

### FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2377

DATE FILMED 7/26/90 CAMERA NO. 2

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### PERKINS COIE

A Law Partnership Including Professional Corporations
1110 Vermont Avenue, N.W. • Washington, D.C. 20005 • (202) 887-9030

March 24, 1987

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

Dear Mr. Noble:

The Democratic Congressional Campaign Committee ("DCCC") files this complaint pursuant to 2 U.S.C. § 473g, challering violations of expenditure and contribution limitations by the Republican Party of Texas (the "State Party") in connection with its activities on behalf of the 1986 general election campaign of Congressional candidate Tom Carter.

The Carter campaign received the maximum in coordinated expenditures from the national and state committees in support of the Carter general election campaign. Yet, Mr. Carter has also admitted on the public record that his campaign received an additional \$40,000 in "non-allocable" assistance from the State Party. Exhibit A. It is apparent from this statement that the \$40,000 in question required, in fact, allocation to the limits. Yet the State Party failed to make this allocation, and as a result the national and state Republican parties substantially exceeded their total coordinated expenditure limitation of \$43,620.00.

In a remarkable filing with the Clerk of the House on October 20, 1986, Mr. Carter's campaign chose to "advise" the Clerk of its "receipt" of some \$40,000 in "non-allocable assistance" from the State Party. Significantly, this same filing noted that the \$40,000 in allocable coordinated expenditures had been made on Mr. Carter's behalf by the National Republican Congressional Committee ("NRCC"). Thus, it is apparent that the NRCC had obtained by delegation from the State Party and the Republican National Committee -- and fully exercised -- the entire § 441a(d) authority available to the support of Mr. Carter's general election campaign. In doing so, however, NRCC left no coordinated authority for the use of the State Committee. As a result, that committee had available to it only \$5,000 in contributions authority with which to support Mr. Carter in the general election.

Lawrence Noble, Esq. March 24, 1987 Page 2

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It is in this context that there appears Mr. Carter's admission that he "received" \$40,000 in "non-allocable" assistance from the State Party. Federal Election Commission regulations require that expenditures by a political party committee must be allocated to a limitations if they are made on behalf of a clearly identified candidate and are directly attributable to that candidate. 11 C.F.R. § 106.1(c)(1). Additional analysis of these legal requirements as applied to coordinated expenditures appears in such Advisory Opinions as 1984-15 and 1985-14, Fed. Elec. Camp. Fin. Guide (CCH) ¶ ¶ 5766 and 5819, respectively. In those opinions, the FEC has established a broad test by which to determine whether a party committee has made an allocable coordinated expenditure for the benefit of a federal candidate in connection with a general election. Among those standards are those identified in Part whether the candidate receiving the benefit can be clearly identified and whether the expenditures plainly accrue (i.e., are directly attributable) to that candidate's benefit.

In the case at hand, Mr. Carter has answered all these questions in the affirmative and thereby virtually required that the FEC investigate further to determine how this mysterious additional \$40,000 came to avoid allocation to limitations. Mr. Carter, though claiming that the amounts involved were not allocable, somehow knows precisely of (1) their existence, (2) their exact dollar amount, and (3) the apparent intent of the State Party to make those expenditures on his behalf and for his benefit. In fact, had Mr. Carter not assumed these expenditures to have been made on his behalf, it would have been wholly unnecessary for him to take the exceptional trouble of detailing them for the benefit of the Perhaps Mr. Carter or someone within his campaign was seized with a crisis of conscience and felt compelled to report monies which otherwise would have gone unreported and unallocated in plain violation of the requirements of federal law.

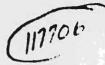
This is a serious matter. The Democratic Party has repeatedly called the FEC's attention to wide-ranging and persistent violations of the coordinated expenditure limitations by the national and state Republican parties. See, e.g., Democratic Congressional Campaign Committee v. Federal Election Commission, 645 F. Supp. 169 (D.D.C. 1986). See also

Lawrence Noble, Esq. March 24, 1987 Page 3 letter of the Democratic Senatorial and Congressional Campaign Committees to Ms. Susan E. Propper, Assistant General Counsel, dated January 17, 1986. The question presented in this case is whether the FEC will act on the virtual confession of Mr. Carter and pursue fully the facts behind another apparent attempt to avoid expenditure limitations by the Republican Party and its candidates. Respectfully submitted, Robert F. Bauer Counsel, Democratic Congressional Campaign Committee Subscribed and sworn before me this 24 day of March, 1987. March 31, 1989 My commission expires: 2177B

# REGULAR MAIL OCT 15 PC Carter

U.S. CONGRESS

October 15, 1986



U.S. House of Representatives Reports Office of Records and Registration Office of the Clerk of the House Longworth House Office Bldg., Rm. 1036 Washington, D.C. 20515

This is to advise you that we also received contributions from the National Republican Congressional Committee of approximately \$40,000 in coordinated funding. Also, approximately \$40,000 in non-allocable assistance from the Republican Party of Texas.

cc: Disclosure Filing Division
Office of the Secretary of State
F.O. Box 12697
Austin, TX 78711



### FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

March 31, 1987

Mr. Jack McDonald National Republican Congressional Committee 320 First Street, NW Washington, DC 20003

> RE: MUR 2377 Jack McDonald

Dear Mr. McDonald:

The Federal Election Commission received a complaint which alleges that you and the National Republican Congressional Committee may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2377. 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 you and the National Republican Congressional Committee in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints. Sincerely, Lawrence M. Noble Acting General Counsel George F. Rishel By: Acting Associate General Counsel Enclosures 1. Complaint 2. Procedures 3. Designation of Counsel Statement 0 V



### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 31, 1987

Glenn H. Gage, Treasurer Tom Carter For Congress 2121 San Jancinto Street Lock Box 91 Dallas, TX 75201

RE: MUR 2377

Glenn H. Gage, Treasurer Tom Carter For Congress

Dear Mr. Gage:

The Federal Election Commission received a complaint which alleges that Tom Carter For Congress and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2377. 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 you and Tom Carter For Congress in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.



If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints. Sincerely, Lawrence M. Noble Acting General Counsel Acting Associate General Counsel Enclosures 1. Complaint 2. Procedures 3. Designation of Counsel Statement



### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C 20463

March 31, 1987

Jane Matheson, Executive Director Republican Party of Texas 1300 Guadalupe Street Suite 205 Austin, TX 78701

RE: MUR 2377

Jane Matheson, Executive

Director

Republican Farty of Texas

Dear Ms. Matheson:

The Federal Election Commission received a complaint which alleges that you and the Republican Party of Texas may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2377. 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 you and the Republican Party of Texas in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints. Sincerely, Lawrence M. Noble Acting General Counsel By: George F. Rishel Acting Associate General Counsel Enclosures 1. Complaint 2. Procedures 3. Designation of Counsel Statement



### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C 20463

March 31, 1987

Mr. Tom Carter 513 Blanco Street Mesquite, TX 75150

> RE: MUR 2377 Tom Carter

Dear Mr. Carter:

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The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2377. 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 you in this matter. 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. Your response, which should be addressed to the General Counsel's Office, 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.

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 completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble Acting General Counsel

By: George F. Rishel Acting Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement



### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 31, 1987

Robert F. Bauer, Counsel
Democratic Congressional Campaign Committee
Perkins Coie
1110 Vermont Avenue, NW
Washington, DC 20005

RE: MUR 2377

Dear Mr. Bauer:

This letter acknowledges receipt of your complaint, received on March 24, 1987, alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Jack McDonald, Tom Carter For Congress and Glenn H. Gage, as treasurer, Jane Matheson and the Republican Party of Texas, and Tom Carter. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2377. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble Acting General counsel

By: George F. Rishel

Acting Associate General Counsel

Enclosures Procedures WILEY, REIN & FIELDING

1776 K STREET, N. W. APR 20 P4: 54

JAN W. BARAN (202) 429-7330

April 20, 1987

Lawrence M. Noble
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Sandra Robinson

Re: MUR 2377

Dear Mr. Noble:

This office represents the Republican Party of Texas (the "RPT") in the above-captioned matter. Enclosed please find a Designation of Counsel Statement signed by John Weaver, RPT Executive Director, confirming our representation.

While we wish to file a response, we will be unable to do so within the 15 day period provided by the statute. The need to review documents recently provided to counsel regarding this matter requires us to request an extension of 20 days for such filing. Accordingly, I respectfully request an extension up to and including May 11, 1987.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan W. Baran

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JWB/cag Enclosure

cc: John Weaver

### PRATIGUES OF PROTOSTATION OF COUNTY

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MAKE OF COURSELS	Jan W. Baran
ADDRESS:	Wiley, Rein & Fielding
	1776 K Street, N.W.
	Washington, D.C. 20006
TELEPRONE:	1202) 429-7330
	named individual is hereby designated as my
counsel and is a	nuthorized to receive any notifications and other
communications t	from the Commission and to act on my behalf before
the Commission.	
16 April 1983	the Woover
Date	Signature
RESPONDENT'S NAME	Republican Party of Texas
ADDRESS:	
April 100 .	
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BY HAND



### WILEY, REIN & FIELDING

1776 K STREET, N.W. 87 APR 20 P4: 55

April 20, 1987

JAN W. BARAN (202) 429-7330

Lawrence M. Noble
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Sandra Robinson

Re: MUR 2377

Dear Mr. Noble:

This office represents the National Republican Congressional Committee (the "NRCC") in the above-captioned matter. Enclosed please find a Designation of Counsel Statement signed by the NRCC treasurer confirming our representation.

While we wish to file a response, we will be unable to do so within the 15 day period provided by statute. The need to review documents recently provided to counsel regarding this matter requires us to request an extension of 20 days for such filing. Accordingly, I respectfully request an extension up to and including May 11, 1987.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan W. Baran

Mur

JWB/cag Enclosure

cc: Jack McDonald

### STATEMENT OF DESIGNATION OF COUNSEL

ADDRESS:	Wiley, Rein & Fielding
	1776 K Street, N.W.
	Washington, D.C. 20006
TELEPOORE:	(202) 429-7330

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.

Date 3,1987

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Signature Mathely

RESPONDENT'S HANCE:	Jack McDonald	
ADDRESS:	National Republican Congressional	Committee
	320 First Street, S.E.	
	Washington, D.C. 20003	
SOME PROME:		
ROSINESS PROME:		



### FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

April 24, 1987

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street N.W. Washington, D.C. 20006

> Re: MUR 2377

> > National Republican Congressional Committee;

Republican Party of Texas; Tom

Carter; Tom Carter for Congress Committee and

Glenn H. Gage, as treasurer

Dear Mr. Baran:

This is in response to your letter dated April 20, 1987, which we received on April 20, 1987, requesting an extension of twenty (20) days to respond to the complaint in the abovecaptioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on May 11, 1987.

If you have any questions, please contact Sandra Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble Acting General Counsel

George F. Rishel By:

Acting Associate General

Counsel

RECEIVED !! THE FEC GLENN H. GAGE 87 APR 27 49: 37 2121 SAN JACINTO, SUITE 700 P.O. BOX 599 DALLAS, TEXAS 75221 April 22, 1987 Lawrence Noble, Esq. Office of the General Counsel Federal Election Commission 999 E Street N.W. Washington, D.C. RE: MUR 2377 Tom Carter Dear Mr. Noble: On April 7, 1987, I received your office's correspondence regarding the complaint filed with the Federal Election Commission. I understand that Mr. Thomas B. Carter (the candidate) is also responding under separate cover. I am pleased to provide you with all the information I have in connection with the above matter. I was aware that assistance was being provided by the National Republican Congressional Committee and also that assistance had been requested from the Republican Party of Texas. I have no knowledge about the particulars. However, to the best of my knowledge, every-0 thing was proper and legal. If you should have any further questions, please feel free to call me at (214) 969-8752. Regards 0 Glenn H. /bb

As was stated, in an unsigned addendum to our Twelfth Day Preceeding the General Election filing, the Tom Carter For Congress Campaign was the beneficiary of "approximately \$40,000 in coordinated funding" spent on our behalf by the NRCC and the beneficiary of "approximately \$40,000" spent on our behalf by the RPT. Such expenditures on behalf of a federal campaign do not go through the campaign treasury and are not required to be reported by the campaign. However, in the interest of full disclosure, we unofficially advised the Clerk of the House of all such expenditures made on our behalf to which we had any knowledge.

This brief unsigned advisory statement, upon which the DCCC's complaint is soley based, was not as the DCCC claims an "admission" or a "confession" nor was it sent due to a "crisis of conscience." Rather, we were so certain of the legality of the expenditures on our behalf, we confidentially advised the Clerk of the House of their existence even though we were not required to do so.

A simple explanation of how these monies were used will clearly demostrate they were legal. The "approximately \$40,000" spent by the NRCC on our behalf was clearly below the total coordinated expenditure limitation of \$43,000. The "approximately \$40,000" spent by RPT on our behalf was used to support volunteer intensive activities and, therefore, was not allocable to the campaign or to the limit on coordinated expenditures. Hundreds of volunteers spent thousands of hours on volunteer projects funded by the RPT, including addressing, folding, sorting and mailing campaign materials informing voters of the clear choice between the liberal incumbent and the conservative alternative. The DCCC's filing is a political stunt in an attempt to protect one of their weakest Congressmen. They are obviously very concerned that I will beat Mr. Bryant in 1988 otherwise they would not have taken the time to file their complaint with the press before it was filed with the FEC. (A copy of the Dallas Times Herald article on their filing is attached.) I do agree with the DCCC on one point; this is a serious matter. Based on the foregoing information, I respectfully request that the FEC immediately dismiss the complaint against me. To do otherwise would discourage future campaigns from disclosing valuable information and encourage the DCCC to file additional politically-motivated harrassment complaints. If you have any further questions, please feel free to contact me at the office (214) 954-2000 or at home (214) 681-8570. Sincerely. Thomas B. Carter SUBSCRIBED AND SWORN TO BEFORE ME on alar day of April, 1987, to certify witness of my hand. Notary's Name Printed: Kathy M. Davis My Commission expires: 3-17-90**Attachment** 

### Panel: Tom Carter broke campaign laws

### Former candidate violated maximum contribution limits, Democrats say

By Richard S. Dunham

TIMES HERALD WASHINGTON BUREAU

WASHINGTON — The Democratic Congressional Campaign Committee on Tuesday accused Mesquite Republican Tom Carter and his finance chairman, Louis Beecherl Jr., of violating federal campaign laws in Carter's unsuccessful 1986 campaign for Congress.

In a complaint filed with the Federal Election Commission, the Democrats charged Carter, who was defeated last year by Rep. John Bryant, D-Dallas, accepted nearly twice the maximum legal contribution from the Texas Republican Party.

Also named in the complaint were the Texas Republican Party and Carter's campaign treasurer, Glenn Gage. Republicans dismissed the complaint as a politically motivated attempt to embarrass Beecherl, a controversial nominee to the University of Texas Board of Regents who has vowed to help Republican Gov. Bill Clements dump Democrat financier Jess Hay as chairman of the UT board.

Carter said Beecherl had "absolutely nothing to do with" the funds in question and accused the Democrats of "trying to totally fabricate things" for partisan purposes. He said his campaign finances were "clean as a whistle."

"The current complaint filed by the Democrat Party is clearly a political ploy aimed at protecting one of their weakest congressmen, Mr. Bryant," said Carter. "This filing clearly tells me that they're really afraid that I'll beat nim in 1988."

