 Street
New York, NY 10019

Dear Don:

On October 21, 1981, I discussed the acceptance of advertising copy on WCBS-FM, in behalf of the NCPAC with you. At that time, you advised me it was not acceptable on WCBS-AM because of station policy restrictions, against such copy.

At the behest of the NCPAC, I request you provide me with a written statement defining the reasons for non-acceptance.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson

bcc: Elaine Gansz
Cheryl Bendis
Arthur Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

A Division of RDR ASSOCIATES, INC

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

29 October 1981

Mr. Dave Smith
WOR
1440 Broadway
New York, NY 10018

Dear Dave:

You advised me on October 27, 1981 that WOR would not accept advertising copy from the NCPAC because your attorney had advised the station that such copy is subject to the Fairness Doctrine.

I enclose copy of a legal opinion from the NCPAC law firm which positions political action advertising as not being subject to the Fairness Doctrine. Please pass this on to your attorney for restudy and advise.

Thank you.

Very truly yours,

Michael J. Donovan

MJD:CR
Enc.

cc: S. Dietz/R. Erickson
Mr. Frank Shakespeare - Pres., RKO

bcc: Elaine Gansz
Cheryl Bendis
Arthur Finkelstein
Robin Martin
Roy Baxter
Jack Caplan

A Division of RDR ASSOCIATES, INC

2040751611

SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 1100
8300 GREENSBORO DRIVE
McLEAN, VIRGINIA 22102
(703) 821-1000

GLENN J. SEDAM, JR.
J. CURTIS HERGE
ROBERT R. SPARKS, JR.
A. MARK CHRISTOPHER

KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D. C. 20006
(703) 821-1000
TELEX: 710-831-0898
CABLE: SEDAMHERGE

October 26, 1981

Mr. Michael Donovan
Vice President
Time Buying Services, Inc.
1345 Avenue of the Americas
New York, New York 10105

Re: National Conservative
Political Action Committee

Dear Mr. Donovan:

The purpose of this letter is to forward to you, for your consideration and the consideration of broadcasters with whom you do business, a memorandum addressing fairness doctrine and equal opportunity issues pertaining to advertisements sponsored by the National Conservative Political Action Committee (NCPAC), which are critical of the past voting record and candidacy of Federal candidates. NCPAC requested that we forward this memorandum to you to assist you in your dealings with broadcasters who have raised these issues in considering whether to accept these advertisements for broadcast.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

J. Curtis Herge

Enclosure

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee
(w/encl.)

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WASHINGTON, D. C. 20006
(703) 821-1000
TELEX: 710-831-0896
CABLE: SEDANHERGE

October 26, 1981

3204075161 3

MEMORANDUM

To: Mr. John T. Dolan
Chairman
National Conservative Political
Action Committee

From: Sedam & Herge, P.C.

Re: Broadcast of Certain Advertisements Sponsored by the National Conservative Political Action Committee

Purpose

The purpose of this memorandum is to provide authority resolving equal opportunity and fairness doctrine issues which, we understand, have been raised by certain licensees concerning the broadcast of NCPAC-sponsored advertisements which are critical of the past voting record, and/or are directed against the candidacy, of certain identified Federal officials.

I. THE BROADCAST OF THE NCPAC-SPONSORED ADVERTISEMENTS BY A LICENSEE WILL NOT RESULT IN THE IMPOSITION OF EQUAL OPPORTUNITY OR FAIRNESS DOCTRINE OBLIGATIONS TO OFFER FREE RESPONSE TIME TO THE CANDIDATE, HIS COMMITTEE, OR HIS SUPPORTERS

You have advised us that on behalf of the National Conservative Political Action Committee (hereinafter "NCPAC"), you have encountered difficulties in placing certain NCPAC-sponsored advertisements which are critical of the past voting

record or candidacy of certain identified Federal candidates. The reluctance of some broadcasters to accept these advertisements appears to be caused by a misunderstanding with respect to the obligations of the licensee once the advertisements are broadcast.

The primary issue which has repeatedly been a source of confusion on behalf of licensees, is the question whether licensees which broadcast NCPAC-sponsored advertisements thereby become obligated to offer free opportunities for opponents to respond. The FCC has determined that, whenever an independent committee purchases time to broadcast advertisements which are critical of the past voting record or directed against the candidacy of a particular candidate for Federal office, that equal opportunity and Fairness Doctrine considerations do not impose an obligation upon the licensee to offer free, roughly equivalent time to the candidate, his committee, or his supporters. FCC letter to Honorable Thomas F. Eagleton, 81 FCC 2d 423 (1980).

The Eagleton decision concerned NCPAC-sponsored advertisements which were critical of the past voting record and directed against the candidacy of Senator Eagleton. The FCC interpreted Nicholas Zapple, 23 FCC 2d 707(1970), to require only that comparable time be sold where spokesmen or supporters of a candidate purchase time and criticize a candidate. The FCC concluded that the NCPAC-sponsored advertisements do not constitute a "use" within the purview of Section 315(a) of the Communications Act of 1934 [47 U.S.C. §315(a)] so as to invoke equal opportunity issues. Paid NCPAC spots create only the obligation to offer comparable time on a paid basis to the supporters of the candidate. FCC letter to Honorable Thomas F. Eagleton, supra, at 426-427.

In addition to resolving the equal opportunity issue, the Eagleton decision addressed the question whether the Fairness Doctrine would require that free time be provided to a candidate or his supporters where an independent committee sponsors advertisements critical of a candidate. (On October 9, 1980, a supplement to Senator Eagleton's original complaint was filed, which specifically addressed the Fairness Doctrine issue. Supra, p.427.)

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Senator Eagleton argued that the Fairness Doctrine and, specifically, Cullman Broadcasting Co., Inc., 40 FCC 576 (1963), would require free equal time. In Cullman the FCC held that licensees are obligated to provide free access for the presentation of contrasting viewpoints concerning controversial issues of public importance where paid response time cannot be had, to ensure the public's right to know. In response, the FCC noted that it has consistently held that Cullman is not applicable to the "political arena." The FCC concluded that the Fairness Doctrine does not require a licensee to grant candidates or their supporters free time to counterbalance time sold to their opponents or the supporters of their opponents. Notwithstanding the above, the FCC continued to note that even if Fairness Doctrine principles applied in such a case, that Senator Eagleton had not demonstrated sufficient facts to entitle him or his Committee to access to the licensee for the purpose of expressing views contrary to those expressed in the NCPAC advertisements. A successful complainant would be required to show an imbalance in the station's overall programming that is such that the public has not been adequately informed on an issue of public importance.

Accordingly, neither equal opportunity nor fairness doctrine obligations are incurred by a licensee which accepts these advertisements for broadcast. In 1981, NCPAC has sponsored radio and television advertisements critical of the past voting record and directed against the candidacy of a number of identified Federal candidates. Among those states wherein such advertisements have been broadcast are Montana, Texas, Maryland, New Jersey, New York, North Carolina, Washington, D.C., and Connecticut.

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National Conservative
Political Action Committee
1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-280

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Moynihan - Draft

ANNOUNCER: (Bing, Bing) Who was the most liberal United States Senator in 1980?

WOMAN'S VOICE: (Somewhat hysterical) Oh, I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that's wrong. The most liberal Senator was Daniel Moynihan.

WOMAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

WOMAN'S VOICE: No, more liberal than George McGovern?

ANNOUNCER: Well, Moynihan tied McGovern for most liberal.

WOMAN'S VOICE: I don't believe it.

ANNOUNCER: (read quickly) Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he helped develop our runaway welfare system.

WOMAN'S VOICE: Moynihan shares responsibility for our welfare system?

ANNOUNCER: Yes, Daniel Moynihan must share responsibility for our runaway welfare system.

WOMAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 bomber, he supports increased taxes, he even voted foreign aid to communist countries like Cuba, Cambodia and Vietnam.

WOMAN'S VOICE: (Interrupts) Wait, wait enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why New York state taxpayers are fed up with Moynihan and why the National Conservative Political Action Committee has paid for this commercial. (Not authorized by any candidate or candidate committee).

1/27/82

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Documentation of NCPAC/Moynihan Ad

1) Who was the most liberal United States Senator in 1980?

On the ACU (American Conservative Union) Senate key vote index of June 1, 1981, Moynihan rated zero in 18 key votes. On the same index, McGovern also rated zero.

2) He voted to give away the Panama Canal.

CQ 119, 1978 - Moynihan voted "yea."

3) He opposed cutting back on government spending.

a) Votes increasing the deficit or public debt ceiling:

CQ 38, 1977	yes - $68.2 billion deficit
CQ 136, 1977	no - decrease size of deficit
CQ 360, 1977	yes - 65.1 billion deficit
CQ 501, 1977	yes - increase national debt 52B
CQ 272, 1978	yes - increase national debt 46B
CQ 20, 1979	yes - prevent future budget deficits
CQ 28, 1979	yes - increase national debt 32B
CQ 317, 1979	yes - increase national debt 49B
CQ 254, 1980	yes - increase national debt 46B

b) Votes in 1981 to restore money to Reagan budget cuts:

CQ 45	yes - lessen cuts by 200 million
CQ 49	yes - lessen cuts by 200 million
CQ 50	yes - lessen cuts by 800 million
CQ 51	yes - lessen cuts by 1.4 billion
CQ 52	yes - lessen cuts by 3 billion.
CQ 54	yes - lessen cuts by 100 million
CQ 55	yes - lessen cuts by 435 million
CQ 56	yes - lessen cuts by 937 million
CQ 60	yes - lessen cuts by 125 million
CQ 61	yes - lessen cuts by 300 million
CQ 62	yes - lessen cuts by 264 million
CQ 63	no - deepen cuts by 2.6 billion
CQ 65	no - deepen cuts by 2.4 billion
CQ 66	no - deepen cuts by 110 million
CQ 68	yes - lessen cuts by 6 million
CQ 69	yes - lessen cuts by 400 million
CQ 70	yes - lessen cuts by 39 million
CQ 72	yes - lessen cuts by 285 million
CQ 73	yes - lessen cuts by 83 million
CQ 74	yes - lessen cuts by 400 million
CQ 75	yes - lessen cuts by 13 million
CQ 76	yes - lessen cuts by 80 million

4) He helped develop our runaway welfare system.

Based on Moynihan's writings in the Moynihan Report which was released through the Labor Department in 1965. Moynihan and Richard Goodwin also wrote a speech (based on the Moynihan Reports) which was delivered by President Johnson at Howard University in 1965. This speech guaranteed the solidity of minority families through government financial support.

Every year Moynihan votes to raise the expenditure ceiling of the Federal Food and Nutritional Service (which covers food stamps.) He also votes to raise their supplemental budget. For 1980-81, he voted to eliminate the expenditure ceiling altogether.

In 1977, he supported allowing students and strikers to participate in the food stamp program. He has also voted against the inclusion of college loans and grants as income to be counted against the eligibility for food stamps.

Moynihan's 1967 family assistance proposal became, in 1969, the basis for the Family Assistance Program.

Co-authors Moynihan, Shriver, Yarmolinsky and James Sundaquist developed the War on Poverty program. (Moynihan Report and The Politics of Controversy, MIT press, 1967.)

CQ 126, 1977		voted for 4 billion in public works jobs
CQ 135	"	voted against 4 billion in the CETA progr
CQ 160	"	voted against barring availability of food stamps to strikers
CQ 162	"	photo ID's for food stamp recipients
CQ 163	"	voted for extending the food stamp system five years
CQ 165	"	voted for stopping payment requirements for food stamps
CQ 168	"	voted against barring college students from getting food stamps
CQ 383	"	voted against limiting disability payments for pregnant women
CQ 618	"	voted to expand the AFDC program

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CQ 139, 1980 voted for food stamp supplemental budget 200 million over Carter's request

CQ 499 " voted for 1 billion in stand-by aid to states and cities for anti-recession aid

CQ 519 " voted to increase CETA aid by 605 million

5) He voted against capital punishment.

a) Voted to kill an amendment to expand the list of crimes that require the death penalty (CQ 9, 1978).

b) Voted to kill an amendment to reinstate the death penalty (CQ 220, 1980).

6) He opposed the B-1 Bomber.

a) Voted to delete 1.466 billion for production of five B-1 bombers (CQ 297, 1977).

b) Voted to delete 200 million for continued development of the B-1 bomber (CQ 305, 1977).

c) Voted to rescind 462 million for continued development of the B-1 bomber (CQ 26, 1978).

7) He supports increased taxes:

a) He ranks third from the bottom in the National Taxpaye Union ratings.

b) Voted against tax cuts:

CQ 107, 1977	no
CQ 108, 1977	no
CQ 356, 1977	no
CQ 357, 1977	no
CQ 358, 1977	no
CQ 135, 1978	no
CQ 448, 1978	no
CQ 464, 1978	no
CQ 513, 1978	no
CQ 91, 1980	no

c) Voted against the Reagan tax cut (CQ 239, 1981) in committee.

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CQ 305, 1978		voted against deletion of 250 million in food stamps
CQ 307	"	voted against deletion of 2 billion in food stamp appropriations
CQ 362	"	voted against private sector job creation inceptives for CETA workers
CQ 450	"	voted against deletion of a cut in AFDC State aid
CQ 512	"	voted against reducing CETA jobs
CQ 47, 1979		voted against eliminating CETA jobs
CQ 49	"	voted against 6.2 billion cap on food stamps
CQ 145	"	voted against food stamp cut
CQ 159	"	voted against restricting federal rend subsidies
CQ 193	"	voted against cut in HEW appropriations
CQ 194	"	voted against reducing public service jobs
CQ 206	"	voted for raising the food stamp expenditure ceiling
CQ 208	"	voted for raising the food stamp expenditure ceiling
CQ 243	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 244	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 245	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 355	"	voted for 1.35 billion emergency fuel assistance program for low income families
CQ 370	"	voted against reducing federal grants to states paying too much in foster care
CQ 133, 1980		voted to increase food stamp expenditures for fiscal years 1980 and 1981
CQ 136	"	voted against reducing food stamp expenditures
CQ 137	"	voted against a cut in food stamp benefits for families whose children get federally subsidized free or reduced price school lunches
CQ 138	"	voted against counting higher education loans and grants and housing subsidies against food stamp eligibility

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8) He voted for foreign aid to communist countries like Cuba, Cambodia and Vietnam.

a) Voted against a resolution to direct the U.S. Representative to the International lending organization to vote against loans to Cuba.

CQ 198, 1977
CQ 201, 1977
CQ 202, 1977

b) Voted for aid to Cambodia and Vietnam.

CQ 337, 1979

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SEDAM & HERGE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
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MCLEAN, VIRGINIA 22102
(703) 821-1000

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A. MARK CHRISTOPHER
KAREN LUSSEN BLAIR
JOHN ROBERT CLARK III
B. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(703) 821-1000
TELEX 710-831-0698
CABLE: SEDAMHERGE

October 26, 1981

Mr. Michael Donovan
Vice President
Time Buying Services, Inc.
1345 Avenue of the Americas
New York, New York 10105

Re: National Conservative
Political Action Committee

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Should you have any questions, please do not hesitate to contact me.

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J. Curtis Herge

Enclosure.

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee
(w/encl.)

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SEDAM & HERGE
A PROFESSIONAL CORPORATION
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A. MARR CHRISTOPHER

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JOHN ROBERT CLARK III
S. ERIC SIVERTSEN

SUITE 270
1700 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006
(703) 821-1000
TELEX: 710-831-0856
CABLE: SEDAMHERGE

October 26, 1981

MEMORANDUM

To: Mr. John T. Dolan
Chairman
National Conservative Political
Action Committee

From: Sedam & Herge, P.C.

Re: Broadcast of Certain Advertisements Sponsored by the National Conservative Political Action Committee

9204075142 3

Purpose

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Senator Eagleton argued that the Fairness Doctrine and, specifically, Cullman Broadcasting Co., Inc., 40 FCC 576 (1963), would require free equal time. In Cullman the FCC held that licensees are obligated to provide free access for the presentation of contrasting viewpoints concerning controversial issues of public importance where paid response time cannot be had, to ensure the public's right to know. In response, the FCC noted that it has consistently held that Cullman is not applicable to the "political arena." The FCC concluded that the Fairness Doctrine does not require a licensee to grant candidates or their supporters free time to counterbalance time sold to their opponents or the supporters of their opponents. Notwithstanding the above, the FCC continued to note that even if Fairness Doctrine principles applied in such a case, that Senator Eagleton had not demonstrated sufficient facts to entitle him or his Committee to access to the licensee for the purpose of expressing views contrary to those expressed in the NCPAC advertisements. A successful complainant would be required to show an imbalance in the station's overall programming that is such that the public has not been adequately informed on an issue of public importance.

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National Conservative
Political Action Committee
1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-2800

R 2040751626

SCRIPT OF MOYNIHAN RADIO AD(GAME SHOW FORMAT)

ANNOUNCER: WHO HAS THE MOST LIBERAL UNITED STATES SENATOR IN 1980?

WOMAN: OH, I KNOW, UH UH, TED KENNEDY.

ANNOUNCER: I'M SORRY, THAT'S WRONG. THE MOST LIBERAL SENATOR WAS DANIEL MOYNIHAN.

WOMAN: YOU'RE KIDDING. WHO SAYS?

ANNOUNCER: THE AMERICAN CONSERVATIVE UNION.

WOMAN: NO, MORE LIBERAL THAN GEORGE MCGOVERN?

ANNOUNCER: WELL, MOYNIHAN TIED MCGOVERN FOR MOST LIBERAL.

WOMAN: I DON'T BELIEVE IT.

ANNOUNCER: WELL, HE VOTED TO GIVE AWAY THE PANAMA CANAL, AND HE OPPOSED CUTTING BACK ON GOVERNMENT SPENDING. AND YOU KNOW, HE HELPED DEVELOP OUR RUNAWAY WELFARE SYSTEM.

WOMAN: MOYNIHAN SHARES RESPONSIBILITY FOR OUR WELFARE SYSTEM?

ANNOUNCER: YES, DANIEL MOYNIHAN MUST SHARE RESPONSIBILITY FOR OUR RUNAWAY WELFARE SYSTEM.

WOMAN: GEE, I DIDN'T KNOW THAT.

ANNOUNCER: AND HE VOTED AGAINST CAPITAL PUNISHMENT, OPPOSED THE B-1 BOMBER, HE SUPPORTS INCREASED TAXES, HE EVEN VOTED FOREIGN AID TO COMMUNIST COUNTRIES LIKE CUBA, CAMBODIA AND VIETNAM.

WOMAN: WAIT, WAIT ENOUGH. WHAT WOULD HAPPEN IF THE PEOPLE KNEW THIS?

ANNOUNCER: HE'D BE DEFEATED, WHICH IS WHY NEW YORK STATE TAXPAYERS ARE FED UP WITH MOYNIHAN AND WHY THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE HAS PAID FOR THIS COMMERCIAL. (NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.)

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN, A PROJECT OF THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.

Arthur J. Finkelstein & Associates
117 South Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

Elaine

ANNOUNCER: (Bing, Bing) Who was the most Liberal United States Senator in 1980?

MAN'S VOICE (Somewhat hysterical): Oh I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.

MAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

MAN'S VOICE: No more Liberal than George McGovern.

ANNOUNCER: Well, you are right. Moynihan tied McGovern for most Liberal.

MAN'S VOICE: I don't believe it.

ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.

is this how true?

MAN'S VOICE: Moynihan is responsible for our welfare system?

ANNOUNCER: Yes, Moynihan created our runaway welfare system.

MAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 Bomber, he supports increased taxes, he

MAN'S VOICE: (Interrupts) Wait, enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

(Replace with proper disclaimer)

Sizzle

Cut 6 7

12

82040751527

republican national committee

Interoffice Memorandum

[illegible]

[illegible]

[illegible]

Sedam & Herge (cont Herge) - Bob Starks
Mark Christopher
Law Firm - (703) 821-1000

10-14-81

Copy in advance before story boards - production

Michael Boaz -

Steve DeAngelo - Press Relations

* Assignment - structural organization -

Elaine - (home) 2454 39th Place, NW (202) 965-6909
Washington, D.C 20007
(work) 1500 Wilson Blvd, Suite 515
Arlington, VA 22209 (703) 522-2700

Arthur Finkelstein - Political Consultants - Reg Affairs
re Jerry & NCPAC - all for Reg - has Straight Ticket!
He does media for client

Connecticut - Gilmartin - resident in Ga for 2 mos. - not good
Turning re to TBS

Re finances difficulty now - effect change in NOV.

D. D. meeting with FCC comm. end of Oct

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

October 28, 1981

Ms. Cheryl Bendis
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA. 22209

C 7 0 4 0 7 5 1 6 3 0

Dear Cheryl,

Enclosed are copies of two documents from TBS covering the working arrangements between TBS and NCPAC. The first is a "Memorandum of Agreement", signed by me for TBS, which requires a counter signature upon approval from the authorizing person at NCPAC. The second is a "Suggested Operating Procedure" between TBS and NCPAC.

Please review these for approval and signature to the agreement.

Thank you.

Best Regards,

Michael J. Donovan

encl:

cc: Dietz & Erickson
R. Baxter
J. Caplan

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

A MEMORANDUM OF AGREEMENT
BETWEEN TBS (TIME BUYING SERVICES)
AND NCPAC (NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE)

This will establish an agreement between TBS and NCPAC covering the services TBS will provide NCPAC and the compensation TBS will receive for these services.

I. Services

TBS will provide NCPAC media plans and schedules as well as cost estimates, market by market, based on guidelines, specifications and budgets from NCPAC.

Upon written approval and authorization from NCPAC, along with release of budgeted gross dollar amounts, TBS will place schedules for NCPAC.

TBS will provide NCPAC with schedules as they are placed.

TBS will arrange to have original broadcast copy dubbed and trafficked to stations at net cost to NCPAC, supported by supplier invoices.

TBS will provide NCPAC with a post evaluation of schedules, along with copies of all affidavits and/or invoices from the media used in all schedules. TBS will provide full disclosure of cost within these affidavits or invoices to NCPAC.

TBS will provide NCPAC a suggested operating procedure memorandum (copy attached).

C 2 0 4 0 7 5 1 6 3 1

II. Compensation

The TBS fee for media services to NCPAC will be 10% of the gross commissionable cost of media schedules.

TBS will credit NCPAC 5% of the gross commissionable cost of media schedules. NCPAC will advise TBS on each schedule occasion as to the disposition of this 5% credited amount.

AGREED TO:

For TBS _____ Date 11/28/81

For NCPAC _____ Date _____

2040751632

TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

SUGGESTED OPERATING PROCEDURES BETWEEN TBS AND NCPAC

I. The prime contacts for communication are:

(a) NCPAC - Cheryl Bendis
(b) TBS - Michael Donovan

For NCPAC, Terry Dolan is available and receptive to contact as are the principals of TBS, Rod Erickson and Stephens Dietz.

II. Market Planning Guideline Specifications and Information required from NCPAC to TBS:

(a) Market(s)
(b) Subject matter - specific copy
(c) Media units - Radio, TV or other - 30 second, 60 second or other.
(d) Demographic target audience
(e) Schedule period
(f) Preferred daypart distribution of units
(g) Media preferences (stations, newspapers, etc.)
(h) Budget

III. Copy:

(a) NCPAC will provide TBS with typed transcriptions of all copy for prior clearance purposes
(b) NCPAC will provide TBS with original broadcast material for dubbing and trafficking to stations
(c) NCPAC will provide TBS with complete material and production instructions for any print publication insertions to be placed

IV. Payment:

NCPAC will issue schedule payment gross cost to TBS in advance of placement. TBS will pay media as schedules are placed.

V. NCPAC will advise TBS re the disposition of the 5% credit to NCPAC from gross cost for schedules.

VI. Documentation:

TBS will provide NCPAC with copies of schedules, as placed, along with a record of budget disbursement.

TBS will further provide NCPAC with a post analysis of schedules, along with copies of media affidavits and/or invoices, upon receipt of the total items per market, per schedule.

9204075163734

Check Rev Baxter as
to what he suggested
done with the Lithocopy.

9220407516335

12/4/81 - 4:30 - Call Elaine Cavagnaro

Elaine Gauz from NCPAC called:

A reporter from the Buffalo Courier Express (Doug Turner) called to tell her that someone from the Meyerhan Camp had a copy of this Oct. 30th letter we sent her.

She wonders if we have any idea of how they would have gotten copy. She mentioned since Arthur Finkelstein's name ~~is on the~~ cc. and referred to in text.

C20040751630

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WFAS and WWYD-FM	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WHLI	3
No	
WCBS-AM WCBS-FM WOR	3

8204075163 7

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine after having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WKHK
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WNEW-FM	--	$4,980
WVNJ	--	$1,250
WFAS & WWYD	--	$1,827

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

2040751638

up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Mike.

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

2040751639

NCPAC

NEW YORK MARKET
STATION CLEARANCE STATUS REPORT

STATION	CLEARANCE STATUS	COMMENTS
WCBS-AM	No	"Will not sell time to independent political committees for the purpose of discussing political issues - only sell to legally qualified candidates." I am requesting this response in writing.
WCBS-FM	No	Same as above.
WNEW-AM	Yes	Subject to documentation of claims in the copy that Moynihan was the father of our runaway welfare system... responsible for our welfare system...created our runaway welfare system.
WNEW-FM	Yes	Same as above.
WHN	Yes	Subject to the ommission of the claims that Moynihan created our runaway welfare system.
WOR	No	Station claims copy is subject to Fairness Doctrine. I am writing letter with legal opinion - will follow through.
WINS	Yes	Subject to substantiation of the claim that Moynihan is father of our runaway welfare system, etc.

C00251640

STATION	CLEARANCE STATUS	COMMENTS
WPAT-AM/FM	Undecided	Believes advertising is subject to Fairness Doctrine and they have concerns about claims in the copy. I am sending copy of the legal opinion on the Fairness Doctrine and have requested a response in writing. Will follow through.
WVNJ	Yes	Accepted copy with no change.
WRFM	Yes	Subject to documentation of claims regarding Moynihan voting record and that he is the father of our runaway welfare system.
WHLI	Undecided	Station management has proposal under consideration. I am pursuing a resolution.
WFAS	Yes	Currently no copy change. Station sent representative in with "candidate" advertising forms to be filled out. I substituted with copy of legal opinion on Fairness Doctrine. Station suggests we add sister FM station, WWYD-FM, at 80% increase in schedule cost. We recommend schedule be added.

24000-8 - 16
12500 2 =
4.00 11

11/3/81

ACPDC

Dear Yoko

Telephone Conversation with Robin Martin - 1 X

Contents.

1. Start Sched Tuesday for one week

2. Change Copy for contents.

3. Delete:
   a V N. + a N32 - Fm.

4. add:
   a K D K
   a MCD - Tony lives down. like Tony Forbes.
   a T + m
   a K L Y - F m
   a V I P m - N O I P F m Mount Kisco. (Jack Nicholson)

he don't have to adhere to sch plan - make a good mix for cover

8204075164 2

CR

TBS

TIME BUYING SERVICES INC.

1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

19 November 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

Dear Elaine:

On the chance you may have missed this, attached is copy of an editorial from the Wednesday, 11/18/81 New York Times, leading from the current New York market radio schedule.

Regards.

Very truly yours,

Mike

Michael J. Donovan

MJD:CR
Enc.

cc: S. Dietz/R. Erickson
T. Dolan
R. Martin
C. Bendis

bcc: J. Caplan
R. Baxter

9 3 0 4 0 7 5 1 6 4 3

Wed 11/18/81
N.Y. Times

JOHN M. O'BRIEN, V.P. Controller
LANCE R. ERVIN, V.P. Advertising

Nick-Pack Strikes Home

Yesterday several New York radio stations started broadcasting commercials attacking Senator Daniel Patrick Moynihan. The attacks are from the right: they scorn him as the Senate's most liberal member. Yet the ads are not paid for by Bruce Caputo, the former Congressman who wants the Republican Senate nomination. The sponsor is NCPAC, raising a problem of fair play.

NCPAC, or Nick-Pack, is short for the National Conservative Political Action Committee. It is the best-known example of a new political phenomenon, the independent expenditure committee, and one that needs to be even better known. Its main activity, which exploits a loophole in Federal law, comes very close to cheating the system.

The law, designed to limit the power of money in politics, says organizations supporting a candidate may not contribute more than $5,000 per election. But the courts have so far ruled that freedom of speech forbids any such limit for independent groups that do not avowedly support a candidate.

Nick-Pack plunged through that loophole last year by spending hundreds of thousands for Republican candidates. Yet the candidates who benefited from its support were free to disclaim responsibility for anything Nick-Pack did or said. "A group like ours could lie through its teeth and the candidate it helps stays clean," said Nick-Pack's organizer, Terry Dolan.

Now Nick-Pack is cranking up for 1982, in New York and elsewhere. Why not? Why shouldn't an independent group spend freely for candidates it likes? Because it's far from clear that Nick-Pack is either independent or a group.

The organization doesn't consist of much beyond Mr. Dolan, a talented fund-raiser, and a board. As for independence, New York provides a clue. Moynihan boosters point to strong overlaps between Nick-Pack and the Caputo campaign. Both employ the same political consultant. Nick-Pack has already provided $4,400 to Mr. Caputo, apart from the much larger sums its anti-Moynihan advertising will require. Mr. Caputo may depend more on Nick-Pack than vice versa, but the effect is the same either way: the contribution limit is evaded.

•

Such evasion can sometimes backfire. In the case of Senator Paul Sarbanes of Maryland, Nick-Pack's campaign against him has galvanized his supporters and even annoyed some Republicans. In the case of Senator Moynihan, it may not be so harmful for a candidate sometimes labeled a neo-conservative also to be derided as a liberal.

Still, the problem remains: what to do about evasions of the $5,000 spending limit and of accountability. Should radio stations refuse Nick-Pack's advertising? That smacks of censorship. Could Nick-Pack be held to the contribution law without infringing on the rights of truly independent groups? The Supreme Court hasn't yet decided. Should candidates attacked by Nick-Pack get equal time, as proposed by Fred Wertheimer of Common Cause? It's a worthy idea that Congress should consider.

In the meantime, the only obvious remedy is public scrutiny. Voters recognize cheating when they see it. Voters have a way, come Election Day, to tell what they think of it.

The Top Officials Need a Raise

In the parlance of the moment, Congress ought to get off the backs of senior Government officials. It needs once and for all to eliminate the link between their salaries and its own.

Increases in the top-level executive grades are its own pay raises, Congress over the years contrived to link its salary scales to those of the top people in the judicial and executive branches. But it also prohibited almost all of these officials from earning more than a member of Congress.

82040751644

TBS
TIME BUYING SERVICES INC.
1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

9 December 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

Dear Elaine:

Enclosed is copy of an article in the December 14th issue of New York Magazine on NCPAC and the New York Moynihan activity.

I am forwarding this on the odd chance you haven't gotten it yet.

Regards.

Very truly yours,

Michael J. Donovan

MJD:CR
Enc.

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
R. Martin

The National Interest/Michael Kramer

CHEAP SHOTS AT MOYNIHAN

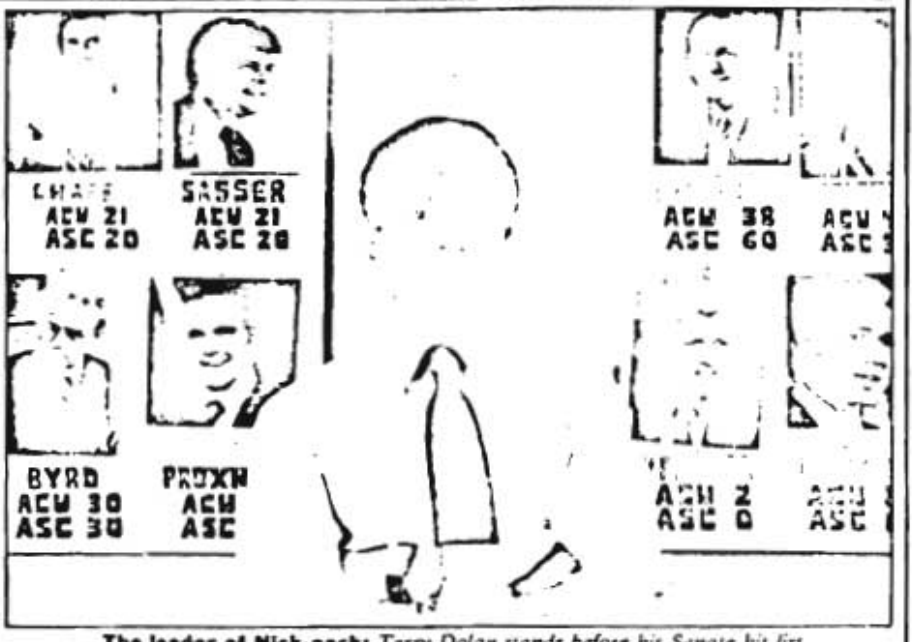
Those Slanted Commercials

YOU MAY NOT HAVE HEARD IT ALREADY, but you will before long. It's the first of a $750,000 wave of radio and television spots directed against Senator Pat Moynihan, and it goes like this:

ANNOUNCER: Who was the most liberal United States senator in 1980?
WOMAN'S VOICE (*somewhat hysterical*): Oh, I know, uh-huh, Ted Kennedy.
ANNOUNCER: I'm sorry, that's wrong. The most liberal senator was Daniel Moynihan.
WOMAN'S VOICE: You're kidding. Who says?
ANNOUNCER: The American Conservative Union.
WOMAN'S VOICE: No, more liberal than George McGovern?
ANNOUNCER: Well, Moynihan tied McGovern for most liberal.
WOMAN'S VOICE: I don't believe it.
ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And, you know, he helped develop our runaway welfare system.
WOMAN'S VOICE: Moynihan shares responsibility for our welfare system?
ANNOUNCER: Yes. Daniel Moynihan must share responsibility for our runaway welfare system.
WOMAN'S VOICE: Gee, I didn't know that.
ANNOUNCER: And he voted against capital punishment, opposed the B-1 bomber; he supports increased taxes; he even voted foreign aid to Communist countries like Cuba, Cambodia, and Vietnam.
WOMAN'S VOICE: Wait, wait, enough. What would happen if the people knew this?
ANNOUNCER: He'd be defeated. Which is why New York State taxpayers are fed up with Moynihan. . . .