But Robert Bauer, attorney for the Democratic Congressional Campaign Committee, said the complaint was a result of a lengthy investigation into attempts by the national Republican Party to funnel its political largess to GOP congressional candidates.

The complaint charged the Texas Republican Party spent \$40,000 to assist Carter's campaign after it had contributed its maximum allocation of \$43,620. The \$40,000 was listed in a Carter campaign statement to the FEC as an independent expenditure on his behalf made by party officials.

Bauer called the complaint against Carter "the opening shot" in a campaign to convince the FEC to investigate Republican spending practices. But Carter said Republicans might respond by filing a complaint against Bryant in connection with alleged irregularities in his campaign financial state-

3CC #4231 NECEIVED AT THE FEC WILEY, REIN & FIELDING 87 AUG 26 AII : 28 1776 K STREET, N.W. WASHINGTON, D. C. 20006 (202) 429-7000 August 24, 1987 JAN W. BARAN (202) 429-7330 George F. Rishel, Esquire Assistant General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463 Re: MUR 2377 Dear Mr. Rishel: This letter is to clarify the April 16, 1987 Designation of Counsel Statement signed by John Weaver, Executive Director of the Republican Party of Texas, and submitted to the Commission in connection with the above-referenced matter. That Statement authorizes this office to represent the Republican Party of Texas and its subsidiary political committees, including the Texas Republican Congressional Committee, in the Commission matter designated MUR 2377. Sincerely, 0 য C Jan W. Baran cc: John Weaver

· CCC# 3346

### WILEY, REIN & FIELDING

1776 K STREET, N.W. WASHINGTON, D. C. 20006

JAN W. BARAN (202) 429-7330

May 11, 1987

J7 MAY 11 P4: 21

Lawrence M. Noble
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attention: Sandra Robinson

Re: MUR 2377

Dear Mr. Noble:

This response is submitted on behalf of the Republican

Party of Texas ("RPT") and the National Republican

Congressional Committee ("NRCC"), Jack MacDonald, treasurer,
in response to a complaint filed by the Democratic

Congressional Campaign Committee ("complainant") and
designated Matter Under Review ("MUR") 2377. For the reasons
set forth herein, the Federal Election Commission ("FEC" or
"Commission") should find no reason to believe that the
Republican Party of Texas or the National Republican

Congressional Committee and its treasurer, Jack MacDonald,
violated any provisions of the Federal Election Campaign Act
of 1971, as amended (the "Act").

#### I. FACTS

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#### A. The Complaint

Complainant alleges that the Republican Party of Texas violated the contribution and expenditure limits of the Act

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 2 by providing approximately \$40,000 in funding to assist the Tom Carter for Congress Committee ("Carter Committee") at the same time the NRCC made approximately \$40,000 in coordinated expenditures on behalf of the same committee. Such allegation is premised on the unstated conclusion that the RPT payments were "expenditures" within the meaning of the Act and its limitations. See 2 U.S.C. §§ 431(8) & 441a. However, as the facts set forth below clearly demonstrate, such conclusion is erroneous. B. The NRCC Expenditure By letters dated June 12, 1986 and June 5, 1986

respectively (set forth at Attachment 1) the Republican National Committee and the RPT authorized NRCC to serve as their agent for the purpose of making coordinated expenditures on behalf of the general election campaign of Tom Carter.

Consistent with those designations, and pursuant to 11 C.F.R. §§ 104.3(b)(3)(viii) & 110.7(c), NRCC itemized the coordinated party expenditures it made on behalf of the Carter Committee on Schedule F of its 1986 general election cycle disclosure reports. Copies of the pertinent pages of those reports are set forth as Attachment 2.

Those reports reveal that NRCC spent a total of \$41,942.59 in support of the Tom Carter for Congress

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 3 Committee -- \$1677.41 less than the statutory limit for such expenditures. FEC Record at 1 (April 1986). C. The RPT Expenditures In addition to the coordinated expenditures it authorized NRCC to make on its behalf in support of the Carter Committee, the RPT spent \$39,061 in connection with campaign materials used in RPT volunteer activities in support of Tom Carter. These payments (which are detailed in the documents set forth at Attachment 3) consisted of: 17 a \$19,061 payment for printing and shipping of 198,000 pieces of "GOTV mail in support of Tom Carter" which were stuffed, labeled, sorted and packaged by volunteers; and payments of \$5000, \$3500, \$4500, and \$5000 to 0 the U.S. Postmaster for postage for mailings prepared by RPT volunteers on behalf of Tom Carter. As the documents set forth at Attachment 3 clearly demonstrate, these payments were for volunteer activities exempted from the definition of an "expenditure". Hence, they were not "allocable" either as contributions or expenditures subject to the limitations of the Act. 2 U.S.C. §§ 431(7) & (8).

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 4

#### II. ARGUMENTS OF LAW

A. The NRCC Expenditures on behalf of the Carter Committee Were Permissible under the Act.

pursuant to 2 U.S.C. § 441a(d) and 11 C.F.R.
§ 110.7(b)(1) the national committee of a political party and
a state committee of the same party may each make coordinated
expenditures on behalf of the party's general election
nominees. The 1986 limit for coordinated expenditures by
national and state party committees on behalf of
congressional candidates in multi-district states was \$43,620
(or \$21,810 for the Republican National Committee and its
agents, and \$21,810 for the Republican Party of Texas). See
FEC Record at 1 (April 1986).

The documents set forth at Attachment 1 demonstrate that NRCC was authorized by both the Republican National Committee and the RPT to effect their coordinated expenditures on behalf of the general election candidacy of Tom Carter.

The documents set forth at Attachment 2 demonstrate that NRCC complied with the Act's reporting requirements with respect to such expenditures. Moreover, those documents unequivocally demonstrate that the expenditures made by NRCC on behalf of Tom Carter's general election candidacy were within the statutory limits set for coordinated party expenditures.

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 5 Hence, NRCC complied with both the spending limitations and reporting requirements of the Act applicable to the coordinated party expenditures it made on behalf of the Carter Committee. B. The RPT Payments On Behalf of the Carter Committee Were Permissible Under the Act. State party committees may support their general election nominees in several ways: they may make direct contributions of \$5000 to such candidates; further, as discussed above, they may make limited coordinated expen-In ditures on behalf of such candidates; and finally, they may make unlimited, or "non-allocable" expenditures for campaign materials used in connection with volunteer activities on behalf of such candidates. 11 C.F.R. § 100.8(16). The RPT made \$39,061 in "non-allocable" expenditures on 0 behalf of the Carter Committee. Instructions on the RPT authorization for such payments stated that "Volunteers will envelope stuff, label, sort, and package GOTV mail in support of Tom Carter". Attachment 3, page 1. Such volunteer involvement meets the exact test the Congress had in mind when it enacted the volunteer activity exemption: The purpose of this section [2 U.S.C. §§ 431 (7) & (8)] is to encourage volunteers to work for and with local and State political party organizations. cost of campaign materials purchased by a State or local party organization which

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 6 support Federal candidates who have been nominated by a political party are not contributions to [or expenditures on behalf of] Federal candidates if the campaign materials are used by the State or local party organization in connection with volunteer activities. . . . The test for determining volunteer activities is twofold -- how the campaign materials are used and by whom. H. R. Rep. No. 96-422, 96th Cong., 1st Sess. 9 (1979), reprinted in, Government Printing Office's Legislative History of Federal Election Campaign Act Amendments of 1979, at 193 (1983). Here, the campaign materials were used to support the Republican party's nominee for the Sixth Congressional District of Texas (Tom Carter) and were used by volunteers in a get-out-the-vote effort on behalf of Carter. Attachment 3, C page 1. Volunteers were clearly involved in every step of the distribution effort of the literature mailed by the RPT on behalf of Tom Carter. They stuffed, labeled, sorted and packaged the materials sent out by the RPT on behalf of Carter. Hence, the payments made by the RPT for these campaign materials were not "expenditures" within the meaning of the Rather, such payments were for exempt volunteer activities which, pursuant to 2 U.S.C. § 431(8), may be made

WILEY, REIN & FIELDING Lawrence M. Noble May 11, 1987 Page 7 by State party committees, such as the RPT, in unlimited amounts. III. CONCLUSION For the reasons set forth above the Commission should find no reason to believe that the Republican Party of Texas or the National Republican Congressional Committee or its treasurer, Jack MacDonald, have violated any provisions of the Act. Sincerely, Jan W. Baran Sherin M. Cooking Sherrie M. Cooksey Counsel to the Republican Party of Texas and the National Republican Congressional Committee, Jack MacDonald Treasurer



## Republican National Committee

Frank J. Fahrenkopf, Jr. Chairman

June 12, 1986

The Honorable Guy Vander Jagt Chairman National Republican Congressional Committee 320 First Street Washington, D.C. 20003

Dear Guy:

By this letter the Republican National Committee authorizes the National Republican Congressional Committee to serve as the agent of the Republican National Committee for the purpose of making expenditures pursuant to 2 USC S441 (d) (3). Your committee is authorized to make these expenditures on behalf of the Republican National Committee in connection with the election of Tom Carter for Congress, Texas Fifth District.

Under S441 (d) (3) you may spend, on the Republican National Committee's behalf, \$21,000.00 for Tom Carter.

Best personal regards.

Very truly yours,

Frank J. Fahrenkopf, J

FJF/vh

cc: Joe Gaylord
Bill Greener
Robin Carle
Jay Banning
Ed Goeas



George W. Strake, Jr. State Chairman

June 5, 1986

The Honorable Guy Vander Jagt, Chairman National Republican Congressional Committee 320 First Street, S.E. Washington, D.C. 20003

Dear Congressman Vander Jagt:

By this letter the Republican Party of Texas authorizes the National Republican Congressional Committee to serve as the agent of the Republican Party of Texas for the purpose of making coordinated expenditures pursuant to 2 U.S.C. 441(a) (d) (3).

Your Committee is authorized to make these expenditures on behalf of the Republican Party of Texas in connection with the general election campaign of Tom Carter, C.D. 5.

Under 441(a) (d) (3) you may spend, on behalf of the Republican Party of Texas, \$21,000.00 for Tom Carter.

Sincerely,

George W. Strake, Jr.

State Chairman

GWS, jr:sn

ALL STATE LEGAL SUPPLY CO. ONE CLIMMETICS DRIVE CRAMFORD NEW 211

### (Summary Page)

1.Name of Committee (In Full)	4. TYPE OF REPORT (Check appropriate boxes)  (a) April 15 Quarterly Report October 15 Quarterly Report July 15 Quarterly Report January 31 Year End Report July 31 Mid Year Report (Non-Election Year Only)		
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE-EXPENDITURES			
Address (Number and Street)			
Address (Number and Street)	July 3	II Mid Year Report (No	n-Election Year Only)
320 FIRST STREET, S.E.		hly Report for Septe	10
City, State and ZIP Code	Twelf	th day report preceding	(Type of Election)
WASHINGTON, D.C. 20003	election onin the State of		
Check here if address is different than previously reported.	Thirtie	eth day report following	the General Election
2. FEC Identification Number	on	in th	e State of
0069370	П	nation Report	
This committee qualified as a multicandidate committee during this Reporting Period on		ort an Amendment?	NO
SUMMARY			
5. Covering Period 8/1/86 through 8/31/8	36	COLUMN A This Period	COLUMN B Calendar Year-to-Date
6.(a) Cash on hand January 1, 19 86	4	s 104,205.55	
(b) Cash on Hand at Beginning of Reporting Period	s 148,186.00	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
(c) Total Receipts (from Line 18)	\$ 1,591,062.44	\$ 12,586,035.67	
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and		1,/39,248.44	
7. Total Disbursements (from Line 28)		\$ 1,711,706.22	\$ 12,662,699,00
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line	6(d))	s 27,542.22	s 27.542.22
9. Debts and Obligations Owed TO The Committee		s -0-	22
10. Debts and Obligations Owed BY the Committee		s 1,265,416.49	
I certify that I have examined this Report and to the best of my knowledge and belie it is true, correct and complete.	if .	Enr further	information contact
JACK MCDONALD Type or Print Name of Treasurer		Feas 999	rai Bection Commission E Street N.W. hindton D.C. 20463
N- 8 M- 1 20	(10./06	*51	Free 300-424-9530
SIGNATURE OF TREASURER	19/86		202 376-3120
NOTE Submission of false, erroneous or incomplete information may subject the pe	erson signing this rep	Ortici Te Céus ( 25 % 2 % )	2 5 431
All previous versions of FEC FORM 3	and FEC FORM 3a a	re obsolete and should no lon	ger to used
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### OFTAILED SUMMARY PAGE of Receipts and Disbursements (Page 2, PEC FORM 3X)



EXPENDITURES From: \_\_8/1/86 To: 8/31/86 NATIONAL REPUBLICAN CONCERNSTONAL CONCERNS COLUMN B Calendar Year-To-Date COLUMN A **Total This Period** I. RECEIPTS 11. CONTRIBUTIONS (other than loans) FROM: -0--0-(a) Individuals/Persons Other Than Political Committees. . . . . 11(a) (Memo Entry Uniternized \$ \_\_\_\_\_\_\_ -0--0-11(6) -0--0-11(c) -0-(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(e), 11(b) and 11(c)) . -0-11(d) 1,585,000.00 12,485,000,00 12. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES . . . -0-13.ALL LOANS RECEIVED .......... 13 -0--0-14 2,262.44 80,280.76 15 OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebetes, etc.) 15 3,800.00 20,754.91 16. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES 16 AND OTHER POLITICAL COMMITTEES -0--0-17. OTHER RECEIPTS (Dividends, Interest, etc.)......... 17 1,591,062.44 12,586,035.67 18. TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17) . . . . . . . . . . . . . . . II. DISBURSEMENTS 1,113,828.80 10,997,214.63 19 20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES . . 226,644.00 20 668,644.00 21 CONTRIBUTIONS TO FEDERAL CANDIDATES AND 180,031.68 707,429,77 OTHER POLITICAL COMMITTEES 22. INDEPENDENT EXPENDITURES (use Schedule E) . . . . . . -0--0-22 THE STATE OF THE STATE OF 23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES. 192,356.74 288,620,44 (2 U.S.C. 5441 a(d)) (Use Schedule F) 24. LOAN REPAYMENTS MADE. . . . . . . . -0-24 -0--0-25 26. REFUNDS OF CONTRIBUTIONS TO (a) Individuals/Persons Other Than Political Committees. . . . . . . . . . 155.00) 26(a) 790-16 26(b) -0-26 (c) -0--0-(d) TOTAL CONTRIBUTION REFUNDS (Add 26(a), 26(b) and 26(c)). 790-16 26(d) 27 OTHER DISBURSEMENTS 27 -0-28. TOTAL DISBURSEMENTS (add lines 19, 20, 21, 22, 23, 24, 25, 26(d) and 27) 706.22 12,662,699,00 28 III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES 29. TOTAL CONTRIBUTIONS (other than loans) from Line 11(d) 23 -0--0--0-30. TOTAL CONTRIBUTION REFUNDS from Line 26(d) 30 (1.155.00)31.NET CONTRIBUTIONS (other than loans) (Subtract Line 30 from Line 29). 790.16 31 32. TOTAL OPERATING EXPENDITURES from Line 19 32 1,113,828,80 10,997,214.63 3**3** 33. OFFSETS TO OPERATING EXPENDITURES from Line 15 . . . . . 2,262.44 80,280.76 34.NET OPERATING EXPENDITURES (Subtract Line 33 from Line 32) . . . . . . . . . 1,111,566.36 10,916,933.87

# SCHEDULE F ITEMIZED COORDINATED EXPENDITURES HADE BY POLITICAL INTERCOMMITTEE OR DESIGNATE ACTIONS ON BEHALF OF CANDIDATES FOR FEDERAL UFFICE

PAGE 1 LINE 23

(2U.S.C. 441A(D))
(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

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# POLITICAL COMMITTEE OR DESIGNATED ATT (S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2U.S.C. 441A(D))

PAGE 2

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(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

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SUBTOTAL OF EXPENDITURES THIS PAGE

# ITEMIZED COORDINATED EXPENDITURES HADE BY

OMMITTEE OR DESIGNATED A ANDIDATES FOR FEDERAL (2U.S.C. 441A(D))

LINE 23

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

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POLITICAL TO TENDED OF CAMPITATES OF SESSONATED OF CAMPITATES OF FEDERAL OFFICE

MMITTEE OR DESIGNATE TO (3) LINE 2: MDIDATES FOR FEDERAL OFFICE (2U.S.C. 441A(D))

\$187392.96

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

NAME OF POLITICAL COMMITTEE ( IN FULL )
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE - EXPENDITURES

THIS COMMITTEE HAS BEEN DESIGNATED TO TO MAKE COORDINATED EXPENDITURES BY THE REPUBLICAN NATIONAL COMMITTEE AND/OR THE REPUBLICAN STATE COMMITTEES.

FULL NAME & MAILING ADDRESS OF SUBORDINATE COMMITTEE: N/A

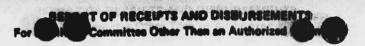
TOTAL FOR ITEMS LISTED .

in

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TOTAL FOR ITEMS NOT LISTED . . . . . . \$.00

GRAND TOTAL FOR THIS PERIOD . . . . . . \$137392.96



# (Summary Page)

1.Neme of Committee (In Full)  NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE—EXPENDITURES  Address (Number and Street)  320 FIRST STREET, S.E.  City, State and ZIP Code WASHINGTON, D.C. 20003  Check here if address is different than previously reported.  2.FEC Identification Number  0069370  3. This committee qualified as a multicandidate committee during	(e) April July 1 July 3 Montil Twelf election Thirti on Termi	REPORT (Check appropriate 15 Quarterly Report	October 18 Quarterly Report January 31 Year End Report Section Year Only) TOBER 1986  (Type of Election) in the State of
this Reporting Period on(Date)	(D) Is this Rep	ort en Amendment?  YES X NO	
SUMMARY           5. Covering Period         9/1/86         through         9/30/8	86	COLUMN A This Period	COLUMN B Calender Yesr-to-Date
6.(a) Cash on hand January 1, 19 86		SAME !	104,205.55
(b) Cash on Hand at Beginning of Reporting Period		\$ 27,542.22	
(c) Total Receipts (from Line 18)		\$ 2.993,744.32	\$ 15,579,779.99
(d) Subtotel (edd Lines 6(b) and 6(c) for Column A and Lines 6(e) and 6(c) for Column 8)			\$ 15,683,985.54
7. Total Disbursements (from Line 28)		\$ 2,998,554.31	\$ 15,661,253.31
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line	6(d))	\$ 22,732.23	\$ 22,732.23
9. Debts and Obligations Owed TO The Committee		s -0- s 1.765,573.13	
JACK MCDONALD Type or Print Name of Treasurer  Lancy S. Marshall	10/20/86	Federal 999 E S Washin Toll Fre	formation contact: Becton Commission Street, N.W. gton, D.C. 20463 ie 800-424-9530 iii: 800-424-9530
NOTE Submission of false, erroneous, or incomplete information may subject the p			
All provious versions of FEC FORM	3 and FEC FORM 3a	are obsolete and should no longer	r be used.
		FEC F	ORM 3X (3/80)

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# DETAILED SUMMARY PAGE of Receipts and Disbursements (Page 2, FEC FORM 3X)

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e of Committee (in Full) NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE -From: 9/1/86 9/30/86 COLUMN A COLUMN B **Total This Period** Calendar Year-To-Date I. RECEIPTS 11. CONTRIBUTIONS (other then loans) FROM: (a) Individuals/Persons Other Than Political Committees. . -0-11(a) (Memo Entry Uniternized \$\_ 130 -0--0-11(b) -0--0-11(c) (d) TOTAL CONTRIBUTIONS (other then loans) (add 11(e), 11(b) and 11(c)) -0--0-11(d) 12 TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES 990,000 15,475,000.00 12 -0--0-13 -0--0-14 سهدي المراجع 84,025.08 15. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebetes, etc.) 3.744.32 20,754.91 16 REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES -0-16 AND OTHER POLITICAL COMMITTEES 17. OTHER RECEIPTS (Dividends, Interest, etc.). -0-17 18. TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17) . 2.993.744.32 15,579,779.99 II. DISBURSEMENTS 19. OPERATING EXPENDITURES......... .710.799.15 12,708,013.78 19 176,000.00 20. TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES . . . 844.644.00 20 4-1 1-1 1,067,808.84 21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND 350,379.07 OTHER POLITICAL COMMITTEES 22. INDEPENDENT EXPENDITURES (use Schedule E) -0--0-1 23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES. 751,376.09 1.039.996.53 23 (2 U.S.C. § 441 a(d)) (Use Schedule F) 24. LOAN REPAYMENTS MADE. . . . . . . -0-24 7 25. LOANS MADE \_0\_ 25 26. REFUNDS OF CONTRIBUTIONS TO 790.16 (a) Individuals/Persons Other Than Political Committees -0-26 (A) (b) Political Party Committees . . . . . . . . . 26 (b -0--0-2010 -0-790.16 (d) TOTAL CONTRIBUTION REFUNDS (Add 26(a), 26(b) and 26(c)). 26 ld 27 OTHER DISBURSEMENTS - () -27 - 3.4 , 661,253.31 28. TOTAL DISBURSEMENTS (add lines 19, 20, 21, 22, 23, 24, 25, 26(d) and 27) 998.554.31 20 -III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES 29. TOTAL CONTRIBUTIONS (other than loans) from Line 11(d) -0--0-3.4 30. TOTAL CONTRIBUTION REFUNDS from Line 26(d) 790.16 33 -0-31.NET CONTRIBUTIONS (other than loans) (Subtract Line 30 from Line 29) . 790,16 -0-31 12,708,013.78 32. TOTAL OPERATING EXPENDITURES from Line 19 1,710,799.15 32 3,744.32 84,025.08 33.OFFSETS TO OPERATING EXPENDITURES from Line 15 33 1,707,054.83 34.NET OPERATING EXPENDITURES (Subtract Line 33 from Line 32) . . . 12,623,988.70

# POLITICAL PARTY COMMITTEE OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2U.S.C. 441A(D))

PAGE 3 LINE 23

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

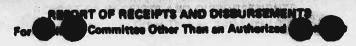
Á	NAME OF POLITICAL COMMITTEE ( IN FULL ) NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE - EXP	ENDITURES	
	THIS COMMITTEE HAS BEEN DESIGNATED TO TO MAKE COORDINATED REPUBLICAN NATIONAL COMMITTEE AND/OR THE REPUBLICAN STA	EXPENDITUTE COMMITT	RES BY THE
	FULL NAME & MAILING ADDRESS OF SUBORDINATE COMMITTEE:	N/A	
	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE: PRINTMAIL, INC. STATE:TX DISTRICT:06	DATE	AMOUNT
	PRINTMAIL, INC.  STATE:TX DISTRICT:06 PURPOSE: 2033 MILITARY PARKWAY MAILING SERVICE MESQUITE, TX 75149 AGGREGATE GEN ELECTION EXPENSES FOR	9/04/86 9/08/86	\$37115.5
	Total Control of the	*****	
	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE: DIRECT MARKETING SERVICES STATE:PA DISTRICT:23		
	4321 WEST RIDGE ROAD PURPOSE: ERIE, PA 16506 PRINTING AGGREGATE GEN ELECTION EXPENSES FOR FRIENDS OF BILL CLIN	GER	\$18007.3
•	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE:		
	DIRECT AIRWAY STATE:NC DISTRICT:04 P.O. 30X CN5244 PURPOSE:		
`	PRINCETON, NJ 08540 TRAVEL EXPENSE AGGREGATE GEN ELECTION EXPENSES FOR COBEY FOR CONGRESS		\$879.0
	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE: TARRANCE HILL NEWPORT & RYAN STATE:NC DISTRICT:06	DATE	AMOUNT
	P.O. BOX 73209 PURPOSE: HOUSTON, TX 77273 PROF. SERVICES AGGREGATE GEN ELECTION EXPENSES FOR COBLE FOR CONGRESS		\$5705.0
	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE: ARCHIBALD ALLAN ASSOC. INC STATE:PA DISTRICT:13		
	UNION HILL INDUST. PARK PURPOSE: 30 CLIPPER ROAD PRINTING WEST CONSHOHOCKEN, PA 19428	9/30/36	\$13909.7
	AGGREGATE GEN ELECTION EXPENSES FOR COUGHLIN FOR CONGRES		\$15307.2
	FULL NAME & ADDRESS: NAME OF FEDERAL CANDIDATE: UNIVERSAL STATISTICAL, INC. STATE:IL DISTRICT:04 7550 PLAZA COURT PURPOSE:	DATE	AMOUNI
		9/05/36	\$115+2.3 \$19097.1

# POLITICAL PARTY COMMITTEE OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2U.S.C. 441A(D))

PAGE 3 LINE 23 (MENO ENTRIES

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

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A	GGRE	GA	Γē	GE		ELE	CT	CON	ĒΧ										DNG				====		)97. ====



# (Summery Page)

1. Name of Committee (In Full)	4. TYPE OF	REPORT (Check appropriat	e boxes)
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEEEXPENDITURES		15 Quarterly Report	October 15 Quarterly Report
	July 1	5 Querterly Report	January 31 Year End Report
Address (Number and Street)	U July 3	11 Mid Year Report (Non-El	ection Year Only)
320 First Street, S.E.	Monti	hly Report for	
			Conoral
	X Twelf	th day report preceding	(Type of Election)
City, State and ZIP Code Washington, D. C. 20003	election	on on <u>11/4/86</u>	in the State of
Check here if address is different than previously reported.	Thirti	eth day report following the	General Election
2.FEC Identification Number 0069370		in the S	tete of
This committee qualified as a multicandidate committee during this Reporting Period on(Date)		nation Report  ort an Amendment?  X NO	
SUMMARY			
5. Covering Period 10/1/86 through 10/15	/86	COLUMN A This Period	COLUMN 8 Calendar Year-to-Date
6.(e) Cash on hand January 1, 19 86		1.500	s 104,205.55
(b) Cash on Hand at Beginning of Reporting Period		\$ 22,732.23	
(c) Total Receipts (from Line 18)		\$ 2,330,599.66	\$ 17,910,379.65
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and		\$ 2,353,331.89	\$ 18,014,585.20
7. Total Disbursements (from Line 28)		\$ 2,285,823.24	\$ 17,947,076.55
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Li	ne 6(d))	\$ 67,508.65	\$ 67,508.65
9. Debts and Obligations Owed TO The Committee		• -0-	
(Itemize all on Schedule C or Schedule D)  10, Debts and Obligations Owed BY the Committee		s	
(Itemize all on Schedule C or Schedule D)		1.492,264.71	THE RESERVE
Togetify that I have examined this Report and to the best of my knowledge and but is true, correct and complete.	elief	•	
it is true, correct and compress.		For further inf	formation contact:
JACK MCDONALD			Bection Commenton Breet, N.W.
Type or Print Name of Treasurer			pton, D.C. 20463
$1^{1}$ $S$ $M$ , $I$ $co$	10/20/86	Tall Fre	800-424-9530
SIGNATURE OF TREASURER	10/20/80	Local 20	02-376-3120
NOTE: Submission of false, erroneous, or incomplete information may subject the		port to the penalties of 2 U.S.C.	<b>§ 43</b> 7g
All previous versions of FEC FOR	IM 3 and FEC FORM 3a	are obsolets and should no longer	be used.
	<u> </u>	FEC F	ORM 3X (3/80)



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# DETAILED SUMMARY PAGE of Receipts and Disbursements (Page 2, FEC FORM 3X)



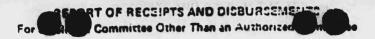
(Page 2, FEC FORM 3X) EXPENDITURES	Report Covering the Period	
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE-	From 10/1/86	To 10/15/86
RAITONAL REPUBLISHED CONSIDERATION	COLUMN A	COLUMN B
	Total This Period	Calendar Year-To-Date
I. RECEIPTS	2. 4.	6,16
1.CONTRIBUTIONS (other than loans) FROM:		A
(a) Individuals/Persons Other Than Political Committees	-0-	-0-
(Memo Entry Unitemized \$)		THE PARTY OF THE P
(b) Political Party Committees	-0-	-0-
(c) Other Political Committees	-0-	-0-
(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(a), 11(b) and 11(c))	-0-	-0-
(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(a), 11(b) and 11(c))		
	2 220 000 00	17,805,000.00
2. TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES	2,330,000.00	17,803,000.00
	AND THE RESERVE AND ADDRESS OF THE PARTY.	The state of the s
3.ALL LOANS RECEIVED	-0-	-0-
		THE RESERVE OF THE PARTY OF THE
4. LOAN REPAYMENTS RECEIVED	-0-	-0-
		4 (1)
5. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebetes, etc.)	599.66	84,624.74
S. OTT DE TO OTE CONTINUE EXPERIENT ONLY INTERIOR, PROGRESS, SEC. 1		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
A DECLINED OF CONTRIBUTIONS AND TO SERVE A CONTRIBUTIONS	***************************************	20 75/ 01
6. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES	-0-	20,754.91
AND OTHER POLITICAL COMMITTEES	11. 11. 11. 11. 11. 11. 11. 11. 11. 11.	A CONTRACTOR OF THE PARTY OF TH
7.OTHER RECEIPTS (Dividends, Interest, etc.)	-0-	-0-
	No. 2 Company	
8.TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17)	2,330,599.66	17,910,379.65
	一 一	The state of the s
II. DISBURSEMENTS	A SECTION AND ADDRESS OF THE PARTY OF THE PA	
9 OPERATING EXPENDITURES Less Inkinds	1,362,581.25	14.070,595.03
S. OFERATING EXPENDITURES	1,302,301.23	
	2	
O.TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES	-0-	844,644.00
	a	
21. CONTRIBUTIONS TO FEDERAL CANDIDATES AND Plus Inkinds	110,226.03	1,178,034.87
OTHER POLITICAL COMMITTEES		
22. INDEPENDENT EXPENDITURES (use Schedule E)	-0-	-0-
	2.7	74 5 F 36 87
23. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES.	313,015.96	1,853,012.49
Plus Inkinds		1,855,012.49
(2 U.S.C. § 441 a(d)) (Use Schedule F)		S. Carlotte
4. LOAN REPAYMENTS MADE	-0-	-0-
	-24	
5. LOANS MADE	-0-	-0-
	2 2 3 3 3	2 2
8. REFUNDS OF CONTRIBUTIONS TO		
(a) Individuals/Persons Other Than Political Committees	-0-	790.16
(b) Political Party Committees	-0-	-0-
(c) Other Political Committees	-0-	-0-
(d) TOTAL CONTRIBUTION REFUNDS (Add 26(a), 26(b) and 26(c)).	-0-	790.16
		and the same of th
77. OTHER DISBURSEMENTS	-0-	-0-
8. TOTAL DISBURSEMENTS (add lines 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	2,285,823.24	17,947,076.55
	2,200,020,24	17,747,070.00
III NET CONTOINITIONS AND MET COEDATING PROPRIETURES		
III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES		THE RESERVE OF THE PARTY OF THE
9.TOTAL CONTRIBUTIONS (other than loans) from Line 11(d)	-0-	-0-
0.TOTAL CONTRIBUTION REFUNDS from Line 26(d)	-0-	790.16
1.NET CONTRIBUTIONS (other than loans) (Subtract Line 30 from Line 29)	-0-	790.16
		1
TOTAL ORDATING CHARMOITHERS 4 1 10	262 521 25	14,070,595.03
	1,362,581.25	
		07. Z77. T7
32.TOTAL OPERATING EXPENDITURES from Line 19 33.OFFSETS TO OPERATING EXPENDITURES from Line 15 34.NET OPERATING EXPENDITURES (Subtract Line 33 from Line 32)	599.66	84,624.74