What's wrong with this advertisement? Plenty—including what it says and who's saying it.

"Most everything about that spot is, at least, distorted," says Pat Moynihan. "For example, there's never been a substantive vote on capital punishment—and I favor it for certain crimes. I've consistently voted to cut back government spending—not to increase it. And it's just nonsense to say that I voted foreign aid to Communist countries. I voted against direct aid to those nations. I *did* vote for the Panama Canal treaties. But was that a giveaway? I don't think so. And as for being responsible for the welfare system, well, there's a word for that. It's 'lie.' It's spelled l-i-e. And how anyone could say that about me, after all I've written about welfare and said about it over twenty years is beyond me. Oh, yes, I did vote against the B-1 bomber—just like my Republican opponent did when he was in the House."



The leader of Nick-pack: *Terry Dolan stands before his Senate hit list.*

Moynihan's Republican opponent is Bruce Caputo—but it wasn't Caputo who paid for the attack on Moynihan, it was a Virginia outfit called the National Conservative Political Action Committee. "Nick-pack," as it's pronounced, was founded in 1975, and already it's a genuine force in American politics. Nick-pack has become powerful by taking advantage of new campaign-finance rulings that set no limit on the amount of money an "independent" group can spend to further a candidate's fortunes.

During the 1980 presidential campaign, more than $10 million was spent by independent organizations in support of Ronald Reagan. That was 382 times the $27,773 spent by similar groups supporting Jimmy Carter. Of the Reagan total, almost 20 percent was spent by Nick-pack—and over a million dollars more was spent by Nick-pack to help oust liberal senators.

Going into the 1982 federal elections, Nick-pack has targeted more than a dozen U.S. senators for extinction. Most, like Pat Moynihan, have learned that the politician who ignores Nick-pack does so at his peril. George McGovern, Frank Church, and John Culver, all casualties of Nick-pack's work in 1980, prove the point.

Which is why the Moynihan re-election apparatus has just readied an anti-Nick-pack ad of its own. The Moynihan counter-ad labels Nick-pack an "extreme right-wing political hit group" that "play[s] dirty," an organization that has already been "found guilty of campaign violations" by the Federal Election Commission.

The man behind Nick-pack is John ("Terry") Dolan, a wiry 30-year-old with close-cropped hair and a trim mustache. To Dolan, the New Right's hero, Ronald Reagan, doesn't go far enough. If Dolan had his way, it would be "98 percent for defense—keep America strong—and 1 percent on delivering the mail. That's it. Leave us alone."

As for the election statute that Dolan exploits, he himself calls it a "stupid law. . . . One thing we've done," he says, "is to wreck the federal election laws. And thank God for that." The result, as Dolan has admitted, is that "groups like ours are potentially very dangerous to the political process. We could be a menace . . . Ten independent expenditure groups, for example, could amass this great amount of money and defeat the point of accountability in politics. We could say anything we want about an opponent of a Senator Smith, and the senator wouldn't have to say anything." In other words, says Dolan, who claims his work is all on the up-and-up, "a group like ours could lie through its teeth, and the candidate it helps stays clean."

The key to Dolan's continued success lies in his remaining "independent" of the candidate whose cause he is aiding. Prove Dolan isn't independent and you

c 2 2 0 4 0 7 5 1 6 4 6

Photograph by Diana Walker—Camera 5





destroy his effectiveness. But, as Dolan gleefully points out, "no one can rationally define independence—it's a ridiculous concept." Dolan is right, and, as a consequence, he has got away with all kinds of collusive activities that the election law never intended to permit—but that the Federal Election Commission has been reluctant to stop. "By allowing [his] kind of behavior," says Moynihan of Dolan's operation, "the F.E.C. is proving itself not only gutless, but it is taking part in a new form of corrupt politics."

As a result of the F.E.C.'s laxity, which is mostly a product of its politicized membership, Dolan is, in Moynihan's words, "manifestly violating the law's intent. The connection between Dolan and Caputo is clear. To believe otherwise requires a degree of innocence unattainable in our time."

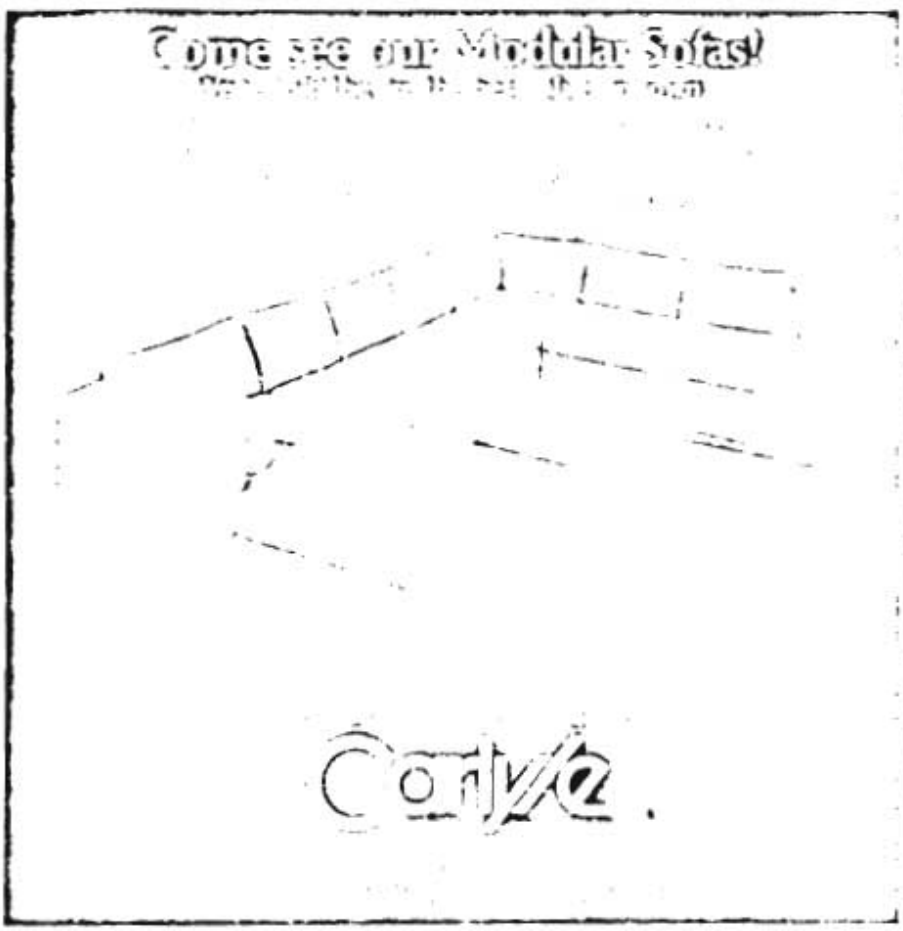
In addition to contributing $4,400 directly to the Caputo campaign (which is perfectly legal), Nick-pack shares with Caputo the services of Arthur Finkelstein, a pollster-cum-campaign strategist. Dolan defends the Finkelstein connection in two ways. First, he says that Finkelstein is "just a pollster"—a contention that is disputed by those who know the Caputo and Nick-pack organizations and also by internal Nick-pack memorandums that reveal Finkelstein's intimate involvement in the development of the anti-Moynihan commercials that form the core of Dolan's attack.

"No matter," says Dolan, for his second defense. "I have an advisory opinion from the F.E.C. that states I can talk to Caputo all I want and we can both use Finkelstein as much as we want *until* Caputo becomes the formal Republican nominee. Right now, Caputo is just a pre-primary candidate." Not so, says the F.E.C.'s general counsel, who has clarified the advisory opinion Dolan obtained from the F.E.C. last year.

But that hasn't stopped Dolan, so the war of "independence" drags on. Moynihan and various Democratic-party groups will likely bring an action against Dolan before the F.E.C. But, if past practice is any guide, the F.E.C. won't get around to a decision until well after Dolan has done his damage.

The F.E.C., though, is not the court of last resort. There is another way to thwart Dolan's cheating. Radio and television stations do not have to accept Dolan's spots—and some have already refused to do so. Others, meanwhile, have offered Moynihan free time to reply. In both cases, though, the majority of stations have made their determinations solely on the basis of whether or not they like the Nick-pack message. To me, this is little more than blatant censorship shrouded in some high-falutin rhetoric about the First Amendment's permitting the press to do any-





thing it chooses to do. "The stations shouldn't be doing that," says Dolan. "This is political comment, and the stations should permit *all* political comment, not just that with which they agree."

I think Dolan is right—but that doesn't mean he should be on the air. None of this action is going on in a vacuum. There is nothing hypothetical about it. Pat Moynihan and others are up for re-election. Nick-pack is out to get them. The agency charged with regulating campaigns has proved itself toothless, despite the fact that the intent of the law is clear. Until the loopholes are closed or the F.E.C. gets cracking, it should be the responsibility of the media to decide the independence question for itself, which is not all that difficult to do. Both the Nick-pack and Moynihan camps happily provide the press with documents supporting their positions. Any other course, like free time for Nick-pack's opponents, begs the question—and reinforces the low opinion in which the public holds the media. If the evidence of non-independence is clear—as it certainly seems to be in the case of the Nick-pack–Caputo connection—the press should face up to it and then pull the plug on Dolan's sweet gig. Government is not the repository of all wisdom, and when an agency like the F.E.C. is shirking its responsibility, that responsibility must be borne by others, in this instance by the media.

The person benefiting most from the current limbo is Bruce Caputo—who is trying to have it both ways. "Nick-pack is hurting me badly," says Caputo. "The message getting across is that I'm cheating. Well, I don't want Nick-pack here. I wish they'd just go away."

Caputo, by the way, buys the Dolan notion that the two of them can plan together until Caputo is officially designated as the Republican senatorial nominee—which is months away, and months after thousands of the anti-Moynihan spots have played to millions of New Yorkers.

So why, I asked Caputo, if he can communicate with Dolan all he wants, doesn't he simply tell Nick-pack to get lost? "Well," said Caputo, "I'm afraid to even ask Terry the time of day for fear of being attacked for collusion."

"So you're saying that while you deplore Nick-pack's activities in your behalf and while in your view you can speak with Dolan whenever you want to, you *won't* speak to him in order to tell him that you want him to stop?"

"That's right," said Caputo, "but maybe I will anyway. I'll have to talk to my lawyers."

What's next? Perhaps enough pressure will force Caputo to tell Dolan to cool it. But I'd bet that if he does, Bruce Caputo will be winking. ■

MEMO

DATE: 30 December 1981

TO: S. Dietz/R. Erickson

FROM: M. Donovan

RE: NCPAC - NEW YORK

I received a call from Robin Martin, the NCPAC New York Coordinator, that the NCPAC was considering extending the Anti-Moynihan campaign into several additional New York State markets, starting the third week of January 1982.

He has requested an estimate so they can make a decision.

Following are the specifications:

... 60 second commercial
... Adults 18+ years old
... One week schedule
... 24 spots/week (see pattern following)
... Multiple station buy
... Exclude stations with Rock & Disco sound emphasis
... Exculde ethnic stations, unless special exemption is made.

Markets:

Poughkeepsie
Albany
Utica*
Syracuse
Rochester
Buffalo
Binghamton

Tenative Markets:

Watertown
Elmira

0 7 0 4 0 7 5 1 6 4 9

Following is a general plan guideline:

DAYPART			NO. OF 60s
M-F	MD	6-10A	4
M-F	Day	10A-3P	5
M-F	ED	3-8P	4
M-F	Eve	8P-12M	3
Sat		6-10A	2
Sat		10A-3P	3
Sun		10A-3P	3
			24

MJD:CR

cc: R. Baxter

920407516550

A Fantuzzi - 914 - 666 - 2750 H.J. Lease.

County Place - 203 - 567 - 8763

Harlem Valley Psychiatric Hospital.
Pawling -



..... X-ray in this week either.
→ Called respiratory call back.

9200407516551

9904075652

ORIGINAL

BEFORE THE FEDERAL ELECTION COMMISSION

FINKELSTEIN

In the Matter of:	:	
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE AND THE CAPUTO FOR SENATE COMMITTEE	:	MUR No. 1424

Washington, D. C.

Tuesday, August 31, 1982

Deposition of

ARTHUR J. FINKELSTEIN

a witness in the above-entitled matter, called for examination by counsel for the Federal Election Commission, pursuant to notice, at the Federal Election Commission, 1325 K Street, Northwest, Washington, D. C. before William J. Allen, a Notary Public, when the parties were represented by the following counsel:

MILTON REPORTING, INCORPORATED
OFFICIAL REPORTERS
1601 Connecticut Ave., N.W., Suite 302
Washington, D.C. 20009
Phones: (202) 833-3598
833-3599

8904071653

ERRATA SHEET

My counsel has read the transcript of my deposition, taken at the offices of the Federal Election Commission on August 31, 1982, which deposition my counsel attended. I note the following errata:

1. page 10, line 10: should read "that," not "thus".
2. page 17, line 17: should read "pacs," not "pac".
3. page 29, line 2: should read "statement," not "state".
4. page 30, line 1: insert "and on the other side," after "on the same side".
5. page 38, line 12: should read "buy," not "buyer".
6. page 40, lines 11 and 13: should read "letter," not "level".
7. page 45, line 13: should read "memorable," not "monumental".
8. page 52, line 17: should read "in 1252/1299," not "1259".
9. page 56, line 18: should read "can", not "can't".
10. page 74, line 22: should read "1979-80," not "1970-80".

ARTHUR J. FINKELSTEIN

COUNTY OF Nassau
STATE OF NEW YORK

Signed before me this 5th day of October, 1982.

DION P. HOEY

My Commission Expires:

DION P. HOEY
NOTARY PUBLIC, State of New York
No. 4743224
Qualified in Nassau County
Commission Expires March 30, 19 83

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For the Federal Election Commission:

R. LEE ANDERSEN, Esq.
-and-
GARY JOHANSEN, Esq.
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

For the Witness, Arthur J. Finkelstein:

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McLean, Virginia 22102

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C O N T E N T S

WITNESS:	EXAMINATION BY COUNSEL FOR THE FEC
ARTHUR J. FINKELSTEIN	(By Mr. Anderson) 3

E X H I B I T S

EXHIBIT NUMBER	PAGE IDENTIFIED
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E X H I B I T S

(continued)

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Whereupon,

ARTHUR J. FINKELSTEIN

a witness, was called for examination by counsel for the Federal Election Commission and, after having been affirmed by the Notary, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR THE FEC:

BY MR. ANDERSEN:

Q State your name for the record.

A Arthur J. Finkelstein.

Q We have asked Mr. Finkelstein to come here today pursuant to a subpoena to give testimony in the Matter Under Review, 1424 as of today. Mr. Finkelstein is here in his capacity to give testimony as a witness and not as a respondent in this matter.

Are you represented by counsel today, Mr. Finkelstein?

A Yes, I am.

Q Is your counsel with you today?

A Yes, he is.

MR. ANDERSON: Does counsel wish to make any statements for the record at this point?

MR. SPARKS: No, not at this point.

BY MR. ANDERSEN:

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Q Have you consulted with counsel concerning this deposition today?

A Just briefly this morning.

Q Have you reviewed any documents for the preparation of this deposition?

A No, I have not.

Q Did anyone assist you in preparing for this deposition today?

A No.

MR. SPARKS: You mean other than counsel?

MR. ANDERSEN: Other than counsel.

BY MR. ANDERSEN:

Q The subpoena that the Commission served on you, I believe the date was April 30, 1992, requested a number of documents. Do you feel that any additional documents should be produced in response to that subpoena at this time?

A I don't think so. I don't know what you are saying, really.

MR. SPARKS: Do you understand the question?

THE WITNESS: Not particularly.

BY MR. ANDERSEN:

Q Arthur J. Finkelstein & Associates responded to our

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subpoena requesting documents. I am asking you if at this time you feel there are any other documents you have discovered since that review and so on?

A No.

Q What is your address, Mr. Finkelstein?

A Which one?

Q Your home address, please.

A 41 North Broadway, Irvington, New York.

Q Are you married?

A No, I am not.

Q What is your occupation?

A I am a pollster and political consultant.

Q How long have you been a pollster and political consultant?

A How long have I been earning money doing it?

Q That is correct.

A Because there is a difference.

Since 1971.

Q Could you state what your educational background is beyond primary and high school and university education, et cetera?

A I do have a degree from Queen's College, City

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University of New York, B.A.; did graduate work in a whole host of places afterwards but no degrees.

Q Do you belong to any professional associations?

A American Marketing Association, American Association of Political Consultants -- I don't think so, I don't know what is defined as a professional organization.

Q But you are a member of those you mentioned?

A Either I am or the company.

Q I take it you are familiar with the organization named Arthur J. Finkelstein & Associates?

A Yes.

Q Are you the founder of this organization?

A Yes.

Q Did you found the organization by yourself?

A Well, the history of Arthur J. Finkelstein & Associates is my first firm was something called Diraction, which I was in partnership with a man called F. Clifton White; and at some point during the course of that, I created Arthur J. Finkelstein and Associates.

Q What is the date you first formed Diraction with Mr. White?

A That goes back to 1971, or perhaps 1970.

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Q And Arthur J. Finkelstein & Associates became an entity?

A Shortly thereafter.

Q Are there other persons you would consider founders of Arthur J. Finkelstein?

A No, I was the only founder of Arthur J. Finkelstein.

Q Do you have a title?

A I am President.

Q Could you state what the business of Arthur J. Finkelstein & Associates is?

A It is a polling and political consultant business.

Q How many employees do you have?

A Well, again that is hard to say too specifically, because during this period, for example, we employ an awful lot of telephoners and coders and people who do that sort of thing, not permanent. Permanent staff, there's about a dozen.

Q There are two that are from the staff all the time, is that correct, and --

A No, I said about a dozen.

Q And what would you say the maximum number of employees would be on a seasonal basis?

A It could be 100 people a week.

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Q I am going to refer to Arthur J. Finkelstein as AFA at this point.

Now, is AFA divided --

A Excuse me, but could you call it AJF?

Q O.K., we will call it AJF then.

Is AJF divided into divisions?

A Structurally in terms of its operations?

Q Yes, sir.

A People have normal functions to perform, but there are not, quote "the finance division, the this division, the that division."

Q So other than functions required to operate AJF as a business, it does not divide into substantive responsibilities?

A The structure does not, no. I mean, clearly I do some things, but there is no categorizing of it.

Q Does AJF do business under any other names?

A Not AJF. There is another corporation named Murphy Power Media, which is an affiliate of AJF, or a subsidiary of AJF.

Q What is the relationship between AJF and Murphey Power?

A I think it is called a subsidiary, but I'm not sure

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if it is owned by the company or by me.

Q What does Murphy Power do?

A It is a media for an advertising firm.

Q Is it an advertising agency?

A In effect.

Q Is it concerned principally with the time buying for political campaigns?

A That is a thing that it does. It can produce advertising as well, but primarily it is into the field of time.

Q What percentage of its business would you say is devoted to time buying as to producing advertising?

A Well, dollars differ from time. Dollars, because time is an enormous quantity. Many people spend millions of dollars in time, it looks like it is 99 percent time buying.

Q Let me ask you then first with respect to time, time allocated?

A You have different people do different things. There is a full-time time buyer in Murphy Power, and most everybody else swings in and out.

Q Do any of the personnel, the dozen or so permanent you mentioned in AJF, do any of them work in Murphy Power?

A Well, we would allocate a certain amount of overhead,

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administrative function to that, and then when I'm doing something specifically, we will build through that, obviously.

Q Are you the president of Murphy Power?

A I don't know what I am with Murphy Power.

Q Would you say you are the person that is in charge of Murphy Power?

A Yes -- well, functionally; if you talk about the way my company operates, because I don't operate it. It is operated by my brother on a day-to-day basis, and he is more responsible for the administration of thus stuff than I am.

Q Can you state your brother's name?

A Ronald W. Finkelstein.

Q Do you work for compensation outside of your capacity as the president of AJF?

MR. SPARKS: I don't understand that.

BY MR. ANDERSON:

Q Are you employed outside of AJF?

A No. All my earnings, if you are asking this question, all my earnings come through AJF & Associates.

Q Do you know Mr. Bruce Caputo?

A Yes.

Q When did you first meet him?

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A I met Bruce probably eight years ago.

Q In your capacity as a political consultant, have you worked with him before his recent campaign for the Senate?

A I both worked with him and against him on two separate campaigns.

Q Could you please state what those campaigns were?

A In 1974 for Congress, when he was first elected to Congress we did surveys for him; and in 1980 when he ran for the Senate we were handling the Moynihan campaign against him.

Q Have you ever worked for him as a volunteer?

A No.

MR. SPARKS: What do you mean when you ask if he ever worked as a volunteer? You mean did he give him free advice?

MR. ANDERSEN: Has he worked for him without compensation?

THE WITNESS: What is "work"? When I talk to somebody, is that work?

MR. ANDERSEN: It is not necessarily.

MR. SPARKS: As everybody does in private industry, they get calls asking for professional advice, and you give it on the basis it may produce business later. Is that volunteer

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work as you define it?

MR. ANDERSEN: I will accept that as a definition if you want to respond to that question using that definition.

MR. SPARKS: No, it is your question. What do you mean by it?

MR. ANDERSEN: I am asking you then, excluding those instances where someone might have called you on the phone for advice without making a commitment with you for payment, have you done such work for Mr. Caputo?

MR. SPARKS: To the best of your recollection.

THE WITNESS: Well, the question is not -- it does not fit with what I do. When I sit down with somebody and -- you might be wanting to run for public office some day and you might say "let's have a drink," and during the course of the drink you might say "I'm interested in runing for Congress, what's my chances," and if I said good, bad or indifferent, is that a volunteer --

MR. ANDERSEN: No, that is not what I am thinking of. I am thinking of a more regularized capacity.

THE WITNESS: Then the answer is no.

BY MR. ANDERSEN:

Q Do you recall when you first learned that Bruce Caputo

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intended to run for the U. S. Senate this last time?

A Do I recall what?

Q When you learned that Bruce Caputo intended to run for the Senate.

A I guess he was always runing for the Senate.

Q Did you ever suggest to him that he run for the Senate?

A Of course.

Q Would you recall how long ago you may have first suggested he run for the Senate?

A Eight years ago.

MR. ANDERSEN: I have here what purports to be an agreement between AJF and Caputo for Senate Committee, and ask the court reporter to mark this as Exhibit A.

(A 5-page agreement between AFJ and Caputo for Senate, dtd 3 Mar. 1991 was marked Finkelstein Exhibit A for identification and attached to the original copy of the deposition)

MR. ANDERSEN: I am handing this document to the witness. Would you please review it.

MR. SPARKS: What is your question?

BY MR. ANDERSEN:

Q Directing your attention to page 2, paragraph numbered 2 states in this agreement that AFA, which is Arthur Finkelstein

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and Associates, will be paid $60,000 in accordance with the schedule that is listed.

Was this amount paid to AJF?

A So far as I know it was paid up until --

MR. SPARKS: In fairness, it sets out a payment schedule and then there is a subsequent schedule for payment pro rata in the event the candidate withdraws from the race, which I think eventually happened.

BY MR. ANDERSEN:

Q Well, my question was, was the entire $60,000 paid?

A I'm sure not.

MR. SPARKS: Plainly not by its last terms, since the last $25,000 is not due until next month.

BY MR. ANDERSEN:

Q Do you know how much in total was paid?

A No.

Q Who would have that information?

A My brother.

Q Were any additional payments made to you by the Caputo Campaign outside of this agreement?

A Not that I know of.

Q Does the Caputo Committee still owe AJF money from

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this contract?

A I don't think so.

Q Did the Caputo Committee request your services, the services of AJF?

A Pardon.

Q Did the Caputo Committee request AJF to work for it?

A Of course.

Q How did this come about?

A They asked.

Q Who was it that made the contact with you?

A Bruce.

Q Did you perform any services for the Caputo Committee before the date of this contract?

A No.

Q Did anyone from the National Conservative Political Action Committee request that you work for the Caputo campaign?

A No.

Q How often did you meet with Mr. Caputo to discuss his campaign?

A With him --

MR. SPARKS: You are talking about after the date of the contract?

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MR. ANDERSEN: Yes.

THE WITNESS: With him or his staff, or just with him?

BY MR. ANDERSEN:

Q First let me ask you just with him.

A I could not tell you exactly.

Q Did you meet with him more frequently than once a week?

A Oh, much less.

Q More frequently than once a month?

A Probably averaged once a month or so with Bruce.

Q These meetings with Mr. Caputo, were they typically just the two of you meeting?

A No, generally it would be with campaign staff: I don't like meeting with candidates.

MR. ANDERSEN: I have here a document on the letterhead of Arthur J. Finkelstein & Associates, two pages in length, dated June 1, 1981 that is a discussion of the Moynihan vulnerability. I ask the court report to mark this Exhibit B.

(A 2-page letter dtd 1 June 1981 from Finkelstein to Caputo was marked Finkelstein Exhibit B for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: Would you please review the document?

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BY MR. ANDERSEN:

Q Are you familiar with this document?

A Yes, but let me just finish reading it.

Q Are you familiar with Exhibit B?

A Yes.

Q Did you meet with Mr. Caputo to discuss this memorandum?

A I don't think so.

Q Did you meet with his staff to discuss it?

A I'm certain that some discussion with some staff did occur.

Q Did Mr. Caputo respond to this memorandum after he received it?

A No.

Q He did receive it?

A I have no idea. This was prepared purely for pac solicitation for fund-raising.

Q Did AJF distribute this to Pac?

A No, I think what happened here is that this went to the finance person in the campaign who placed it in a packet and sent it out to various pacs.

Q Do you know who at the Caputo Committee the campaign would have been responsible for handling that?

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A I don't recall.

Q Let me direct your attention to page 2.

First let me introduce something else here. I would like to go off the record, please.

(Discussion off the record)

MR. ANDERSEN: BAck on the record.

Let the record reflect we have discussed submitting marking for the record an exhibit that will be an extract from documents submitted to the Commission by AJF, and that counsel has stipulated that this was served for purposes of this deposition.

I am asking the court reporter to mark as Exhibit C a document of six pages dated August 1981 on Arthur J. Finkelstein & Associates stationery.

(A 6-page document on AFA stationery dtd August 1981 was marked Finkelstein Exhibit C for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing this to the witness. Could you review the exhibit?

MR. SPARKS: Is there anything in particular, because it is lengthy.

MR. ANDERSEN: I just want him to be able to say he

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is is familiar with it at this point.

THE WITNESS: Yes.

BY MR. ANDERSEN:

Q How many polls in the State of New York did AJF conduct during 1981?

A I don't know.

Q More than one?

A Certainly.

Q Would you say more than five were conducted?

A Throughout all of 1981?

Q In the State of New York.

A For the whole state, state-wide policy?

Q Yes.

A Probably close to that, I don't know precisely.

Q And Exhibit C that you have before you dated August 1981, is this not the questions for one of those polls?

A That is correct.

Q Do you know when this pole was conducted?

A Probably August 1981.

Q Do you know who requested this poll to be done?

A This apparently is the NCPAC pole.

Q Can you identify it as the NCPAC poll?

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A Yes, because otherwise I would not put some of these names in.

MR. SPARKS: What page are you looking at?

THE WITNESS: I'm looking at page 2, Question 10, which identifies it as a NCPAC.

BY MR. ANDERSEN:

Q Did NCPAC pay for any of the other polls you conducted in 1981?

A No, sir.

Q Did the Caputo Committee pay for any polls conducted in 1981?

A They paid for portions of some, and the Republican Senatorial Campaign Committee.

Q Is it possible for you to identify by the date or some of their characteristics the polls that RNC paid for?

MR. SPARKS: He did not say RNC.

THE WITNESS: No, I said the Campaign Committee.

BY MR. ANDERSEN:

Q Is it possible for you to identify by date or title the poll that was paid for by the Republican Senatorial Campaign Committee?

A No, they will surely give you the date, I don't know

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the precise date.

Q You don't have anything with you, but you obviously have a record of it.

A I don't know, I really don't.

MR. ANDERSEN: Off the record.

(Discussion off the record)

MR. ANDERSEN: Back on the record.

BY MR. ANDERSEN:

Q AJF conducted a poll at the behest of the Republican Senatorial Campaign Committee, is that right?

A Yes.

Q This poll, the results of this poll were made available?

A Yes. Actually there was another poll that was done by Market Opinion Research that was also done by the Senate Campaign Committee that was also made available to the Caputo Campaign.

MR. SPARKS: Let's take them one at a time.

BY MR. ANDERSEN:

Q Can you describe the first one? Or let me rephrase it.

AJF produced a survey at the behest of the Republican Senatorial Campaign Committee, which was made available to the Bruce Caputo Committee for the Senate?

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A Can I ask a question off the record?

MR ANDERSEN: Off the record.

(Discussion off the record)

MR. ANDERSEN: Back on the record.

THE WITNESS: My confusion lies in -- I'm not sure whether or not the January '81 poll we did or just the January '82 poll we did for the Senate Committee. It may very well be the MOR poll was taken January 1 or in December, whenever they did it.

Q The MOR poll?

A Yes.

Q What is that?

A Market Opinion Research.

Q But the MOR poll has nothing to do with your organization?

A No, but it was made available to the Caputo Campaign. That was definitely made available. I don't remember if I also did one at that period or just used the MOR poll and did one in 1982. We are just talking about the Senate Campaign poll.

Q You just stated the Caputo campaign did not pay you for any poll in 1981?

A That is correct.

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MR. SPARKS: Excuse me. Do you understand, Mr. Anderson, the testimony to be that the Caputo Campaign did not pay for any poll?

MR. ANDERSEN: Did not pay for any poll to AJF.

MR. SPARKS: Is that correct?

THE WITNESS: That may be correct.

MR. SPARKS: All right, I may have misunderstood the testimony.

THE WITNESS: Because we had the MOR things, we had a poll.

MR. ANDERSEN: So we have discussed two of the polls you did in 1981 for New York State, the one that went to the Republican Senatorial Campaign Committee and the one that was paid for by the National Conservative Political Action Committee. And I would like to refer to the National Conservative Political Action Committee as NCPAC.

So we have discussed those two, and there were three other polls.

THE WITNESS: I didn't say there were three; you asked me how many there were, and I said that --

BY MR. ANDERSEN:

Q Do you know who requested any of the other polls you

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might have done in 1981 in New York State?

A One -- well, none of them had to do with Caputo in any fashion.

Q Were they state-wide polls?

A Yes.

Q In the State of New York?

A Yes.

Q I ask you to answer the question then.

MR. SPARKS: We will object to it without a further showing who Mr. Finkelstein's clients are, what he does for them and the results of such polls are privileged between Mr. Finkelstein and his clients. The very fact he did a poll for a client may be sensitive inforamtion.

MR. ANDERSEN: Are you directing the witness not to answer?

MR. SPARKS: I am asking for a further proffer for its relevance. Do you have anything else?

MR. ANDERSEN: No, I don't.

MR. SPARKS: Then I direct him not to answer.

MR. ANDERSEN: We will move on to another area. We are not waiving our right to compel testimony should we decide to seek the court's assistance in obtaining that answer.

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MR. SPARKS: We will be happy to consider it if you go on and explain as to what relevancy --

MR. ANDERSEN: We will move on.

BY MR. ANDERSEN:

Q I would like to direct your attention back to Exhibit B, page 2, the second paragraph which states: "The Caputo image still tends to be vague but very positive. You've always had a good base in the Hudson Valley and this is an area of extreme weakenss for Moynihan. (In fact, outside of Albany and perhaps central Buffalo, Moynihan's weakness north of New York City is astonishing.)"

Is this statement consistent with the response to Exhibit C?

A This statement comes two months before Exhibit C.

Q Is it consistent with it?

A You mean the results?

Q Yes.

A I would have to look at it.

MR. SPARKS: Is the statement you just read in B consistent with the findings reflected in C, is that your question?

MR. ANDERSEN: Yes.

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MR. SPARKS: You have given your answer.

BY MR. ANDERSEN:

Q Did you prepare Exhibit B, Mr. Finkelstein?

A I think so, yes.

Q Do you recall upon what you based the information in Exhibit B?

A Most of it is out of the New York Times. Some of it is out of my campaign with Buckley in 1976, my involvement with D'Amato in '80.

Q Had you conducted any polls in New York State previous to writing this June 1st memo, Exhibit B?

A I have conducted surveys in New York State since 1970.

Q In the year 1981 had you conducted any polls previous to preparing Exhibit B?

A We had taken a poll prior to this date, yes.

Q Do you recall when that was?

A I don't know that this date -- it came from that poll. This date could very well have come -- to the extent there is data, it talks about voting records and stuff like that. The only thing that has the slightest tinge of polling stuff in it.

Q I am just asking you if you recall the date that that

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poll took place before?

A There would have been another poll that was taken in early 1981, and I don't remember the discussion right now.

Q Do you recall the date of that?