# POLITICAL COORDINATED EXPENDITURES HADE BY ON BENACO CONTITUES OR DESIGNATED ACTUTOS ON BENACO CARDIDATES FOR FEDERAL E (2U.S.C. 441A(D))

PAGE 23 CHENO ENTRIES

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

THIS COMMITTEE HAS E REPUBLICAN NATIONAL		AND/OR TH	E REPUBLICAN	STATE COMMITTE	ES.
FULL NAME & MAILING		SUBORDINAT	E COMMITTEE:		
FULL NAME & ADDRESS	NAME	OF FEDERAL	CANDIDATE:		AMOUNT
NATIONAL REPUBLICANT CONGRESSIONAL COMM. 320 1ST STREET, SE WASHINGTON DC 2	20003	SURVEY		10/02/86	\$682.5
AGGREGATE GEN ELECT	ION EXPENSES	FOR JACK	BUECHNER FOR		
FULL NAME & ADDRESS: NATIONAL REPUBLICAN CONGRESSIONAL COMM.	NAME	OF FEDERAL STATE:KY O PURPOSE:	CANDIDATE: ISTRICT:04	DATE	AMOUNT
320 1ST STREET, SE WASHINGTON DC		SURVEY		10/03/86	\$705.0
AGGREGATE GEN ELECT	TON EXPENSES	FOR CITI	ZENS FOR BUNN	ING	\$37705.0
FULL NAME & ADDRESS: NATIONAL REPUBLICAN CONGRESSIONAL COMM. 320 1ST STREET, SE	NAME	OF FEDERAL STATE: IN D	CANDIDATE: ISTRICT:05	DATE	AMOUNT
320 1ST STREET, SE WASHINGTON DC	20003	SURVEY		10/08/86	\$697.
AGGREGATE GEN ELECT	ION EXPENSES	FOR BUT	HER FOR CONGR	ESS	\$1402.
FULL NAME & ADDRESS: NATIONAL REPUBLICAN CONGRESSIONAL COMM.	NAME	OF FEDERAL	CANDIDATE:		
MASHINGTON DC	20003	SURVEY		10/02/86	\$705.
AGGREGATE GEN ELECT	ION EXPENSES	FOR CANA	DA FOR CONGRE	SS	\$21627.
FULL NAME & ADDRESS: NATIONAL REPUBLICAN CONGRESSIONAL COMM.	NAME	OF FEDERAL	CANDIDATE:	DATE	AMOUN
320 1ST STREET, SE		SURVEY MEDIA SERV	ICE	10/07/86 10/08/86 10/08/86	
AGGREGATE GEN ELECT		C			\$38054.
FULL NAME & ADDRESS: NATIONAL REPUBLICAN CONGRESSIONAL COMM.	N		CANDIDATE: ISTRICT:23	DATE	AMOUN
320 1ST STREET, SE	_	SURVEY		10/10/86	\$705.
AGGREGATE GEN ELECT	ION EXPENSES				\$18712.



# (Summary Page)

1. Name of Committee (In Full)	4. TYPE OF REP	ORT (Check appropriat	e boxes)
NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE—EXPENDITURES	_	Quarterly Report	October 15 Quarterly Repor
Address (Number and Street)	July 31 M	id Yeer Report (Non-El	ection Year Only)
320 First Street, S.E.	Monthly I	Report for	
520 11150 811503, 015	Twelfth d	sy report preceding	14
City, State and ZIP Code			
Washington, D.C. 20003			in the State of
Check here if address is different than previously reported.	Thirtieth	day report following the	General Election
2.FEC Identification Number 0069370	on	in the St	tate of
This committee qualified as a multicandidate committee during this Reporting Period on	(b) Is this Report a		
\$UMMARY  5. Covering Period 10/16/86 through 11/24/86		COLUMN A This Period	COLUMN 8 Calendar Year-to-Date
6.(a) Cash on hand January 1, 19 86		3.42.40.5	104,205.55
(b) Cash on Hand at Beginning of Reporting Period	s <b>s</b>	67,508.65	
(c) Total Receipts (from Line 18)	<b>s</b>	4,292,508.72	s 22,202,888.37
(d) Subtotal (add Lines 6(b) and 6(c) for Column A and	ss	4.360,017.37	\$ 22,307,093.92
7. Total Disbursements (from Line 28)		4,332,610.83	\$ 22,279,687.38
8. Cash on Hand at Close of Reporting Period (subtract Line 7 from Line	6(d))	27,406.54	\$ 27,406.54
9. Debts and Obligations Owed TO The Committee	s	-0-	
(Itemize all on Schedule C or Schedule D)  10. Debts end Obligations Owed BY the Committee	<b>s</b>	1,474,179.95	
i certify that I have examined this Report and to the best of my knowledge and balls at at true, correct and complete.	f	For further of	ormation contact:
JACK MCDONALD		Federal 6	Becton Commeson
Type or Print Name of Treasurer		Washing	tion D.C. 20463
SIGNATURE OF TREASURER Date	2/4/86		800-424-9530 2-376-3120
NOTE: Submission of false erroneous or incomplete information may subject the pi		o the penalties of 2 U S C	<b>9 43</b> 7a
All previous versions of FEC FORM:	3 and FEC FORM 3a are o	peciete and should no langer	be used.
		=EC FC	08.0 X 3.60



# OFFAILED SUMMARY PAGE of Receipts and Disbursements (Page 2, FEC FORM 3X)



NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE	From: 10/16/86	то:11/24/86
	COLUMN A Total This Period	COLUMN B Calendar Year-To-Deta
I. RECEIPTS		<b>₹</b>
1.CONTRIBUTIONS (other then Icone) FROM:		
(a) Individuals/Persons Other Then Political Committees	-0-	-0-
(Memo Entry Unitemized S0)		`
(b) Political Party Committees		-0-
(c) Other Political Committees	-0-	-0-
(d) TOTAL CONTRIBUTIONS (other than loans) (add 11(a), 11(b) and 11(c))		
2.TRANSFERS FROM AFFILIATED/OTHER PARTY COMMITTEES	4,259,000.00	22,064,000.00
2. I HANSPERS PROM APPILIATED/OTHER PARTY COMMITTEES		47
J.ALL LOANS RECEIVED	-0-	-0-
4. LOAN REPAYMENTS RECEIVED	-0-	-0-
		₽
5. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebetes, etc.)	22,750.72	107,375.46
	\$ 1 V	
B. REFUNDS OF CONTRIBUTIONS MADE TO FEDERAL CANDIDATES	10,758.00	31,512.91
AND OTHER POLITICAL COMMITTEES		
7.OTHER RECEIPTS (Dividends, Interest, etc.)	-0-	-0-
· 化二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二二	* * *	
B.TOTAL RECEIPTS (Add 11(d), 12, 13, 14, 15, 16 and 17)	4,292,508.72	22,202,888.37
The state of the s		
II. DISBURSEMENTS		and the 🔭 🦉
OPERATING EXPENDITURES. Less Inkinds	2,014,076,70	16.084.671.73
		,
TRANSFERS TO AFFILIATED/OTHER PARTY COMMITTEES	. 29,321.00	873,965.00
		\$
CONTRIBUTIONS TO FEDERAL CANDIDATES AND Plus Inkinds	133,576.62	1,311,611.49
OTHER POLITICAL COMMITTEES		卷
2.INDEPENDENT EXPENDITURES (use Schedule E)	-0-	-0-
	2 155 (2) 5:	/ 000 (/0 00
3. COORDINATED EXPENDITURES MADE BY PARTY COMMITTEES	2,155,636,51	4,008,649.00
(2 U.S.C. # 441 ald)) (Use Schedule F)	100	
4 LOAN REPAYMENTS MADE	-0-	-0-
5. LOANS MADE	-0-	<u>-0-</u>
4 05 F 1 1 1 0 4 0 4 0 4 1 1 1 1 1 1 1 1 1 1 1		
8. REFUNDS OF CONTRIBUTIONS TO		790.16
(a) Individuals/Persons Other Then Political Committees		790.10
(b) Political Party Committees	-0-	-0-
(c) Other Political Committees.		790.16
(d) TOTAL CONTRIBUTION REFUNDS (Add 26(a), 26(b) and 26(c))	-()- 3 ),	790.10
7 OTHER RICHIRCEMENTS		i _n_
7 OTHER DISBURSEMENTS	_0_	
8. TOTAL DISBURSEMENTS (add lines 19, 20, 21, 22, 23, 24, 25, 26(d) and 27)	1.32,510.83	22,279,687,34
2.10.11.2 5.000 (102.112.11.1 tiggs (19. 20, 21, 22, 23, 29, 23, 20ts) and 271.	52014F	
III. NET CONTRIBUTIONS AND NET OPERATING EXPENDITURES	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	文 集
9. TOTAL CONTRIBUTIONS (other than loans) from Line 11(d)		-:)-
0. TOTAL CONTRIBUTION REFUNDS from Line 26(d)	-0-	-07-
1.NET CONTRIBUTIONS (other than loans) (Subtract Line 30 from Line 29)		
The state of the s		
2. TOTAL CRIPATING EXPENDITURES from Line 10		
1. U. AL UN MAN HIS EXPENDITURES FOR CINE TO		
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# POLITICAL PARTY COMMITTEE OR DESIGNATED AGENT(S) ON BEHALF OF CANDIDATES FOR FEDERAL OFFICE (2U.S.C. 441A(D))

PAGE 9 LINE 23

(TO BE USED ONLY BY POLITICAL COMMITTEES IN THE GENERAL ELECTION)

THIS																												ΉE
FULL			1000	-																			N/A		•	•		
FULL REPU	NAME	& AN	ADD	RES	S: OF	TE	XAS	NA	ME	c	F	FE TE	) E	ZAI	_ (	AN	DI	DAT	T E :	-			DATS				=== \ <b>4</b> 0 U	IN T
1300 AUST AGGRE	IN	TX	78	701						P	18	TF	IN	3								0/	17/8	6			952	
FULL	NAME	8	ADD	RES	S:			NA	ME	C	F	FE	35	RAI	_ (	AN	DI	DAT	TE:				DATE				404	INT
THE EAST REVE AGGRE	GATE	GE	N E	LEC	TIC	N	EXP	EN	3 E	5	FO	R	CI	18	SI	IA	N	FO	SC	ON	GRE	22				223	836	. !
FULL	NAME	3 E R	ADD	RES	s:			NA	ME	C	F T A	FE	DE:	RAI	013	AN	DI	DAT T:	TE:								MOL	
AGGRE	1210	GE	N E	LEC	TIO	N	EXP	EN	SE	S	FC	2	C .	4 R				FC	٦ c	ON	GRE	SS	29/9			\$39	33:	. 7
FULL WTAF 4TH	NAME	3	ADD	RES	s:			NA	4F	C	F	F =	0=	RAI	019	AN	DI	04	12:			-						INT
PHIL	ADEL	PHI	A, N E	LEC	TIC	1 N	910 EXF	) Ó	3 6	3	E D F O	AI	S	HR	IST	ES	N	FOI	R C	NC	GRE	SS				\$39	935	. 7
FULL BUC < 8400	NAME	3	ADD	RES	5:			V.A	ME	С	F	۶E	DE	RAI	_ (	AN	OI	DA	TE:					September 190				
LEVI AGGRE	GATE	GE	N E	LEC	15 TIC	05 N	3 EXP	EN	SE	S	E D F C	IA R	S :	= R \ + R \	/ I ( I S )	FS	N	FO	R C	ON	GRE	55				\$39	335	• ?
	NAM E	SARK	ADD	RES NG	S: SEF	VI		NA		C S	F T A	F E	) E	2 A I	_ (	AN	DΙ	DAT	T = :		===		= = = = D A T 6		:==:		 \	
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# VOLUNTEER ACTIVITY IN SUPPORT OF A CAMPAIGN

I packed GOTV mail in	stuff latel, s	
	support is	1 1cm
Carter (app 198 K puces		)
THE STATE STATES		
Names and addresses of some volunteers who		:
1. Pat Matsumoto 2.	mande (ox	7.1
2517 River Oaks	3504 Staninge	, way
Mexicute, Tx 10150	Mesquite TX	75/5
3. 7 D. Ross 4.	Mily resiter	
1218 Mayfield Are		Del
	136 Caraway	-
Carand 1x 75011	Tilesquite 11.	1/5/
Attach written bids (2) for necessary materi	als if amount is over \$	150
and give recommendation of preferred vendor	and explanation	
labels in chapisi	um appound	, 4 ~ .
Dates of volunteer activity:	/O 1 '	
FROM: (1) TO:	Cetocies	<u> </u>
Date materials needed:	,	
12.	XIII	37.72
Campaign Contact: Name: / ////	01 - 110	7
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FEDERAL ELECTION COMMISSION 999 E Street, N.W. Washington, D.C. 20463

## FIRST GENERAL COUNSEL'S REPORT

2377 MUR: DATE COMPLAINT RECEIVED BY OGC: March 24, 1987 DATE OF NOTIFICATION TO RESPONDENTS: March 31, 1987 STAFF MEMBER: Sandra H. Robinson

COMPLAINANT:

Democratic Congressional Campaign Committee

RESPONDENTS:

Republican Party of Texas (aka Texas Republican Congressional Committee and Henry Santamaria, as

treasurer)

National Republican Congressional Committee and

Jack McDonald, as treasurer

Tom Carter

Tom Carter for Congress and Glenn H. Gage, as

treasurer

RELEVANT STATUTES:

2 U.S.C. § 431(9)(B)(viii) and (8)(B)(x)

2 U.S.C. § 441a(a), (d) & (f) 2 U.S.C. § 434(b)(6)(B)

11 C.F.R. § 100.7(b) (15)

11 C.F.R. § 100.8(b)(16)

11 C.F.R. § 106.1

11 C.F.R. § 110.7(b) (4)

INTERNAL REPORTS

CHECKED:

Disclosure Reports

FEDERAL AGENCIES

CHECKED:

None

#### I. GENERATION OF MATTER

This matter arose as a complaint filed by the Democratic Congressional Campaign Committee ("Complainant") against the Republican Party of Texas ("RPT"),  $\frac{1}{2}$  the National Republican

The Republican Party of Texas has registered a campaign committee named the Texas Republican Congressional Committee ("TRCC") with the Commission, pursuant to 2 U.S.C. § 433(a) and 11 C.F.R. § 102.5(a)(1). The RPT and the TRCC have responded interchangeably to communications from the Commission regarding the registered committee's activities.

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Congressional Committee ("NRCC"), Tom Carter for Congress and Glenn H. Gage, as treasurer ("the Committee"), and Tom Carter. The complaint was based on a memorandum filed with the U.S. House of Representatives by Mr. Carter and the Committee, which indicated that the Committee had received "approximately \$40,000" in non-allocable assistance from the Republican Party of Texas. This memorandum also disclosed the receipt of "approximately \$40,000" in coordinated expenditures from the National Republican Congressional Committee. The complaint alleged that the RPT apparently delegated its Section 441a(d) coordinated party expenditure limitation to the NRCC, and by expending \$40,000 in additional assistance, the RTP violated 2 U.S.C. \$ 441a. The complaint further alleged that the RPT, Tom Carter, and the Committee failed to properly report the expenditures and contributions in violation of 2 U.S.C. \$ 434 and 11 C.F.R. \$ 106.1.

### II. FACTUAL AND LEGAL ANALYSIS

### A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act") requires political committees to file disclosure reports with the Commission on a prescribed basis. Each report filed must disclose the name and address of each political committee which has received a contribution from the reporting committee during the reporting period, including the date and amount of such contribution; and the name and address of each person who receives any expenditure from the reporting committee during the reporting period, in connection with an expenditure under Section 441a(d) of the Act, including the date, amount, and purpose of such expenditure, as well as the name of, and

office sought by, the candidate on whose behalf the expenditure is made. 2 U.S.C. § 434(b)(6)(B).

The Commission's Regulations require the reporting of expenditures made on behalf of more than one candidate to be allocated proportionately to each candidate. An authorized expenditure made on behalf of a candidate shall be reported as a contribution in-kind, unless made by a party committee pursuant to Section 110.7. Certain expenditures, including overhead, general administrative, and other day-to-day costs of political committees need not be allocated to individual candidates, unless made on behalf of a clearly identified candidate to whom the expenditure can be directly attributed. 11 C.F.R. § 106.1(c)(1).

The Act further prohibits multicandidate committees from making contributions to any candidate or authorized political committee with respect to any election for Federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A). National and state party committees are prohibited from making any expenditure in connection with the general election campaign of a respective party candidate for the office of Representative, in a state with more than one Representative, which exceeds \$10,000. 2 U.S.C. § 441a(d). The Act and Regulations provide that this limitation shall be adjusted according to the Consumer Price Index published by the U.S. Bureau of Labor Statistics. 2 U.S.C. § 441a(c) and 11 C.F.R. § 110.9(c). The Regulations also prohibit party committees from making independent expenditures on behalf of the general election campaign of candidates for Federal office. 11 C.F.R. § 110.7(b)(4).

(4) the campaign materials cannot be purchased by the national committee of a political party and delivered to a state or local party committee, nor can funds donated by the national committee to the state or local party committee be used to purchase such materials. 11 C.F.R. §§ 100.8(b)(16) and 100.7(b)(15).

### B. The Facts

Tom Carter was an unsuccessful candidate for the U.S. House of Representatives from the State of Texas, 5th District, during the 1986 election cycle. He lost the general election with 41 percent of the vote. By a memorandum to the U.S. House of Representatives, dated October 15, 1986, Mr. Carter disclosed the receipt of contributions from the NRCC in the amount of "approximately \$40,000 in coordinated funding," and the receipt of "approximately \$40,000 in non-allocable assistance" from the RPT. The memorandum does not disclose the date(s) of this activity.

The response submitted by Glenn H. Gage, treasurer of the Committee, was received on April 27, 1987. Attachment I. Mr. Gage stated that he was aware of assistance provided to the Committee by the NRCC, and that "assistance had been requested from the Republican Party of Texas." Mr. Gage claimed to have no knowledge of how this assistance was received or provided; he presumed, however, that it was "proper and legal."

Tom Carter, the candidate, submitted a separate response, also received on April 27, 1987. Attachment II. Mr. Carter implied that the expenditures made by the NRCC were coordinated party expenditures made within the statutory limitation. He also stated that the

expenditures made by the RPT were connected to volunteer activities and, therefore, were not required to be allocated to a particular campaign committee. Mr. Carter explained that the volunteer activity included "addressing, folding, posting and mailing campaign materials." There was no evidence provided to substantiate that explanation. Mr. Carter also asserted that the complaint was filed as a tactic to protect the successful opposition candidate and submitted a copy of a news article allegedly initiated by the complainant. Attachment II(3). Mr. Carter requested that the Commission dismiss the complaint against him.

The NRCC and the RPT are represented by the same legal counsel, who submitted a joint response on their behalf, received in this Office on May 11, 1987. Attachment III. An extension of time to respond had been granted on April 24, 1987.

Copies of letters provided by counsel corroborated the assertion that the NRCC had been designated the agent for the RPT and the Republican National Committee to make coordinated party expenditures for the benefit of Tom Carter in the 1986 general election.

Attachment III(9) & (10). The coordinated expenditure limit for 1986 House candidates in states with more than one district, adjusted by the Consumer Price Index, was \$21,810 for the national party committee and \$21,810 for the state party committee. Copies of the NRCC disclosure reports, provided by counsel, showed that a total of \$41,942.59\frac{2}{2}\sqrt{} was expended on behalf of the Tom Carter campaign.

A total of \$9,670.50 in direct contributions to the Carter campaign from the NRCC was also reported, with \$4,895.86 designated for the primary election and \$4,774.64 designated for the general election.

Attachment III(12)-(27). This total is within the total combined coordinated expenditure limit of \$43,620.

The response submitted on behalf of the RPT explained that the "non-allocable" expenditures on behalf of the Carter campaign equalled \$37,0613/ and were attributable to a mailer activity involving volunteers. Attachment III(3). Corroboration of this volunteer activity was provided by a copy of a form apparently used in-house by the RPT to coordinate such activities, and by copies of the RPT's "request for" services forms used to procure services and products. Attachment III(29)-(34). It was explained that these procurements were used to activate a "get-out-the-vote" mailer for Tom Carter; the materials were distributed after September 19, 1986. Respondents stated that the costs for this mailer activity included \$19,061 for printing and shipping 198,000 pieces of mail, and a total of \$18,000 for postage. Attachment III(3). Respondents argued that costs associated with the mailer activity are exempt from the statutory limitations pursuant to 2 U.S.C. § 431(8).

It is admitted and clear that the expenditures were made by the RPT on behalf of its candidate, Tom Carter. The in-house form describing the mailer stated that volunteers would "stuff, label, sort and package" the mail involved with the activity. A list of names and addresses of four such volunteers is included on the form, along with the proposed dates for the activity. There were

<sup>3/</sup> The total amount of expenditures given in the response is  $\overline{\$}39,061$ . However, when the separate costs, also listed in the response, were added a total of \$37,061 was calculated.

apparently four mailings involved. Attachment III(29). The "request for" services forms provided by the RPT verified that the expenditures previously described were due to the printing and shipping of the pieces of mail by commercial vendors and the remainder for the cost of postage. Attachment III(30)-(34). The only apparent involvement of volunteers was in stuffing the printed materials into envelopes. This limited involvement by volunteers raises the question whether this activity constitutes distribution by volunteers pursuant to the requirements of the Act and the Regulations.

In the House Report for the 1979 amendments to the Act, with respect to the exemptions in Section 431, a test for whether an activity qualifies for the volunteer exemption is discussed. The test requires examination of how the campaign materials are used and by whom. The Report states that the provision "excludes all public communications or political advertising." That Report specifies that mere purchase of campaign materials described in Section 431 does not mean their cost is exempt. Those same materials must be distributed by volunteers, such as door-to-door or at shopping centers, and not by commercial vendors. H.R. Rep. No. 422, 96th Cong., 1st Sess. at 9 (1979), reprinted in FEC Legislative History of Federal Election Campaign Act Amendments of 1979 at 193 (GPO 1983).

The reports of both the TRCC and the NRCC show that they disbursed funds to the same vendor, Welch Communications, Inc., apparently in connection with the production and printing of the Carter mailer. The NRCC disbursed, as coordinated expenditures, two payments of \$5,478.75 each to Welch Communications, Inc., for

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professional services, on August 21, 1986; and it disbursed \$13,350.00 to this same vendor for printing services on August 22, 1986. 4/ The TRCC disbursed \$10,000 to Welch Communications, Inc., for printing and shipping, on September 9, 1986; and it disbursed \$9,061 to this same vendor on October 21, 1986, for printing and postage.

Both of the TRCC disbursements were attributed to "exempt volunteer" activities on the respective disclosure reports. It is also noted that the NRCC disbursed \$3,898.22, as a coordinated expenditure on behalf of the Carter campaign, to the RPT for printing on October 17, 1986.

Although the TRCC's 1986 Year End Report shows that it did not receive transfers of funds from other party committees during the year, the close proximity of, and the similarity in the purposes for, the TRCC disbursements to Welch Communications, Inc., and those reported by the NRCC to the same vendor, suggest that NRCC funds were used to pay for services rendered with respect to the alleged volunteer mailer activity. Specifically, it appears that the NRCC paid for the creative services, such as consulting, artwork, layout, and other production costs, for the campaign material, while the TRCC merely paid the costs of printing 198,000 copies of the material eventually mailed. Thus, these disbursements raise the question whether this mailer activity consisted of campaign materials, in part, "purchased by the national committee of a political party and

Other NRCC coordinated expenditures for the Carter campaign included \$10,229.65 for U.S. Postage, \$1,885.57 for mailing services, and \$1,621.65 for in-house surveys.

delivered to a State or local party committee. See, 11 C.F.R. \$ 100.8(b)(16)(vii).

Furthermore, no information is provided on whether a commerical list was used in distributing such materials. There is, also, no information which shows whether the funds used for the mailer activity were designated for a particular candidate. Finally, the TRCC's 1986 Year-End Report disclosed a total of \$1,660,118.38 in operating expenditures for the entire calendar year. None of the expenditures for the year are allocated to any specific candidates. This Office, therefore, recommends a finding of reason to believe the TRCC (RPT) and Henry Santamaria, as treasurer, violated 2 U.S.C. §§ 441a(d), 441a(f), and 434(b)(6)(B), for its knowingly making expenditures in excess of the limitations of Section 441a(d) on behalf of the Tom Carter campaign, and its failure to properly report expenditures on behalf of that candidate. Since the coordinated party expenditures reported by the NRCC and the expenditures made by the TRCC for the mailer activity together exceed the statutory limitations, this Office also recommends a finding of reason to believe the NRCC and Jack McDonald, as treasurer, violated 2 U.S.C. §§ 44la(d) and 44la(f), for knowingly making expenditures on behalf of a candidate in excess of the provisions of Section 441a(d). This Office is making no recommendation at this time regarding the Tom Carter for Congress Committee and Glenn H. Gage, as treasurer. In addition, no recommendation is being made regarding Tom Carter, as there does not appear to have been any personal involvement by the candidate in these violations.

- 11 -III. RECOMMENDATIONS Find reason to believe the Texas Republican Congressional 1. Committee and Henry Santamaria, as treasurer, violated 2 U.S.C. §§ 441a(d), 441a(f), and 434(b)(6)(B). Find reason to believe the National Republican Congressional 2. Committee and Jack McDonald, as treasurer, violated 2 U.S.C. §§ 441a(d) and 441a(f). Approve the attached letter, interrogatories and requests for 3. production of documents. Date General Counsel Attachments Response to Complaint - Glenn H. Gage 1. 2. Response to Complaint - Tom Carter 3. Responses to Complaint - NRCC and RPT Proposed letter 4. Interrogatories and requests for production of documents



# FEDERAL ELECTION COMMISSION

WASHINGTON DE JOHN

MEMO	RAN	DUM	TO:
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LAWRENCE M. NOBLE

GENERAL COUNSEL

FROM:

MARJORIE W. EMMONS/SUSAN GREENLEE S.G.

DATE:

December 3, 1987

SUBJECT:

OBJECTION TO MUR 2377: First General Counsel's

Report

signed November 30, 1987

The above-captioned document was circulated to the

Commission on Wednesday, December 2, 1987 at 11:00 A.M.

Objections have been received from the Commissioners as indicated by the name(s) checked:

Commissioner	Aikens	X
Commissioner	Elliott	X
Commissioner	Josefiak	X
Commissioner	McDonald	
Commissioner	McGarry	
Commissioner	Thomas	

This matter will be placed on the Executive Session agenda for December 8, 1987.

Please notify us who will represent your Division before the Commission on this matter.

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)		
Republican Party of Texas (aka Texas Republican Congressional Committee)	)		
and Henry Santamaria, as treasurer National Republican Congressional Committee and Jack McDonald, as	) }	MUR	2377
treasurer Tom Carter	)		
Tom Carter for Congress and Glenn H. Gage, as treasurer	)		

## CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 8, 1987, do hereby certify that the Commission decided by a vote of 6-0 to defer consideration of MUR 2377 until December 10, 1987, at a continuation of the executive session.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

12-10-87

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Marjorie W. Emmons

Secretary of the Commission

### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	
Republican Party of Texas (aka Texas ) Republican Congressional Committee) ) and Henry Santamaria, as treasurer ) National Republican Congressional ) Committee and Jack McDonald, as )	MUR 2377
treasurer	
Tom Carter	
Tom Carter for Congress and Glenn )	
H. Gage, as treasurer	

## CERTIFICATION

- I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of December 10, 1987, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2377:
  - Find reason to believe the Texas Republican Congressional Committee and Henry Santamaria, as treasurer, violated 2 U.S.C. § 441a(f).
  - Reject recommendation number 2 contained in the General Counsel's report dated November 30, 1987.
  - 3. Direct the Office of the General Counsel to draft an appropriate letter, interrogatories and requests for documents and circulate them for approval of a tally vote basis.

(continued)

Commissioners Elliott, Josesfiak, McDonald, McGarry, and Thomas voted affirmatively for the decision;
Commissioner Aikens dissented.

Attest:

12-10-87

Date

Marjorie W. Emmens

Marjorie W. Emmons Secretary of the Commission

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal
Election Commission, do hereby certify that on January 27,
1988, the Commission decided by a vote of 6-0 to take
the following actions in MUR 2377

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2. Approve the letter, interrogatories and request for production of documents as they concern MUR 2377, as recommended in the General Counsel's memorandum to the Commission dated January 22, 1988.

3.

Federal Election Commission Certification for MUR's 2288, 2377, 2461 & 2559 January 27, 1988

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Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Date Date

Marjorie W. Emmons Secretary of the Commission

ie W. Emmons

Received in the Office of Commission Secretary:Mon., 1-25-88, 1:51 Circulated on 48 hour tally basis: Mon., 1-25-88, 11:00 Deadline for vote: Wed., 1-27-88, 11:00



#### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 4, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377

Republican Party of Texas
aka Texas Republican

Congressional Committee, Henry
Santamaria, as treasurer

Dear Mr. Baran:

On March 31, 1987, the Federal Election Commission notified your clients, the Republican Party of Texas and the National Republican Congressional Committee and Jack McDonald, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was enclosed with that notification.