MR. SPARKS: Do you rembmer the date of the poll or not?

THE WITNESS: Well, there was a thing we tried starting for the New York Quarterly, which we try to go around and get corporate sponsorship out like the Texas Report or the California Report that various other companies have done in their whole state. We took a poll in early '81 and got very few subscribers to it and didn't continue.

Q The poll that you just described, is that the one by which you made a statement, I believe it was in an affidavit to the New York Elections Board?

A That is right.

Q Stating that it was not paid for by the Caputo for Senate --

A That is right. With questions like "are you going to buy a new car --

MR. SPARKS: You have answered the question.

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BY MR. ANDERSEN:

Q What was the purpose of Exhibit C, the poll that was reflected in Exhibit C?

A Well, to determine the strength, the weaknesses of Moynihan, how best to run a campaign against him, or to find those groups and issues where he would be most vulnerable.

Q Would you say that the results of the poll are a profile of attitudes of people toward issues that would be important in the Senate race in 1982?

A Generally. You don't get to ask everything you want, but yes.

Q Did you use the results of this poll, Exhibit C, to help you formulate the strategy that the Caputo campaign would follow?

A No, sir.

Q Did you ever discuss the results of this poll with anyone on the Caputo campaign?

A No, sir.

Q Did you discuss any of the polls that you may have done in 1981 with any members of the Caputo campaign?

A Certainly not in specific terms.

Q If you discussed them in general terms, what would that

have meant?

A A general state like -- I can't tell you the specific case, I can't tell you what I said, but I go through thousands of polls -- well, that is too many -- hundreds of polls during the year and collect data, and there would be things, for example, like Reagan's favorable ratings where I would say in recent polls his name gets weaker or stronger. I would not necessarily reflect back on that given poll, but on service polls.

Q You did help formulate the strategy of the Caputo campaign?

A Yes.

Q What kind of resources do you draw upon to make such recommendations of strategy?

A Well, I have run both successful United States Senator races since 1970, I'm an election analyst, we do endless polls in New York and election analysts for both the Republican Senatorial and the State Senatorial Committee, various county committees, probably a third of the Congressional delegates; I'm very familiar with New York issues and personalities. We did run unsuccessfully Buckley's race against Moynihan in '76, and I'm terribly familiar with that, and terribly familiar with those issues. I also know Bruce Caputo for a long time, both

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on the same side, and I know what his strengths and weaknesses are, and frankly it is not that difficult.

Q You do use the data that you collect from your polling operations to help you make these decisions?

A Of course.

Q I would like to direct your attention back to Exhibit A, page 2, the first paragraph seems to set out a number of things that AJF agrees to provide in the way of consulting services.

A Yes, sir.

Q Can you tell me generally what AJF did for the Caputo Committee?

A Well, we oversaw the campaign, and by that I mean I helped develop the strategy, helped plan the free and paid media, we gave advice as to fund raising scheduling, organization, the whole gamut of political operation. Basically that is it.

Q Would you characterize yourself as the chief campaign stragegist in this campaign?

A Yes.

Q And who would have been second to you?

A John Sheehan -- well, different stages of the campaign different people, but John Sheehan was the manager and Bob Wilson was the campaign chairman.

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Q You said your involvement with the Caputo campaign started with this?

A My involvement with Bruce goes back eight years.

Q I said with the Committee, per se.

A The Committee per se, yes, it would have started with that.

Q At what point did Mr. Sheehan come on the campaign?

A Months later.

Q And who would have been --

A There was a string of other campaign managers before.

Q What was Robert Wilson's role?

A Campaign manager.

Q What did he do?

A Helped raise money.

Q Were any other persons from AJF working on the Caputo Committee?

A Only as support back-up for me administratively.

Q You are saying that is just administrative support?

A Yes.

Q Did any other persons from AJF assist you in developing the strategy for the Caputo campaign?

A No.

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Q I would like you to look on page 2 at the top at other various items listed there. Can you tell me what the difference between election stragegy and election techniques might be?

A No.

Q Is this a standard agreement that AJF --

A I don't know, I don't handle the money, but I would think so.

Q You would not know whether this is a standard agreement?

A I have never looked.

MR. SPARKS: Mr. Finkelstein is the brains in the organization, he has other people take care of the administration.

BY MR. ANDERSEN:

Q Is there any difference between election techniques and campaign techniques as far as you're concerned?

A No.

Q Media advice is listed under there. What kind of advice did you give the Caputo campaign with respect to media --

A I guess this would refer to what sort of communication tools to use and in what frequency and with what method.

Q So you were involved in all those?

A I don't think there is much happened in the Caputo

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campaign that I was not sitting in on.

Q The Caputo Committee produced two television ads, is that correct?

A I don't remember exactly.

Q Did you assist in describing any television ads for the Caputo --

A No.

Q Do you recall how many you assisted?

A No -- two sounds reasonable.

Q Would it be fair to say that you wrote the television edits?

A It would be fair to say I had a major input into those ads, not necessarily total input.

Q Who else would have worked on those ads?

A As a general rule, I let everybody take a look at them.

Q You don't recall anyone specifically?

A You go through the campaign manager and he does whatever he does with it.

Q Number 1.6 says "Issues significant to the public," on Exhibit A. Are these issues significant to the public issues that you determined for the use of your polling techniques?

A Well, yes, but it also is from my history, from my

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involvement in lots of other things to know that Afghanistan is not important and that the Falklands were -- neither has come up in this.

Q With respect to campaign staffing advice mentioned in Exhibit A, I would like to refer you back to Exhibit B. There is a statement in the last paragraph of the second page that I guess is numbered as Number 2, "we are putting together a top notch team - everybody I've wanted is coming on board with perhaps one exception and he promised me an answer by February."

To whom were you referring as the one exception?

A Jim Givven, who is the press secretary for Al D'Amato who I wanted for press secretary.

Q Did you have specific persons in mind when you mentioned it in that letter?

A In this one?

Q Yes.

A You mean here "people we are putting together a top notch team"?

Q Yes.

A Not particularly. It was for fund-raising purposes.

Q Did you make recommendations to the Caputo Committee as to personnel?

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A Of course.

Q Do you recall in addition to Mr. Sheehan any other persons you may have recommended the Committee hire or take on?

A Well, I generally profile the kinds of people that they need and then they would introduce XYZ persons and see whether they fit. Generally speaking if they had two eyes, two legs and a mouth they were acceptable.

Q So you made these decisions?

A Well, I did make the decisions; they were acceptable to me.

Q If a person was not acceptable to you, would that person have been acceptable to the Caputo Committee?

A If they really wanted him, sure.

Q Did this occur in any instances that you know of?

A Not that I know of.

Q How long have you known John Sheehan?

A Maybe two years, maybe a little longer.

Q Do you recall how you first met him?

A He was with the Chamber of Commerce as their National Political Director and I was speaking somewhere for the Chamber of Commerce, and he went to dinner with the whole crowd.

Q You have conducted or at least been a part of some

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candidate training seminars, most of this kind of thing. Was Mr. Sheehan ever involved in any of those?

A I don't know.

Q Did you ever work with Mr. Sheehan on any political campaign other than Mr. Caputo's?

A Certainly not at this point; now we are working together, but not prior.

Q Not prior?

A He was with the U. S. Chamber -- or no -- but he was with a Congressman, but I didn't work for that congressman.

Q Did you hire Mr. Sheehan for the Caputo campaign?

A I don't do the hiring, I don't run the campaign from that point of view. But I did introduce John Sheehan. John was recommended by Tom Cantrell. Tom Cantrell suggested that John would make a good campaign manager. I said I knew him, was sure of that, would meet with him, did meet with him, had him meet with Bob Wilson, in fact took them to a World Series game -- so it was in October -- we went to a play-off game and sitting there having popcorn, Mr. Sheehan and Mr. Wilson talked, at which point Bob said fine, and he made the arrangements, negotiated salary, and the rest.

Q Did you offer him a job?

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A I don't offer jobs, that is why there is a Bob Wilson.

Q But did you make a recommendation to the campaign?

A Yes.

Q Did you do media buys for the campaign, for the Caputo campaign?

A Yes, we did.

Q Did you personally make arrangements to do media --

A Well, I speak with the time buyer and tell him what to purchase, all kinds of things to purchase.

Q But you would have made executive decisions about the time buying?

A I don't understand.

Q In other words, would you have made decisions as to what media, how often, recommendations perhaps on the radio stations or the TV stations?

A Well, again it doesn't quite work that way. I would say to a candidate that he should be on television or he should get some exposure, this is the time you should do it, as fast as you can.

Frankly, I wanted the Caputo people to be on very very early, because it was important that he be seen as the front runner in the race. There was very real possibility at that time

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that Jack Kemp would be running for the Senate seat, and our job was to try to impress on people, particularly Kemp, that he not come into the race, that if he do, he would clearly bring Caputo away, that at least it would cost him some money and be somewhat a difficult thing for him to do.

So I wanted Bruce on time very very early, he didn't do so. At the time he bought time then the question was, he would be willing to put up X-amount of money, where did I think it should be spent. He went back and talked to his father and do the things people do.

Q You would make arrangements with the time buyer?

A Yes, the time buyer was through Murphy Power media.

Q And you had the authority to obligate the --

A No, I don't deal with money. In other words, I can't say write a check. I can plead with him and I can from my advantage point on high, but my relationship I have found over the years, it is best I don't touch money -- not my own money.

Q Let the record reflect that the counsel is conferring with the witness.

Who would have had that authority to obligate the money for the media buys?

A Bruce.

3 7 0 4 0 7 0 1 6 9 2

Q Did anyone else have that authority?

A No.

MR. ANDERSEN: I have here what purports to be an initial fund raising letter for the Caputo Committee, the heading is somewhat hard to read, but I think the text is readable, and I would like it marked as Exhibit D.

(A 4-page document, undated, beginning "Dear Friend, I need your help..." was marked Finkelstein Exhibit D for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing Exhibit D to the witness and ask that you review it.

BY MR. ANDERSEN:

Q Are you familiar with this document?

A It looks like a fund-raising letter.

Q Have you seen this document before?

A This particular document?

Q Yes, this particular document.

A I don't remember. Yes, I'm sure I have, but I don't remember.

MR. SPARKS: Do you remember?

THE WITNESS: No.

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BY MR. ANDERSEN:

Q Do you recall when the Caputo Committee was preparing its initial fund-raising letter?

A No.

Q Were you involved in the preparation at the idea stage for the fund raising letter?

A Well, I don't remember this particular letter, so if it is about this particular letter, the answer is no. If it is fund raising in general, yes.

Q Do you recall being involved in the first fund raising level?

A I don't know whether the Committee made its fund raising level, it does not have a date here.

Q It purports to be the first one.

Let me direct your attention to page 2 at the top where there are checked off a series of votes that Senator Moynihan apparently made as part of the theme of this fund-raising letter. Do you see those?

A Yes.

Q Did you suggest to the Caputo Committee at any time they use these particular votes that Moynihan made?

A I don't know. These votes are used in every fund

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raising level for every candidate, used in the Panama Canal, we started in '76 and have not stopped yet.

MR. ANDERSEN: I have here what purports to be the text of Mr. Caputo's announcement speech, and I would ask the reporter to mark it as Exhibit E, please, dated September 15th and consists of two pages.

(A 2-page document dtd 15 Sept. 81 entitled Text of Bruce Caputo's Announcement speech was marked Finkelstein Exhibit E for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing Exhibit E to the witness and hiscounsel for review.

BY MR. ANDERSEN:

Q Do you recognize this announcement speech?

A Yes.

Q Did you write the text of this speech?

A No.

Q Do you know who did write this announcement speech?

This was done by lots of people, including, and particularly Bruce.

Q Did you discuss the text of his announcement speech?

A Oh, of course.

Q And you made suggestions?

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A Certainly.

Q I direct your attention to the second page, the second full paragraph in the middle of it there is a statement in the text: "Most people are unaware that Daniel Moynihan is the father of the runaway federal welfare system."

Did you suggest to Mr. Caputo that statement be included?

A Certainly the welfare issue; that particular phrase I don't know if it is his or mine.

Q But you did suggest "father of the welfare system"?

A Yes, I used that in Buckly against Moynihan for three months in '76.

Q How about skipping one sentence after that one and following with: "In 1980, the American Conservative Union rated Moynihan at zero percent, ranking him as the most liberal senator, tied with George McGovern, more liberal in fact than Ted Kennedy."

Would that be your suggestion?

A Again, certainly the direction of it; I don't know the specific --

Q At least the theme was yours?

A Certainly.

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Q Did you edit any draft?

A I started to go through it, but I have never asked a candidate to say something he does not believe in, so therefore they always have to do it.

Q Did you suggest to Mr. Caputo when he should announce his candidacy?

A I wanted him to announce his candidacy Day 1.

Q Day 1 of what?

A Did I suggest? Yes, I suggested a date, it was not the date he chose, but I did suggest a date.

Q When did you suggest he should announce?

A Right away, in the spring.

Q Spring of 1978?

A Yes.

Q And he didn't announce until September 15th?

A That is right.

Q Did you suggest to him how the announcement should be made?

A That he stand up and announce, run around the stage.

Q Did you make any recommendations as to why?

A Certainly, of course.

Q Where did you recommend?

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A Every media throughout the state.

Q Are you familiar with a New York company named Time Buying Services, Inc.?

A Not as Time Buying Services, but as TBS, yes.

Q We will refer to Time Buying Services, Inc. as TBS. How long have you been familiar with that organization?

A When they bought the time for NCPAC.

Q Do you know any of the officers of that company?

A I have never met any of them.

Q Do you know Mr. Michael Donnovan?

A He called me once or twice on the phone.

Q Your conversations with Mr. Donnovan were the only contacts you had with anyone at TBS?

A Yes.

Q Do you recall how many times you spoke with Mr. Donnovan?

A No, not precisely; as I said, a couple of times.

Q Have you ever met Mr. Donnovan?

A No, not to my knoweldge.

Q Have you ever had an association with him, even on the telephone, outside of the media buying?

A Not to my knoweldge.

Q For the NCPAC?

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A No.

MR. SPARKS: This looks like a dry hole, Mr. Anderson, but you should feel free to go ahead.

MR, ANDERSEN: I do.

BY MR. ANDERSEN:

Q Do you know a person named Elaine Gansz?

A Yes.

Q When did you first make her acquaintence?

A She was at NCPAC. I don't know when I met her.

Q You have known her for a long time?

A I neither know her well nor for a long time.

Q Do you recall when the first time was you met her?

A It was not monumental.

Q Did you have the occasion to contact her during 1981 regarding the anti-Moynihan NCPAC?

A She acted something as a liaison between --

Q Between you and NCPAC?

A Yes.

Q Did she ask you to do anything specifically with respect to the anti-Moynihan project?

A No, I did what I do for all projects I'm involved with, I take a poll, make suggestions what they should do in terms of

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the usage of issues, usage of media.

Q Did they take your advice in this instance?

A In large measure. They never do totally.

Q What was your advice?

MR. SPARKS: To whom?

MR. ANDERSEN: To NCPAC.

MR. SPARKS: About what?

MR. ANDERSEN: About the anti-Moynihan campaign. That is what we are discussing.

THE WITNESS: He was vulnerable on liberalism and he could be made more liberal. He was volnerable on a zillion things, but primarily set up a liberal-conservative -- he was very vulnerable for that. And of course, that came directly out of the NCPAC poll.

Q That came out of the NCPAC poll that we had marked as Exhibit C?

A That is right.

MR. ANDERSEN: I have here what purports to be the NCPAC organization, or at least one version of the NCPAC ad on Mr. Finkelstein's letterhead, and ask the court reporter to mark that as Exhibit F.

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(A 1-page document on the letterhead of Arthur J. Finkelstein & Associates, undated, was marked Finkelstein Exhibit F for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing the exhibit to the witness for his review.

BY MR. ANDERSEN:

Q Have you seen this before?

A Yes, I have.

Q Did you write this dialogue?

A Yes.

Q Do you recognize the handwriting in the two script parts, "Elaine"?

A No.

Q Do you recognize the other, "is this true" I believe it says.

A I don't know. In fact I can't even read it, it looks like it says "is this here?"

MR. SPARKS: There is also the date 8/27/82 and other illegible handwriting. Is that offered?

MR. ANDERSEN: No, it is not.

BY MR. ANDERSEN:

Q Were you paid by NCPAC to prepare this dialogue?

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A Well, I write scripts directly out of the poll all the time, that is one of the things I do when I give anybody a poll result, I'll tell them -- I'll read the poll and say 62 percent said this, 18 percent said that. But you might say this, there is a picture of a class, and we'll say this or that, and we do that all the time. So this is, I consider this just part of doing the poll.

Q And this would be part of the poll, Exhibit C that we have discussed?

A That is right, when I charge people extra money for their stuff, it is when I produce it or buy the time.

Q And this was not the case with respect to this dialogue?

A No, in fact they changed it subsequent.

Q I know you said you don't deal with money, but I will ask you anyway, do you recall how much you were paid for the poll we have as Exhibit C?

A No, seriously I don't.

Q Ronald Finkelstein would be the person to ask?

A Yes.

MR. SPARKS: I might note for the record that the contract, Exhibit A, signed by Ronald Finkelstein for Finkelstein

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and Associates. Ronald takes care of the administrative area for AJF.

MR. ANDERSEN: I realize he does that, but we are talking about Exhibit C, and the record should reflect that the contract by which counsel is speaking is Exhibit A.

BY MR. ANDERSEN:

Q Do you know a person named Sheryl Bendis?

A It sounds vaguely familiar, but I don't know. Who is she?

Q It is my understanding she is associated with NCPAC or works for NCPAC.

A Sheryl of NCPAC, yes; I think she answers the phone.

Q Did you have any occasion to discuss any matters of substance with her?

A I think she answers the phone.

MR. SPARKS: Is that a no?

THE WITNESS: That is a no.

BY MR. ANDERSEN:

Q Did you work with anyone else at NCPAC other than ElaineGansz on the anti-Moynihan campaign?

A I get phone calls from various people who are there, but I can't give you a name.

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Q Did you discuss this with Terry Dolan?

A Which piece of it?

MR. SPARKS: Discuss what with Terry Dolan?

MR. ANDERSEN: The anti-Moynihan radio spot.

THE WITNESS: Oh, sure.

BY MR. ANDERSEN:

Q So you would have had a give-and-take discussion concerning what you would make of the poll?

A Sure, of course.

Q Does anyone besides yourself do polling for NCPAC?

A Yes. I know they have used Lance Tarrance, Richard Wirthlin and Penn & Shonen, a whole host of people.

Q Do you have any idea what proportion of the NCPAC polling you did during 1981?

A Not as much as we would like.

MR. ANDERSEN: I have here a registration of incorporation from the District of Columbia dated what appears to be 21 February 1979, and ask the court reporter to mark this as Exhibit G.

(A 1-page document, a D. C. form, was marked Finkelstein Exhibit G for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: Let the record reflect that the exhibit

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is being handed to the witness and his counsel.

BY MR. ANDERSEN:

Q Are you familiar with this document, Mr. Finkelstein?

A No. I mean I know what it says, but no.

Q You have never seen it before?

A No.

Q I direct your attention to Number 5, the left lower corner where there is listed Arthur Finkelstein, address, 13 Third Street, Rye, New York. Is that your address?

A That would have been me at an old office address.

Q Then I take it you were at this point a director of NCPAC in 1979?

A Is this a director's --

Q It is a list of directors.

A Then I was a director.

Q How long were you a director of NCPAC?

A I think from what I have been reading, a year.

Q Did you specifically resign?

A I think so.

MR. SPARKS: I will proffer NCPAC's records show he resigned on May 31, 1979.

BY MR. ANDERSEN:

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Q Were you a director before 1979?

A Do you know?

MR. SPARKS: No.

THE WITNESS: I was there a year and resigned in May, it would have been for a year before. I'm not being flippant --

MR. SPARKS: Do you know?

THE WITNESS: No.

MR. SPARKS: Then you don't know.

BY MR. ANDERSEN:

Q Were you involved in the founding of NCPAC?

A No.

Q You were not involved in the original organization?

A I was not a director, not a formal member of the organization, no.

Q Well, besides the question whether you were a formal director, were you involved in the conception of NCPAC?

MR. SAPRSK: Mr. Dolan testified 1259 who founded NCPAC.

THE WITNESS: It would be stretching it to say that.

BY MR. ANDERSEN:

Q It would be stretching what?

A The answer would be no.

BY MR. ANDERSEN:

Q Would you be able to say whether or not AJF received such payment from NCPAC?

A No.

Q In addition to the poll you discussed earlier in your testimony, what other involvement have you had in the NCPAC organization?

A Well, when?

Q Since 1979.

A Officially?

Q I'm asking you what involvement?

A Well, they pay me for service. As a part of doing service, I do my whole "sthick." I, as a volunteer, do campaign seminars for them.

Q As a volunteer?

A Yes.

Q Is that what I said?

MR. SPARKS: Is this for NCPAC?

THE WITNESS: Oh, that's not for NCPAC. Scratch that. I guess that is all I do for NCPAC, service.

BY MR. ANDERSEN:

Q Do you do other work for NCPAC affiliates?

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A Yes.

Q Could you please state what that is?

A Campaign training school, both for candidates and campaign workers.

Q For what would that be? Does it take a name?

MR. SPARKS: It is National Conservative Foundation, NCF. He may not be aware of it.

BY MR. ANDERSEN:

Q Any other activities for any other affiliates that you know of?

A No.

MR. ANDERSEN: Why don't we take a 10-minute recess at this time.

(Short recess was taken)

MR. ANDERSEN: Back on the record.

BY MR. ANDERSEN:

Q Let me go back to the anti-Moynihan project itself. Was it your idea?

A No. Negative campaigns have been something they have done for years, and I have been a part of some and not a part of others.

Q And with respect particularly to the anti-Moynihan

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campaign, this was not something you suggested?

A Not particularly, no.

Q Now referring to the Caputo Committee, I want to tie up something there.

I now don't know exactly how much you were paid, but you were paid for your consulting services?

A Certainly.

Q By the Caputo campaign?

A Yes.

Q And were you paid for your services to NCPAC?

A No, I only get paid from NCPAC for the polls we use.

It's very important that we make this point, that before we engaged in the Moynihan thing with NCPAC, I asked what the legal requirements are because of all the FEC stuff you guys are involved with, and I was told that there is an advisory that says as long as they are not candidates against each other, in separate campaigns, I can work for Moynihan and work for Caputo. As a general rule, I can't work on the Moynihan thing to poll, then that would be fine, and that's all I did.

Q But you were doing the polling work for NCPAC that you described earlier in your testimony?

A Yes.

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Q For compensation?

A Yes, of course.

Q And you were doing the work, the consulting work for the Caputo Committee for compensation?

A Yes.

Q Were those activities doing on simultaneously?

A Yes, but I understood -- it's very important -- I understood that that was proper and legal based on an advisory opinion from the FEC.

Q Who told you that?

A Both lawyer and NCPAC.

Q Your lawyer for Caputo --

A No, Herge.

Q Is the anti-Moynihan project still going on at this point?

A No.

Q Do you know when it ceased?

A About a month after Caputo disappeared, they put on another waive of radio and then announced they were not going any further.

MR. SPARKS: For the record, Mr. Caputo did not pass away?

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THE WITNESS: No, he just dropped out of the race.

MR. SPARKS: In New York you have to be clear on these things.

BY MR. ANDERSEN:

Q Did you advise Mr. Caputo to drop out?

A I was the last person who told him to stay in, and ultimately I told him the situation had become hopeless.

MR. ANDERSEN: I have here a letter dated October 30, 1981 on Time Buying Services, Inc., TBS letterhead, consisting of five pages, and I ask the court reporter to mark it as Exhibit I.

(A 5-page document on stationery of Time Buying Services, Inc. dtd 30 Oct 81 was marked Finkelstein Exhibit I for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing this to the witness and his counsel for their examination.

BY MR. ANDERSEN:

Q Are you familiar with this letter?

A I have certainly seen it, yes.

Q On page 3 it shows that you were to receive a copy. Did you receive a copy?

A Yes.

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Q Did you discuss the contents of this letter with Mr. Donovan from TBS?

A Yes.

Q Did he contact you or did you contact him?

A I don't remember.

Q Do you recall the substance of that conversation?

A Did I agree with what he was preparing to buy, and I said yes and no, depending on what stage of this thing it was at, depending on the demographics we needed to go after.

Q Did you discuss the content of the radio announcement?

A I really don't remember, I'm sure we did.

Q Is there anything that might refresh your recollection?

A Well, I think this would, I'm sure we did.

Q Did you make any recommendations to making any changes in the text that might increase its acceptability to the radio station?

A I always have opinions, so I'm sure I made suggestions.

Q Do you recall what that was?

A No.

Q You don't recall what the suggestion was?

A No.

Q Did you make any suggestions as to additional radio

A I heard they had.

Q Did you discuss this with Elaine Gansz?

A No, I doubt it.

Q Do you recall discussing it with Mr. Dolan?

A Yes.

Q Do you recall the substance of that discussion?

A We thought that perhaps somebody who was behind the time was leaking this stuff to Moynihan.

Q One of the radio stations?

A No, we thought the time buyers.

Q Were you concerned about the possible leak from the time buyer?

A No.

Q You weren't concerned that having your name on here might create some sort of problem?

A No, of course not. When people take polls they ask me questions, always.

Q Do you know a person named Robin Martin?

A Yes.

Q When did you first make Mr. Martin's acquaintance?

A Sometime during the Caputo campaign.

Q When you made his acquaintance, was he working for the Caputo campaign?

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A No, he never worked for the Caputo campaign; he was a distant peripheral friend of Mr. Caputo's, or acquaintance is probably a better way to put it.

MR. ANDERSEN: I have three campaign rosters I would like marked as Exhibit J.

(A 4-page document entitled Bruce Caputo Campaign, containing names and addresses, was marked Finkelstein Exhibit J for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing Exhibit J to the witness for his review. Would you please take a look at that. These campaign rosters were submitted by AJF to the Commission as part of the document production.

BY MR. ANDERSEN:

Q I direct your attention to page 2 of the second roster, the roster dated 8/15/81.

A Yes, sir.

Q Down about midway down the end to Robin B. Martin's name appears.

A Yes, sir.

Q With the apparent title Political Manager.

A Yes.

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Q Is this correct in this designation?

A No, he had no official -- he was a guy who wandered in and out, I have a lot of respect for him, but he had no specific function in the campaign.

Q Why would his name be on this campaign roster?

A I don't know why Peter Buckley's name is; I never heard of Curtis Kelly. I don't know.

Q Did you prepare this roster?

A No.

Q Was it prepared by the Caputo campaign?

A I would think so.

Q Have you ever seen it before?

A No.

MR. SPARKS: Do you believe it is wrong?

THE WITNESS: Well, he certainly was not the political manager.

MR. ANDERSEN: I think he stated it was incorrect.

BY MR. ANDERSEN:

Q On the last page is another roster dated 10/15/81. Again, second to the last, Mr. Martin's name appears. Have you ever seen this roster before?

A No, I have not seen it.

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Q Again, you would state that it was incorrect?
A What is incorrect?
Q He was not a staff member?
A Absolutely not.
Q When you said Mr. Martin wandered in and wandered out, what does that mean?
A Sometimes when we hold meetings he would come; sometimes he would not.
Q Would this be unusual for a person to come and go?
A Every campaign has it.
Q Could anyone come and go for a campaign meeting?
A Sure, if I felt good about him.
Q How do you know Mr. Martin?
A I just met him during the Caputo campaign.
Q Have you ever met him in connection with any of NCPAC's activities?
A No, I never met him before this.
Q Let me ask you about Mr.Martin. Did he talk at the meeting? Did he have anything to say?
A I cannot recall a thing he said. I'm sure he uttered words, but I don't recall a thing he said.
Q Was he involved in developing the strategy for the

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Caputo campaign?

A No.

Q Did he offer suggestions as to strategy?

A Not that I recall.

Q Did he take notes?

A I have no idea.

Q Are you saying at some point he came in and you would see him sitting there?

A Yes, he was an advance man for Ford, and that is his background; he gets people from Place A to Place B.

MR. SPARKS: They are called balloon blowers in the trade.

MR. JOHANSEN: What is a balloon blower?

MR. SPARKS: It is a guy that comes into town the night before and blows all the balloons up for the candidate so when he comes to town all of the balloons come down.

BY MR. ANDERSEN:

Q And that is what Mr. Martin was?

A I don't know.

MR. ANDERSEN: I have here two documents. They are apparently on the stationery called New York State Taxpapers Fed up with Moynihan; one is dated December 16th and the other

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Q Can you identify the organization, not legally?

A It was --

MR. SPARKS: Do you know?

THE WITNESS: Do I know what the organization is technically? No.

BY MR. ANDERSEN:

Q So the answer is --

A Technically no, this is the NCPAC -- can I say --

MR. SPARKS: Testify.

THE WITNESS: It is a NCPAC New York thing, but how it works, I don't know.

BY MR. ANDERSEN:

Q So it is a group of some kind associated with NCPAC that is based in New York?

A That is right.

Q And does it still exist?

A I don't know.

Q Was it involved with the anti-Moynihan efforts?

A Certainly.

Q Of NCPAC's origin here?

A Certainly.

Q Did you know that Mr. Martin was involved in this group

A Certainly.

Q Did he ever indicate to you whether he supported --

A He didn't like him.

Q Did he say that he thought NCPAC would support Mr. Caputo?

A Well, the arrangement was if NCPAC came in because there was part of the advisory discussion -- if NCPAC came in and did the anti-Moynihan stuff, that by law they would have to stop at the time of the primary, so the question was, did they want to go in and do the anti-Moynihan stuff with me and have to get out by the middle of September or whenever the primary was going to be, or did they want to do it with me -- not do it with me and stay around until November; and the decision was let's do it like we have done all the others.

Q Which is?

A With me, at least the major ones that were successful last year. So we just decided to stop in September and whatever happened happened, if Caputo was the nominee it would make me happy, it would not necessarily make NCPAC happy. They would much prefer Jack Kemp.

Q NCPAC would have preferred Kemp?

A Yes. As a matter of fact right now I'm working for

A Yes.

Q This does not concern candidate training service that you have worked?

A Oh, I don't know if -- are those done from NCPAC? I don't know.

Q Let me ask you --

A Assuming that is correct, yes.

Q Do those concern, are those for just potential candidates or for candidate staff?

A This is just for candidates.

Q In any of these you have done previous to this time and perhaps under the auspices of one of the --

A No, I think the candidates are done through this, I don't know all the details.

Q Did Bruce Caputo ever attend any of these seminars?

A No.

Q Did any of the Caputo staff attend?

A No, not the candidate school.

Q There were other seminars that might have been for campaign staff persons --

A Not for NCPAC.

Q Not for NCPAC?

0 0 4 0 7 1 7 2 0

A No.

Q For whom?

A I don't know. I do them for Republican National Committee, for the National Conservative Foundation, I do them for a lot of things.

MR. ANDERSEN: Thank you.

I have here a letter to Mr. Fowler of the FCC from Curtis Herge dated September 22, 1981, and I would like the court reporter to mark this as Exhibit No.

(A 4-page letter dtd 22 Sept. 81 from Herge to Fowler was marked Finkelstein Exhibit N for identification and attached to the original copy of the deposition.)

MR. ANDERSEN: I am handing the exhibit to the witness and ask him to examine the letter.

BY MR. ANDERSEN:

Q Are you familiar with this letter?

A I can't even read it.

Q It is a bad copy. It is a letter discussing independent expenditures, and it asks the FCC to take certain action against Mr. Moynihan's campaign. The reason why I bring it to your attention, you are shown as receiving a copy, or at least a copy has been mailed to you, on the last page.

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A Yes, sir.

Q We can probably get the original and you are free to look at it, but the original is not very good either.

A I can't tell you whether or not -- certainly from this I can tell you that I don't remember ever having read this letter.

Q Are you familiar with the letter, the contents?

A Specifically, no.

Q You didn't suggest such a letter be written to the FCC, did you?

A I don't think -- this is hieroglyphics.

MR. ANDERSEN: Can we just adjourn for a moment please?

(Discussion off the record)

MR. ANDERSEN: Back on the record.

Those are all the questions we have. Do you care to conduct any examination, counsel?

MR. SPARKS: No.

THE WITNESS: Can I do my little thing?

MR. SPARKS: Go ahead.

THE WITNESS: I just want to repeat for the last time that all of this activity that was done for Caputo and done for NCPAC, the NCPAC activity was in no way acts different from my

THE WITNESS: So that is what I was saying; all the things you say we did which I have agreed we have done as opposed to the things I said we didn't do, both on the Caputo side and Moynihan side are clearly well within at least as I understood, that opinion as stated to me, well within the scope of the law, and that is it.

MR. ANDERSEN: Thank you.

(Whereupon, at 4:30 p.m. the taking of the deposition of ARTHUR J. FINKELSTEIN was concluded.)

- - -

(I have read the foregoing pages 3 through 75 inclusive, which is a correct transcript of the answers made to the questions therein recorded.)