Upon further review of the allegations contained in the complaint and information supplied by the respondents, the Commission on December 10, 1987, found that there is reason to believe the Republican Party of Texas aka Texas Republican Congressional Committee and Henry Santamaria, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Act. Specifically, it appears that the mailer activity conducted on behalf of the Tom Carter campaign does not qualify as an exempt volunteer activity pursuant to 2 U.S.C. § 431(8)(B)(x) or (9)(B)(viii), or as described in 11 C.F.R. § 100.7(b)(15) and, therefore, these respondents may have knowingly made expenditures in violation of Section 441a of the Act.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Republican Party of Texas, aka Texas Republican Congressional Committee and Henry Santamaria, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials along

Letter to Jan W. Baran, Esquire Page 2 with responses to the enclosed Interrogatories and Requests for Production of Documents. All responses must be submitted to the General Counsel's Office within 15 days of your receipt of this letter. Statements should be submitted under oath. In the absence of any additional information which demonstrates that no further action should be taken against the Republican Party of Texas aka Texas Republican Congressional Committee and Henry Santamaria, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for preprobable cause conciliation after briefs on probable cause have been mailed to the respondent. Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200. Sincerely, Thomas J. Josef1ak Chairman Enclosures Interrogatories and Request for Production of Documents

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#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 2377

#### INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Henry Santamaria, Treasurer
Texas Republican Congressional Committee
P.O. Box 855
Austin, Texas 78767

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that the Texas Republican Congressional Committee and Henry Santamaria, as treasurer, submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that the above-named respondents produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, DC 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. "Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document. "Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

#### INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS RE: MUR 2377 The following questions are propounded in reference to a mailer activity that the Texas Republican Congressional Committee ("the Committee") conducted on behalf of the Tom Carter campaign for the U.S. House of Representatives during the 1986 election cycle, which the Committee treated as being within the volunteer campaign materials exemption. State the date(s) on which the mailing(s) occurred. Provide a sample copy of each mailing. If a copy is not available, state the reason(s) why a copy is not available, and describe the content of each mailing. c. State the number of items mailed. 0 d. State the original source(s) of the list of names used in each mailing. 13 a. State the number of volunteers who assisted with each mailing, and the basis for determining that these individuals were volunteers. 0 State whether the volunteers were paid. If so, state the purpose and amount of each payment. 0 Describe the duties/tasks performed and the time expended by each of the volunteers. T C State whether a commerical vendor assisted with each a. mailing. Identify the vendor(s) and describe the services provided. State the amount paid to each vendor and the date of each payment. Describe the services provided by the following vendors, the dates such services were procured and delivered, and the costs incurred, as they relate to each mailing: Welch Communications, Inc., located at 4001 North 9th Street, Suite 220, Arlington, Virginia. The Mailbox, with the mailing address of P.O. Box (ii) 226776, Dallas, Texas.

2 -Provide copies of all contracts, vouchers, receipts, invoices, and other documentation related to the business transactions with these vendors. State whether the funds used to pay for the mailing(s) were designated for a specific candidate(s) and if so, identify each candidate. State whether any payments made by the National Republican Congressional Committee to Welch Communications, Inc. were associated with the mailing(s). If so, state the purpose, amount and date of each payment. Provide copies of all documentation related to these transactions. a. On October 17, 1986, the NRCC disbursed \$3,898.22 to the Republican Party of Texas as a coordinated expenditure on behalf of the Tom Carter campaign. The purpose of this disbursement, as disclosed on the NRCC's 1986 Post-General Report was for "printing." State whether these funds were used to pay expenses connected with the mailer activity identified in question #1. Describe the services procured and provide a copy of the material(s) printed.

CC# 6465 WILEY REIN & FIELDING 88 FEB 18 PM 12: 38 1776 K STREET, N.W. WASHINGTON, D. C. 20006 (202) 429-7000 JAN W. BARAN (202) 429-7330 February 18, 1988 Lawrence M. Noble, Esquire General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463 Attn: Sandra Robinson RE: Mur 2377 (Republican Party of Texas) Dear Mr. Noble: I am in receipt of Chairman Thomas J. Josefiak's letter of February 4, 1988 notifying me of a reason to believe finding against the Republican Party of Texas. Chairman Josefiak's letter was accompanied by Interrogatories and Request for Production of Documents with a requested response date of 15 days after receipt which in this case would be February 25, 1988. In order to fully confer with Respondents 4 in Texas with respect to this matter and to produce documents, I respectfully request a twenty day extension of time to and including March 16, 1988, within which to respond. Your favorable consideration of this request will be appreciated. Sincerely, Jan W. Baran John Weaver cc: George W. Strake, Jr.



#### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463.

February 19, 1988

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

Re: MUR 2377

Texas Republican Congressional

Committee and Henry

Santamaria, as treasurer

Dear Mr. Baran:

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This is in response to your letter dated February 18, 1988, which we received on February 18, 1988, requesting an extension of twenty (20) days to respond to the interrogatories and request for production of documents. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on March 16, 1988.

If you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble General Counsel

# 0040791600

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )
National Republican Congressional ) MUR 2377
Committee and Jack McDonald, as )
treasurer )

#### GEMERAL COUNSEL'S REPORT

#### I. BACKGROUND

This matter was generated by a complaint which named, among others, the National Republican Congressional Committee ("NRCC"), and the Texas Republican Congressional Committee ("TRCC"). Both committees were duly notified of this matter. Designation of counsel forms were submitted, and both committees named the same legal counsel to represent them. A joint response was submitted on behalf of both committees.

On December 10, 1987, the Commission found reason to believe the TRCC and Henry Santamaria, as treasurer, violated 2 U.S.C. § 44la(f), in connection with certain expenditures made on behalf of the Tom Carter congressional campaign in the 1986 election cycle. On that same date, this Office was directed to revise the interrogatories and letter and to recirculate them for approval. The Commission also voted to reject the recommendation made by this Office to find reason to believe the NRCC and Jack McDonald, as treasurer, violated 2 U.S.C. §§ 44la(d) and 44la(f). See, MUR 2377 - General Counsel's Report, signed November 30, 1987. \*/
The revised interrogatories and letter were approved by the

<sup>\*/</sup> This Office made no recommendations at that time regarding the Tom Carter for Congress Committee and Glenn H. Gage, as treasurer, and no recommendation as to Tom Carter, the candidate, the other respondents in this matter.

Commission on January 27, 1988, and subsequently mailed to the respondents' legal counsel. Upon receipt of the letter and interrogatories directed at the TRCC, counsel contacted this Office and inquired about action taken regarding the allegations against the NRCC. Because the Commission made no finding with respect to the NRCC, the letter to counsel did not discuss any action taken regarding that Committee. Ordinarily, no letter would be sent to counsel for the NRCC until the close of this matter. However, in this particular instance, the designated counsel is representing both the TRCC and the NRCC and has filed a response on behalf of both respondents, but has received notification of the Commission's action only with respect to the TRCC.

Therefore, considering these unusual circumstances, this

Office recommends that the Commission approve sending a letter to
counsel for the NRCC informing him that the Commission has made
no finding at this time with respect to the NRCC.

In addition, on February 18, 1988, this Office received a request from counsel on behalf of the TRCC requesting an extension of time to respond to the interrogatories in this matter. The request stated that the extension was needed in order to confer with Respondents and to produce documents. It should be noted that counsel is located in Washington, D.C. and Respondents are in Texas. In light of the circumstances presented, this Office granted a twenty-day extension of time to March 16, 1988. After receiving and evaluating the response,

004079160

this Office will report to the Commission with appropriate recommendations. RECOMMENDATION II. Approve sending the attached proposed letter to the legal counsel representing the National Republican Congressional Committee and Jack McDonald, as treasurer, in this matter. General Counsel Attachment Letter Staff person: Sandra H. Robinson



#### FEDERAL ELECTION COMMISSION

WASHINGTON DE .....

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LAWRENCE M. NOBLE

GENERAL COUNSEL

FROM:

MARJORIE W. EMMONS/SUSAN GREENLEE S. G.

DATE:

MARCH 1, 1988

SUBJECT:

OBJECTION TO MUR 2377: General Counsel's Report

signed February 26, 1988

The above-captioned document was circulated to the Commission on Monday, February 29, 1988 at 4:00 P.M. Objections have been received from the Commissioners

as indicated by the name(s) checked:

Commissioner	Aikens	X
Commissioner	Elliott	
Commissioner	Josefiak	
Commissioner	McDonald	3 K 1 K 1
Commissioner	McGarry	
Commissioner	Thomas	

This matter will be placed on the Executive Session agenda for March 8, 1988.

Please notify us who will represent your Division before the Commission on this matter.

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)		
	)		
National Republican Congressional	)	MUR	2377
Committee and Jack McDonald, as	)		
treasurer	)		

#### CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of March 8, 1988, do hereby certify that the Commission decided by a vote of 6-0 to approve and send the proposed letter attached to the General Counsel's February 26, 1988 report in the above-captioned matter, subject to amendment of the letter.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Date

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Marjorie W. Emmons Secretary of the Commission



#### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

March 10, 1988

Mr. Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377

National Republican Congressional Committee and Jack McDonald, as

treasurer

Dear Mr. Baran:

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On March 31, 1987, the Federal Election Commission notified your clients, the National Republican Congressional Committee ("NRCC") and Jack McDonald, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On February 10, 1988, in response to a notification you received concerning your other clients in this matter, you inquired about Commission action concerning the NRCC. The Commission has made no finding at this time with respect to the NRCC.

If you have any questions, please direct them to Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

bawrence M. Noble General Counsel

DUPLICATE WILEY. REIN & FIELDING 1776 K STREET, N. W. WASHINGTON, D. C. 20006 (202) 429-7000 JAN W. BARAN 202) 429-7330 March 16, 1988 Lawrence M. Noble, Esquire General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463 Attn: Sandra Robinson Re: MUR 2377 (Republican Party of Texas) Dear Mr. Noble: This response is submitted on behalf of the Republican Party of Texas (the "RPT"), in reply to the interrogatories and request for documents propounded by the Federal Election Commission (the "Commission") to the RPT on February 4, 1988. 0 Enclosed are the sworn answers to these interrogatories and requests, along with their corresponding Exhibits. 4 Sincerely, C Menn Jan W. Baran Carl a Lakam Counsel to the Republican Party of Texas JWB/slg Enclosure cc: John Weaver

### RESPONSE OF THE REPUBLICAN PARTY OF TEXAS TO THE INTERROGATORIES OF THE FEDERAL ELECTION COMMISSION IN MUR 2377

OUESTION 1. a. State the date(s) on which the mailing(s) occurred.

- b. Provide a sample copy of each mailing. If a copy is not available, state the reason(s) why a copy is not available, and describe the content of each mailing.
- c. State the number of items mailed.
- d. State the original source(s) of the list of names used in each mailing.

#### RESPONSE

The Republican Party of Texas (RPT) is unable to ascertain the precise dates on which these mailings occurred. However, RPT did submit purchase orders in its Response of May 11, 1987 in MUR 2377, (hereafter "Response") at Attachment 3, resubmitted herewith at Exhibit 6, which show that four separate payments for postage were made with respect to these volunteer mailings. These payments were made on September 24, 1986, September 30, 1986, October 16, 1986, and October 24, 1986. 1

Copies of the mailings have been attached at Exhibits 1

As explained in Response to Question 3 below, two payments for postage were wired to the Mail Box so that it could pay the Dallas Postmaster since the Austin Postmaster would not accept payment for mailings in Dallas.

through 3. A total of 298,000 pieces were produced for these volunteer mailings. 2

The original source of the list of names used in each mailing was the RPT Master Voter File which is a list of the 7.5 million voters in the State of Texas. The list is owned by the RPT and was originally obtained from sources such as voter registration lists. The Master File is maintained by political subdivision for more effective use.

- <u>OUESTION</u> 2. a. State the number of volunteers who assisted with each mailing, and the basis for determining that these individuals were volunteers.
- b. State whether the volunteers were paid. If so, state the purpose and amount of each payment.
- c. Describe the duties/tasks performed and the time expended by each of the volunteers.

#### RESPONSE

The exact number of volunteers who assisted in the mailings was not recorded. However, due to the size of the mailings, numerous volunteers were needed to undertake activities such as picking up, unpacking, labeling, sorting, packaging, and delivering the volunteer mailings to the Post Office. These individuals were volunteers because they were unpaid and volunteered their personal services on a temporary basis to assist in the activities described above. The RPT

In the Response to this matter, it was stated that 198,000 pieces were produced, as verified by the RPT's purchase order included with the Response. Exhibit 6. However, based on Exhibit 4 to these Interrogatories, the RPT now believes the actual number of flyers produced was 298,000.

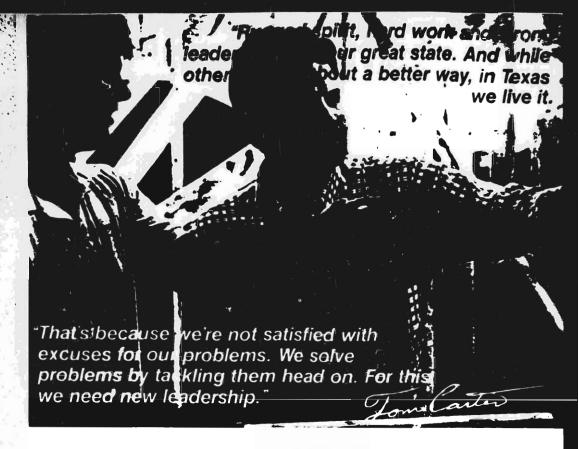
has no record of the time spent by each volunteer in performing these tasks since these individuals were not paid and volunteered as little or as much time as they chose to. A sample of a form used by the RPT in support of its volunteer activity was submitted to the Commission with RPT's Response at Attachment 3, and is resubmitted herewith at Exhibit 6. OUESTION 3. a. State whether a commercial vendor assisted with each mailing. b. Identify the vendor(s) and describe the services provided. State the amount paid to each vendor and the date of each payment. RESPONSE Welch Communications was the sole vendor to function in a production capacity with respect to these flyers. Welch Communications printed 298,000 flyers to be used by RPT for its exempt volunteer activities, and shipped these flyers to O Texas for use in connection with RPT's volunteer activities. T The total cost of production was \$19,061 paid in two installments as follows: September 19, 1986 \$10,000.00; and \$9,061.00 3 October 21, 1986 The October payment appears on RPT's 1986 Post-General Election Report as exempt volunteer activity. However, due to an accounting error, the September payment was not properly reported. The Commission was contacted for advice as to how to correct the error. No response was ever received although the letter was received by the Commission on December 29, 1986 by certified mail. However, the error was corrected. - 3 -

The invoice for these volunteer mailings was received by the RPT on September 19, 1986 and shipments were made in September and October, 1986. The Mail Box was also involved with these mailings, but not as a vendor. Because the Austin, Texas Post Office Would not accept direct postage payment for mailings made in Dallas, the Mail Box agreed to make the payments to the United States Postmaster in Dallas for postage if the RPT wired them the money. Thus, on two occasions, October 16, 1986 and October 24, 1986, the RPT wired \$4500.00 and \$3500.00 respectively to the Mail Box for this purpose. invoices exist with respect to these transactions because of the immediacy of the wire transfers. Question 4. a. Describe the services provided by the 0 following vendors, the dates such services were procured and delivered, and the costs incurred, as they relate to each mailing. 0 (i) Welch Communications, Inc., located at 4001 T North 9th Street, Suite 220, Arlington, Virginia. O (ii) The Mailbox, with the mailing address of P.O. Box 226776, Dallas, Texas. 0 0 Provide copies of all contracts, vouchers, receipts, invoices, and other documentation related to the business transactions with these vendors. RESPONSE The Response to Question 3 above is also responsive to parts a. (i) and (ii) of this question. In addition, as noted above, the RPT has no contracts with the Mail Box with respect to these transactions.

However, the RPT previously submitted copies of its purchase orders to the Commission. Exhibit 6. This exhibit has been supplemented by - debit slip received from the Texas Commerce Bank - Austin with respect to one of these wire transfers. Exhibit 4 attached herewith are two letters from the RPT to Kate Welch of Welch Communications with respect to these volunteer mailings. The RPT is unable to locate the invoice referenced in these letters (number 1181) which reflects the transaction agreed upon by the parties. See also, Exhibit 6 for a copy of RPT's purchase order with respect to this transaction. Exhibit 5 attached herewith consists of various letters and draft invoices retained in RPT's files as well as those obtained from Welch Communications which were written and issued during the negotiation for production of these mailers. We are submitting these in response to your request for all "documentation" including "drafts," although we do not believe they are in fact relevant because none of these 0 invoices (numbers 1120 to 1125 and number 1159) reflect the actual transaction agreed upon. The invoice of the transaction finally agreed upon cannot be located by the RPT. We have further been informed by Welch Communications that their files do not contain a copy of this specific invoice (number 1181) either. Question 5. State whether the funds used to pay for the mailing(s) were designated for a specific candidate(s) and if so, identify each candidate. - 5 -

Response The funds used to pay for these mailings were not designated for any specific candidates. Question 6. State whether any payments made by the National Republican Congressional Committee to Welch Communications, Inc. were associated with the mailing(s). If so, state the purpose, amount and date of each payment. Provide copies of all documentation related to these transactions. Response To the RPT's knowledge, payments by the NRCC to Welch Communications were not associated with these mailings. RPT has no documentation with respect to these transactions. Question 7. a. On October 17, 1986, the NRCC disbursed \$3,898.22 to the Republican Party of Texas as a coordinated expenditure on behalf of the Tom Carter campaign. purpose of this disbursement, as disclosed on the NRCC's 1986 Post General Report was for "printing." State whether these funds were used to pay expenses connected with the mailer activity identified in question #1. b. Describe the services procured and provide a copy of the material(s) printed. Response C The purpose of this disbursement was not to pay expenses connected with the mailer activity identified in Question 1 above. Rather, the NRCC was involved in making coordinated expenditures on behalf of Tom Carter. The payment of the NRCC was for the printing of pressure sensitive labels for use by the NRCC in connection with its activity. Copies of these labels are not available. - 6 -

The above statements are true to the best of my knowledge and belief. Controller for the RPT Assent and Treasured AUSTIN, TEXAS Subscribed to and sworn before me this \_\_\_\_\_\_ day of March , 1988.



#### Creating Jobs for Texans

When it comes to jobs and a stronger economy. Tom Carter means business

The family dry cleaners, the local hardware store, the corner market and hundreds of other small businesses are a mainstay of our local economy. They provide thousands of jobs right here in our own heighborhood.

Tom Carter understands small business. He knows how important the jobs they provide are to our community. But federal policies that strangle neighborhood businesses with excessive taxes and regulations must be stopped if they are to survive.

As our Congressman, Tom Carter will work to reduce the mountain of needless paper work often reduced by the government. And make sure that unfair taxes and unnecessary regulations don't put small business but of business.

Tom Carter will use his expenence as a governmental affairs manager in the energy industry to speak for our economic concerns with confidence and authority.

And he'll support President Reagan's efforts to open new international markets to our Texas companies

Tom Carter knows our community in Congress inell work to keep us working.

#### Making Government More Efficient.

As America's huge federal deficit continues to threaten our future, the time for bold action is now

That's why Republican Tom Carter has promised his first measure in Congress will be to sponsor a Constitutional Amendment to require a balanced federal budget

Like us. Tom Carler knows its the only way to force the big spenders in Washington to stop adding wasteful government programs. And begin butting our needs first

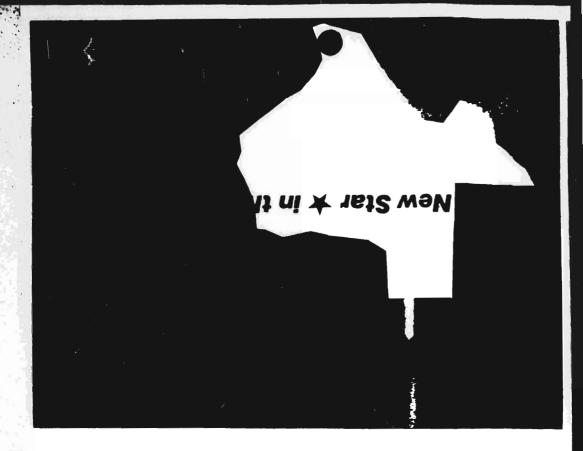
Tom Carter also snares our concerns that America should never return to the days of wild spending. That's why he supports egislation to allow President Reagan to veto unnecessary budget tems—just like the Taxas Governor has the right to do

Hell fight to give private businesses an opportunity to provide services they can do less expensively than government bureaucrats. And hell work to implement key provisions of the Grace Commission Report to cut waste and inefficiency.

To Tom Carter, the future of our nations economy depends on greater opportunities, lower taxes and the Texas spirit of making it on our own.

For a balanced federal budget and a stronger safer tomorrow, ets elect Tom Carter our next Congressman





#### **President Reagan and Tom Carter...**

Thanks to the leadership of President Reagan America once again stands proud and bold

But to continue the President's vision for a strong and secure future, we must send new leadership to Congress from Dalas County.

And new eadership means for Carter

Like thousands of Mesquite, Ganand and East Dalias of zens, President Reagan has endorsed Tom Caner for Congress

That's because Tom Carler supports President Reagan's leftons to restore countary prayer in America's schools lower our taxes and re-build our defense capabilities.

And President Reagan knows that without the subborn of more Congressmen like Tom Carterine worll have the opportunity to bring America all the way back from the days of national doubt and insecurity.

When it comes to protecting our proud Texas values of fash, family and community, both President Reagan and Tom Carter stand tail.

That's why Tom Carter s President Reagan's choice for Congress. And ours.



Paid for the files Republican Essoutive Cres. and authorized to Tom Daffer for Contress.

## Would you vote for Tip O'Neill to represent you in Congress? Probably not. But by voting for Congressman Bryant you're getting a "Tip O'Neill clone" . . . . only worse.



than Tip. And that's saying a lot.
When the American Conservative Union added up their votes on conservative issues. Bryant voted correctly only 7% of the time. Tip, by comparison, voted right 13% of the time. Something is wrong.
Bryant just doesn't vote like he promised. And that's too bad. Because in Texas we trust our friends. When they say they'll do something for us ... we believe them.

You see, John Bryant votes even more liberal

#### But don't be fooled by Bryant. He's no friend of ours.

- For example, Bryant voted against President Reagan an alarming 70% of the time.
- He voted against aid to Freedom Fighters and against voluntary prayer in school.
- Bryant also has a 'zero' rating by Christian
   Voice for his votes on traditional family issues.
- He was rated the worst Congressman in America for his votes against small business.
   And that cost us jobs here in Texas.
- In addition, Congressman Bryant voted for tax increases and against recommendations to cut wasteful government programs.

Tip O'Neill is retiring this year. We think John Bryant should join him.

## Tip O'Neill for Congress... for Texas?

#### As our Congressman, Tom Carter will put Texas first.



That's because he shares our conservative values and our dreams for the future.

Tom will fight for a balanced budget to keep our economy strong and growing. He'll push for voluntary prayer in our schools. And he'll work with President Reagan—not against him.

Tom Carter will bring strong conservative leadership back home to Texas.

U.S. CONGRESS

A New Star in the Texas Tradition

## LIBERAL?

The days of wasteful government spending, high taxes and liberal values are over. But someone forgot to tell Congressman John Bryant.

As our Congressman, Bryant voted to raise our taxes. He voted against spending cuts that could help balance our budget. And he voted against voluntary school prayer.

When it comes to representing our beliefs here in Texas, liberal John Bryant is out of step.

Compare Bryant with his Republican challenger Tom Carter.





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Will sponsor a Balanced Budget Amendment as his first action in Congress.

Supports President Reagan and his policies of lower taxes, limited government, and a strong defense.

#### We oppose any tax increase.

200

Supports traditional family values like voluntary school prayer.

Supports swift and decisive action against terrorists and those who black them.

Believes those willing to fight and die for freedom deserve our support.

#### ISSUE

#### Federal Deficit

President Reagan

#### Taxes

Family Values

Terrorism

Freedom

#### **John Bryant**

Voted against even minor across-the-board cuts to reduce the deficit.

Voted against President Reagan's policies more than 70% of the time.

Voted for a \$76.2 billion tax increase.

Voted against voluntary prayer in school.

Criticized President Reagan's actions to capture the terrorist hijeckers of the Achille Lauro.

Opposed even Humanitarian aid to those fighting against communism in Central America.

Jobs

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U.S. CONGRESS

TomXCarter

defense and school prayer.

Let's continue with the same rugged spirit, hard work and strong leadership that has built our great state.

That means electing Tom Carter our next Congressman.

Keeping with our proud Texas heritage means electing a leader who supports a balanced budget, a strong national defence and school prayer.

And in Washington.

clear we need new leadership in Congress.

We need a leader who represents our traditional Texas values.

As our Congressman, Tom Carter will fight for what we believe

Just one look at John Bryant's liberal voting record and it's

tare Republican Executive Ome 300 Guaduluda Ave Iusun Dt. 18701 (643) Son Promiting
US Postage
PAID
Dymnie 22:15

PSST...

Did you know our Congressman is a...

ate Executive Commettee

Saptumber 19, 1986

Mes. Kate Welch Malch Communications, Inc. 2 and 226 10t North Minch Server Arlington, Virginia 22203

Noir Mrs. Walch:

Maving received invoice no. 1181 today for 298,000 pieces at a price of 1.219,061. I enclose a check in the mount of \$10,000 to apply to this 1.511.

Pinase immediately ship order (COOBS (62,000) pieces) and half (1/2) of Coorder TCOOS (half [1/2] of 149,000 pieces). I will account the Table aing balance within approviously (7) reports to the finding balance within approviously (7) reports to the finding to compare the miders and you will display a committing account.

Thank you for your assis has and cooperation.

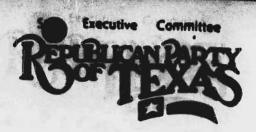
distactly.

Arro A. Tichama Unicadive Director

azi.sa

Inclosure

5 6 0 0 4 0 7 9 1 6 2 5



October 21, 1986

Mrs. Kate Welch Welch Communications, Inc. Suite 226 4001 North Ninth Street Arlington, Virginia 22203

Dear Mrs. Welch,

Enclosed please find the remaining payment due on invoice number 1181 in the amount of \$ 9061.00.

Thank you very much for you patience in this matter.

Sincerely,

Anne Walker

Assistant Controller

anne Walker

ARM: tj

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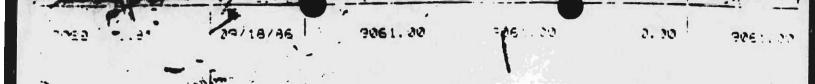
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Enclosure

9-19-86 ( = 1292 LC



PAID

TEXAS COMMERCE BANK-AUSTIN

USTIN, TEXAS 78730

89-2117/1149

CHICKDATE

CONTROL NO.

O' TOX AND LIST

10/21/86

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e Thousand Bixty-One and 00/100 dollars

E FF COTO

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ELCH COMMUNICATIONS. INC.

1 EXAS REPUBLICAN CONGRESSIONAL COMMITTEE

P. O. BOX 755 PH. 512-477-1921

USTIN, TEXAS 78737

TE 226

: JORTH MINTH STREET

STON,

VA 22203

NOT NEGOTIABLE





September 12, 1986

Mr. David Welch Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203

Dear Mr. Welch:

I am in receipt of your proposed bids dated August 28, 1986, to cover five (5) volunteer except activity mailings of approximately 265,000 pieces. Please be advised that these quotes are too high and that I am unable to authorize production at those prices. I understand that you have proposed new bids for seven (7) mailings of approximately 312,000 pieces at a cost of \$19,396 for printing and that the bids are on the way to us.

When I receive them, I will be pleased to authorize production.

Sincerely,

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Jane A. Matheson

Executive Director

ANISU JAMISU GOST SCHOOL STORY ASTORY ASTORY AND SCHOOL SC

Saptember 17, 1986

de. David R. Welch
Prosider
The de discher, I.e.
Suira 226
4001 North Mich Street
Arlington, Virginia 22203
Dear Mr. Welch:

I am suce we will finally reach a conclusion concerning the amount and could of the mailings you will be doing for the Republican Party of Texas for enempt well steer activities.

The invoices we received this week have been revised again, I understand. Until I precive first invoices to approve, as horization for the printing must be delayed.

Planse furnish the revised invoices a some as possible, and a mall be pleased to remit to check for \$10,000 in additily and may the talance transmit days.

Thank you for your pacience.

Sinchmely,

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Cr

Tra A. Matheson
Executive Director

Jamasa

# Welch Communications, Inc.

4001 North Ninth Street • Suite 226 • Arlington, Virginia 22203 • (703) 243-9595

August 11, 1986

Ms. Jane Mathison Executive Director Texas Republican Party 1300 Guadeloupe #205 Austin, TX 78701

Dear Ms. Mathison:

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After further consultation with Bruce Lott of the Carter campaign, here is a revised invoice that is to replace those we sent to you earlier (invoices #1120-1125).

Therefore, please disregard all previous invoices.

Your prompt payment will be most appreciated.