_____

(witness)

8904071723

CERTIFICATE OF NOTARY PUBLIC

I, William J. Allen, the officer before whom the foregoing statement was taken, do hereby certify that the witness whose statements appear in the foregoing transcript was duly sworn by me; that the statement of said witness was taken by me in shorthand and thereafter reduced to typewriting under my direction; that said transcript is a true record of the statements given by said witness; that I am neither counsel for related to, nor employed by any of the parties to the action to which this statement relates, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

William J. Allen

Notary Public in and for
the District of Columbia

My Commission expires

April 30, 1987

8900407 0172 4

AGREEMENT made as of the 3rd day of March, 1981 by and between ARTHUR J. FINKELSTEIN & ASSOCIATES, INC. with an address at 117 Smith Avenue, Mt. Kisco, New York 10549 ("AFA") and CAPUTO FOR SENATE, a political committee organized pursuant to federal election law ("Committee"), with an address c/o Austin Fragomen, Jr., Esq., Fried, Fragomen & Del Rey, P.C., 515 Madison Avenue, New York, New York 10022.

W I T N E S S E T H:

WHEREAS, AFA is a corporation duly organized and existing under the laws of the State of New York, and

WHEREAS, the Committee is the principal campaign committee of Bruce F. Caputo and has been organized for the purpose of supporting the election of Bruce F. Caputo as Senator from the State of New York, and

WHEREAS, the Committee desires to retain AFA as a political consultant,

NOW THEREFORE, in consideration of the sum of One (1) Dollar and other good and valuable considerations as set forth herein, the parties hereto agree as follows:

1. Subject to the consulting fees to be paid under section 2, AFA covenants and agrees to provide the Committee consulting services with respect to:

X - A

3-31-82 (WSH)

1.1 Election strategy;

1.2 Election techniques;

1.3 Campaign techniques;

1.4 Media advice;

1.5 Scheduling advice;

1.6 Issues significant to the public;

1.7 Campaign staffing advice.

2. The Committee shall to pay AFA $60,000, as earned, in accordance with the following schedule:

2.1 Ten thousand dollars ($10,000) on or before March 22, 1981;

2.2 Five thousand dollars ($5,000) on or before June 1, 1981;

2.3 Five thousand dollars ($5,000) on or before September 1, 1981;

2.4 Five thousand dollars ($5,000) on or before January 1, 1982;

2.5 Five thousand dollars ($5,000) on or before April 1, 1982;

2.6 Five thousand dollars ($5,000) on or before August 1, 1982;

2.7 Twenty-five thousand dollars ($25,000) on or before September 20, 1982.

3. In the event of (a) the death or disability of Bruce F. Caputo, (b) Bruce F. Caputo's declaration of Senate candidacy for FCC purposes and subsequent withdrawal, or (c) Bruce F. Caputo's failure to declare his Senate candidacy for FCC purposes and his written notice to AFA that he shall not become a candidate for FCC purposes, then in any of the foregoing events, the consulting fees specified in section 2 shall be due only to the date of death, disability, withdrawal or written notice ("Event") and if the date of the Event is between the section 2 payment dates, the payment next due shall be pro rated to the date of the Event.

4. In addition to the fees to be paid AFA under section 2, the Committee shall reimburse AFA for all reasonable and necessary expenses incurred by AFA directly resulting from the services to be rendered under section 1. The Committee shall reimburse AFA within thirty (30) days after presentation of receipts therefore in accordance with federal election law. No expenses in excess of

$ 500.00 shall be incurred without the prior approval of an authorized representative of the Committee.

5. AFA agrees that in addition to its other employees, Arthur Finkelstein will be available for consulting with the Committee a minimum of two (2) days per month.

6. This agreement shall be governed by the laws of the State of New York.

7. AFA shall look solely to the estate and property of the Committee and AFA, its successors and assigns shall not have any claim against the (chairman, treasurer or any officer, employer or agent thereof, for the satisfaction of AFA's remedies, including, but not limited to, the satisfaction of a judgment (or other judicial process) requiring payment of money by the Committee in the event of any default or breach by the Committee with respect to any of the terms, covenants or conditions of this agreement to be observed and/or performed by the Committee.

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IN WITNESS WHEREOF, the parties hereto have set their hands on the day and year written above.

CAPUTO FOR SENATE COMMITTEE

By _____

ARTHUR J. FINKELSTEIN
& ASSOCIATES

By _____

5778E

9204073017229

02 MAY 20 A10:46

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

DATE: June 1, 1981

TO: Bruce Caputo

FROM: Arthur J. Finkelstein

RE: Moynihan vulnerability

CONFIDENTIAL

Moynihan is more vulnerable than most people believe. He received only 54% in 1976 coming off a well publicized stint at the U.N., riding Carter's coattails in New York, and receiving conservative credentials from Bill Buckley's National Review (Man of the Year) and Bill Safire's endorsement.

Undoubtedly, Moynihan's almost hysterical liberal voting record has disappointed his conservative supporters (Panama Canal, pay raise, anti-death penalty, anti-Reagan budget cuts, etc.).

His favorable rating is not outstanding. His behavior in Washington sometimes leaves colleagues and others aghast. Blacks have always resented him. Buckley even received 24% of the black vote. He's been a political opportunist for so long that most of his natural constituencies are at his throat.

The Liberal Party will probably find an opponent for him. Speculation has centered around Elizabeth Holtzman, Herman Badillo, or Carol Bellamy. Any one of these could beat him in a Democratic Primary (Badillo and Bellamy should be watched closely in this regard, even if the Market Opinion Research poll said Holtzman would beat Moynihan in a primary).

The Right-to-Life Party endorsement for Caputo will help undermine some of Moynihan's Catholic base. He is also wrong on a whole series of "Catholic Issues". A Conservative Party endorsement of Caputo should keep Moynihan fighting for a shrinking middle ground.

Moynihan will have money, but so will the Caputo Campaign. We can, I think, count on the Senate Campaign Committee for almost a million dollars in the fall. Our problem will be early money. Remember, Buckley never really attacked Moynihan, so Moynihan had almost a free ride. He is so vulnerable both on personal deportment and voting.

EXH B

8-31-82 (CJC)

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D'Amato's and Reagan's elections produced new confidence among New York Republicans. They think they can win this with help. There does not appear to be any Republican primary developing and a unified party can be counted on.

The Caputo image still tends to be vague but very positive. You've always had a good base in the Hudson Valley and this is an area of extreme weakness for Moynihan. (In fact, outside of Albany and perhaps central Buffalo, Moynihan's weakness North of New York City is astonishing.)

You will be superb on television - one on one with Moynihan in debate is desirable. He's not what he was and frankly, you're probably brighter.

The Republican base in New York is growing as it is everywhere. The host of new G.O.P. Congressmen, LeBoutillier, Carman, Wortley, Molinari, McGrath, etc. will give any Republican candidate more local base support than previously.

With Reagan in the White House, finally we'll have a friend working towards your election rather than neutrality or in opposition. (Moynihan's vote, along with just a handful of Liberals against the Reagan budget cuts, could not have endeared him to Ronald Reagan.)

I talk of four resources necessary to conduct a strong campaign: 1) Money - we will have late money, we're starting National Direct Mail and Local Donor programs now, PAC money is crucial but can be expected; 2) People - we are putting together a top notch team - everybody I've wanted is coming on board with perhaps one exception and he promised me an answer by February; 3) Candidate - I've always felt you were a star in training. As for Moynihan, he is by all accounts deteriorating - the world has changed; and 4) Time - we're starting early enough - important.

8204076731

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

NEW YORK STATE

AUGUST, 1981

1. Areas

   1. Brooklyn 2. Bronx 3. Queens 4. Manhattan 5. Erie

   6. Nassau 7. Suffolk 8. Westchester 9. Monroe

2. Area (Media Broken-up)

   1. N.Y.C. 2. N.Y. Suburbs 3. Hudson Valley 4. Buffalo

   5. Rochester 6. Syracuse/Utica 7. Binghamton/Elmira

   8. Plattsburg/Watertown 9. Albany

3. Media

   1. N.Y.C 2. Albany 3. Rochester 4. Syracuse/Utica

   5. Buffalo 6. Plattsburg/Watertown 7. Binghamton/Elmira

4. Are you registered and intending to vote in the next general election?

   1. Yes 2. No/All other responses (TERMINATE)

5. If you were to label yourself, would you say you are a Liberal, a Moderate, or a Conservative in your political beliefs?

   1. Liberal 2. Moderate 3. Conservative 4. Don't know/Refused

6. In your opinion, what is the single most important issue facing the United States today?

   _____

7. In your opinion, what is the single most important issue facing the State of New York today?

   _____

8. What issue or action do you most associate with Daniel Patrick Moynihan?

   _____

Exh C
8-31-82 WTK

9. What issue or action do you most associate with Bruce Caputo?

---

10. Now I am going to read you a list of names. Will you please tell me whether you have a favorable or unfavorable opinion of each? If you have no opinion or have never heard of the person, just say so.

	Favorable	Unfavorable	No Opinion	Never Heard Of
a. Ronald Reagan				
b. Hugh Carey				
c. Daniel Patrick Moynihan				
d. Al D'Amato				
e. Bruce Caputo				
f. John Terry Dolan				
g. Jack Kemp				
h. National Conservative Political Action Committee				
i. The Moral Majority				

11. Now from a smaller list of names, would you please tell me which ones you think are Liberal, which are Moderate, and which are Conservative? If you do not know, just say so.

	Liberal	Moderate	Conservative	Don't know
a. Ronald Reagan				
b. Daniel Patrick Moynihan				
c. Bruce Caputo				

12. What do you like most about Daniel Patrick Moynihan?

---

13. What do you like least about Daniel Patrick Moynihan?

---

14. Here is a list of items recently prominent in the news. Could you tell me whether you approve or disapprove of each of the following?

	Approve	Disapprove	Don't know
a. Restoring capital punishment for specific crimes			
b. The Panama Canal Treaty			
c. Federally funded abortions			
d. Sex and race quotas for employment and admission to schools			

(cont.)

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(continued)

	Approve	Disapprove	Don't know
e. President Reagan's economic program			
f. Aid to Communist Viet Nam			
g. Tuition tax credits for parents of children attending private and parochial schools			

15. Which Senator represents you best, Daniel Patrick Moynihan or Al D'Amato?

1. Moynihan 2. D'Amato 3. Both 4. Neither

5. Don't know/Refused

16. Do you agree or disagree with each of the following phrases concerning Daniel Patrick Moynihan?

	Agree	Disagree	Don't know
a. Is too liberal for New York			
b. Works hard for New York State			
c. Is intelligent			
d. Is sort of odd			
e. Is a leader in the Senate			
f. Is a heavy drinker			
g. Is a strong supporter of Israel			
h. Is anti-black			
i. Is a strange character			
j. Can be defeated for re-election			

17. Could you please tell me whether Daniel Patrick Moynihan favors or opposes each of the following:

	Favors	Opposes	Don't know
a. Restoring capital punishment for specific crimes			
b. The Panama Canal Treaty			
c. Federally funded abortions			
d. Sex and race quotas for employment and admission to schools			
e. President Reagan's economic program			
f. Tuition tax credits for parents of children attending private and parochial schools			

18. Would you vote to re-elect Daniel Patrick Moynihan regardless of who ran against him?

1. Yes 2. No/Depends/Don't know/Refused

9904075173 4

19. Would you vote against Daniel Patrick Moynihan regardless of who ran against him?

1. Yes 2. No/Depends/Don't know/Refused

20. Would you vote to re-elect Al D'Amato regardless of who ran against him?

1. Yes 2. No/Depends/Don't know/Refused

21. Would you vote to re-elect Hugh Carey, Governor, regardless of who ran against him?

1. Yes 2. No/Depends/Don't know/Refused

21A. With which political party are you registered?

1. Republican (GO TO #23) 2. Democrat (GO TO #22) 3. Conservative (TO #23)

4. Liberal (GO TO #23) 5. Independent (GO TO #23)

6. Right to Life (GO TO #23) 7. Other (specify)_____(GO TO #23)

8. Don't know/Refused (GO TO #23)

22. IF DEMOCRAT, ASK - If the Democratic Primary Election for Senate were held today and the candidates were Daniel Patrick Moynihan and Elizabeth Holtzman, for whom would you vote?

1. Moynihan 2. Holtzman 3. Undecided

CONTINUE TO ASK ALL RESPONDENTS THE FOLLOWING QUESTIONS:

23. If the election for Governor were held today and the candidates were Jack Kemp, the Republican, and Hugh Carey, the Democrat, for whom would you vote?

1. Kemp 2. Carey 3. Undecided

24. If the election for U.S. Senate were held today and the candidates were Bruce Caputo, the Republican, and Daniel Patrick Moynihan, the Democrat, for whom would you vote?

1. Caputo (GO TO #24A) 2. Moynihan (GO TO #24B) 3. Undecided (GO TO #25)

SAID CAPUTO, ASK - Why not Daniel Patrick Moynihan?

_____

IHAN, ASK - Why?

_____

25. What is the last grade of formal education you have completed?

1. Grade school or less 2. Some high school 3. High school graduate

4. Some college 5. College graduate 6. Don't know/Refused

26. What is your annual family income - Is it under $10,000, between $10,001 & $20,000, between $20,001 & $30,000, between $30,001 & $40,000, or over $40,000?

1. Under $10,000 2. Between $10,001 & $20,000 3. Between $20,001 & $30,000

4. Between $30,001 & $40,000 5. Over $40,000 6. Don't know/Refused

27. Would you say you always vote Democrat, usually vote Democrat, vote for as many Democrats as Republicans, usually vote Republican, or always vote Republican?

1. Always Democrat 2. Usually Democrat 3. Democrat/Republican

4. Usually Republican 5. Always Republican 6. Don't know/Refused

28. What is your religion?

1. Protestant 2. Catholic 3. Jewish 4. Atheist/Agnostic

5. Other (specify)_____ 6. Don't know/Refused

29. ASK NON-DEMOCRATS ONLY - Were you ever a Democrat?

1. Yes 2. No 3. Don't know/Refused

30. What is your national ancestry, other than American?

1. German 2. Polish 3. Italian 4. English 5. Russian

6. Irish 7. French/French Canadian 8. Hispanic 9. Afro-American

A. Other European B. Other (specify)_____

C. Don't know/Refused

31. Do you or does any member of your family who lives in this household belong to a labor union?

1. Yes 2. No 3. Don't know/Refused

32. What is your race?

1. White 2. Black 3. Other (specify)_____

4. Refused

R 9 0 4 0 7 0 1 7 3 6

33. What is your age?

1. 18-25 2. 26-40 3. 41-55 4. 56-65 5. Over 65

6. Refused

34. Sex?

1. Male 2. Female

9 9 0 4 0 7 1 7 3 7

9204075173 8

UNITED STATES SENATE

Dear Friend,

I need your help on one of the most important decisions of my life.

Let me get right to the point.

With the election last year of Ronald Reagan and a Republican Senate, we have taken the first step towards getting our nation's economy and skyrocketing inflation under control.

The President's Economic Recovery Program to reduce government spending, cut taxes, and balance the federal budget, is now being debated by the Senate.

Just the other day some of President Reagan's closest advisors told me of the high expectations the President has of success... ...but they also relayed to me a fear and concern the President has.

As you have read in the newspapers or seen on television, the President's plan will take three to four years to take effect.

It's a tough job to dismantle all those out dated liberal programs and remove burdensome federal regulations that have been stifling our economy for the past forty years. Particularly, with powerful old-line liberal special interest Senators working against the Reagan program.

Sadly--Patrick Moynihan voted against the wishes of New York's people and against the needs of our nation when he joined with Ted Kennedy and a handful of other ultra-liberals voting against Presid Reagan's budget cuts.

The Senate is held by the Republican Party, but only by a slim margin.

The Democrats have plans to retake the Senate in 1982, and if Republicans lose only four seats, then the liberals will take over again and end Ronald Reagan's dream for economic recovery.

That is why I am writing and asking friends and neighbors if I should help President Reagan by challenging liberal Senator Patrick Moynihan in the 1982 election.

Senator Moynihan has consistently voted for wasteful big spending programs, new government agencies and against new defense programs.

Paid for by Caputo for Senate Committee

EXHIBIT 19

Exh D

He has even voted against critical strengthening of our crim: laws:

Let's just take a quick look at Moynihan's voting record in Washington for the past five years:

✓ Voted to give away the Panama Canal.

✓ Voted to give himself a pay raise 4 times in 4 years!

✓ Voted for Foreign Aid to Communist Cambodia, Cuba, Laos, and Viet Nam.

✓ Voted against balancing the 1980 budget, the 1981 budget, and Ronald Reagan's 1982 budget.

✓ Voted against giving you a 10% income tax cut.

✓ Voted for raising your taxes on gasoline.

✓ Voted for a new plush $60 million Senate office building at your expense

and

✓ Voted against capital punishment.

Patrick Moynihan tries to portray himself as a "conservative" in New York, but his voting in Washington...is right down the line with Ted Kennedy and the other special interest liberals.

The truth needs to be told about Moynihan and his votes. Ronald Reagan needs another Senator from New York he can count on.

That's why I need your help.

Patrick Moynihan is vulnerable, very vulnerable...but liberals are massing hundreds of thousands of dollars in New York to help him retain his seat.

They know what happened to their other favorites last year like George McGovern and Frank Church. The liberals can't afford to lose Moynihan, and we who believe in Ronald Reagan can't afford to have him in the Senate rejecting the Reagan initiatives any longer.

Should I run for the Senate? For the next year and a half I will need to spend fourteen hours a day, six or seven days a week campaigning if I'm to get our message - the Reagan Republican message - to the voters.

If I am to run, I must start today.

I must know if I can count on your support.

This is where you can help.

9904075173 9

I've enclosed a pledge form and postage paid, self-addressed envelope. On the form, please fill it out and tell me if I should run against liberal Democrat Patrick Moynihan.

The Caputo campaign will be a grassroots campaign. A campaign involving thousands of volunteers working together to defeat Patrick Moynihan. Your involvement, even a few hours of your time could make the difference.

And as I reported, the liberal special interest groups are already filling Senator Moynihan's campaign chest.

Moynihan has already amassed three hundred thousand dollars because he knows how vulnerable he is.

While Moynihan has special interest money, I have only the generosity of you and other dedicated Americans who have the best interest of their country and state at heart.

I hope you will help me get my campaign started by mailing a check today.

Maybe you can send $25.

Or maybe you can send $50, $75, $100, or even $250, $500, or more.

Of course, even if you can only afford $10 or $15, you will be doing more for my campaign and helping President Reagan than you know.

I believe that America is destined to remain the greatest country in the world. Our Forefathers knew it when they founded our Republic.

I look forward to representing this great state and country as New York's U.S. Senator.

I know that, with your support, we can get the job done.

Sincerely,

Bruce Caputo

P.S. When I was Ronald Reagan's New York Campaign Vice Chairman, I learned how important an early start can be. Won't you take the time to fill out the enclosed card and help the President today?

P.S.S. My Campaign Manager is Bob Wilson. Why don't you call Bob at (212)944-8330. Thanks.

8 9 0 4 0 7 5 1 7 4 0

Dear Bruce.

I agree! You should run for the United States Senate in 1982. We must defeat Patrick Moynihan before he and his ultra-liberal friends destroy President Reagan's programs that will make America great again.

Here's my contribution to kick off your campaign. Enclosed is a check in the amount of:

☐ $15 ☐ $25 ☐ $75 ☐ $100 ☐ $250
☐ $500 ☐ $1000 ☐ $ _____ Other

Federal law limits contributions to $1,000 per person. No corporate contributions or cash donations, please.

Federal Law Requires We Ask the Following:

Name _____

Home Address _____

City _____ State _____ Zip _____

Title or Occupation _____

Name of Company (or Self Employed) _____

_____ City/State _____

Please make checks payable to: Caputo for S
2 West 45th Street, Suite #1703, New York, NY

Paid for by Caputo for Senate. A copy of our report is filed, and is available from the Federal Election Commission, Washington, D.C. 20463

9 9 4 0 7 5 1 7 4 1

3 9 2 4 0 7 5 1 7 4 2

UNITED STATES SENATE

2 West 45th Street • Suite 1703 • New York, NY 10036 • (212) 944-8330

FOR FURTHER INFORMATION CONTACT:

John Samerjan (212) 944-8330
(212) 459-4691

September 15, 1981

TEXT OF BRUCE CAPUTO'S ANNOUNCEMENT SPEECH

~~I am announcing today that I am a candidate for~~ election to the United State Senate.

I am running because I believe in a militarily strong America because the S military threat is real as the people of Poland and Afghanistan know, an America that can speak from strength and act with resolution, an America that has the m might and the moral will to defend the freedom of its allies.

I am running because I believe in an economically strong America and becaus I have seen how decades of liberal domination of Congress have sapped our econo vitality, promoted excessive inflation, and have undermined the private sector's ability to provide jobs for our people through economic expansion.

I am running because I support President Reagan in his efforts to turn our nation around and restore its military and economic strength.

I am running because crime has made all of us feel unsafe, from the street of New York to villages, cities, and rural communities around the state. What w need from Washington is a program of crime prevention and control, including re of capital punishment. We need tougher judges, and more police who are better t and better equipped.

I am running because the people of New York need access to the decision m and as a Republican Senator I would have real influence in the Senate and the House.

I have a record of hard work and achievement, a record that I am proud of As a defense planner, New York State Legislator, United States Congressman, an private businessman. During the Vietnam era, I served in the Defense Departmen working on military manpower needs in Southeast Asia, the SALT negotiations, a United States requirements for fighter attack aircraft, naval forces, and nuclea defense. In the New York State Assembly I supported legislation to strengthen criminal laws and reduce government spending. In Congress, I voted for a stron defense, for measures to cut waste and fraud out of welfare and other programs and for a balanced budget.

-MORE-

EXHIBIT 17

92040751743

UNITED STATES SENATE

2 West 45th Street • Suite 1703 • New York, NY 10036 • (212) 944-6330

I founded and developed my own business which has grown to considerable size and success. I have been a partner in America's oldest and most successful management consulting firm. And now, as an Alternate United States Representative to the United Nations, I am encouraging non-aligned nations to compare the freedom and opportunity of America to the repression and stagnation of Soviet society.

New York's present Senator Daniel Patrick Moynihan is one of the principal architects of big government, a system that penalizes hard work and rewards laziness, a system that is bleeding dry the hard-working, taxpaying middle class citizens. Most people are unaware that Daniel Moynihan is the father of the runaway federal welfare system. Moynihan has been at the forefront of support for the growth of government for the past three decades. In 1980, the American Conservative Union rated Moynihan at zero percent, ranking him as the most liberal Senator, tied with George McGovern, more liberal in fact than Ted Kennedy.

President Reagan is bringing about a quiet but momentous revolution. He is doing what the people of New York elected him to do, reduce the size and cost of government. He is cutting back on wasteful federal spending, shrinking the bloated bureaucracy, fighting to let working people keep more of the money we earn instead of paying more and more taxes. But sadly, Daniel Moynihan has a very different vi from the people of New York. He is among the last of the big-time spenders. Moynihan is the last of a dying breed that still fervently believes in taking money from those of us who have earned it and giving it to those who have not. Deep in his heart, he still believes that the productive people in our society should sup who choose not to work. He was one of only a handful of ultra-liberal Senators who opposed the President's plan to reduce federal spending.

Daniel Moynihan and I both claim to be strong supporters of Israel, but Moynihan bitterly opposes defense measures that will allow the United States to defend Israel and our other allies.

It is on these issues that I am running. I believe that I will be elected to the United State Senate.

I am gratified that even before the formal announcement of my candidacy, I h gained the endorsement of 35 Republican County leaders, many hundreds of contrib and thousands of volunteers around the state. As I go around from city to city, to town, county to county, the enthusiasm at the grass roots level for a new phi of government, for a new direction, is inspiring. The people of New York want an efficient government, well managed and compassionate, and dedicated to the preser of the traditional values upon which this great nation grew and upon which it wi continue to flourish. As the next Senator from New York, I will offer just that.

Arthur J. Finkelstein & Associates
117 South Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

Elaine

ANNOUNCER: (Bing, Bing) Who was the most Liberal United States Senator in 1980?

MAN'S VOICE (somewhat hysterical): Oh I know, uh uh, Ted Kennedy.

ANNOUNCER: (Buzz, Buzz) I'm sorry, that is wrong. The most Liberal Senator was Daniel Moynihan.

MAN'S VOICE: You're kidding. Who says?

ANNOUNCER: The American Conservative Union.

MAN'S VOICE: No more Liberal than George McGovern.

ANNOUNCER: Well, you are right. Moynihan tied McGovern for most Liberal.

MAN'S VOICE: I don't believe it.

ANNOUNCER: Well, he voted to give away the Panama Canal, and he opposed cutting back on government spending. And you know, he was the father of our runaway welfare system.

is this true? how prove?

MAN'S VOICE: Moynihan is responsible for our welfare system?

ANNOUNCER: Yes, Moynihan created our runaway welfare system.

MAN'S VOICE: Gee, I didn't know that.

ANNOUNCER: (Quickly) And he voted against capital punishment, opposed the B-1 Bomber, he supports increased taxes, he

MAN'S VOICE: (Interrupts) Wait, enough. What would happen if the people knew this?

ANNOUNCER: He'd be defeated. Which is why the National Conservative Political Action Committee has paid for this commercial.

(Replace with proper disclaimer)

8/27/82

Gov-6-7

24

EXH F
8312 (a)(3)

R900407501744

DO NOT MAKE ANY CHANGES IN THIS BOX. READ CHECK LIST.

CURTIS HERGE
NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE
7908 OLD SPRINGHOUSE ROAD
MCLEAN, VA. 22101
FEC551CO

1. STATE OF INCORPORATION: DISTRICT OF COLUMBIA

C.T. Corporation System
918 16th Street, N.W., Washington, D.C. 20006

2. CITY OR COUNTY (IN WHICH) WHERE REGISTERED OFFICE IS LOCATED: Fairfax County

3. STOCK (READ DEFINITIONS ON REVERSE SIDE)

CLASS AND SERIES	PAR VALUE PER SHARE OR NO PAR VALUE	NUMBER OF SHARES (NOT DOLLARS) AUTHORIZED	ISSUED	OUTSTANDING	TREASURY
None					

6. AMOUNT OF CORPORATION'S STATED CAPITAL: None

7. DATE OF LAST ANNUAL STOCKHOLDERS OR MEMBERS MEETING: n/a
(The Corporation has no members)

CHECK LIST

1. CHECK
2. CHECK
3. CHECK
4. CHECK

4. PRINCIPAL OFFICERS (DO NOT LIST MORE THAN FIVE, BUT YOU MUST INCLUDE A PRESIDENT, SECRETARY, TREASURER, AND THE TITLE OF THE REGISTERED AGENT, IF AN OFFICER)

NAME	TITLE	COMPLETE RESIDENCE ADDRESS (NOW STREET NO. OR R.F.D.)
John T. Dolan	Chairman	3129 S. 14th St., Arlington, Va. 22204
Jacqueline Cecil	Treasurer	2729 Cutlass Road, Vienna, Va. 22180
J. Curtis Herge	Secretary	1102 Waynewood Blvd., Alexandria, Va.
Betty L. Williams	Asst. Treas.	7800 Taylor Drive, Fairfax, Va. 22110

5. DIRECTORS (ATTACH EXTRA SHEET IF NECESSARY)

NAME	COMPLETE RESIDENCE ADDRESS (NOW STREET NO. OR R.F.D.)
Terry Dolan	28 Catherine St., Norwalk, Conn. 06851
Tim Roer	1487 Gulf to Bay Blvd., Clearwater, Fla. 33515
Brad Bradley	P.O. Drawer 6670, Anchorage, AK. 99508
Leroy Corey	3011 Study Lane, Cedar Falls, IA 50613
Curt Clinkscales	1961 N. Woodley, Arlington, Va. 22207
Frank Donatelli	2230 S. Piney Point Dr., 6204, Reston, Va. 22091
John T. Dolan	3129 S. 14th St., Arlington, Va. 22209
Christine Fitzsimmons	11 Third St., Apt. N.Y. 10580
Jack Singer	Terrace Heights, Katonah, N.Y. 10536

I DECLARE UNDER PENALTIES OF PERJURY THAT THE REGISTERED AGENT, THE OFFICERS AND DIRECTORS NAMED HAVE BEEN NOTIFIED OF THEIR APPOINTMENTS AND HAVE CONSENTED TO SERVE, AND THAT THE FACTS IN THIS REPORT ARE TRUE AS OF

THIS 21 DAY OF February 19 79

John T. Dolan, Chairman

THIS REPORT MUST BE SIGNED BY ONE OF THE FOLLOWING: THE CHAIRMAN, VICE-CHAIRMAN OF THE BOARD OF DIRECTORS OR THE PRESIDENT OR VICE-PRESIDENT, SECRETARY OR ASSISTANT SECRETARY. NO OTHER OFFICER MAY SIGN, AND THE NAME AND POSITION OF THE PERSON SIGNING MUST BE STATED ON THE REPORT IF THE BASE NAMED

EXP C
23 22 1080

8 9 0 4 0 7 5 1 7 4 5

REPORT OF RECEIPTS AND DISBURSEMENTS
For a Political Committee Other Than an Authorized Committee

81 NOV 20 PM 1:56

(Summary Page)

1. Name of Committee (in Full)
National Conservative Political Action Committee

Address (Number and Street)
1500 Wilson Blvd., Suite 513

City, State and ZIP Code
Arlington, VA 22209

☐ Check if address is different than previously reported.

2. FEC Identification Number
C00024687

3. ☐ This committee qualified as a multicandidate committee during this Reporting Period on _____ (date)

4. TYPE OF REPORT (check appropriate boxes)

(a)
- ☐ April 15 Quarterly Report
- ☐ July 15 Quarterly Report
- ☐ October 15 Quarterly Report
- ☐ January 31 Year End Report
- ☐ July 31 Mid Year Report (Non-election Year Only)
- ☒ Monthly Report for November 1981
- ☐ Twelfth day report preceding _____ (Type of Election) election on _____ in the State of _____
- ☐ Thirtieth day report following the General Election on _____ in the State of _____
- ☐ Termination Report

(b) Is this Report an Amendment?
☐ YES ☒ NO

SUMMARY	Column A This Period	Column B Calendar Year-to-Date
5. Covering Period 10/1/81 Through 10/31/81		
6. (b) Cash on Hand January 1, 19 81		$ 149,326.32
(b) Cash on Hand at Beginning of Reporting Period	$ 98,415.00	
(c) Total Receipts (from Line 18)	$ 359,817.83	$ 3,350,260.49
(d) Subtotal (add lines 6(b) and 6(c) for Column A and lines 6(a) and 6(c) for Column B)	$ 458,232.83	$ 3,499,586.81
7. Total Disbursements (from Line 28)	$ 398,630.15	$ 3,439,984.13
8. Cash on Hand at Close of Reporting Period (subtract line 7 from 6(d))	$ 59,602.68	$ 59,602.68
9. Debts and Obligations Owed TO the Committee (Itemize all on Schedule C or Schedule D)	$ 15,052.60	
10. Debts and Obligations Owed BY the Committee (Itemize all on Schedule C or Schedule D)	$ 389,276.96	

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Candace M. Taw
Type or Print Name of Treasurer

Candace M. Taw
SIGNATURE OF TREASURER

11/16/81
Date

For further information, contact:
Federal Election Commission
Toll Free 800-424-9530
Local 202-523-4068

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

All previous versions of FEC FORM 3 and FEC FORM 3a are obsolete and should no longer be used.

FEC FORM 3X (1/80)

I hereby certify that this document is a true, correct and complete [illegible] with the Federal Election Commission.

8/3/82
Date

Kent Cooper
Kent Cooper
Asst. Staff Dir. for Disclosure

81032009529

32040751740

...Disbursements
(FEC FORM 3X)

81 NOV 20 P 1:56

Name of Committee (In Full): NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

Report Covering the Period: From: 10/1/81 To: 10/31/81

	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
I. RECEIPTS		
11. CONTRIBUTIONS (other than loans) FROM:		
(a) Individuals/Persons Other Than Political Committees	351,771.91	3,301,139.39
Memo: Itemized $ 267,090.23)		
(b) Political Party Committees		
(c) Other Political Committees		500.00
(d) TOTAL CONTRIBUTIONS (other than loans) (Add 11a, 11b and 11c)	351771.91	3,301,639.39
12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES		
13. ALL LOANS RECEIVED		
14. LOAN REPAYMENTS RECEIVED	6,900.00	16,600.00
15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)	691.91	21,967.08
16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES		
17. OTHER RECEIPTS (Dividends, Interest, etc.)	454.01	10,054.02
18. TOTAL RECEIPTS (Add 11d, 12, 13, 14, 15, 16 and 17)	359,817.83	3,350,260.49
II. DISBURSEMENTS		
19. OPERATING EXPENDITURES	150,343.96	2,144,596.46
20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES		
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND OTHER POLITICAL COMMITTEES	2,843.68	48,349.35
22. INDEPENDENT EXPENDITURES (Use Schedule E)	245,167.51	1,222,453.32
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES (2 U.S.C. §441a(d)) (Use Schedule F)		
24. LOAN REPAYMENTS MADE		
25. LOANS MADE		17,500.00
26. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals/Persons Other Than Political Committees	275.00	6,210.00
(b) Political Party Committees		
(c) Other Political Committees		875.00
(d) TOTAL CONTRIBUTION REFUNDS (Add 26a, 26b and 26c)	275.00	7,085.00
27. OTHER DISBURSEMENTS		
28. TOTAL DISBURSEMENTS (Add Lines 19, 20, 21, 22, 23, 24, 25, 26d and 27)	398,630.15	3,439,984.13
III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES		
29. TOTAL CONTRIBUTIONS (other than loans) from Line 11d	351,771.91	3,301,639.39
30. TOTAL CONTRIBUTION REFUNDS from Line 26d	275.00	7,085.00
31. NET CONTRIBUTIONS (other than loans) (subtract Line 30 from Line 29)	351,496.91	3,294,554.39
32. TOTAL OPERATING EXPENDITURES from Line 19	150,343.96	2,144,596.46
33. OFFSETS TO OPERATING EXPENDITURES from Line 15	691.91	21,967.08
34. NET OPERATING EXPENDITURES (subtract Line 33 from Line 32)	149,652.05	2,122,629.38

I hereby certify that this document is a complete and accurate ... with the ...

8/1/82
Date

Kris C. Cooper
Asst. Staff Dir. for Disclosure

81032094530

83040751747

32040751748

81032045115

ITEMIZED INDEPENDENT EXPENDITURES

Name of Committee (or Person) NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

I.D. No. C00024687

Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Joe Gordon	printing	10/9/81	123.71	Jones OK-1 ☐ Support ☒ Oppose
Ilknur Borsy	creative fees	10/12/81	35.00	Jones OK-1 ☐ Support ☒ Oppose
Holiday Inn Howard & Lombard St. Baltimore, MD	meeting exp.	10/13/81	159.38	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
Arthur J. Finkelstain & Associates 117 Smith Avenue Mt. Kisco, NY 10549	surveys	10/16/81	4,000.00	Moynihan U.S. Sen., NY ☐ Support ☒ Oppose
Michael Boos	peyroll	10/20/81	360.37	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
Stephen DeAngelo	peyroll	10/20/81	206.88	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose

(a) SUBTOTAL of Itemized Independent Expenditures	$4,885.34	
(b) SUBTOTAL of Unitemized Independent Expenditures	$	
(c) TOTAL Independent Expenditures		$

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or unauthorized committee. Furthermore, these expenditures did not involve the fundraising or disbursement, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committee, or their agent.

Signature _____ Date _____

Subscribed and sworn to before me this _____ day of _____, 19__

My Commission expires _____

NOTARY PUBLIC

I hereby certify that this document is a true and complete copy of a report filed in accordance with the Federal Election Campaign Act.

8/4/82 Kent C. Cooper

Kent C. Cooper
Asst. Staff Dir. for Disclosure

SCHEDULE A

ITEMIZED INDEPENDENT EXPENDITURES

Page 22 of 24 Pages

Name of Committee (in Full): NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE

I.D. No.: C00024687

Full Name, Mailing Address & ZIP Code of Each Payee	Purpose of Expenditure	Date (month, day, year)	Amount	Name of Federal Candidate supported or opposed by the expenditure & office sought
Leo Dymowski 2937 Dillon Street Baltimore, MD 21224	postage	10/28/81	150.00	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
NY Time Buying Service	time buys	10/29/81	25,660.00	Wright TX-12 ☐ Support ☒ Oppose
Stephen DeAngelo	payroll adv.	10/30/81	75.00	Wright TX-12 ☐ Support ☒ Oppose
Stephen DeAngelo	payroll adv.	10/30/81	75.00	Sarbanes U.S. Sen., MD ☐ Support ☒ Oppose
Arthur J. Finkelstein & Asso.	surveys	10/29/81	5,000.00	Moynihan U.S. Sen., NY ☐ Support ☒ Oppose
1st American Bank of VA	Fed withholding taxes	10/7/81	366.48	Wright TX-12 ☐ Support ☒ Oppose

(a) SUBTOTAL of itemized independent Expenditures ..... $ 31,326.48

(b) SUBTOTAL of Unitemized Independent Expenditures ..... $ _____

(c) TOTAL Independent Expenditures ..... $ _____

Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, concert with, or at the request or suggestion of any candidate or any authorized committee or agent of such candidate or authorized committee. Furthermore, these expenditures did not involve the funneling of dissemination, distribution, or republication in whole or in part of any campaign materials prepared by the candidate, his campaign committees, or their agents.

_____ _____
Signature Date

Subscribed and sworn to before me this _____ day of _____, 19____

My Commission expires:

_____ _____
NOTARY PUBLIC

8103200945?1

32040751749

I hereby certify that this document is a true and complete copy of the original document as filed with the Federal Election Commission.

8/11/82 Kent Cooper
Date Kent Cooper
Asst. Staff Dir. for Disclosure

TBS

TIME BUYING SERVICES INC.

1345 Avenue of the Americas, New York, N.Y. 10105 (212) 765-7710

30 October 1981

Ms. Elaine Gansz
NCPAC
1500 Wilson Blvd.
Suite 513
Arlington, VA 22209

RE: NEW YORK MARKET - NCPAC

Dear Elaine:

Attached is a stations clearance report for the planned radio schedule for New York.

Following is a summary:

Summary of Station Clearances

Yes - Without Conditions	Total
WVNJ WPAS and WWYD-FM	3
Yes - With Conditions	
WNEW-AM WNEW-FM WHN WINS WRFM	5
Undecided	
WPAT-AM/FM WHLI	3
No	
WCBS-AM WCBS-FM WOR	3

EX I

As you can see from this summary and the report, the major problem with acceptance comes from the copy claims that Moynihan is the father of our runaway welfare system, etc. We are hopeful we can turn those stations around who are concerned with the Fairness Doctrine after having provided them with the memorandum on the legal opinion on this issue. However, having done that, there is a good chance these stations also may have reservations about the copy.

I have discussed this with Arthur Finkelstein. Robin Martin called me today for a report on our clearance status. I am sending him copy of this report.

You have advised you would like to run the schedule for one week starting Tuesday, November 17, 1981. We should have substantiation to claims in the copy as requested by the stations, or revised copy as soon as possible for resubmission in order to effectively meet the start date.

WFAS has suggested we add their sister FM station, WWYD-FM, at an 80% increase in the schedule cost from $1,021 to $1,821. We recommend this - please advise.

I talked to Arthur Finkelstein about the considerations for substitute stations to WCBS-AM and WCBS-FM. We should discuss this further. Following is a list of stations for such consideration:

WABC
WKHK
WMCA
WNBC
WNCN
WQXR-AM/FM
WTFM (Lake Success)
WYNY-FM

Only three stations have provided us rates for the schedule:

WNEW-FM	--	$4,980
WVNJ	--	$1,250
WFAS & WWYD	--	$1,827

The rest of the stations are reserving cost quotation subject to acceptance of the copy. However, we can estimate that if

up to ten stations finally clear and accept the schedule we have agreed to of 25 60-second announcements per week, the gross cost would come to approximately $35,000.

Please advise.

Very truly yours,

Mike.

Michael J. Donovan

MJD:CR

cc: S. Dietz/R. Erickson
R. Baxter
J. Caplan
C. Bendis
A. Finkelstein
R. Martin

2571504

NCPAC

NEW YORK MARKET
STATION CLEARANCE STATUS REPORT

STATION	CLEARANCE STATUS	COMMENTS
WCBS-AM	No	"Will not sell time to independent political committees for the purpose of discussing political issues - only sell to legally qualified candidates." I am requesting this response in writing.
WCBS-FM	No	Same as above.
WNEW-AM	Yes	Subject to documentation of claims in the copy that Moynihan was the father of our runaway welfare system... responsible for our welfare system...created our runaway welfare system.
WNEW-FM	Yes	Same as above.
WHN	Yes	Subject to the ommission of the claims that Moynihan created our runaway welfare system.
WOR	No	Station claims copy is subject to Fairness Doctrine. I am writing letter with legal opinion - will follow through.
WINS	Yes	Subject to substantiation of the claim that Moynihan is father of our runaway welfare system, etc.

STATION	CLEARANCE STATUS	COMMENTS
WPAT-AM/FM	Undecided	Believes advertising is subject to Fairness Doctrine and they have concerns about claims in the copy. I am sending copy of the legal opinion on the Fairness Doctrine and have requested a response in writing. Will follow through.
WVNJ	Yes	Accepted copy with no change.
WRFM	Yes	Subject to documentation of claims regarding Moynihan voting record and that he is the father of our runaway welfare system.
WHLI	Undecided	Station management has proposal under consideration. I am pursuing a resolution.
WFAS	Yes	Currently no copy change. Station sent representative in with "candidate" advertising forms to be filled out. I substituted with copy of legal opinion on Fairness Doctrine. Station suggests we add sister FM station, WWYD-FM, at 80% increase in schedule cost. We recommend schedule be added.

C4C74017

BRUCE CAPUTO CAMPAIGN

92 MAY 20 A10:47

ADDRESS & PHONE NUMBERS

Bruce Caputo
Booz Allen & Hamilton Inc.
245 Park Avenue
New York, N.Y. 10167
office: 697-1936
home: 914/337-4958 or
337-6640

Mack Caputo
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438
home: 744-9354
Bronxville: 914/337-6640

Sheila Downey
399 E. 72nd Street - Apt. 9F
New York, N.Y. 10021
914/769-5229

Roger H. Kimmel
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
Office: 867-6660
home: 124 Victory Blvd.
New Rochelle, N.Y. 10804
914/636-4008 or 4009

Arthur J. Finkelstein
117 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750
home: 914/273-3998

Adair Beutel
900 Park Avenue
New York, N.Y. 10021
home: 737-3739

Robert G. Wilson
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
office: 676-5033 or 5034
home: 42 Masterton Road
Bronxville, N.Y. 10708
914/337-3210

John Samerjan
68-12 Yellowstone Boulevard
Forest Hills, N.Y. 11375
459-4691

Austin T. Fragomen, Jr.
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555
home: 914/591-8561

Mr. Cookie Gibb
555 North Street
Greenwich, Conn. 06830
office: 203/622-0060
home: 203/869-5914

Goldman Sachs & Co
85 Broad Street New York, New York 10004
Tel: 212-676-6033

Robert G. Wilson
Limited Partner

Goldman Sachs

EXH 1
5-31-92
(WEW)

3 3 0 4 0 7 5 0 1 7 5 5

BRUCE CAPUTO CAMPAIGN

ADDRESS & PHONE NUMBERS

AS OF 8/15/81

BRUCE CAPUTO
Private Office
Pan Am Building
200 Park Avenue - Room 5401
New York, N.Y. 10166
office: 212/687-5552
home: 914/337-4958

CAPUTO FOR SENATE
Campaign Headquarters
2 West 45th Street
Room 1703
New York, N. Y. 10036
212/944-8330-31-32

ROBERT G. WILSON (Campaign Manager)
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
212/676-5033 or 5034
Creative Capital Associates, Inc.
Room 5401
Pan Am Building
200 Park Avenue
New York, N.Y. 10166
212/661-2036 or 2038 or
212/661-2300
Home: 42 Masterton Road
Bronxville, New York 10708
914/337-3210

ARTHUR FINKELSTEIN (Political Advisor)
317 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750
home: 914/273-3998

A. MACDONALD CAPUTO (Special Advisor)
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438
home: 744-9354
Bronxville: 914/337-6640

AUSTIN T. FRAGOMEN, JR. (Treasurer)
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555
home: 914/591-8561

ROGER H. KIMMEL (Counsel)
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
office: 212/867-6660
home: 124 Victory Boulevard
New Rochelle, N.Y. 10804
914/636-4008 or 4009

MISS LUCIA TROVATO (Office Manager)
432 Park Hill Avenue
Yonkers, New York 10705
home: 914/963-3783

JOHN SAMERJAN (Director of Research & Press)
68-12 Yellowstone Boulevard
Forest Hills, New York 11375
office: 212/263-5202
home: 212/459-4691

ADAIR BEUTEL (Advisor PACs)
900 Park Avenue
New York, N.Y. 10021
home: 212/737-3739

ROBERT J. PERKINS (Financial Advisor)
Polygon Diamond Trading Network, Inc.
575 Lexington Avenue
Suite 2700
New York City, N.Y. 10022
office: 212/935-8181

ROBIN B. MARTIN (Political Manager)
Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, N.Y. 10017
office: 212/599-3303

PETER P. BUCKLEY
Taconic Petroleum Corporation
103 East 37th Street
New York, New York 10016
office: 212/689-8060

ALAN GOTTLIEB (Direct Mail)
Center For Defense of Free Enterprise
1601 114 S.E.
Alderwood Building
Bellevue, Washington, D.C. 98004
office: 206/454-4911
home: 206/641-2172

CURTIS KELLY (Special Events)
Reader's Digest
200 Park Avenue - 32nd Floor
New York, N.Y. 10166
office: 212/972-6166

9204075177

CAPUTO FOR SENATE-STAFF ROSTER 10-15-81

Caputo for Senate-Headquarters
2 West 45th Street--Suite 1701
New York, New York 10036
(212) 944-8330

BRUCE CAPUTO
200 Park Ave. Suite 5401
New York, N.Y. 10166
(o) 212-687-5552
(h) 914-337-4958
(UN) 212-826-4569

ROBERT G. WILSON
42 Masterton Road
Bronxville, N.Y. 10708
(h) 914-337-3210
(o) 212-676-5033 (Goldman Sachs)
(o) 212-661-2300 (Pan Am)

ARTHUR J. PINKELSTEIN
117 Smith Ave.
Mt. Kisco, N.Y. 10549
(o) 914-666-2750
(h) 914-591-6645

A. [illegible] CAPUTO
Morgan Stanley, Inc.
1251 Ave. of the Americas
New York, N.Y. 10020
(o) [illegible]
(h) [illegible]
(h) [illegible] (B'ville)

[illegible] [illegible], JR.
Dragchen, Lemkey & Bernson
515 Madison Avenue- 14th Floor
New York, New York 10022
(o) 212-[illegible]
(h) 914-[illegible]

Roger L. Mandel
Milgrim, Thomajan, Jacobs & Lee
405 Lexington Ave.
New York, N.Y. 10174
(o) 212-867-6660
(h) 914-636-4008

Alan Gottlieb
Morrill Associates
1601 114th St. SE, Alderwood Bldg.
Bellevue, Washington 98004
(o) 206-[illegible]
(h) [illegible]

JOHN T. SHEEHAN
13532 Leith Court
Chantilly, VA. 22121
(o) 202-225-4436 (until 11-1-81)
(h) 703-378-6644

LUCIA TROVATO
432 Park Hill Avenue
Yonkers, N.Y. 10705
(h) 914-963-3783

JOHN SAMERJAN
68-12 Yellowstone Blvd.
Forest Hills, N.Y. 11375
(h) 459-4691

PAUL C. LOWERRE
210 East 68th St.
New York, N.Y. 10021
(h) 212-535-3841

ADAIR BEUTEL
1220 Park Avenue
New York, N.Y.
(h)

PETER P. [illegible] JR.
Taconic Petroleum Corp.
103 East 37th St.
New York, N.Y. 10017
(o) 212-689-8300
(h) 212-686-1039

STACEY [illegible]
555 Main Street
New York, N.Y. 10044
(h) 212-838-2710

ROBIN B. MARTIN
141 East 44th St. Suite 1001
New York, N.Y. 10022
(o) 212-935-8181
(h) 212-289-4646

ROBERT PERKINS
Polygon Diamond Trading Network
575 Lexington Ave. Suite 2700
New York, N.Y. 10022
(o) 212-935-8181
(h) 212-

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New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

December 16, 1981

Mr. Max Frankel
Editorial Page Editor
THE NEW YORK TIMES
229 West 43rd Street
New York, NY 10036

Dear Mr. Frankel:

Your editorial on the activities of the National Conservative Political Action Committee (NCPAC) of November 18, 1981, casts serious doubt as to the true position of the Times. At once, your readers are to believe that free speech and the right of individual expression are fundamental to our society, and also that certain groups, like NCPAC, are not to be allowed access to the media, even through paid advertisements. The Times editorial of September 29, 1981, outlines an aggressive position with regard to media access (particularly broadcasting) for the airing of various political views.

Who should be able to exercise such rights of access? The NCPAC editorial strongly suggests that only qualified office-holding politicians or candidates, and only those who live in a particular state, should be allowed to participate in the political dialogue. Do not all discussions of issues contribute to the democratic consensus that shapes the eventual resolution of priorities and policies? The Times must recognize that NCPAC and its New York project, New York State Taxpayers Fed Up With Moynihan, are only the embodiments of the voters who form these groups. NCPAC is not a monolith of anti-liberalism, but a group dedicated to the principles its supporters espouse. Our New York group was founded by local residents who feel strongly about the issues in the Senatorial record of Daniel Moynihan. All we desire is the ability to discuss the issues with the voters. Senator Moynihan and the Times would rather suppress those views.

Would the tables be turned and the editorial slant different if there were a National Liberal Political Action Committee? To avoid the charge of duplicity the Times must recognize the right of all parties, whether individual or groups, acting within the letter and spirit of the law, to express their views in all the media.

EXH K 3/31/82 WK

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

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P.O. Box 2281, Grand Central Station, New York, New York 10163

It is ironic to note that a powerful newspaper can raise questions of access to the media, when access to broadcast media by political candidates is guaranteed under federal law, and the print media have no obligation whatsoever to provide access to anyone. The Times has exercised its ultimate power by deciding which issues to raise about the NCPAC campaign. The real issue is the liberal record of Senator Moynihan. The Times ignored the discussion of the Moynihan voting record because it is indefensible. He is out of touch with New York and should be defeated.

Sincerely yours,

Robin B. Martin
Chairman

RBM:elr

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee.

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

December 22, 1981

Executive Committee and Board of Directors
New York State Broadcasters Association
90 State St., Suite 530
Albany, NY 12207

Gentlemen:

Last summer New York Senator Daniel Moynihan made a prsentation to the Association's annual meeting. Among other topics, he discussed independent expenditure groups and their impact on political campaigns. As a follow-up he sent a personal letter to many radio and television executives on July 24, 1981, which contained numerous quasi-legal opinions against broadcast media accepting independent expenditure group advertising. The official nature of the inherent threats contained in these messages was enhanced by Moynihan's use of U.S. Senate stationery. The New York State Broadcasters Association continued to play Moynihan's game by issuing a statement to the membership on November 11, 1981, alerting the membership about the controvery of whether or not to accept such political advertising. The message was clear - if you accept the ads you are looking for trouble. No other points of view were addressed.

Our committee is a project of the National Conservative Political Action Committee (NCPAC), and our mission is to educate the voters of our state about the incumbent Senator's voting record. By aiding and abetting the likes of powerful politicians, the Association is encouraging the suppression of free speech - a right for which broadcasters have been fighting for years. As the Association conducts all its other business, it must also treat with compete fairness the question of accepting political ads. Just because Moynihan is a sitting Senator and a personal friend of some of the Association's members does not give NYSBA the right to be a vehicle for his partisan pronouncements with no opportunity for opposing views, legal opinions, or access to your memorandum writers.

NCPAC is contemplating legal action against Senator Moynihan and many broadcast stations that refused to carry this project's ads. Moynihan's strategy is to avoid discussion of legitimate issues by raising legal issues and putting pressure on his friends. The voters demand that this side-stepping of the real issues be stopped.

I know the Association's members, as advocates of a free press, will not wish to be bullied by a politician. Our committee will be happy to supply the Association or any of its members with detailed legal briefs supporting our position. I only hope you will be as generous in your dissemination of our views as you have been of Moynihan's.

Sincerely yours,

Robin B. Martin, Chairman

S. We also are ready to discuss each and every issue in Moynihan's record that we oppose. Please call me at 212-599-3303.

cc: Vince Wasilewski, NAB

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

EXH L

National Conservative
Political Action Committee
Suite 513, 1500 Wilson Boulevard
Arlington, Virginia 22209

(703) 522-2800

March 16, 1982

Mr. Arthur J. Finkelstein
117 Smith Avenue
Mt. Kisco, NY 10549

Dear Arthur:

I am writing to thank you for taking your time to speak at our Candidate Training Seminar the morning of March 10.

I feel the candidates who attended our seminar have benefited greatly from your presentation on Campaign Overview and The Poll.

I look forward to hearing you speak at the remainder of our seminars. I have given Debbie the following dates to mark on her calendar, April 26, May 24, June 28, and July 26. The same time will be kept for your presentation at each seminar. You will speak at 9:30 am to 11:00 am on Campaign Overview and 11:00 am to 12:30 on The Poll.

If you have any suggestions to better these seminars we would like to hear your input.

I apologize for the nine boxes, I will change it for the next school so you may continue to speak of seven boxes without explanation.

Thank you again for a great presentation!

Sincerely,

Cheryl

Cheryl A. Bendis

EXH M
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September 22, 1981

The Honorable Mark S. Fowler
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D. C.

Dear Chairman Fowler:

This firm represents the National Conservative Political Action Committee (hereinafter "NCPAC"). In that capacity, we are writing to request that the Federal Communications Commission (hereinafter the "FCC") investigate and take appropriate measures regarding attempts by identified Federal candidates, their official committees, their supporters, and other groups, to intimidate licensees in an effort to deny NCPAC access to broadcast facilities. In addition, we request that the FCC re-examine its position regarding the right of access of an independent political committee to a broadcasters' facilities and determine that NCPAC and other similarly-situated independent political committees enjoy such a reasonable right of access.

NCPAC is the largest independent political committee in the nation. NCPAC frequently sponsors advertisements which are critical of the past voting record or candidacy of certain identified political candidates. The FCC has previously considered the impact of both equal opportunity and fairness doctrine issues upon licensees which broadcast such advertisements.1/ The FCC has concluded that the broadcast of NCPAC-sponsored advertisements by a licensee will not result in the imposition of equal opportunity or fairness doctrine obligations to offer free response time to the candidate, his committee, or his supporters.2/

1/ FCC letter to Honorable Thomas F. Eagleton, 81 FCC 2d 423 (1980).

2/ Supra.

CERTIFIED MAIL- RETURN RECEIPT REQUESTED.

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NCPAC has advised us that it has encountered difficulties in placing NCPAC-sponsored advertisements which are critical of the past voting record or candidacy of certain identified Federal candidates. The reluctance of some broadcasters to accept these advertisements appears to be caused by apparent intimidation by opponents of NCPAC directed at licensees.

For example, Senator Moynihan has forwarded two memoranda to members of the New York State Broadcasters Association (hereinafter "NYSBA"), the first of which contains a plea to members of the NYSBA "not to do business with [NCPAC]." The second memorandum addressed certain substantive issues regarding the NCPAC-sponsored advertisements and leaves the reader with the mistaken impression that acceptance of NCPAC-sponsored advertisements will result in the licensee assuming burdensome obligations. These attempts to intimidate licensees and to persuade them not to accept NCPAC-sponsored advertisements, including instances where no advertisement has been produced for the licensees' market, appear to be little different from the prior unsuccessful attempts of the Carter/Mondale Reelection Committee to intimidate licensees into rejecting certain NCPAC-sponsored advertisements during the past Presidential election. The FCC rejected the position of the Carter/Mondale Reelection Committee that the advertisements sponsored by NCPAC and other independent committees invoked equal opportunity issues and thereby nullified the central argument underlying the Carter/Mondale effort. That decision was upheld by the United States Court of Appeals for the District of Columbia Circuit.3/

NCPAC has advised us that attempts to intimidate licensees not to accept the NCPAC-sponsored advertisements have not been confined to identified political candidates, their committees, and supporters. The Democratic Congressional Campaign Committee (hereinafter the "DCCC") has recently circulated a memorandum, dated July 24, 1981, entitled "How to fight a NCPAC attack." That memorandum contains a section entitled "Keep NCPAC off the Air."

3/No. 80-2217

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This portion of the memorandum instructs the candidate how to intimidate licensees for the purpose of preventing NCPAC's advertisements from being broadcast. Measures described in the memorandum include informing all broadcasting outlets of NCPAC's "propensity for sensationalism," emphasizing that there is no obligation to accept the advertisements and that additional stations are refusing to do so, emphasizing that the station is liable in libel for the content of the ads, and the recommendation to encourage the media to "denounce NCPAC's intervention [in the campaign]."

The memorandum circulated by the DCCC amounts to a direct and concentrated scheme of intimidation and interference with licensees and ignores the public's right to know. The fact that the Moynihan and DCCC memoranda have been circulated in markets where no actual advertisements have been produced by NCPAC underscores the purpose of these schemes to summarily deny NCPAC access to broadcast facilities without licensees independently evaluating proposed advertisements.

For example, a common issue addressed in both the Moynihan and the DCCC memoranda is the issue of liability of a licensee for libelous remarks. Obviously, because of the scope of potential liability, licensees will tend to reject NCPAC-sponsored advertisements where this issue has been raised in this manner, without considering the text of the advertisements, their purpose, and the protections afforded political speech under the Constitution.

The FCC has previously classified NCPAC-sponsored advertisements as belonging in the "political arena."4/ The Supreme Court has stated, in addressing the issue of the effect of civil liability upon critics of official conduct, that a public official cannot recover damages for a defamatory falsehood relating to his official conduct unless he proves that the statement was made with "actual malice" - that is, with knowledge that it was false or with reckless disregard of whether it was false.5/ The discussion of public issues and debate on the qualification of candidates are integral to the operation of the system of government established by our Constitution.6/ The Supreme Court has noted that

4/ FCC letter to Honorable Thomas F. Eagleton, supra, p.427.
5/ New York Times v. Sullivan, 376 U.S. 254 (1964).
6/ Buckley v. Valeo, 424 U.S. 1, at 14.

there is practically universal agreement that a major purpose of the First Amendment was to protect the free discussion of governmental affairs, including the discussion of candidates.7/ Although NCPAC does not use the Sullivan decision as a shield to prepare advertisements which are otherwise libelous, an assertion that liability for libel prohibits the broadcast of NCPAC-sponsored advertisements places a chilling effect upon the broadcaster and results in the very evil which the Supreme Court has sought to avoid: the inhibition of speech which may not legitimately be regulated.

We request that your office investigate and take appropriate measures regarding these attempts to intimidate licensees. NCPAC has reason to believe that other parallel efforts have been made by its opponents to deny NCPAC access to broadcast facilities. Accordingly, we request that in consideration of the burden which these efforts have placed upon licensees, the free expression of political ideas, and the concomitant effects upon the citizenry to make informed choices among candidates, that the FCC re-evaluate its position concerning the right of access of independent political committees to the broadcast facilities of a licensee. A determination that such a right exists would be consistent with the Commission's recent attempts to eliminate burdens on freedom of speech.

Mr. Dolan and I would like to meet with you to discuss this matter with you in further detail.

We enclose copies of all memoranda discussed herein.

Sincerely,

(Sgd) J. Curtis Herge

J. Curtis Herge

enclosures

cc: Mr. John T. Dolan, Chairman
National Conservative Political
Action Committee

bcc: Mr. Arthur J. Finkelstein

7/ Buckley v. Valeo, supra; Mills v. Alabama, 384 U.S. 214 (1966).

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LSON

BEFORE THE FEDE)
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In the M

Caput

One St. Andres Plaza
New York, New York

Friday,
October 22, 1982

Deposition of

ROGER G. WILSON

A witness, taken by the Federal Election Committee, at One St. Andres Plaza, New York, New York, before George Brown a Notary Public in and for the State of New York.

BEFORE:

GARY JOHANSEN, ESQ., Presiding Official
and
JUDITH THEORFORD

APPEARANCES:

On behalf of the Witness:

GEORGE L. GRAFF, ESQ.
Milgrim, Thomajan, Jacobs & Lee, P.C.
405 Lexington Avenue,
New York, New York

WILSON

BEFORE THE FEDERAL ELECTION COMMITTEE

In the Matter of:)
)
Caputo for Senate Committee et al.,)
)

One St. Andres Plaza
New York, New York

Friday,
October 22, 1982

Deposition of

ROGER G. WILSON

A witness, taken by the Federal Election Committee, at One St. Andres Plaza, New York, New York, before George Brown a Notary Public in and for the State of New York.

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APPEARANCES:

On behalf of the Witness:

GEORGE L. GRAFF, ESQ.
Milgrim, Thomajan, Jacobs & Lee, P.C.
405 Lexington Avenue,
New York, New York

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Wilson

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IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that:

All rights provided by the C.P.L.R., including the right to object to any qeustion or to move to strike any testimony at this examination, are reserved; and, in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or waiver to make such a motion at and is reserved for the trial of this action;

This examination may be sworn to by the witness being examined before any notary public other than the notary public before whom this examination was begun, but the failure to do so or to return the original of this examination to counsel shall not be deemed waiver of the rights provided by Rule 3116 C.P.L.R., and shall be controlled thereby:

The filing and certification of the original of this examination is waived.

IT IS FURTHER STIPULATED AND AGREED by and between the attorneys for the respective parties hereto that a copy of this examination shall be furnished to the attorney for the opposing side,

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without charge.

* * * * *

ROBERT G. WILSON,

called as a witness, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. JOHANSEN:

Q State your name.

A Robert G. Wilson.

Q Your address?

A 42 Masterson Road, Bronxville, New York 10708.

Q That is your home address?

A That is my home address.

Q Are you married?

A Yes.

Q Your wife's name?

A Valerie.

Q What is your occupation?

A I am a venture capitalist.

Q Mr. Wilson, you are testifying pursuant to a subpeona issued by the FEC. Federal Election Committee; that is true, is it not?

A Yes.

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Q You were also subpeonaed to produce certain documents and materials. Let me direct vour attention to teh subpeona which you recieved and the request that you produce "anv documents and materials in vour possession with relating to the creation and/or ariing of anti-Moynihan radio advertising produced bv the National Conservative Political Action Committee, the Caputo for Senate Committee or Arthur J. Finkelstein and Associates." Do you have any such documents?

A I do not. I searched my file drawer and I do not find any.

Q Do vou know if thev exist elsewhere?

A Not that I am aware of.

Q You were asked to produce any documents or materials in vour possession evidencing consultation or cooperation between the National Conservative Political Action Committee, the Caputo for Sentate Committee or Arthur J. Finkelstein and Associates in making expenditures for any political campaign in opposition to the election of Senator Moynihan.

Do you have anv of those documents?

A Since there wasn't any that I am aware of, I don't have any. And I have looked through my files, and I don't have any.

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Q Did you review or look at any other writings or materials which refresh your memory for the purposes of testifying at this deposition today?

A Yes.

Q And what were those materials?

A Just some materials that I had left over when we such down the Caputo for Senate Campaign Headquarters.

Q Could you describe exactly what they were?

A Flyers that we put out and campaign letters, press releases, things like that. All the fund-raising things that go on. The list of people that we called to raise money. The files that we made for people that did raise money.

things, that related to that.

There was a book in there that I had when Bruce Caputo and I were down to the Republican National Committee where we went to a workshop, on how to run a campaign headquarters, things like that.

Q Did any of those materials contain references to the National Conservative Political Action Committee?

A The only reference that I found in there at all was in reference to the loan that was made by the

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National Conservative Political Action Committee to our fund-raising, our direct mail group, Mural Associates.

Q Was that document a letter?

A Yes, it was a summary letter from Mural Associates to us reporting on theprogree of the direct mail compaign. And it referred to this $4400.00 loan.

Q That loan, that was originally reported in reports that you filed with the Federal Election Commission on August 19, 1981 from and I think you have indicated that gave $4400.00.

Who reported it?

A The Caputo for Senate Committee. I assume anything that cam in was reported. Whatever the rules are we followed them. In my recollection of that $4400.00 loan was an either or situation. If our direct mail campaign was successful we would pay it back, and if not it would stand as a contribution.

Q The documents that you reviewed that you testified about earlier, does that indicate what you have just told me about the laon being an either or situation?

A No, my recollection as I remember saying the words a loan for $4400.00. And my recollection is in

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setting and hiring Alan Gotlieb, was that my preference was to wait until we, the campaign had raised enough money to start that direct mail process. And we decided we wanted to get started as soon as we could. And Alan Gotlieb felt that he could arrange for some seed money. And that is where this $4400.00 came in as a loan.

Q Who is Alan Gotlieb?

A He is the head of and runs the Mural Associates, the direct mail organization that we used.

Q If I understand you correctly, when the National Conservative Political Action Committe gave your the $4400.00 --

A They didn't give it to me.

Q To the Caputo Committee --

A It was given to Mural Associates. To my knowledge that money didn't come into our campaign. And we gave it to them. this was Alan Gotlieb who arrnaged for it. that is my recollection of it.

Q Then after it became evident that the Caputo for Senate was going to raise enough funds the loan was repaid; is that what you are saying?

A Yes.

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Q If you hadn't been able to raise enough funds then it would have been a crontribution to the Caputo for Senate Committee?

A That is my understanding. But the best person to answer that question is Alan Gotlieb.

Q I would like to have you rpoduce the letter or document that you said that you reviewed.

A I would be happy to.

MR. GRAFF: This is a letter from Mural Associates to the campaign?

THE WINTESS: Yes. to the campaign.

Q Were you associated with Caputo Senate Committee?

A Yes.

Q When did you become associated with that committee?

A I don't remember the exact date, but it would have been in the spring, I would say April of 1981.

Q When did you stop working for the committee?

A When we folded our tents.

Q Which was approximately?

A Which was February or March or so of '82.

Q What were your responsibilities?

A During that whole period of time?

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Q If you had different responsibilities during the term of the campaign. why don't vou indicate what they were.

A When Bruce Caputo first asked me to get involved, he wanted me to be his financial chairman. I declined that. And as I got interested in Bruce's chances in this race. and then when I first met Arthur Finkelstein to hear how a command was first set up and run and so on, I decided that I was going to spending so much time and effort I would like to be the manager, the campaing manager. And that was accepted.

And for the first. I don't know, five months, whatever until hired John Sheehan as our campaign manager, that was my role.

It became very clear to me and Bruce that our need for funds -- that my efforts whether I liked it or not or wanted to was going to be trying to raise money. So I took on what I would call and I think everybody would understand as campaign chairman. And we hired somebody named John Sheehan to be the manager and run all the day to day activities in his office that we had, all the things that go with running that office.

I didn't think it was the best use of my time, neither did Bruce during that, so I tried to work on

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raising money and lots of other policy things.

Q After five months then you relinquished a lot of these responsibilities to Mr. Sheehan?

A Gladly. If you run one of these campaigns you know what I am talking about.

Q How did you first become involved with the Caputo for Senate Committee?

A I have known Bruce Caputo and his family for many years out at Bronxville where I live, and had a very high regard for him, a very, very high regard for him. And they got a hold of me and asked me whether I wanted to help out in the campaign as financial chairman.

See, just about that period of time I had in effect retired from Goldman Saks as a general partner and started my own firm. For some reason they thought I had a lot of time, so that is how I got asked.

Q Do you know Arthur Finkelstein?

A Yes.

Q Was he associated with the Caputo for Senate Campaign Committee before you became associated with it?

A Yes.

Q Do you recall when you first

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met him?

A In around April of 1981 when Bruce wanted me to meet with Arthur. And we had a breakfast, and he told me how these campaigns are set up and run and what was expected. And all the things that have to be done to run a big campaign like this, and that was the first time I met him.

Q Do you know how Mr. Finkelstein became involved in the Caputo campaign?

A Bruce Caputo hired him.

Q During that first meeting that you had with Mr. Finkelstein, was the National Conservative Political Action Committee discussed?

A Not to my recollection, no.

Q Did you know at that time that he was serving as a consultant to the National Conservative Political Action Committee?

A That is new to me, if he was, I do not know that.

Q You do not know that now?

A I didn't know it then, if he was I don't know that. You have to ask him that, I don't know.

Q During the time you were associated with the campaign, are you saying that you never understood

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that Mr. Finkelstein --

A Excuse me. I understood your first question to be at that breakfast meeting. Is that correct?

Q That's right.

A Allright, that is what I answered.

Q When did you learn that Mr. Finkelstein was also employed or serving as a consultant to the National Conservative Political Action Committee?

A Sometime in the late summerof '81. And whether I knew he was a consultant or not, it is when he first asked would I raise some funds for NCPAC. So whether that was in his role as consultant. I don't know.

Q Did you raise funds for NCPAC?

A I ended up making a contribution to NCPAC. And he asked me could I think of other people.

This is the wonderful thing with politics. do you know any of your friends that would like to give.

I came up with some names, and I don't know whether they were even called or not, and whether they gave any money or not.

Q When he asked you to raise funds for NCPAC, was this a formal type of job or was this just asking for friends who might want to contribute to

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NCPAC?

A It was a informal thing, "Can you get some money together?", and that is informal.

Q Did he discuss NCPAC's activities with you at that time?

A At the time I had known that NCPAC -- I had been getting literature in the mail from NCPAC and some other organizations, but I knew that NCPAC had been running surveys and wanted to raise funds to target certain liberal congressmen and senators and so on around the country to raise moneys for it.

In fact, it seems to me almost every three or four weeks I would get those surveys. And they would say would you like to help put money in to beat Ted Kennedy or Senator Moynihan, so I was aware of it at that time because of that background.

Q Specifically at that time did he discuss Senator Moynihan's campaign with you?

A Senator Moynihan?

Q Yes.

A I don't understand the question.

Q Did he discuss the fact that the National Conservative Political Action Committee was either running or contemplating running an anti-Moynihan

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advertisement with you?

A I was aware that they were thinking about it, and as the literature was coming through the mail they were trying to raise money for ten or fifteen of these simultaneiously, if they could raise the money in various states, and he confirmed that they would like to do one in New York State.

Q He told you at that time then?

A Yes.

May I add to this?

Q Sure.

A I made it very clear to Arthur at that time if I gave any money for the National Conservative Political Action Committee that I was not going to give money for that anti-Moynihan campaign in New York. I gave money for surveys, and when I did give money it was my understanding with this organization that money was going to go for survey work and not to put money or to help fund a group campaign, and anti-Moynihan campaign.

To me that would have raised questions in a sufficiently financial way that I just didn't want to have any part of, and I told Arthur and I told NCPAC that.

MR. JOHANSEN: I have before me the response

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to the Federal Election Committee's request to produce documents by the Caput for Senate Committee. I am handing this to the court reporter, and let me have him mark that as Exhibit Number 1.

(A document entitled "responses to FEC request to produce documents," consisting of two pages was marked as Government Exhibit 1 for Identification as of this date.)

BY MR. JOHANSEN:

Q I hand this to the witness.

Let me direct your attention to the second page of the response.

A The secons page?

Q The second page.

A I have never seen this document before. When was this prepared?

Q This was prepared approximately a couple of months ago. I think we received it actually longer than that, we received it the 18th of May. So it was prepared sometime before then.

Let me direct your attention to the second page, item number nine.

In the last paragraph it says "the only other people who asked to contact Finkelstein or Caputo , the

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candidate, and Robert G. Wilson, the campaign chairman." Is that a true statement?

A Other than Mr. Sheehan.

MR. GRAFF: Read the question and then read the answer so that you can understand it.

A That is a correct statement to my knowledge.

Q Do you know Lucia Trovato?

A Trovato? Yes.

Q What role did he play in the Caputo for Senate Committee?

A Lots of paths, but she was one of the first volunteers as we opened our campaign headquarters, and she subsequently was put on salary; and was in those early days supervising the office. . .

Originally, there wasn't anybody to supervise then volunteers came in and we had work assignments, she would be kind of a coordinator for that.

Q You indicated that you had not seen Exhibit 1 before?

A That is correct.

Q Did anyone confer with you in their preparation of this document?

A I have no recollecton of that.

Q How often did you consult or meet with

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Mr. Finkelstein?

A At what period of time? Put this in time.

MR. GRAFF: I was going to ask that. You are doing fine.

A (Continuing) I mean it is such a broad question, I don't understand it.

Q Start with the beginning of the campaign and divide it into segments if that is possible. If during certain segments of the campaign if you met with him indicate that.

A Now. The early part of the campaign was one of educating me on how you set up one of these campaigns, and involved staffing. It involved hiring a press individual. It involved all the fund-raising structures that had to be put in place. And so early on until I got a feel of this, I would get him on the phone and meet with him then, I don't know how frequently, but enough to learn the job

As we went into the summer and so on, our contacts I would say were once a week or once every two weeks depending on his travel schedule.

Because Arthur was representing a number of Republican candidates for the Senate and the House throughout the country. And so whenever, depending on what his

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previous appointments were on that other campaign, he would allocate time for us.

There were sometimes I thought he was allocating too much time to the other campaign and not enough to use, and the other way around.

So anyway, I would say once every two weeks in the summer, and then when we got closer to the announcement time, I think Bruce announced in September '81, you know, he would be around more.

And after that point was passed, then he would go to the other campaigns and other clients that he had, too.

Q During any of these communications that you had with him, did you and he discuss the National Conservative Political Action Committee or what the National Conservative Political Action Committee was doing?

A I have already related one instance, I believe it was in August in the late summer of '81, when he was asking me to make a contribution to NCPAC.

I remember that in the fall and whenever this happened, whether it was October or November, whenever when NCPAC did set up an organization in New York to educate the voters about Moynihan's record, voting record, that he made a comment to me that they're going to set it

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and that would be x weeks before, two or three weeks beforehand and that they are going to get started. And that is, I really think that is the totality of any discussions that I ever had with Arthur about NCPAC.

Q Did he ever indicate to you that the Caputo Campaign Committee Strategy should correlate with the National Conservative Political Action Strategy in terms of both organizations running anti-Moynihan advertisements?

A No.

Q Did the Caputo committee have staff meetings? in which Finkelstein attended?

A Yes.

Q How often would they have occurred?

A They would have occurred at those periods when he came into New York and was at our headquarters, and it was once a week or once every two weeks adn would last anywhere from an half hour to four hours or something like that.

Q Who generally attended those meetings besides yourself?

A I didn't attend them all, I attended most of them. Bruce was there and many of the earlier ones.

Our strategy was to keep Bruce out of the day to

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day running of the campaign and let him be the candidate. So he, Bruce wasn't there at all of them, and there was no need for him to be there.

Depending on where we go through the cycle of this, Lucia was in on the earlier ones.

John Samerjan, this was a press man, he was doing research work; everything changed on this thing as we grew it. Then we hired John Sheehan, and John in the latter part of this thing was there at all times with Arthur and myself.

Q Were the activities of the National Conservative Political Action Committee ever discussed at these meetings?

A Not to my recollection.

Q Could you describe for me exactly what kind of services Mr. Finkelstein performed for the Caputo Committee?

A Arthur Finkelstein was a paid consultant to do surveys, polls, and to render advice to us on running Bruce Caputo's campaign.

Q Did he ever do any surveys, polls for the Caputo for Senate Committee?

A Yes.

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Q How many, if you know?

A I don't know. My recollection is two, and it could have been more. They were expensive and I don't think there were more, because we didn't have the money.

Q Do you recall who was polled? Was it a general population poll?

A I don't understand the tea leaf readings that go on by these pollsters in the campaigns they have or what the poll is they sample, I never got into it.

Q Did you ever see the results of the polls, the published or printed results of the polls?

A I don't know whether I saw summaries or -- you know, when you see a poll I think they end up in computer printout form, you never -- somebody is on the phone, so I don't know what you are asking me.

We discussed results or what he felt was important, and to me there wasn't -- I don't know whether I saw them or not, I really don't know. It's hard for me to visualize what it was I would have seen. I know we talked about what they indicated, but whether I saw them or not, I don't know.

Q In the review of the documents that you made in preparation to testify here today, did you come across any summaries of any polls?

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A No.

Q Do you recall sometimes polls are given certain names, do you recall if any of those polls had a certain name?

A No.

Q Did the Caputo for Senate Committee air any anti-Moynihan advertisements?

A Did the Caputo--repeat the question, please?

Q Did the Caputo for Senate Campaign produce and air any anti-Moynihan advertisements?

A I'm not sure I understand the characterization of anti-Moynihan. The only commercials that we really got into was right towards the end where we made some TV tapes where we were talking about Bruce's stand on crime and supporting the President. And in those we were drawing comparisons as to what Moynihan's record was, but those were television commercials.

Q Do you recall how many television commercials were run?

A I think we wanted to make five of them, I think we made three.

Q Do you have any copy of what those commercials said?

A No. I thought I did and I couldn't find them.

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I have a feeling somebody borrowed them, but I couldn't fine them.

Q Do you know where they might exist?

A You would have to ask Arthur Finkelstein that question.

Q Who wrote or scripted the TV advertisements? And if there are three of them maybe you want to start with the first one and if different people wrote or scripted different ones --

A No, Arthur Finkelstein was the one that would come up with a creative idea, knowing what the strategy, what the recommended strategy was which we agreed with, and he would then come up with some suggested language. And in the process of putting these together I think we stayed up -- we started at 6:00 at night and we were up until four in the morning when I left, and I still wasn't enthusiastic about the expensive studio and all that to cut them and make them. So a lot of this was being done and made right on the spot with us in the room, that being Arthur and myself and Bruce and Sheehan in the room.

Q When you made these advertisements, did Arthur Finkelstein discuss the prose that he had taken?

A Not to my recollection.

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Q Did he ever make any mention of what the National Conservative Political Action Committee was going to do in terms of an anti-Moynihan advertisement during the time that you were writing or scripting the Caputo for Senate Committee advertisements?

A Not to my recollection. We had enough trouble running our own campaign without trying to influence or work or do something on a great big organization, there was no way that we could.

Q The TV advertisements that were run by the Caputo for Senate Committee were basically the original ideas of Mr. Finkelstein and then after that you all sat down and kind of worked out a copy; is that correct?

A I think I would characterize it as follows: That we were, in this period, these were made I think in like January or February of '82, and we had worked hard all the previous seven, eight months to give the Republican Party leaders and the Conservative Party leaders to support Bruce and to come out and publically come out and say that Bruce is their candidate.

Our hope was that we wouldn't have a primary because that was going to save us $800,000.00 which we didn't have and all that. That was the whole strategy

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through this period of '81, was to make Bruce publically the acknowledged endorsed candidate of these two parties.

We were gaining a great deal of success at this and I was really hopeful that we were not going to have to have a primary, but you never know, somebody could file a petition and all that kind of stuff, so you never really knew.

But we were starting to feel more confident about Bruce's chances if there was a primary that we would win it, because we had the endorsements we thought we needed.

And we were now focusing more on let's act like the candidate even though the primary was months away and the Republican Party Convention was months away where they would have endorsed him officially.

So we were trying to get now Bruce in the public's eye as being the candidate, even though he wasn't; and to start making what we perceived to be the key thing in this campaign was going to Moynihan's voting record; it was miserable in our opinion, so that was the strategy.

And we felt we had to start moving soon because the gubornatorial race was going to take the headlines.

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We were worried we weren't going to be newsworthy. And we had to find those spots to do it, that is the reason why we wanted to come up with these TV commercials.

And we did this, we picked, one to my recollection is one on crime, one on voting records, on taxes, and so on. And we tried to put together -- Arthur would write up some things and I would comment on itand I didn't like it and Bruce didn't like it and we changed and revised, and this process went on all during the cutting of these commercials.

Q Would you say or could you characterize Mr. Finkelstein as being the key strategist in the Caputo campaign effort?

A He was the hired hand. He was a consultant to us, and he would make recommendations, but we set the policy. I had all the authority as chairman and the senior guy on this thing. And I had the authority and if I didn't like it, we would do something else. I am new to this game, and who knows whether my opinion was any better than his tea leaf reading.

Bruce and I very often would discuss how we felt Arthur was doing. At times we didn't think Arthur was doing all that well, so --

Q Mr. Finkelstein conducted a couple of polls

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for the National Conservative Political Action Committee which was taken in the State of New York. Did you ever see copies of these polls?

A If he did and they were taken, I did not see copies.

Q Did he ever discuss those polls with you?

A I have no recollection of that whatsoever.

Q But in your discussions with him he did talk about polls that they had taken and results of these polls and what direction --

A There are two polls that I am aware of, one is the one that we commissioned him to do. And I was very aware of polls that the Republican Committee had done, and had done them in the various states where there were going to be contests, because they had raised money, there were in our case Senatorial campaign funds; and they were in the process of where they were going to allocate that money, so they were doing some of their own polls. So those are the only polls that I am aware of.

MR. JOHANSEN: I have before me a memorandum written on Arthur J. Finkelstein Associates stationary dated June 1, 1981. Let me have this marked as Exhibit Number 2.

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(A memorandum written on Arthur J. Finkelstein Associates stationary dated June 1, 1981 was marked as Government Exhibit 2 for Identification, as of this date.)

BY MR. JOHANSEN:

Q Have you seen this document before?

A May I look at it?

Q Sure.

A Have I seen this document? I do not remember seeing this document.

Q Let me direct your attention to the last paragraph. In the last paragraph it states "People - we are putting together a top notch team - everybody I've wanted is coming on board with perhaps one exception, and he promised me an answer by February."

Did Mr. Finkelstein do most of the hiring for the Caputo Campaign Committee?

A No.

Q Is that an accurate statement?

A To my knowledge Arthur never hired anybody. He would be a resource as we had many resources, for finding people in the campaign. But I would have to interview them, and depending on how people like John Sheehan and Bruce would see them and Arthur would see

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them, and we would give a view and decide whether we wanted to or not. But Arthur had no authority whatsoever to hire anybody. And if he has represented he has, he is wrong.

Q He gave you suggestions?

A He would be the resource. He had been in this running campaigns, he ran Senator D'Amatto's campaign and he knew New York. Yes, he was a resource with a lot of other people.

Q Would you happen to know who this person that he speaks about that might come onboard in February is?

A Maybe he is thinking about a speach writer that he had that was working on D'Amatto's campaign or somebody in the press side, which we never were really satisfied we had the press person, and we were looking for one. And we contacted several people, but the campaign's were starting up in Jersey and all over, and good people get taken fast.

I have a feeling that could be a press person that used to work with him on the D'Amatto campaign, but you would have to as him.

Q Do you know how that press person was?

A I have no idea.

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MR. JOHANSEN: I have before me what proports to be a text of Bruce Caputo's announcement speech. Let me have this marked as Government Exhibit Number 3.

(A two-page document entitled Text of Bruce Caputo's Announcement Speech dated September 15, 1981 was marked as Government Exhibit 3 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I hand this to the witness.

A I can hardly read it.

Q Do you recognize that document?

A I can't read this. In our modern age Xerox machines don't do justice.

What is the question?

Q Have you ever seen this before?

A Yes, I have.

Q Do you know who wrote it?

A I think all our press releases were the result of many hands and lots of egos.

Q Let me direct your attention to page two of Exhibit Number 3, the first full paragraph. It is a paragraph that has a line on the side of it, and I would ask you if you would read that paragraph, if you can.

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A Yes, I have read it.

Q Do you specifically know who might have written that language?

A I cannot answer that, I don't know who wrote it.

Any document as important as this one was as Bruce's announcement speech, obviously Bruce was well involved in it, Arthur in terms of themes and concepts and so on. And Arthur would write stuff and I would cross it out and put my stuff in, and he would cross mine out. And I do not know. My recollection would be that a number of us wrote that paragraph.

Q Did Arthur Finkelstein assist in writing this campaign announcement speech?

A The answer has got to be yes to that. But Samerjan who was our press man at the time I'm sure contributed a lot to it, I did, and I know Bruce did.

Q Did Mr. Finkelstein advise the Caputo Campaign as to when Mr. Caputo should announce his candidacy?

MR. GRAFF: As to timing?

A As to the timing? Did Arthur Finkelstein advise, yes.

Q Did he have input as to how the candidacy

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should be announced?

A Yes.

Q If you can recall, can you tell me what his advice was?

A That we have a press conference, we ought to do it in New York City. We ought to have as many networks there with their television cameras, and we ought to make it a hard-hitting speech.

Bruce was very good in front of the cameras and on his feet, and he comes across very well. And he did a super job. And we decided we were going to do it in each of the major cities in New York.

And I went with Bruce around to those cities, and John Samerjan and I went to cities in New York having the same press coverages in each one of the major cities in the state. So the strategy, yes, the timing, of course, we had to wait until we felt we had lined up and gotten endorsements from most of the 62 Republican County Leaders.

And my recollection is there were fifteen of the major leaders, regional leaders in the Conservative Party. We had to do that homework. We were ready, and so that was the timing.

It could have been a month later or so, but this

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was a good window, if you will, to do it right after Labor Day.

We thought we were going to get the maximum press coverage, and then going around to each of the cities to get the local press and as much front-page press as we could.

Q In terms of that advice, was the National Conservative Political Action Committee ever discussed?

A No.

MR. JOHANSEN: I have before me what proports to be a fund raising letter which is undated, four pages in length. I would like to have this marked as Government Exhibit Number 4.

(A four-page document was marked as Government Exhibit 4 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I'm handing it to the witness.

Have you seen Exhibit Number 4 before?

A When was this written?

Q I don't know, it is undated.

A I can't tell when it was written.

Q Do you know if you assisted in writing it?

A I want to try to answer your first question, if I may.

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The fact that I see the last page makes me believe that this was one of the draft letters of one of the many that we sent out through Mural Associates in our direct mail campaign, whether it was, I don't know. We sent out a lot of those, wrote them regularly.

Q Did you assist in writing it?

A I assisted in seeing all correspondence that went out, that was an instruction that I was to see any press release or any letter that went out. So if this, in fact, went out I saw it, and I would have commented upon it.

My recollection is that the first cut of this thing probably came from Alan Gotlieb; a lot of our direct mail letters. So, if this was one of the first ones it came out of Alan. And then we would run it through the mill and add, subtract and so on.

Q Did you indicate before who Mr. Gotlieb worked for?

A Yes. My recollection is he is the present sole owner of Mural Associates.

Q Do you have an address for him?

A He is in the state of Washington. There is only a handful of these people.

MR. GRAFF: We are going to produce that

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document.

A (continuing) Yes. That would have his address on it.

I think I only met him once, by the way. We talked on the phone a number of times, but I only met him once at an airport.

Q Was that during the campaign?

A Yes. During. We were decidng -- there was a negotiation going on on how to give the best cost and the cheapest cost; we didn't have any money, and these were expensive.

Q How did you originally find out about Mr. Gotlieb?

A I think I first found out about him from Arthur Finkelstein.

Arthur having run D'Amatto's campaign and other Conservatives and Republican campaigns knew the two or three good direct mail Republican side of the ledger direct mail campaign people. And there was Fugary and he was very good but very expensive. So I told Arthur to come up with some names of somebody who was cheap and we could afford.

Q Do you know how the National Conservative Political Action Committee learned about Mr. Gotlieb and

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knew that they should send this $4400.00 contribution or loan to him?

A I do not know. But I have a feeling that Alan Gotlieb having been approached by many of the candidate campaigns, they all don't have any money, and I'm sure we weren't the first ones that wanted to start a direct mail campaign with no money.

And I'm sure if we were working for the Conservative Party in New York State we were going to try to get their endorsement. And everybody, it is not very hard to figure out that Alan might have gone to NCPAC and said "can I have some money?" But I don't know that, you would have to ask him.

Q As far as you know, Mr. Gotlieb didn't discuss with anyone, with you or anyone else associated with the Caputo campaign already about going to NCPAC asking for a contribution or loan to start your direct mail advertisng?

A Not that I am aware of. I handled the negotiations with Alan Gotlieb to get the best rates we could and to get started. And we wanted to get started and my preference was to wait until we raised the money and pay for it ourselves.

In other words, I decided we really ought to get

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started.

Q Do you recall when those negotiations began?

A You will see in the correspondance, whatever that is, I would say May or June or something like that, of '81.

Q Do you know of a firm called Murphy Powers Media, Inc.?

A No, not that I can remember.

MR. JOHANSEN: I have before me a letter on Murphy Powers Media, Inc. stationary dated January 14, 1982 to Mr. Bruce Caputo. And I will have this marked as Government Exhibit Number 5.

(A letter on Murphy Powers Media, Inc. stationary dated January 14, 1982 was marked as Government Exhibit 5 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I hand that to the witness.

Have you ever seen Government Exhibit 5 before?

A I have never seen this before.

Q Did you know that Murphy Powers Media, Inc. did time buying for the Caputo for Senate Campaign Committee?

A I knew, the name escapes me, we did buy time. Yes.

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Q Do you know how this firm was selected?

A I remember that Arthur Finkelstein had again, because he had been in this business in New York State and so on, had a thought to do this, and recommended that we use this, and I am assuming this is the naem of the firm.

Q Have you ever met Mr. Finkelstein's brother, Robert W. Finkelstein?

A Yes.

Q When did you meet him?

A I don't remember. My only tie related to him was he tried -- his job is to collect the money and the fees for Arthur, and we were behind in paying Arthur. And I would get phone calls periodically "could we pay", and I met him once on one of those occasions.

Q Are you familiar with Candidate Training Seminars that the National Conservative Politcal Committee held?

A That is news to me. I knew the Republican National Committee has one, because Bruce and I went there. I am not aware that NCPAC had one.

Q When was the Republican National Committee's seminar?

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A February 1982.

Q Did anyone else who worked for the Caputo for Senate Campaign Committee attend besides you and Mr. Caputo?

A No.

I take that back, John Sheehand came down for part of the day.

Q Did Mr. Sheehan speak at that seminar?

A Yes, he was on the panel with other political people.

Q But it wasn't a National Conservative Political Action Committee seminar?

A No, it was the Republican National Committee.

Q Do you know who Robin Martin is?

A Yes. He was one of the many volunteers that I got to know through this campaign.

Q He was not an employed staff member of the Caputo for Senate Committee?

A To my knowledge there was no -- he worked solely in a volunteer capacity, in my recollection again is on the fund raising side.

Q Do you know when his activities with the Caputo for Senate Committee began?

A I have no recollection of picking him out of

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all the poeple I saw come and go, to pick him out and to say when he started, I don't remember.

Q Do you when activities with the Caputo for Senate Committee ended?

A This is a very set of arrangements with volunteers, they come and go. You ask them to make phone calls, to write reports up, and you hope you are going to get them working. When he ceased being with us, I think it was in November or so. I think, my recollecion, anyway is, that he became involved in the NCPAC group they were setting up their education program about Senator Moynihan.

Q Was he involved in formulating campaign strategy for the Caputo for Senate Committee at all?

A Not in anything that I was involved with, no.

Q Did he ever attend any of the meetings that you had with Mr. Finkelstein, these weekly meetings that you discussed earlier?

A My only recollection as to when hewould have been there was when we were talking about fund raising efforts for the Caputo for Senate Campaign Committee. And we would have asked for volunteers that we thought could help and for people to call twenty five people and

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all that. That is the only time I remember him being present at one of these meetings where we were talking finaances.

Q You gave him specific directions as to what he should do for the Caputo for Senate Committee in terms of finances?

A We had a strategy for raising money which we fell far short of, in which I was trying to not leave an individual to coordinate it. So he and a lot of others were asked to make phone calls and to raise money and give money and all that kind of stuff.

MR. JOHANSEN: I have before me a list of Bruce Caputo campaign address and phone numbers in what proports to be dated 8/15/81. Let's have that marked as Government Exhibit Number 6.

(A document entitled Bruce Caputo campaign addresses and phone numbers as of 8/15/81 consisting of two pages was marked as Government Exhibit Number 6 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I hand this to the witness.

I ask the witness to review that document.

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MR. GRAFF: It is probably not appropriate, but I would object to your characterization of the document.

MR. JOHANSEN: That is fine.

A I don't know what it is for sure.

MR. GRAFF: It is a list of names and phone numbers.

THE WITNESS: How was it characterized?

MR. GRAFF: I think he said staff members, I believe.

THE WITNESS: Oh.

Q Have you ever seen this document before?

A Yes.

Q Do you know who prepared it?

A I don't know for sure, but I would suspect that Lucia Trovatto prepared it at my direction.

When I wanted to get a hold of people I never had the phone numbers.

Q Is it a list of staff people for the Caputo for Senate Committee?

A Well, I wouldn't put Arthur Finkelstein as staff, he was an advisor, or Bruce's brother Mac was an advisor. I wasn't being paid anything.

Roger Kimmel is a counsel.

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Lucia ended up in what I would call staff, as being paid and in the office in our Caputo for Senate office.

John Samerjan was being paid.

Everybody else on this list with the exception of Alan Gotlieb were all volunteers, to my knowledge. And Alan Gotlieb was our direct mail.

Q Would you characterize this as a list of key people in the Caputo for Senate Campaign or associated with the Caputo for Senate Campaign Committee?

A I would characterize this as the poeple that I would be talking to whenever I wanted to deal with -- the people here are the ones I wanted to get in touch with, and I wanted their names and addresses and how to get a hold of them.

Q Also, Mr. Martin's name appears on this list; is that correct?

A Political Manager.

Q Does political manager have any significance?

A Yes, it does. And you are triggering a thought with that, which is that Robin's career in business has been on the radio field, radio stations. And even had some experience in New York State. And I think

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for one of the, whether it was President Ford's staff or something like that once as a political advisor to New York. And so as a political advisor, I was thinking of fund raising which we asked him to do also, but we would have liked to have had him fit in one of these organization charts and as political manager for us on the campaing as somebody we could look to to work with the county leaders and or to set up our own organization within counties and so on.

It was a grand idea, nothing came of that one. And that is a fine title. To my knowledge I don't think he spent a half hour on that assignment, so forget what his title is.

Q Do you have any idea as to how much time Mr. Martin spent on the Caputo for Senate Committee?

A Not a lot.

Q How often did he come down to the Caputo for Senate committee campaign headquarters, if you know? If you can give an estimate.

A I would have trouble picturing in my mind three times he was there.

Q So not more than three times?

A Well, I don't know that as a fact, but let me tell you he was not one of our heavies. And to my

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knowledge I don't think he did a thing in this political -- helping us out in lining up the New York State Republican county chairman and things that we thought he could do.

For isntance we had this problem with a lot of things. And you think they're qualified and you want to get them in, and you've got to have the right motoviation. And he was working on deals, and trying to earn money and all the other things; he had his own company; we just never got it.

Q You said that he worked on finacnes for the Caputo for Senate Campaign Committee?

A My recollection of him is asking him to make phone calls to raise money for us. I now see that we put a political title on him, but I don't think he did a thing in that area.

Q The political manager area?

A I don't even know what it means. Titles are free in this business.

Q Did he make phone calls to raise money for the Caputo for Senate Committee?

A I think he did raise money, not a lot himself, but, in fact, I can't remember if he gave himself. We tried to start with that first.

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Q Did he ever discuss with you the National Conservative Political Action Committee's actions in terms of the anti-Moynihan advertisements?

A I have no recollection along those lines.

Q Did he talk to you about a New York State taxpayers set up with Moynihan?

A Do I ever remember him talking to me about that? No.

Q Can you think of anyone ever talking to you about tat organization?

A My recollection is I think that became the name or whatever it is of the NCPAC group in New York who was educating the public about Moynihan's record. I don't know what their title was.

Q Are you familiar with the problems that the National Conservative Political Actions Committee had in getting radio stations in New York to run their anti-Moynihan advertisements?

A The problems they were having?

Q In terms of certain radio stations declined or questioned running the advertsiements because of what some of the copies said?

A Yes.

Q How did you learn about that?

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A I don't know that I heard or read that in the press or whether I have subsequently heard about it in discussions with Bruce or Arthur or something. I don't know where, but I think I remember it more out of some press article.

Q Did you ever discuss with Mr. Finkelstein those so-called problems?

A I remember whenever they started Arthur making some comment to me that it was a freedom of speech problem and all of this, and he was upset about it.

I didn't really understand the legalities or whatever it was or anything else, but I remember he was upset one day.

Q Do you know Cheryl Bendis?

A I don't think I've ever heard that name before.

Q Do you know Elain Gansz?

A Wait a minute. If there people worked for NCPAC, they could very well have, there were, after Arthur asked me to contribute to NCPAC, several people from NCPAC came to see me.

And what they wanted me to do was to organize a fund raising effort in New York.

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I have a feeling, and I couldn't remember their names now if I had to, but I think that those may be the individals. There was a young lady I think and a gentlement, but I don't remember.

Q They came to New York?

A They came to my office in the Pan Am building.

Q Do you recall when that was?

A Sometime in the late summer or very early fall.

Q Did you discuss with them anything with regard to what was occurring in the Caputo for Senate Campaign Committee?

A Not to my recollection at all.

The discussion was purely on the fund raising, would I give money to NCPAC and would I come up with ten names who were Conservatives. They wanted me to give money, and would I supply them with the names, and did I have anybody in mind to raise money in New York State. And we were going to raise -- they were asking me to raise some big amount of money to start this campaign that they had. And I said I wasn't personally going to get involved in that, and I would give money to it for the survey, but not money for

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any anti-Moynihan advertisements.

I felt it might be construed by somebody as a conflict of interest in someway, shape or form, and I would not do that.

And so I gave them a couple of names, and I don't know whether they called them or not.

Q So your recollection is the Caputo for Senate Campaign Committee was not discussed?

A That is correct.

Q Did they, at that meeting, discuss --

A Now they knew I was chairman of it, you know, but the whole -- my recollection is the totality of that discussion was to get me to give money to them, and my friends to give money to them.

Q They didn't give you any advice as to what the Caputo for Seante Campaign Committee should do?

A No, absolutely not.

Q Did they discuss with you at all the National Conservative Political Action Committee's plans in terms of the so-called anti-Moynihan advertising campaign in New York?

A No. Because you have got to raise money first before you can get into strategy and all that stuff. The answer is no, not to my recollection.

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Q Did Mr. Martin ever come to you with advice or strategy as to what the Caputo for Senate Campaign Committee should do?

A Not that I can remember. If he did it would have been in the area of how do you approach certain county leaders of state or in the fund raising area.

MR. JOHANSEN: Let me have marked as Government Exhibit Number 7 what proports to be a Caputo for Senate state roster dated 10/15/81.

(A document entitled Caputo for Senate State Roster dated 10/15/81 was marked as Government Exhibit 7 for Identification, as of this date.)

BY MR. JOHANSEN:

Q I hand that to the witness.

I ask the witness to reveiw that document.

Have you seen this before?

A Yes.

Q Did you prepare it?

A No.

Q Do you know who prepared it?

A At my instruction I wanted these phone numbers of people I was dealing with to be kept current

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and up to date, and I asked Lucia to keep it current. Now whether she typed it or not or who pulled it together, maybe she had a volunteer do it, you would have to ask her, but it was at my request.

Q Robin Martin's name appears on this document?

A Yes.

Q Did you call Mr. Martin often?

A No. I had lunch with him a coupleof times about some new venture capital situation, but I did not -- he was not one of my people I would look to constantly through this campaign for advice, and he didn't want to either.

It was clear to me he was playing very hard to get and succeeded.

Q Aside from what has been marked as Exhibits Number 6 and Number 7, do you know of any other documents such as this type that exist, campaign rosters, lists of names of people that were contacted during the campaign?

A To my recollection this was -- I don't know, they were supposed to be kept current, and I'm sure there are some other ones; but where they are and what they are, I don't know.

S K S Group. Ltd. — Court Reporters
(212) 962-5167

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But I have to tell you I suspect the reason he is on here, I'm sure some people were on here and she kept adding people because they were on previous lists with the same number and address after they kept updating them.

Q You made reference to Mr. Martin and you made reference to Mr. Finkelstein who may have also served as the National consultant for the NCPAC. Other than those two individuals, is there anyone that you know of who is associated with the Caputo for Sentate Committee who is also involved with the NCPAC?

A I never asked the question, and I could care less, and I never asked anybody on this list whether they were involved in it or not. It was something that never even occurred to me. I cannot answer that question. I never asked them or wanted to know.

Q Did you ever have any discusions during the campaign with regard to the fact of Mr. Finkelstein was serving as a consultant to National Conservative Political Aciton Committee and at the same time was serving as consultant to the Caputo for Senate Committee and that you might have problems with the Federal

8 9 0 4 0 7 0 1 8 2 1

Elections Campaign Act?

A There was a question raised about this I think sometime in late fall, the late summer, and we asked counsel for an opinion about that. Again, to make sure that there was no -- we wouldn't run into any problems with any of the Federal Election Laws. And they say if you go to counsel, hopefully they are right.

Q When you say we, who are you referring to sepcifically?

A Bruce and myself, and obviously since Arthur was the person involved in this thing we talked to him about it.

Q What did Arthur indicate to you or say to you?

A His opinion was based on his legal counsel's -- I think they had the same question raised in the D'Amatto or somewhere in the past; this was not the first time this had been raised. Because he seemed conversant with it. And his lawyer, it was a Washington lawyer named Curt Herge or something like that. And I think I probably asked Arthur I would like to see an opinion on this, if it is a potential problem I would like an opinion on it. And I think Curt Herge

9 9 0 4 0 7 0 1 8 2 2

is that his name, wrote such an opinion for Arthur which I saw.

Q In preparing for you deposition today, did you discuss your possible testimony with anyone persone?

A My counsel?

Q Anyone else?

A I called Bruce and let him know that I was goig to. When I last spoke with Arthur Finkelstein I told him I was going to be down here giving testimony. Arthur is working for a Republican Congressman, John Foslomup in Westchester where I live, and I have been helping John and Arthur on that one. So I have reason to touch bas with him on that.

MR. JOHANSEN: I have no futher questions at this time.

Would you like to ask Mr. Wilson any questions?

MR. GRAFF: I have no questions. We will produce the documents requested.

Arthur, send me a copy and I will send it on.

MR. JOHANSEN: Thank you very much,

8904070 1823

Mr. Wilson.

THE WITNESS: Thank you.

(Timed Noted 11:20 O'clock A.M.)

ROBERT G. WILSON

Subscribed and sworn to
before me this day
of 1982.

Notary Public

8904071824

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

I, GEORGE BROWN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that ROBERT G. WILSON, the witness whose deposition is hereinbefore set forth, was duly sworn by me, and that such transcript is a true record of the testimony given by such witness.

I futher certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WEHRE OF, I have hereunto set my hand this 3rd day of Nov 1982.

George Brown
GEORGE BROWN

A 9 0 4 0 7 0 1 8 2 5

Ex 1 for 2D 10/22/82

RESPONSES TO FEC REQUEST TO PRODUCE DOCUMENTS (CSC)

1. Copies of employment contracts or agreements summarizing any arrangement between Finkelstein and NCPAC for the performance of any services by Finkelstein either gratis or for compensation.

   None in possession of CSC.

2. Copies of any employment contracts or agreements summarizing arrangements between Finkelstein and CSC for the performance of any services by Finkelstein either gratis or for compensation

   An Agreement between Arthur J. Finkelstein & Associates and CSC is attached. No other contracts or agreements summarizing arrangements between Arthur J. Finkelstein & Associates are possessed by CSC.

3. Copies of any job description or instructions stating requirements set by NCPAC for the performance of any such duties which Finkelstein undertook during the course of employment by NCPAC.

   None in possession of CSC.

4. Copies of any job description or instructions stating the requirements set by CSC for the performance of any duties which Finkelstein undertook during the course of employment by CSC.

   Finkelstein was never employed by CSC; CSC retained Finkelstein as a consultant. CSC did not give Finkelstein written instructions for the performance of duties he undertook other than the services contract described in (2) above.

5. Copies of any reports, summaries or reports or notes describing the outcome or results of any tasks or projects undertaken by Finkelstein on behalf of NCPAC.

   None in possession of CSC.

6. Copies of any reports, summaries, notes describing the outcome or results of any tasks or duties undertaken by Finkelstein on behalf of CSC.

   None in possession of CSC.

7. Copies of any memoranda or notes memorializing discussions between Finkelstein and Michael Donovan of the Time Buying Services Corporation pertaining to the airing of NCPAC's radio advertisements about Senator Moynihan.

   None in possession of CSC.

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FEB 18 P2:03

8. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at NCPAC responsible for assisting or working with Finkelstien in any way in the performance of any tasks or projects undertaken on behalf of NCPAC.

None in possession of CSC.

9. Copies of any documents specifying or revealing the identity of any officers, employees, staff members or volunteers at CSC responsible for assisting or working with Finkelstein in any way in the performance of any tasks or projects undertaken on behalf of CSC.

While we have no copies of documents which specify or reveal the identity of officers or staff members at CSC, one staff member at CSC was responsible for contact with Arthur Finkelstein to assure Finkelstein's advice was executed properly: John Sheehan, Campaign Manager. The only other persons authorized to contact Finkelstein were Bruce Caputo, the candidate, and Robert G. Wilson, the Campaign Chairman. Other staff members were instructed to channel requests for information from Finkelstein through the Campaign Manager, John Sheehan.

R 2 1 4 0 7 5 : R 2 7

Responses provided by Lucia Trovato for the
Caputo for Senate Committee

82 MAY 20 A10 : 46

Arthur J. Finkelstein & Associates
117 Smith Avenue
Mount Kisco, N. Y. 10549
(914) 666-2750

Ex 2 for ID
10/22/82 JS

DATE: June 1, 1981

TO: Bruce Caputo

FROM: Arthur J. Finkelstein

RE: Moynihan vulnerability

CONFIDENTIAL

Moynihan is more vulnerable than most people believe. He received only 54% in 1976 coming off a well publicized stint at the U.N., riding Carter's coattails in New York, and receiving conservative credentials from Bill Buckley's National Review (Man of the Year) and Bill Safire's endorsement.

Undoubtedly, Moynihan's almost hysterical liberal voting record has disappointed his conservative supporters (Panama Canal, pay raise, anti-death penalty, anti-Reagan budget cuts, etc.).

His favorable rating is not outstanding. His behavior in Washington sometimes leaves colleagues and others aghast. Blacks have always resented him. Buckley even received 24% of the black vote. He's been a political opportunist for so long that most of his natural constituencies are at his throat.

The Liberal Party will probably find an opponent for him. Speculation has centered around Elizabeth Holtzman, Herman Badillo, or Carol Bellamy. Any one of these could beat him in a Democratic Primary (Badillo and Bellamy should be watched closely in this regard, even if the Market Opinion Research poll said Holtzman would beat Moynihan in a primary).

The Right-to-Life Party endorsement for Caputo will help undermine some of Moynihan's Catholic base. He is also wrong on a whole series of "Catholic Issues". A Conservative Party endorsement of Caputo should keep Moynihan fighting for a shrinking middle ground.

Moynihan will have money, but so will the Caputo Campaign. We can, I think, count on the Senate Campaign Committee for almost a million dollars in the fall. Our problem will be early money. Remember, Buckley never really attacked Moynihan, so Moynihan had almost a free ride. He is so vulnerable both on personal deportment and voting.

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D'Amato's and Reagan's elections produced new confidence among New York Republicans. They think they can win this with help. There does not appear to be any Republican primary developing and a unified party can be counted on.

The Caputo image still tends to be vague but very positive. You've always had a good base in the Hudson Valley and this is an area of extreme weakness for Moynihan. (In fact, outside of Albany and perhaps central Buffalo, Moynihan's weakness North of New York City is astonishing.)

You will be superb on television - one on one with Moynihan in debate is desirable. He's not what he was and frankly, you're probably brighter.

The Republican base in New York is growing as it is everywhere. The host of new G.O.P. Congressmen, LeBoutillier, Carman, Wortley, Molinari, McGrath, etc. will give any Republican candidate more local base support than previously.

With Reagan in the White House, finally we'll have a friend working towards your election rather than neutrality or in opposition. (Moynihan's vote, along with just a handful of Liberals against the Reagan budget cuts, could not have endeared him to Ronald Reagan.)

I talk of four resources necessary to conduct a strong campaign: 1) Money - we will have late money, we're starting National Direct Mail and Local Donor programs now, PAC money is crucial but can be expected; 2) People - we are putting together a top notch team - everybody I've wanted is coming on board with perhaps one exception and he promised me an answer by February; 3) Candidate - I've always felt you were a star in training. As for Moynihan, he is by all accounts deteriorating - the world has changed; and 4) Time - we're starting early enough - important.

R 1 4 0 7 0 5 1 8 2 9

Ex 3 fw II
10/22/82 lbb

UNITED STATES SENATE

2 West 45th Street • Suite 1703 • New York, NY 10036 • (212) 944-8330

FOR FURTHER INFORMATION CONTACT:

September 15, 1981

John Sanerjan (212) 944-8330
(212) 459-4691

TEXT OF BRUCE CAPUTO'S ANNOUNCEMENT SPEECH

I am announcing today that I have candidate for election to the United Stat Senate.

I am running because I believe in a militarily strong America because the S military threat is real as the people of Poland and Afghanistan know, an America that can speak from strength and act with resolution, an America that has the mi might and the moral will to defend the freedom of its allies.

I am running because I believe in an economically strong America and becaus I have seen how decades of liberal domination of Congress have sapped our econo vitality, promoted excessive inflation, and have undermined the private sector's ability to provide jobs for our people through economic expansion.

I am running because I support President Reagan in his efforts to turn our nation around and restore its military and economic strength.

I am running because crime has made all of us feel unsafe, from the street of New York to villages, cities, and rural communities around the state. What w need from Washington is a program of crime prevention and control, including re of capital punishment. We need tougher judges, and more police who are better p and better equipped.

I am running because the people of New York need access to the decision ma and as a Republican Senator I would have real influence in the Senate and the W House.

I have a record of hard work and achievement, a record that I am proud of. As a defense planner, New York State Legislator, United States Congressman, and private businessman. During the Vietnam era, I served in the Defense Department working on military manpower needs in Southeast Asia, the SALT negotiations, an United States requirements for fighter attack aircraft, naval forces, and nuclea defense. In the New York State Assembly I supported legislation to strengthen criminal laws and reduce government spending. In Congress, I voted for a strong defense, for measures to cut waste and fraud out of welfare and other programs, and for a balanced budget.

-MORE-

R2040730

(R) UNITED STATES SENATE

2 West 45th Street • Suite 1703 • New York, NY 10036 • (212) 944-8330

I founded and developed my own business which has grown to considerable size and success. I have been a partner in America's oldest and most successful management consulting firm. And now, as an Alternate United States Representative to the United Nations, I am encouraging non-aligned nations to compare the freedom and opportunity of America to the repression and stagnation of Soviet society.

New York's present Senator Daniel Patrick Moynihan is one of the principal architects of big government, a system that penalizes hard work and rewards laziness, a system that is bleeding dry the hardworking, taxpaying middle class citizens. Most people are unaware that Daniel Moynihan is the father of the runaway federal welfare system. Moynihan has been at the forefront of support for the growth of government for the past three decades. In 1980, the American Conservative Union rated Moynihan at zero percent, ranking him as the most liberal Senator, tied with George McGovern, more liberal in fact than Ted Kennedy.

President Reagan is bringing about a quiet but momentous revolution. He is doing what the people of New York elected him to do, reduce the size and cost of government. He is cutting back on wasteful federal spending, shrinking the bloated bureaucracy, fighting to let working people keep more of the money we earn instead of paying more and more taxes. But sadly, Daniel Moynihan has a very different vi from the people of New York. He is among the last of the big-time spenders. Moynih is the last of a dying breed that still fervently believes in taking money from those of us who have earned it and giving it to those who have not. Deep in his heart, he still believes that the productive people in our society should su who choose not to work. He was one of only a handful of ultra-liberal Senators who opposed the President's plan to reduce federal spending.

Daniel Moynihan and I both claim to be strong supporters of Israel, but Moynihan bitterly opposes defense measures that will allow the United States to defend Israel and our other allies.

It is on these issues that I am running. I believe that I will be elected t the United State Senate.

I am gratified that even before the formal announcement of my candidacy, I gained the endorsement of 15 Republican County leaders, many hundreds of contri and thousands of volunteers around the state. As I go around from city to city, to town, county to county, the enthusiasm at the grass roots level for a new phi of government, for a new direction, is inspiring. The people of New York want an efficient government, well managed and compassionate, and dedicated to the preser of the traditional values upon which this great nation grew and upon which it w continue to flourish. As the next Senator from New York, I will offer just that.

Paid for by Republicans for Ted Stevens

R 2040751 R31

UNITED STATES SENATE

Ex 4 for ID
10/22/82 DB

Dear Friend,

I need your help on one of the most important decisions of my life.

Let me get right to the point.

With the election last year of Ronald Reagan and a Republican Senate, we have taken the first step towards getting our nation's economy and skyrocketing inflation under control.

The President's Economic Recovery Program to reduce government spending, cut taxes, and balance the federal budget, is now being debated by the Senate.

Just the other day some of President Reagan's closest advisors told me of the high expectations the President has of success...
...but they also relayed to me a fear and concern the President has.

As you have read in the newspapers or seen on television, the President's plan will take three to four years to take effect.

It's a tough job to dismantle all those out dated liberal programs and remove burdensome federal regulations that have been stifling our economy for the past forty years. Particularly, with powerful old-line liberal special interest Senators working against the Reagan program.

Sadly--Patrick Moynihan voted against the wishes of New York's people and against the needs of our nation when he joined with Ted Kennedy and a handful of other ultra-liberals voting against Presid Reagan's budget cuts.

The Senate is held by the Republican Party, but only by a slim margin.

The Democrats have plans to retake the Senate in 1982, and if Republicans lose only four seats, then the liberals will take over again and and Ronald Reagan's dream for economic recovery.

That is why I am writing and asking friends and neighbors if I should help President Reagan by challenging liberal Senator Patrick Moynihan in the 1982 election.

Senator Moynihan has consistently voted for wasteful big spending programs, new government agencies and against new defense programs.

Paid for by Citizens for [illegible] Committee

EXHIBIT 19

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He has even voted against critical strengthening of our crimi laws!

Let's just take a quick look at Moynihan's voting record in Washington for the past five years:

- ✓ Voted to give away the Panama Canal.
- ✓ Voted to give himself a pay raise 4 times in 4 years!
- ✓ Voted for Foreign Aid to Communist Cambodia, Cuba, Laos, and Viet Nam.
- ✓ Voted against balancing the 1980 budget, the 1981 budget, and Ronald Reagan's 1982 budget.
- ✓ Voted against giving you a 10% income tax cut.
- ✓ Voted for raising your taxes on gasoline.
- ✓ Voted for a new plush $60 million Senate office building at your expense

and

- ✓ Voted against capital punishment.

Patrick Moynihan tries to portray himself as a "conservative" in New York, but his voting in Washington...is right down the line with Ted Kennedy and the other special interest liberals.

The truth needs to be told about Moynihan and his votes. Ronald Reagan needs another Senator from New York he can count on.

That's why I need your help.

Patrick Moynihan is vulnerable, very vulnerable...but liberal are massing hundreds of thousands of dollars in New York to help him retain his seat.

They know what happened to their other favorites last year li George McGovern and Frank Church. The liberals can't afford to lo Moynihan, and we who believe in Ronald Reagan can't afford to have him in the Senate rejecting the Reagan initiatives any longer.

Should I run for the Senate? For the next year and a half I will need to spend fourteen hours a day, six or seven days a week, campaigning if I'm to get our message - the Reagan Republican message - to the voters.

If I am to run, I must start today.

I must know if I can count on your support.

This is where you can help.

R 0 0 4 0 7 8 3 3

I've enclosed a pledge form and postage paid, self-addressed envelope. On the form, please fill it out and tell me if I should run against liberal Democrat Patrick Moynihan.

The Caputo campaign will be a grassroots campaign. A campaign involving thousands of volunteers working together to defeat Patrick Moynihan. Your involvement, even a few hours of your time could make the difference.

And as I reported, the liberal special interest groups are already filling Senator Moynihan's campaign chest.

Moynihan has already amassed three hundred thousand dollars because he knows how vulnerable he is.

While Moynihan has special interest money, I have only the generosity of you and other dedicated Americans who have the best interest of their country and state at heart.

I hope you will help me get my campaign started by mailing a check today.

Maybe you can send $25.

Or maybe you can send $50, $75, $100, or even $250, $500, or more.

Of course, even if you can only afford $10 or $15, you will be doing more for my campaign and helping President Reagan than you know

I believe that America is destined to remain the greatest country in the world. Our Forefathers knew it when they founded our Republic.

I look forward to representing this great state and country as New York's U.S. Senator.

I know that, with your support, we can get the job done.

Sincerely,

Bruce Caputo

P.S. When I was Ronald Reagan's New York Campaign Vice Chairman, I learned how important an early start can be. Won't you take the time to fill out the enclosed card and help the President today?

P.S.S. My Campaign Manager is Bob Wilson. Why don't you call Bob at (212)944-8330. Thanks.

8 9 0 4 0 7 5 1 8 3 4

Dear Bruce,

I agree! You should run for the United States Senate in 1982. We must defeat Patrick Moynihan before he and his ultra-liberal friends destroy President Reagan's programs that will make America great again.

Here's my contribution to kick off your campaign. Enclosed is a check in the amount of:

☐ $15 ☐ $25 ☐ $75 ☐ $100 ☐ $250
☐ $500 ☐ $1000 ☐ $_____ Other

Federal law limits contributions to $1,000 per person.
No corporate contributions or cash donations, please.

Federal Law Requires We Ask the Following:

Name _____

Home Address _____

City _____ State _____ Zip _____

Title or Occupation _____

Name of Company (or Self Employed) _____

_____ City/State _____

Please make checks payable to: Caputo for Senate, 2 West 45th Street, Suite #1703, New York, NY 10036.

Paid for by Caputo for Senate. A copy of our report is filed, and is available from the Federal Election Commission, Washington, D.C. 20463

R 2 0 4 0 7 5 1 8 3 5

Attachment I

Murphy/Powers Media Inc.

117 SMITH AVENUE • MOUNT KISCO, N. Y. 10549
(914) 666-2750

Ex 5 for ID
1/22/82 SB

January 14, 1982

Mr. Bruce Caputo
Caputo for Senate Committee
2 West 45th St. - Suite 1703
New York, N.Y. 10036

Dear Bruce:

It is agreed by Bruce Caputo and Murphy/Powers Media Inc. that Murphy/Powers Media will do all the time buying for the Bruce Caputo for Senate Campaign Committee. The agreed upon agency fee will be seven percent. If the time buying should exceed one million dollars, then the agency fee will be reduced to five percent.

If the above agreement meets with your approval, please sign below.

Sincerely,

Ronald W. Finkelstein

Bruce Caputo

1/21/82

Date

Murphy/Powers Media, Inc.

1/15/82

Date

RWF:dhd

9 7 0 4 0 7 5 1 8 3 6

BRUCE CAPUTO CAMPAIGN

ADDRESS & PHONE NUMBERS

AS OF 8/15/81

BRUCE CAPUTO
Private Office
Pan Am Building
200 Park Avenue - Room 5401
New York, N.Y. 10166
office: 212/687-5552
home: 914/337-4958

CAPUTO FOR SENATE
Campaign Headquarters
2 West 45th Street
Room 1703
New York, N. Y. 10036
212/944-8330-31-32

ROBERT G. WILSON (Campaign Manager)
Limited Partner
Goldman, Sachs & Co.
55 Broad Street
New York, N.Y. 10004
212/676-5033 or 5034
Creative Capital Associates, Inc.
Room 5401
Pan Am Building
200 Park Avenue
New York, N.Y. 10166
212/661-2036 or 2038 or
212/661-2300
Home: 42 Musterton Road
Bronxville, New York 10708
914/337-3210

Ex 6 for DD
10/22/82

ARTHUR FINKELSTEIN (Political Advisor)
117 Smith Avenue
Mt. Kisco, New York 10549
office: 914/666-2750
home: 914/273-3998

A. MACDONALD CAPUTO (Special Advisor)
Morgan Stanley & Co.
1251 Avenue of the Americas
New York, N.Y. 10020
office: 974-4438
home: 744-9354
Bronxville: 914/337-6640

AUSTIN T. FRAGOMEN, JR. (Treasurer)
Attorney at Law
Fried, Fragomen, Del Rey,
Bernsen & O'Rourke, P.C.
515 Madison Avenue
New York, N.Y. 10022
office: 688-8555
home: 914/591-8561

8907057837

ROGER H. KIMMEL (Counsel)
Milgrim Thomasan Jacobs & Lee
Chrysler Building
405 Lexington Avenue
New York, N.Y. 10174
office: 212/867-6660
home: 124 Victory Boulevard
New Rochelle, N.Y. 10804
914/636-4008 or 4009

MISS LUCIA TROVATO (Office Manager)
432 Park Hill Avenue
Yonkers, New York 10705
home: 914/963-3783

JOHN SAMERJAN (Director of Research & Press)
68-12 Yellowstone Boulevard
Forest Hills, New York 11375
office: 212/263-5202
home: 212/459-4691

ADAIR BEUTEL (Advisor PACs)
900 Park Avenue
New York, N.Y. 10021
home: 212/737-3739

ROBERT J. PERKINS (Financial Advisor)
Polygon Diamond Trading Network, Inc.
575 Lexington Avenue
Suite 2700
New York City, N.Y. 10022
office: 212/935-8181

ROBIN B. MARTIN (Political Manager)
Deer River Broadcasting Group
Suite 1001
141 East 44th Street
New York, N.Y. 10017
office: 212/599-3303

PETER P. BUCKLEY
Taconic Petroleum Corporation
103 East 37th Street
New York, New York 10016
office: 212/689-8060

ALAN GOTTLIEB (Direct Mail)
Center For Defense of Free Enterprise
1601 114 S.E.
Alderwood Building
Bellevue, Washington, D.C. 98004
office: 206/454-4911
home: 206/641-2172

CURTIS KELLY (Special Events)
Reader's Digest
200 Park Avenue - 32nd Floor
New York, N.Y. 10166
office: 212/972-6166

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Ex 7 for ID
10/22/82 LB

CAPUTO FOR SENATE-STATE ROSTER 10-15-81

Caputo for Senate-Headquarters
2 West 45th Street--Suite 1701
New York, New York 10036
(212) 944-8330

BRUCE CAPUTO
200 Park Ave. Suite 5401
New York, N.Y. 10166
(o) 212-687-5552
(h) 914-337-4958
(UN) 212-826-4569

ROBERT G. WILSON
42 Masterton Road
Bronxville, N.Y. 10708
(h) 914-337-3210
(o) 212-676-5033 (Goldman Sachs)
(o) 212-661-2300 (Pan Am)

ARTHUR J. FINKELSTEIN
117 Smith Ave.
Mt. Kisco, N.Y. 10549
(o) 914-666-2750
(h) 914-591-6645

A. [illegible]
Morgan Stanley, Inc.
1251 Ave. of the Americas
New York, N.Y. 10020
(o) [illegible]
(h) 212-744-9303
(h) 914-337-6640 (B'ville)

[illegible], JR.
[illegible], Conley & Lernsen
515 Madison Avenue- 14th Floor
New York, New York 10022
(o) 212-[illegible]-8555
(h) 914-591-8561

Robert H. Kimmel
Milgrim,Thomajan,Jacobs & Lee
405 Lexington Ave.
New York, N.Y. 10174
(o) 212-867-6660
(h) 914-636-4008

Alan Gottlieb
Merrill Associates
1601 114th St. SE, Alderwood Bldg.
[illegible] 98004
[illegible]

JOHN T. SHEEHAN
13532 Leith Court
Chantilly, VA. 22121
(o) 202-225-4430 (until 11-1-81)
(h) 703-378-6644

LUCIA TROVATO
432 Park Hill Avenue
Yonkers, N.Y. 10705
(h) 914-963-3783

JOHN SAMERJAN
68-12 Yellowstone Blvd.
Forest Hills, N.Y. 11375
(h) 459-4691

PAUL C. LOWERRE
210 East 68th St.
New York, N.Y. 10021
(h) 212-535-3841

ADAIR BEUTEL
1220 Park Avenue
New York, N.Y.
(h)

[illegible]
Taconic Petroleum Corp.
103 East 37th St.
New York, N.Y. [illegible]
(o) 212-[illegible]
(h) 212-686-1039

STACEY [illegible]
555 Main Street
New York, N.Y. 10044
(h) 212-838-2710

ROBIN B. MARTIN
141 East 44th St. Suite 1001
New York, N.Y. 10022
(o) 212-935-8181
(h) 212-289-4646

ROBERT PERKINS
Polygon Diamond Trading Network
575 Lexington Ave. Suite 2700
New York, N.Y. 10022
(o) 212-935-8181
(h) 212-

9110705-1839

9204075184 0

MARTIN

BEFORE THE FEDERAL ELECTION COMMITTEE

In the Matter of:)
)
CAPUTO FOR SENATE COMMITTEE ET AL.,)
)

One St. Andres Plaza
New York, New York

Friday,
October 22, 1982

Deposition of

ROBIN B. MARTIN

A witness, taken by the Federal Election Committee, at One St. Andres Plaza, New York, New York, before George Brown a Notary Public in and for the State of New York.

BEFORE:

GARY JOHANSEN, ESQ., Presiding Official
and
JUDITH THEORFORD

APPEARANCES:

On behalf of the Witness:

ROBERT R. SPARKS, JR., ESQ.
Sedam & Herge, Esqs.
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ROBIN B. MARTIN, called as a witness, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. JOHANSEN:

Q Would you state your name, please.

A Robin B. Martin.

Q And your address?

A 21 East 90th Street, New York, New York, 10028.

Q Are you married?

A Yes.

Q Your wife's name?

A Lucinda Martin.

Q What is your occupation?

A I am the president of Deer River Broadcasting Group.

Q How long have you been president of Deer River Broadcasting Group?

A Four years.

Q Mr. Martin, you are testifying pursuant to a subpoena issued by the Federal Election Commission; that is true, is it not?

A Yes.

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Q You were also subpoenaed to provide certain documents of materials. And if I may direct your attention to the subpoena which requests that you produce "any documents, materials in your possession relating to the creation or airing of anti-Moynihan radio advertisements produced by The National Conservative Political Action Committee, the Caputo for Senate Committee, or Arthur J. Finkelstein & Associates."

Do you have any of those documents?

MR. SPARKS: Let me address that, if I can.

I have reviewed a number of documents with Mr. Martin, which he tells me comprise his files in connection with this matter.

I am producing to you now a five-page document, the first page of which is entitled "Documents of Moynihan Ad." That document, I believe, is the only one which fits squarely within the purview of the subpoena, both requests A and B, dated September 10th, 1982. (Handing.)

MR. JOHANSON: Why don't we have this marked as Exhibit No. 1.

(Document entitled "Document of Moynihan Ad," was marked as Government Exhibit 1 for identification, as of this date.)

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Q It is your testimony, Mr. Martin, that that is the only document that you found that is subject to the subpoena, which was issued to you?

A In the opinion of counsel, that is the only one, yes.

Q Are you familiar with an organization called The New York State Taxpayers Fed Up with Moynihan?

A Yes.

Q Could you describe what that organization is?

A It was a project of the National Conservative Political Action Committee.

Q Could you describe what that project is?

A It is not a separate organization from NCPAC, it is a separate group set up in New York to help defeat Senator Moynihan in the 1982 election.

Q When was this group set up?

A The dates are fuzzy, but I would, from what we are looking at in the files today, I would say early November of 1981.

Q Were you involved in the setting up of the New York State Taxpayers Fed Up With Moynihan?

A Yes.

Q How did you become involved?

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THE WITNESS: May I talk to you about that?

(The witness and counsel left the hearing room and returned shortly thereafter.)

A A certain Mr. Arthur Finkelstein suggested I contact people at NCPAC to discuss working on a project.

They introduced me to the idea of the anti-Moynihan campaign, that is how it started.

Q When did Mr. Finkelstein contact you?

A About the same time, that early November, late October, around there.

Q When he contacted you in approximately early November, did he indicate to you what New York State Taxpayers Fed Up With Moynihan was going to do?

A He said that the basic thrust would be an anti-Moynihan campaign, but that people in NCPAC would work with me to develop the strategy.

Q What role did you play with New York Taxpayers Fed Up with Moynihan?

A I was chairman.

Q What did you do as chairman?

A Basically, coordinated the publicity that we attempted to get through the Free Press; worked with NCPAC to solicit funds and to buy commercials.

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Q Was this a voluntary position?

A Yes.

Q You said that Mr. Finkelstein contacted you. Did you know him before he contacted you with regard to your involvement with the New York State Taxpayers Fed Up With Moynihan?

A Yes.

Q How did you know him?

A I had met him in the last summer, the summer of 1981, in connection with the Caputo campaign.

Q When he suggested that you become involved with New York Taxpayers Fed Up With Moynihan, did he at that time discuss with you anything with regard to the Caputo campaign?

A Could you rephrase that? Or make it more specific, I guess.

Q Was there any discussion of the Caputo campaign and what the Caputo Campaign Committee was doing when he requested or suggested that you might want to contact the National Conservative Political Action Committee with regard to New York Taxpayers Fed Up With Moynihan?

MR. SPARKS: Could I talk to my client for a moment, please?

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MR. JOHANSEN: Sure, go ahead.

(The witness and counsel left the hearing room and returned shortly thereafter.)

A I am sorry. Could you read back that question and I will answer it.

(The record was read.)

A Yes.

Q What was that conversation or discussion?

A A general discussion of what the Caputo campaign was doing, and a request that I talk to NCPAC in Washington, to discuss further details on what the anti-Moynihan campaign would do.

Q Would you be more specific in terms of, you said a general discussion with regard to what the Caputo campaign was doing, could you be more specific with regard to that?

A There were discussions about issues that were facing Caputo.

Q What issues were those?

A Discussions of mechanics of the campaign structure itself, what was happening there.

Q In terms of issues, what issues do you recall were discussed?

A Basic issues facing New Yorkers, crime,

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defense spending, just general, not specific issues, but general areas of issues that might be explored.

Q How about in terms of, you said, mechanics of the campaign?

A My understand was that there had been some confusion in the Caputo campaign, and that people working on the Caputo campaign were not being led correctly.

So we were talking about internal administration of the campaign.

Q Were you involved with the Caputo For Senate Committee?

A Mr. Finkelstein attempted to hire me as the campaign manager, and I declined.

Q When was that?

When did that occur?

A It was around August, I believe. I don't remember the exact dates, but I believe it was in the late summer.

Q Was that your first involvement with the Committee, the Caputo For Senate Committee?

A Well, with that committee, yes, that is correct.

Q How long have you known Mr. Finkelstein?

A I met him in conjunction with that campaign

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last summer.

Q You said that he asked you to be campaign manager for the Caputo For Senate Committee?

A Yes.

Q You said that you declined?

A Right.

Q Were you associated with the Caputo For Senate Committee in any other way?

MR. SPARKS: What do you mean by associated with?

Q Did you serve as a volunteer for the Caputo For Senate Committee?

A During the time that Finkelstein was attempting to hire me, I was involved with discussions with some of the people on the staff. I was never paid.

I was never involved in any full time activity.

Q Were you involved in campaign strategy?

A It is a very vague question. I attended some meetings. I talked to people. I don't know when in campaigns you define that something is strategy and something isn't.

I am sorry, I don't know how to define it any further.

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Q Can you tell me more specifically what kind of things that you discussed with people?

A The main thing that I discussed during that whole period was the mechanical administration of the campaign, which at that point was in disarray.

Q Did you have discussions with Mr. Caputo?

A Very few, and not substantive discussions about issues.

Q Not substantive about the campaign?

A Not about issues in the campaign, mechanical questions of scheduling, and again, more the administrative side of the campaign, and very few of those.

Q Your role with the campaign committee was more administrative; is that what you are saying?

A Yes, in my view.

Q But you were also involved in policy matters in terms of issues that were --

A I was not in a position to define policy matters. I am not an expert in policy issues.

I don't have researchers or any other capability within my own power, so if I attended meetings, I would nod my head or say what came to my head, but that was it.

Q Did you ever go down to the Caputo For Senate

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Campaign Committee headquarters?

A Yes.

Q Do you recall how many times?

A During the period that Finkelstein was attempting to hire me, quite a few. I don't remember the number.

Q Can you narrow what period that is?

A No.

Earlier than August, and I think probably late October, mid to late October was the end of that period.

Q By quite a few, approximately once a week?

A It would vary. Sometimes it would be once a week, but again, I have a full time job, so it would be weeks when I wouldn't see anybody or talk to other people.

There would be other times when I would be there more often.

Q Did you have an office at the campaign headquarters?

A No.

Q Was there anyone in particular at the campaign headquarters that you worked with?

A It was a very small staff you worked with,

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if you were there you met everybody.

There were less than half a dozen employees.

Q Did you speak to Mr. Wilson, the campaign manager, about the Caputo For Senate Committee, and its activities?

A Yes.

Q Do you recall what you discussed with him?

A He along with Mr. Finkelstein attempted to hire me, it was the same line of discussions with him as st was with Finkelstein.

Q When did you tell the Committee that you did not want to be hired, you refused the offer?

A I don't know an exact date, but very early after the offer was made, and because of a full time job, I was not available.

Q But you continued your involvement with the Committee after that time; is that correct?

A Yes.

Q How long did you stay involved with the Caputo For Senate Committee?

A I told you that before, until the middle to end of October.

Q Mid to end of October?

A Yes, to the best of my recollection.

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Again, I don't remember the date, but that is the best of my recollection.

Q Do you know if the Caputo For Senate Committee had campaign staff meetings?

A I am sure they did.

Q Did you attend any of these meetings?

A Again, it was a very small staff. Sometimes when you got everyone together, you had, in fact, a staff meeting, so, yes, I would have attended.

Q Do you know who else might have attended these meetings?

A Mr. Wilson, certainly, other people working full time on the campaign who were paid people.

Q Was Mr. Caputo ever there?

A He was very rarely in that office, and I do not remember, there may be one meeting, but it was very rare for him to attend these meetings.

Q I understand that the Caputo For Senate Committee aired some TV advertisements in New York. Are you familiar with those advertisements?

A Only from what I heard and saw of them over the television.

Q As part of your involvement with the Caputo For Senate Campaign Committee, did you ever discuss those

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advertisements with anyone?

A No.

Q Did Mr. Finkelstein or anyone else ever seek your advice or discuss with you or have discussions with you as to the Caputo TV advertisements?

A To the best of my recollection, the early or the first Caputo commercials were in early 1982.

My involvement had been cut off a couple of months prior to that.

There may have been broad discussions about what the activity was going tobe in the first quarter, but not very much more than a broad discussion.

Q Why did you terminate your involvement with the Caputo Committee?

A For two reasons. One, that I did not want to be a full time employee and there was no position for me there. And secondly, that Mr. Finkelstein suggested I contact NCPAC concerning an anti-Moynihan activity.

Q Did he suggest that you terminate your activities with Caputo?

A Yes.

Q Do you know why he suggested that you terminate your activities with Caputo?

MR. SPARKS: Do you know or would you be

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guessing?

THE WITNESS: I probably would be guessing.

Q He didn't tell you? He didn't give you a reason for terminating your activities?

A He may have alluded to an opinion that he got from counsel, but I did not talk to counsel at that point.

Q When he indicated to you that you should terminate your activities with the Caputo Campaign Committee, did you ask him why you needed to terminate your activities?

A Did I ask him why?

I probably did.

Q Do you recall what his response was?

A That it was his opinion that he had gotten from counsel, and I don't know what counsel that was, that to be legally safe, the activities should be completely separate.

Q What did the New York Taxpayers Fed Up With Moynihan do, this project?

A It basically bought radio commercials.

Q Do you know how many radio commercials they bought?

A I don't have the exact number.

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They were bought in a number of markets around New York State.

Q Does New York State Taxpayers Fed Up With Moynihan still exist?

A I am not involved with it, and to the best of my knowledge, it does not.

Q When did your involvement end?

A I don't remember the exact date, but I believe it was around April or May of this year. We aired one last series of radio commercials, and that was the final activity.

MR. JOHANSEN: I have before me what purports to be a script of a radio advertisement.

I would like to have that marked as Exhibit No. 2.

(Script of a Moynihan radio advertisement, marked Government's Exhibit 2 for identification, as of this date.)

Q I hand that to the witness.

Have you ever seen this document before?

A No.

Q Are you familiar with the radio advertisements that the New York State Taxpayers Fed Up With Moynihan ran?

A Yes.

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Q Is that a correct copy of those ads?

A To the best of my knowledge, from what I have been able to read, yes.

Q Do you know who wrote that?

MR. SPARKS: Do you know?

A To the best of my knowledge, it was prepared by NCPAC and Arthur Finkelstein.

Q Were you involved in producing this radio ad?

A Producing it in what sense?

Q Writing it.

A I was read this script, and I had some comments on it.

Q What were your comments?

A Just concerning the issues and what may sound good or sound bad over the radio.

I am in the broadcasting business, so I looked at it from a technical standpoint.

Q Were you involved in the strategy of what the advertisements should say, the political decision as to what the advertisements should say in terms of getting across a message to the New York voters with regard to Moynihan?

A I was certainly asked my opinion as to

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whether I thought this would be an effective ad.

Q By Mr. Finkelstein?

A By NCPAC.

Q You said by NCPAC. Who are you referring to specifically?

A Brent Bosell, and there may have been others, but Brent was the primary one.

Q Did you ever speak specifically with Mr. Finkelstein with regard to this ad?

A I may have. I don't recollect going through detailed specifics on it, but we may have discussed the ad.

Q In general terms?

A Yes.

Q Do you recall when that discussion might have occurred?

A I can't tell you when the ads were in, no, I can't.

Q When you spoke to Mr. Finkelstein, do you recall if there were any discussions with regard to the Caputo campaign when you spoke to Mr. Finkelstein with regard to this advertisement?

A No. Again, to the best -- I don't have a transcript, but to the best of my knowledge, it was purely confined to this topic.

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Q The other NCPAC people that you talked to with regard to this advertisement, Exhibit No. 2, at that time, did you speak to them also about the Caputo Campaign Committee?

A No.

Q Were you involved at all in the strategy of the New York Taxpayers Fed Up With Moynihan?

A Yes.

Q Who else was involved in that organization besides yourself?

A One or two other volunteers, none of whom did much work.

Q So your discussion with regard to the stragegy was primarily between you and who else?

A NCPAC.

Q By NCPAC, you mean?

A Mr. Bosell and other people concerning mechanics.

Q By NCPAC, do you mean Mr. Finkelstein?

A No, I said NCPAC.

Q Did you have any discussions with Mr. Finkelstein about the strategy or objectives of the New York State Taxpayers Fed Up With Moynihan project?

A When he had introduced the idea to me, before

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I got involved, he outlined what he thought the objectives would be.

Q What did he tell you the objectives would be?

A The objective was to defeat Moynihan by using the media.

Q Do you know Elaine Ganz?

A Yes.

Q Who is she?

A She is a body who works at NCPAC, I don't know her title. I gather she is a secretary, I am not sure.

Q What about Cheryl Bendis?

A I don't know the name.

Q Are you familiar with the problems that occurred with regard to the running of the advertisements, a copy of which is set forth in Exhibit No. 2?

MR. SPARKS: What do you mean by problems?

A What do you mean by problems?

Q Airing problems, in that some of the radio stations in New York had difficulty in running the advertisements?

A Yes.

Q What were those problems?

A They wanted documentation on the specific

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charges and factual documentation.

Q Do you know a Michael Donovan?

A I have spoken to him.

Q What did you talk to him about?

A Placing commercials on radio stations.

Q Did you talk to him about the problems of getting the advertisements run?

A He brought them up to me.

Q Did you speak to Mr. Finkelstein about these problems of having advertisements run?

A I don't recall.

Q Do you recall if there was a language change in the advertisement so as to alleviate some of the difficulties various stations had?

A Yes, there was.

Q Do you recall what that language change was?

A My recollection is that one of the issues was deleted, but I don't have the other copy of what was produced before that, so I don't remember exactly, no.

Q Did you have discussions with anyone with regard to the change?

A Brent Bosell of NCPAC.

Q Did you ever have discussions with Mr. Finkelstein?

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A I may have, but I don't remember specific discussions.

The bulk of my discussions all the way through were with NCPAC, that is where the direction was coming from and who I was dealing with.

Q So you don't recall ever speaking to Mr. Finkelstein about the problems in having the anti-Moynihan ads run, a copy of which is Exhibit No. 2?

A I may have had discussions with him during that period, this may have come up. I don't recall any specific conversations.

And we did not, to the best of my knowledge, discuss any specific changes or anything with respect to the copy of the ad.

Again, I am going by memory.

Q The discussions that you had with people at NCPAC, did those discussions ever include comments about the Caputo For Senate Committee?

A Not that I can remember.

Q You never discussed with anyone at NCPAC the Caputo For Senate Campaign Committee?

A What was discussed with NCPAC was the strategy of how to get the most impact out of the radio commercials.

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Q There was never any discussion with them with regard to what you did for the Caputo For Senate Campaign Committee?

A There had been discussions when I first talked to NCPAC about what I had done.

Q What were those discussions?

A Just concerning the topics we talked about before in terms of my administration, just to get background on me.

Q I believe that you testified earlier that you sat in on various meetings that the Caputo For Senate Campaign Committee had?

A Yes.

Q Were you aware generally of the strategy for the Caputo For Senate Campaign Committee?

A In a general sense.

Q Did you ever discuss that with the NCPAC people?

A In the same general sense, probably.

Q How do you mean in a general sense?

A In terms of what issues were important to New Yorkers, not what Caputo was or was not going to do, but in terms of what issues were important in the race.

Caputo was running in the primary and wanted

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to run against Moynihan, so that campaign was aware of very similar issues that NCPAC was aware of.

Q During your involvement with the Caputo Campaign Committee, were there any discussions that one of the tactics that the Caputo Campaign Committee should take would be an anti-Moynihan position, basically?

A That the Caputo Campaign would do that?

Q Yes.

Basically to put Caputo against Moynihan.

A Not in the meetings that I attended.

Q Did you have any discussions with anyone associated with the Caputo Campaign Committee regarding this?

A Until Mr. Finkelstein suggested I contact NCPAC, no.

Q Did Mr. Finkelstein, at that time, indicate to you that the Caputo Campaign Committee was going to run advertisements which, in their tenor, would be anti-Moynihan?

A Again, the time period we are talking about was two or three months before any Caputo ad ran.

There may have been general discussions that they may have included a variety of possible strategies. I can't remember specifically, it may have come out.

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But it was months and months before the ads were actually run.

Q Did he ever indicate to you that the advertisements to be run by New York State Taxpayers Fed Up With Moynihan, which were anti-Moynihan advertisements, that they should be coordinated with what the Caputo Campaign Committee was doing, or was going to do?

A No.

Q In your association with the Caputo For Senate Campaign Committee, was it ever indicated to you that the New York State Taxpayers Fed Up With Moynihan should be coordinated with the activities of the campaign for Caputo For Senate Campaign Committee?

A No.

Q Your answer is?

A No.

MR. JOHANSEN: I have before me a list of individual names and telephone numbers, two pages in length.

At the top it says, "Bruce Caputo Campaign Address and Phone Numbers, as of 8/15/81." I would like to have this marked as Exhibit No. 3.

(Document entitled "Bruce Caputo Campaign Address and Phone Nos. as of 8/15/81, marked Government's

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Exhibit 3 for identification, as of this date.)

Q I hand it up to the witness.

Do you recognize that document?

A I believe so.

Q Have you seen it before?

A I believe I have.

Q Let me direct your attention to page 2 of the document. Is your name listed on page 2?

A Yes.

Q Beside your name, it says "political manager." Was that a title that you had while you served or during your association with the Caputo For Senate Campaign Committee?

A Mr. Finkelstein was fishing, and wanted to hire me, I refused. Arthur is a very persistent person. He would put your name on things in anticipation of your cooperation.

I was not the political manager.

Q Do I understand you correctly, that before Mr. Finkelstein asked you to contact NCPAC and help organize New York State Taxpayers Fed Up With Moynihan, that you had no involvement with NCPAC?

A No.

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MR. JOHANSEN: I have before me a document on stationery of the New York State Taxpayers Fed Up With Moynihan, one page in length, dated December 22, 1981.

I would like to have this marked as Exhibit 4 for identification.

(One-page document on the stationery of New York State Taxpayers Fed Up With Moynihan, dated December 22, 1981, marked Government's Exhibit 4 for identification, as of this date.)

Q I hand this to the witness.

Do you recognize that document?

A Yes.

Q What is it?

A It is a letter to the Executive Committee and Board of Directors of the New York State Broadcasters Association from me.

Q You wrote it?

A Yes.

Q You sent it to the New York State Broadcasters Association?

A Yes.

Q Did you send copies of this letter to anyone else?

A Mr. Finkelstein got a copy. I am sure NCPAC

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got a copy, and there was a copy as noted here to Mr. Wasilewski of the National Association of Broadcasters.

Q Why did you send a copy to Mr. Finkelstein?

A Informational purposes.

Q Did you speak to Mr. Finkelstein with regard to the subject matter of the letter?

A No.

Q Did you ever speak to anyone associated with the Caputo Campaign Committee, with regard to the subject matter of the letter?

A No.

MR. JOHANSEN: I have before me, a letter to Mr. Max Frankel, on New York State Taxpayers Fed Up With Moynihan stationery, dated December 16, 1981.

I would like to have that marked as Exhibit 5 for identification.

(Letter on New York State Taxpayers Fed Up With Moynihan stationery, dated December 16, 1981, marked Government's Exhibit 5 for identification, as of this date.)

Q I hand that to the witness.

Do you recognize that document, Exhibit No. 5?

A Yes.

Q What is that?

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A A letter to the editorial page editor of the New York Times from me as chairman of the committee.

Q You wrote this letter?

A Yes.

Q It was sent?

A Yes.

Q Did you send any carbon copies of this letter to anyone?

A One to Mr. Finkelstein and to NCPAC.

Q Why did you send a carbon copy to Mr. Finkelstein?

A For informational purposes.

Q Did you ever talk to Mr. Finkelstein with regard to Exhibit No. 5?

A No.

Q Did you ever talk to anybody associated with the Caputo For Senate Campaign Committee with regard to Exhibit No. 5?

A No.

Q After you began your activities with the New York State Taxpayers Fed Up With Moynihan, did you ever go back to the campaign headquarters of the Caputo For Senate Campaign Committee?

A I may have, I believe I probably did.

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Q Do you recall what the purpose of your going back to the headquarters was?

A Probably to pick up documents that I had in files there for my use.

Q What sort of documents would they have been?

A Pertaining to the administration of the campaign. There were personal documents, copies of documents.

Q Did you ever attend any staff meetings by the Caputo Senate Campaign Committee after you involvement with the New York State Taxpayers Fed Up With Moynihan?

A Again, there is a gradation between staff meetings and people coming together. I am sure I was there when there were people discussing topics and issues.

Whether I attended a formal staff meeting, I can't make the distinction.

Q Did you take part in those discussions?

A Certainly not actively, no.

Q Did you ever discuss with anyone associated with the Caputo For Senate Campaign Committee as to what the New York State Taxpayers Fed Up With Moynihan project was going to do? Aside from Mr. Finkelstein?

A No.

Let me go back, I am just trying to define

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the question.

You are talking about strategy or what kind of discussions are you talking about?

Q Did you ever have any discussions with regard to what you were doing, your involvement with the New York State Taxpayers Fed Up With Moynihan with the Caputo For Senate Campaign Committee people?

A That is a very broad question.

MR. SPARKS: Do you have something in particular in mind?

A I would hate to say no, because I don't know quite what you are getting at.

Q You don't recall any specific discussions?

A It doesn't help.

MR. SPARKS: Addressing the area of the coordination of activities between the two, or what? I mean, what in particular?

Q What the New York State Taxpayers Fed Up With Moynihan was going to do.

A Was going to do?

Q Or was doing.

A No. I am sure that people at the Caputo For Senate Committee were aware that we were running our commercials, that they were running.

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Q Did you talk to anybody at the Caputo For Senate Campaign Committee about those commercials?

A Finkelstein was aware of the copy. I don't believe I had discussions with other people about the preparation of the commercials, no.

Q Did you have discussions with the Caputo Campaign Committee people that they should do the same thing, that they should have advertisements --

A No.

Q -- that would be basically anti-Moynihan advertisements?

A No.

Q Did you ever discuss with the Caputo Campaign Committee, any coordination between the efforts, their efforts and the efforts of the New York State Taxpayers Fed Up With Moynihan?

A No, I answered that before.

Q When you were associated with the Caputo For Senate Campaign Committee, did you work on any fundraising-type activities?

A No.

Q Did you work on any or assist in writing any direct mail letters seeking contributions for the Caputo For Senate Campaign Committee?

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A No.

Q Do you recall when Mr. Caputo announced his candidacy for office?

A I believe it was in the month of September 1981.

Q Were you involved with that at all?

A The actual announcement or was I involved with what?

Q The actual announcement?

A I wasn't present, no.

I didn't write anything.

Q He made an announcement speech. Were you involved in preparing the announcement speech?

A No.

Q Are you familiar with a contribution or loan made by the National Conservative Political Action Committee to the Caputo For Senate Committee, in the amount of $4,400?

A Indirectly.

Q How do you mean "indirectly"?

A Through NCPAC.

Q Could you explain that?

A Very simply, the people at NCPAC told me, I believe, months after it occurred, that there, in fact,

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had been a contribution or at that time, I was led to believe there was, or it was a loan between the two.

And I later found out that it was, in fact, a contribution, or I believe it is a contribution. I don't know if, in fact, it is or not.

MR. SPARKS: What do you know?

THE WITNESS: I know that I was told that it was an amount of money transferred from NCPAC to the Caputo Committee.

MR. SPARKS: Fine.

Q Did they ever tell you what the purpose of that was?

MR. SPARKS: Who is "they"?

Q Did the NCPAC people ever tell you what the purpose of that contribution or loan was?

A No.

Q Or why it was made?

A No.

MR. JOHANSEN: Let's take a short break.

(A recess was taken.)

Q After Arthur Finkelstein asked you to contact NCPAC with regard to the setting up of the New York State Taxpayers Fed Up With Moynihan, did you report back to him with regard to what the New York State Taxpayers Fed Up

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With Moynihan were doing?

A I probably told him that I had contacted NCPAC and that NCPAC and I were working together to put the operation in place.

Q He never asked that you report back to him?

A No.

Q After you became involved with the New York State Taxpayers Fed Up With Moynihan, did Mr. Finkelstein and you discuss what the Caputo For Senate Campaign Committee was doing?

A I certainly had seen him after that date, and we talked in very vague generalities, not specifics.

Q Did you talk about what the New York State Taxpayers Fed Up With Moynihan was doing during those discussions?

A The same vague discussions. I mean, it certainly came up, but not in specifics.

Q Were there any discussions as to the efforts of the Caputo for Senate Campaign Committee and the efforts of the New York State Taxpayers Fed Up With Moynihan should be coordinated in any way?

A No.

Q You have testified that you pretty much ended your involvement with the Caputo for Senate Campaign

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Committee around November.

When you began your activities with the New York State Taxpayers Fed Up With Moynihan, did you tell anyone associated with the Caputo For Senate Campaign Committee that you were going to end your involvement with them?

A The office staff was aware that I was not going to be working for the Caputo For Senate Campaign, and that I was involved in a different project.

Q Did you tell anyone aside from Mr. Finkelstein, did you tell anyone what you were going to be doing?

A Not in the specifics, no.

Q Did you go to Mr. Wilson and tell him you weren't going to be involved with the Caputo For Senate Campaign Committee any longer?

A Because I wasn't involved on a full time basis, I didn't feel it was necessary to tell anyone that I wasn't going to be involved.

I may have told him that, I might not have. I frankly don't remember.

Q Did you ever talk to Mr. Caputo about your involvement with the New York State Taxpayers Fed Up With Moynihan?

A No.

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Q So basically what you are saying is, when you began your association or activities with the New York State Taxpayers Fed Up With Moynihan, you just dropped out of the activities that you had with the Caputo for Senate Campaign Committee?

A Right.

Q But you never really went and told anyone that you were terminating or ending your involvement?

A I wasn't doing anything formally anyway. I walked out and started the new activities.

MR. JOHANSEN: I have no further questions.

MR. SPARKS: I have none.

We will waive signature.

(Time noted: 2:10 o'clock p.m.)

R904078

C E R T I F I C A T E

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

I, GEORGE BROWN, a Shorthand Reporter and Notary Public within and for the State of New York, do hereby certify that ROBIN B. MARTIN, the witness whose deposition is hereinbefore set forth, was duly sworn by me, and that such transcript is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of November, 1982.

George Brown
GEORGE BROWN

Ex 1 for IP
10/22/82 BB

Documentation of Moynihan Ad

1) Who was the most liberal United States Senator in 1980?

On the ACU (American Conservative Union) Senate key vote index of June 1, 1981, Moynihan rated zero in 18 key votes. On the same index, McGovern also rated zero.

2) He voted to give away the Panama Canal.

CQ 119, 1978 - Moynihan voted "yea."

3) He opposed cutting back on government spending.

a) Votes increasing the deficit or public debt ceiling:

CQ 38, 1977	yes	- $68.2 billion deficit
CQ 136, 1977	no	- decrease size of deficit
CQ 360, 1977	yes	- 65.1 billion deficit
CQ 501, 1977	yes	- increase national debt 52B
CQ 272, 1978	yes	- increase national debt 46B
CQ 20, 1979	yes	- kill amendment to prevent future budget deficits
CQ 28, 1979	yes	- increase national debt 32B
CQ 317, 1979	yes	- increase national debt 49B
CQ 254, 1980	yes	- increase national debt 46B

b) Votes in 1981 to restore money to Reagan budget cuts:

CQ 45	yes	- lessen cuts by 200 million
CQ 49	yes	- lessen cuts by 200 million
CQ 50	yes	- lessen cuts by 800 million
CQ 51	yes	- lessen cuts by 1.4 billion
CQ 52	yes	- lessen cuts by 3 billion
CQ 54	yes	- lessen cuts by 100 million
CQ 55	yes	- lessen cuts by 435 million
CQ 56	yes	- lessen cuts by 937 million
CQ 60	yes	- lessen cuts by 125 million
CQ 61	yes	- lessen cuts by 300 million
CQ 62	yes	- lessen cuts by 264 million
CQ 63	no	- deepen cuts by 2.6 billion
CQ 65	no	- deepen cuts by 2.4 billion
CQ 66	no	- deepen cuts by 110 million
CQ 68	yes	- lessen cuts by 6 million
CQ 69	yes	- lessen cuts by 400 million
CQ 70	yes	- lessen cuts by 39 million
CQ 72	yes	- lessen cuts by 285 million
CQ 73	yes	- lessen cuts by 83 million
CQ 74	yes	- lessen cuts by 400 million
CQ 75	yes	- lessen cuts by 13 million
CQ 76	yes	- lessen cuts by 80 million

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4) He helped develop our runaway welfare system.

Based on Moynihan's writings in the Moynihan Report which was released through the Labor Department in 1965. Moynihan and Richard Goodwin also wrote a speech (based on the Moynihan Reports) which was delivered by President Johnson at Howard University in 1965. This speech guaranteed the solidity of minority families through government financial support.

Every year Moynihan votes to raise the expenditure ceiling of the Federal Food and Nutritional Service (which covers food stamps.) He also votes to raise their supplemental budget. For 1980-81, he voted to eliminate the expenditure ceiling altogether.

In 1977, he supported allowing students and strikers to participate in the food stamp program. He has also voted against the inclusion of college loans and grants as income to be counted against the eligibility for food stamps.

Moynihan's 1967 family assistance proposal became, in 1969, the basis for the Family Assistance Program.

Co-authors Moynihan, Shriver, Yarmolinsky and James Sundaquist developed the War on Poverty program. (Moynihan Report and The Politics of Controversy, MIT press, 1967.)

CQ 126, 1977		voted for 4 billion in public works jobs
CQ 135	"	voted against 4 billion reduction in the CETA program
CQ 160	"	voted against barring availability of food stamps to strikers
CQ 162	"	voted against photo ID's for food stamp recipients
CQ 163	"	voted for extending the food stamp system five years
CQ 165	"	voted for stopping payment requirements for food stamps
CQ 168	"	voted against barring college students from getting food stamps
CQ 383	"	voted against limiting disability payments for pregnant women
CQ 618	"	voted to expand the AFDC program

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CQ 305,	1978	voted against deletion of 250 million in food stamps
CQ 307	"	voted against deletion of 2 billion in food stamp appropriations
CQ 362	"	voted against private sector job creation incentives for CETA workers
CQ 450	"	voted against deletion of a cut in AFDC State aid
CQ 512	"	voted against reducing CETA jobs
CQ 47,	1979	voted against eliminating CETA jobs
CQ 49	"	voted against 6.2 billion cap on food stamps
CQ 145	"	voted against food stamp cut
CQ 159	"	voted against restricting federal rent subsidies
CQ 193	"	voted against cut in HEW appropriations
CQ 194	"	voted against reducing public service jobs
CQ 206	"	voted for raising the food stamp expenditure ceiling
CQ 208	"	voted for raising the food stamp expenditure ceiling
CQ 243	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 244	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 245	"	voted to give targeted fiscal assistance (anti-recession aid) for states
CQ 355	"	voted for 1.35 billion emergency fuel assistance program for low income families
CQ 370	"	voted against reducing federal grants to states paying too much in foster care
CQ 133,	1980	voted to increase food stamp expenditures for fiscal years 1980 and 1981
CQ 136	"	voted against reducing food stamp expenditures
CQ 137	"	voted against a cut in food stamp benefits for families whose children get federally subsidized free or reduced price school lunches
CQ 138	"	voted against counting higher education loans and grants and housing subsidies against food stamp eligibility

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CQ 139, 1980 voted for food stamp supplemental budget 200 million over Carter's request

CQ 499 " voted for 1 billion in stand-by aid to states and cities for anti-recession aid

CQ 519 " voted to increase CETA aid by 605 million

5) He voted against capital punishment.

a) Voted to kill an amendment to expand the list of crimes that require the death penalty (CQ 9, 1978).

b) Voted to kill an amendment to reinstate the death penalty (CQ 220, 1980).

6) He opposed the B-1 Bomber.

a) Voted to delete 1.466 billion for production of five B-1 bombers (CQ 297, 1977).

b) Voted to delete 200 million for continued development of the B-1 bomber (CQ 305, 1977).

c) Voted to rescind 462 million for continued development of the B-1 bomber (CQ 26, 1978).

7) He supports increased taxes:

a) He ranks 13th from the bottom in the National Taxpayer's Union ratings. (1980)

b) Voted against tax cuts:

CQ 107, 1977 no
CQ 108, 1977 no
CQ 356, 1977 no
CQ 357, 1977 no
CQ 358, 1977 no
CQ 135, 1978 no
CQ 448, 1978 no
CQ 464, 1978 no
CQ 513, 1978 no
CQ 91, 1980 no

c) Voted against the Reagan tax cut (CQ 239, 1981) in committee.

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8) He voted for foreign aid to communist countries like Cuba, Cambodia and Vietnam.

a) Voted against a resolution to direct the U.S. Representative to the International lending organization to vote against loans to Cuba.

CQ 198, 1977
CQ 201, 1977
CQ 202, 1977

b) Voted for aid to Cambodia and Vietnam.

CQ 337, 1979

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National Conservative
Political Action Committee
1500 Wilson Blvd. Suite 513 Arlington, Va. 22209 (703) 522-2800

Ex 2 for IP 1/22/82

SCRIPT OF MOYNIHAN RADIO AD(GAME SHOW FORMAT)

ANNOUNCER: WHO WAS THE MOST LIBERAL UNITED STATES SENATOR IN 1980?
WOMAN: OH, I KNOW, UH UH, TED KENNEDY.
ANNOUNCER: I'M SORRY, THAT'S WRONG. THE MOST LIBERAL SENATOR WAS DANIEL MOYNIHAN.
WOMAN: YOU'RE KIDDING. WHO SAYS?
ANNOUNCER: THE AMERICAN CONSERVATIVE UNION.
WOMAN: NO, MORE LIBERAL THAN GEORGE MCGOVERN?
ANNOUNCER: WELL, MOYNIHAN TIED MCGOVERN FOR MOST LIBERAL.
WOMAN: I DON'T BELIEVE IT.
ANNOUNCER: WELL, HE VOTED TO GIVE AWAY THE PANAMA CANAL, AND HE OPPOSED CUTTING BACK ON GOVERNMENT SPENDING. AND YOU KNOW, HE HELPED DEVELOP OUR RUNAWAY WELFARE SYSTEM.
WOMAN: MOYNIHAN SHARES RESPONSIBILITY FOR OUR WELFARE SYSTEM?
ANNOUNCER: YES, DANIEL MOYNIHAN MUST SHARE RESPONSIBILITY FOR OUR RUNAWAY WELFARE SYSTEM.
WOMAN: GEE, I DIDN'T KNOW THAT.
ANNOUNCER: AND HE VOTED AGAINST CAPITAL PUNISHMENT, OPPOSED THE B-1 BOMBER, HE SUPPORTS INCREASED TAXES, HE EVEN VOTED FOREIGN AID TO COMMUNIST COUNTRIES LIKE CUBA, CAMBODIA AND VIETNAM.
WOMAN: WAIT, WAIT ENOUGH. WHAT WOULD HAPPEN IF THE PEOPLE KNEW THIS?
ANNOUNCER: HE'D BE DEFEATED, WHICH IS WHY NEW YORK STATE TAXPAYERS ARE FED UP WITH MOYNIHAN AND WHY THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE HAS PAID FOR THIS COMMERCIAL. (NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.)

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN, A PROJECT OF THE NATIONAL CONSERVATIVE POLITICAL ACTION COMMITTEE, AND NOT AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S COMMITTEE.

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Ex 3 for IP
10/22/82

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ALAN GOTTLIEB (Direct Mail)
Center For Defense of Free Enterprise
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home: 206/641-2172

CURTIS KELLY (Special Events)
Reader's Digest
200 Park Avenue - 32nd Floor
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office: 212/972-6166

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

Executive Committee and Board of Directors
New York State Broadcasters Association
90 State St., Suite 530
Albany, NY 12207

December 22, 1981

Ex 4 for DD 10/22/82 GB

Gentlemen:

Last summer New York Senator Daniel Moynihan made a prsentation to the Association's annual meeting. Among other topics, he discussed independent expenditure groups and their impact on political campaigns. As a follow-up he sent a personal letter to many radio and television executives on July 24, 1981, which contained numerous quasi-legal opinions against broadcast media accepting independent expenditure group advertising. The official nature of the inherent threats contained in these messages was enhanced by Moynihan's use of U.S. Senate stationery. The New York State Broadcasters Association continued to play Moynihan's game by issuing a statement to the membership on November 11, 1981, alerting the membership about the controvery of whether or not to accept such political advertising. The message was clear - if you accept the ads you are looking for trouble. No other points of view were addressed.

Our committee is a project of the National Conservative Political Action Committee (NCPAC), and our mission is to educate the voters of our state about the incumbent Senator's voting record. By aiding and abetting the likes of powerful politicians, the Association is encouraging the suppression of free speech - a right for which broadcasters have been fighting for years. As the Association conducts all its other business, it must also treat with compete fairness the question of accepting political ads. Just because Moynihan is a sitting Senator and a personal friend of some of the Association's members does not give NYSBA the right to be a vehicle for his partisan pronouncements with no opportunity for opposing views, legal opinions, or access to your memorandum writers.

NCPAC is contemplating legal action against Senator Moynihan and many broadcast stations that refused to carry this project's ads. Moynihan's strategy is to avoid discussion of legitimate issues by raising legal issues and putting pressure on his friends. The voters demand that this side-stepping of the real issues be stopped.

I know the Association's members, as advocates of a free press, will not wish to be bullied by a politician. Our committee will be happy to supply the Association or any of its members with detailed legal briefs supporting our position. I only hope you will be as generous in your dissemination of our views as you have been of Moynihan's.

Sincerely yours,

Robin B. Martin, Chairman

P.S. We also are ready to discuss each and every issue in Moynihan's record that we oppose. Please call me at 212-599-3303.

cc: Vince Wasilewski, NAB

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee and not authorized by any candidate or candidate's committee

New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

December 16, 1981

Ltr 5 for DD
9/24/82 BB

Mr. Max Frankel
Editorial Page Editor
THE NEW YORK TIMES
229 West 43rd Street
New York, NY 10036

Dear Mr. Frankel:

Your editorial on the activities of the National Conservative Political Action Committee (NCPAC) of November 18, 1981, casts serious doubt as to the true position of the Times. At once, your readers are to believe that free speech and the right of individual expression are fundamental to our society, and also that certain groups, like NCPAC, are not to be allowed access to the media, even through paid advertisements. The Times editorial of September 29, 1981, outlines an aggressive position with regard to media access (particularly broadcasting) for the airing of various political views.

Who should be able to exercise such rights of access? The NCPAC editorial strongly suggests that only qualified office-holding politicians or candidates, and only those who live in a particular state, should be allowed to participate in the political dialogue. Do not all discussions of issues contribute to the democratic consensus that shapes the eventual resolution of priorities and policies? The Times must recognize that NCPAC and its New York project, New York State Taxpayers Fed Up With Moynihan, are only the embodiments of the voters who form these groups. NCPAC is not a monolith of anti-liberalism, but a group dedicated to the principles its supporters espouse. Our New York group was founded by local residents who feel strongly about the issues in the Senatorial record of Daniel Moynihan. All we desire is the ability to discuss the issues with the voters. Senator Moynihan and the Times would rather suppress those views.

Would the tables be turned and the editorial slant different if there were a National Liberal Political Action Committee? To avoid the charge of duplicity the Times must recognize the right of all parties, whether individual or groups, acting within the letter and spirit of the law, to express their views in all the media.

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New York State Taxpayers Fed Up With Moynihan

P.O. Box 2281, Grand Central Station, New York, New York 10163

It is ironic to note that a powerful newspaper can raise questions of access to the media, when access to broadcast media by political candidates is guaranteed under federal law, and the print media have no obligation whatsoever to provide access to anyone. The Times has exercised its ultimate power by deciding which issues to raise about the NCPAC campaign. The real issue is the liberal record of Senator Moynihan. The Times ignored the discussion of the Moynihan voting record because it is indefensible. He is out of touch with New York and should be defeated.

Sincerely yours,

Robin B. Martin
Chairman

RBM:elr

PAID FOR BY NEW YORK STATE TAXPAYERS FED UP WITH MOYNIHAN
A Project of the National Conservative Political Action Committee, and not authorized by any candidate or candidate's committee

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

FOR INFORMATION PERTAINING TO THE LITIGATION CONNECTED WITH MUR 1424, SEE FEC v. NCPAC, C.A. No. 84-0866 (GLG), (S.D.N.Y.).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 1424

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