David R. Welch

President

1150

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party
1300 Guadeloupe #205
Austin, TX 78701
ATTN: Jane Mathison, Executive Director

FOR:

Represts of Image Reinforcement, Issues and Comparison Mailers and

Ripad'Neill Attack Mailer

C! DATE:

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9-11-86

MO JOB NO.:

TC002X, TC003X, TC004X, TC005

Description		Cost
. · ·	Printing & Shipping of TC002X (50,000 pieces)	<b>\$2658.5</b> 0
	Printing & Shipping of TC003X (50,000 pieces)	2658.50
	Printing & Shipping of TC00\$X (75,000 pieces	4801.50
	Printing & Shipping of TC005 (137,000 pieces)	8775.42

replaced invoice

TOTAL AMOUNT DUE UPON RECEIPT

18898.92

64

(Welch)

1159 No

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party 1300 Guadeloupe #205 Austin, TX 78701

ATTN: Jane Mathison, Executive Director

ENTERED SE? 1 6 1986

FOR:

Reprints of Image Reinforcement, Issues and Comparison Mailers and

Tip O'Neill Attack Mailer

DATE:

9-11-86

JOB NO .:

Description

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TC002X, TC003X, TC004X, TC005

Cost

-Printing & Shipping of TC002X (50,000 pieces)

\$2658.50

Printing & Shipping of TC003X (50,000 pieces)

2658.50

Printing & Shipping of TC004X

(75,000 pieces 4804.50

12 100

Printing & Shipping of TC005 (137,000 pieces)

8775.42

342,000

TOTAL AMOUNT DUE UPON RECEIPT

# 19,601

18896.92

1120 No

Welch Communications. Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party 1300 Guadeloupe #205 Austin, TX 78701 ATTN: June Mathison, Executive Director AUG 29 ises

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FOR:

Carter Reinforcement Mailer Reprint

DATE: 8-28-86

JOB NO .:

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TC002X

Description

Cost

Printing & Shipping (quantity = 50,000)

TOTAL AMOUNT DUE UPON RECEIPT

\$3238.25

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Weich Communications. Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Temas Republican Party 1300 Guadeloupe #205 Austin, TX 78701 ATTE: June Mathison, Executive Director

FOR:

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TOTAL AMOUNT DUE UPON RECEIPT

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TO:

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DATE: 8-28-86

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TOTAL AMOUNT DUE UPON RECEIPT

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Weich Communications. Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Sarty 1300 Guadeloupe #205 Austin, TX 78701 ATTN: June Mathison, Executive Director

FOR: Carter Image/Issue Mailer Reprint

DATE: 8-28-86

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Cost

Printing & Shipping (quantity = 50,000)

TOTAL AMOUNT DUE UPON RECEIPT

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Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party 1300 Guadeloupe #205
Austin, TX 78701
ATTN: June Mathison, Executive Director

FOR:

Carter Comparison Mailer Reprint

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DATE: 8-28-86

JOB NO .:

TC004X

Description

Cost

Printing & Shipping (quantity = 50,000)

TOTAL AMOUNT DUE UPON RECEIPT

\$3502.75

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party 1800 Guadeloupe #205 Austin, TX 78701 ATTN: June Mathison, Executive Birector

FOR: Carter Attack Mailer Reprint

DATE: 8-28-86

JOB NO .: TC005X

Description

Cost

Printing & Shipping

TOTAL AMOUNT DUE UPON RECEIPT

\$3502.75

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

Cost

TO:

Texas Republican Party 1300 Guadeloupe #205 Austin, TX 78701 ATTN: June Mathison, Executive Director

11 x 17 Self Mailer

DATE: 8-28-86

TC006 JOB NO .:

Description Printing & Shipping \$4542.00 Artwork/typesetting 600.00

TOTAL AMOUNT DUE UPON RECEIPT

5142.00

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

Texas Republican Party
1300 Guadeloupe #205
Austin, TX 78701
ATTN: June Mathison, Executive Director

FOR:

Postage for TC002x, TC003x, TC004x, TC005x, TC006

DATE: 8-28-86

JOB NO .:

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Description

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Postage for 265,000 pieces & 7.1¢ each

TOTAL AMOUNT DUE UPON RECEIPT

\$14,742.00

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The state of the s REQUEST FOR: 7041 Purchase ☐ Reimbursement ♣ P.O. Box 855 Austin, Texas 78767 ☐ Advance/Transfer (512) 477-9821 DEPT. US Port Dis. VENDOR ATTENTION: CONTACT: DATE SUBMITTED: RECEIPTS MUST BE ATTACHED PHONE: TERMS: REMOURSEMENT REQUEST PURCHASE REQUEST Itemized Description Transportation The doe frent SUSTOTAL TAX, IF APPLICABLE NET TOTAL

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## BEFORE THE FEDERAL ELECTION COMMISSION R 22 PH 4: 18

In the Matter of )
Texas Republican Congressional )
Committee and Henry Santamaria,)
as treasurer )

MUR 2377

MAY 03 1988

GENERAL COUNSEL'S REPORT

### I. BACKGROUND

On December 10, 1987, the Commission found reason to believe the Texas Republican Congressional Committee and Henry

Santamaria, as treasurer ("Respondents"), violated 2 U.S.C.

§ 44la(f). The Commission's finding was based on a mailer activity conducted by Respondents on behalf of the Tom Carter campaign for the U.S. House of Representatives in 1986.

Respondents treated this mailer as an exempt volunteer activity pursuant to 2 U.S.C. § 431(8)(B)(x) and (9)(B)(viii), and as described in 11 C.F.R. § 100.7(b)(15). In order to determine whether the volunteer exemption was applicable in this instance, the Commission approved interrogatories and a request for production of documents on January 27, 1988. They were mailed to Respondents on February 4, 1988. At the request of Respondents' counsel, an extension of time to respond was granted, and answers and documents were submitted on March 16, 1988. Attachment I.

#### II. ANALYSIS

### a. Further Investigation of the TRCC

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that payments for campaign materials connected with an activity purported to qualify under the volunteer exemption be made from contributions subject to the limitations

- 2 and prohibitions of the Act. 2 U.S.C. § 431(8)(B)(x)(2) and (9) (B) (viii) (2); and 11 C.F.R. \$\$ 100.7(b) (15) (ii) and 100.8(b)(16)(ii). The Commission's Regulations require that all disbursements, contributions, expenditures and transfers made by a political committee in connection with any federal election be made from its federal account. 11 C.F.R. § 102.5(a). A review of the response to the interrogatories and request for documents, and of Respondents' disclosure reports and statements on file with the Commission, raises the question whether payments for the costs incurred with the Carter mailer activity were made from funds not subject to the prohibitions and limitations of the Act. 1. Printing Costs In response to interrogatory #3, Respondents stated that C Welch Communications, Inc., ("Welch") was the "sole vendor to function in a production capacity" in the mailer activity. They stated that the total cost for services was \$19,061 paid in two installments, the first on September 19, 1986, in the amount of \$10,000, and the second on October 21, 1986, in the amount of \$9,061. Attachment I(4). In a footnote to the response, Respondents stated that the October disbursement was disclosed in the 1986 Post-General Report. It was also stated that "due to an accounting error, the September payment was not properly reported."

The September payment to Welch was disclosed in Respondents'
1986 October Quarterly Report, filed on October 17, 1986, which
covered the period from July 1, 1986, through September 30, 1986.

A disbursement to Welch in the amount of \$10,000 is reported as
made on September 9, 1986, for the purpose of "printing and
shipping direct mail." This disbursement is the only one
disclosed to this vendor in that report. Respondents filed an
amendment to the October Quarterly Report on December 8, 1986.

In the amended report the purpose for the disbursment to Welch is
changed to read "printing and shipping Exempt Volunteer
Activity."

Respondents offered as Exhibit 4 in their response to the interrogatories, copies of letters and cancelled checks to substantiate the payments to Welch. Attachment I(18)-(22). The date of the letter and the check for the September payment is September 19, 1986, thus, indicating that the date disclosed in the report is inaccurate, perhaps due to a typographical error. Although the September payment appears to have been properly reported except for the discrepancy in the date, the copy of the cancelled check provided by Respondents showed that this payment was made from the account of the Texas Republican Campaign Committee ("Campaign Committee"). Attachment I(20). The October payment, however, was drawn on the account of the Texas Republican Congressional Committee. Attachment I(22). 1/2 The

<sup>1/</sup> Counsel explained via telephone that the words "NOT NEGOTIABLE" shown on this document was not on the original check. Counsel stated that the file copy of the check has those words imprinted to avoid confusion.

Campaign Committee is a state account of the Republican Party of Texas ("RPT"). Respondents' amended 1986 October Quarterly Report disclosed a debt and obligation to the Campaign Committee in the amount of \$4,000 and the purpose of the debt was for "Exempt Volunteer Activity (Printing)." In Respondents' amended 1986 Pre-General Report, also filed on December 8, 1986, the purpose for this debt is further clarified as "Paid out of state account by mistake." The debt is carried over into the 1986 Post-General and Year-End reporting periods. In a letter transmitted with an amendment to the 1986 Post-General Report, the assistant treasurer sought advice on how "to correct an inadvertent mistake...made in paying for an exempt volunteer project with operating account and state account funds rather than federal account funds." Attachment II. At that time, the assistant treasurer stated that he had listed the payments on a Schedule D form for the reporting period of October 16, 1986, through November 24, 1986, and proposed paying them off as loans.

In their 1987 Mid-Year Report, filed on August 4, 1987,
Respondents disclosed payment of the debt owed to the Campaign
Committee. The payment appears to have been made along with

interrogatory #3, and in a follow-up telephone conversation with counsel, the Carter mailer activity actually took place in Dallas, Texas, and Respondents are located in Austin, Texas. The Dallas post office required immediate payments for two of the mailings and would not accept such payment through the Austin post office. The Mailbox, located in Dallas, was asked to receive the money and to make the payments. As explained by counsel, the other two payments were not due immediately and the checks were apparently mailed to the post office by Respondents.

The two September payments of \$5,000 each to the Postmaster,

The two September payments of \$5,000 each to the Postmaster, should have been disclosed in Respondents' 1986 October Quarterly Report. The only disbursement to the U.S. Postmaster disclosed in that report was for \$1,000 made on July 16, 1986, which appears to be unrelated to the Carter mailer activity. Although the disbursements at issue do not appear in the original report, the amended 1986 October Quarterly Report disclosed a debt in the amount of \$10,000, owed to the RPT for "Exempt Volunteer Activity (Postage)." In the 1986 Pre-General Report no disbursements to the Postmaster are disclosed; however, in the amendment to that report the debt owed to the RPT is disclosed, with an additional amount of \$3,864.46 incurred during that reporting period. The purpose of the debt is changed in the amended 1986 Pre-General Report to read "Exempt Volunteer Activity (Printing & lumber for yard signs) paid out of operating account by mistake." This debt is carried over into the 1986 Post-General and Year-End Reports, with the purpose changed again to reflect "postage" and that it

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The October disbursements to The Mailbox, for \$4,500 and \$3.500.3 should have been disclosed in Respondents' 1986 Post-General Report. However, the only disbursements disclosed in that report to The Mailbox were in different amounts, made on dates other than those relevant here; those disbursements were for "list development" and "printing and mailing." The October payments noted above are not disclosed in that or in any other report subsequently filed by Respondents.

The amount of the debt owed to the RPT for postage continued to accrue such that the final total was \$21,864.46. Therefore, it appears that all of the payments for postage connected with the Carter mailer activity were initially made out of a nonfederal operating account of the RPT. Respondents' 1987 Mid-Year Report disclosed that the entire amount of \$21,864.46 was disbursed to the RPT on February 11, 1987, as a debt repayment and was reported as an operating expenditure.

### 3. Summary

operating account.

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The Texas campaign finance law prohibits contributions from corporations and labor unions, however, it does not limit the amount that individuals or separate segregated funds may contribute to state political committees. Based on the foregoing, it appears that Respondents initially used

Respondents provided a copy of a debit slip to document the wire transfer of the \$3,500 (Attachment I(44)), however, without additional information it is unclear whether these funds came from a federal account.

contributions not subject to the limitations of the Act to pay for the printing and postage costs connected with the Carter mailer activity. Use of such funds would, therefore, appear to disqualify the Carter mailer activity as a volunteer exempt activity pursuant to 2 U.S.C. \$\$ 431(8)(B)(x)(2) and (9) (B) (viii) (2). Although Respondents have reimbursed the nonfederal accounts, violations of 2 U.S.C. § 441a(f) and 434(b) are implicated. An apparent violation of 11 C.F.R. 102.5(a) is also implicated, as Respondents appear to have paid for costs connected with an activity designed to influence the outcome of a federal election from non-federal accounts. It is still not certain, however, to what extent the circumstances discussed above are associated with the mailer activity at issue in this matter. The postage and printing expenditures discussed above were reported as due to an exempt volunteer activity, however, they are not readily identifiable with the Carter mailer activity, although the dates and amounts appear to correspond. Therefore, this Office recommends that the Commission authorize additional interrogatories to Respondents to determine the source of the funds used to make the payments for expenses connected with the Carter mailer activity.

### b. Further Investigation Regarding the use of National Party Funds

The Commission's reason to believe finding was also principally based on the need to determine whether national party funds were used to pay for campaign materials used for the Carter

mailer activity. This question arose due to payments by the TRCC and the National Republican Congressional Committee ("NRCC") to the same vendor, Welch Communications, Inc. All of the payments by both committees were made within a three-month period, and appeared to be connected with the same activity. Interrogatory \$\frac{4}{6}\$ sought information from Respondents about the NRCC disbursements. Respondents answered, however, that, "[t]o the RPT's knowledge, payments by the NRCC to Welch Communications were not associated with these mailings. The RPT has no documentation with respect to these transactions" (emphasis added). Attachment I(7). Because of the central importance of this question, specific information is needed about the services Welch provided the NRCC and the TRCC with respect to the Carter campaign, in order to determine whether they were connected.

Therefore, this Office recommends that the Commission approve the attached proposed interrogatories to Welch, as a non-respondent witness only, regarding this matter.

### III. RECOMMENDATIONS

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 Approve the proposed letter, interrogatories and request for production of documents directed to the Texas Republican Congressional Committee and Henry Santamaria, as treasurer.

As stated previously in this report, Respondents made disbursements to Welch on September 19, 1986, and October 21, 1986. These disbursements were for printing, and shipping and postage. The NRCC disbursed funds to Welch on August 21 and 22, 1986, for professional and printing services.

- 10 -2. Approve the proposed letter, interrogatories and request for production of documents directed to Welch Communications, Inc. General Counsel Attachments Response to interrogatories and request for documents from 1. the TRCC 2. Letter from the assistant treasurer Proposed letter, interrogatories and requests for documents 3. to the TRCC 4. Proposed letter, interrogatories and requests for documents to Welch Communications, Inc. Staff Person: Sandra H. Robinson

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#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Texas Republican Congressional ) MUR 2377

Committee and Henry Santamaria, )
as treasurer )

## CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 3, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2377:

- 1. Approve the proposed letter, interrogatories and request for production of documents directed to the Texas Republican Congressional Committee and Henry Santamaria, as treasurer, as recommended in the General Counsel's report dated April 22, 1988.
- 2. Approve the proposed letter, interrogatories and request for production of documents directed to Welch Communications, Inc., as recommended in the General Counsel's report dated April 22, 1988.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

Date

Marjorie W. Emmons

Secretary of the Commission

C".



# FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 6, 1988

# CERTIFIED MAIL RETURN RECEIPT REQUESTED

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377

Texas Republican

Congressional Committee and Henry Santamaria, as

treasurer

Dear Mr. Baran:

On February 4, 1988, your clients, Texas Republican Congressional Committee and Henry Santamaria, as treasurer, were notified that the Federal Election Commission had found reason to believe your clients violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act 1971, as amended.

Pursuant to its investigation of this matter, the Commission is requiring your clients to respond to the enclosed Interrogatories and Request for Production of Documents, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

It is required that you submit all answers to questions under oath and that you do so within 15 days of your receipt of this letter.

If you have any questions, please direct them to Sandra H. Robinson, the attorney handling this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble General Counsel

Enclosure

Interrogatories and Request for Production of Documents

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 2377

### INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Texas Republican Congressional
Committee and Henry Santamaria,
as treasurer
c/o Jan W. Baran, Esquire
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, DC 20463, within 15 days of your receipt of this request, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

# DEFINITIONS For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows: "You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof. "Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity. "Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. "Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document. "Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

# INSTRUCTIONS In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records. Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response. If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information. Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests. The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

## INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS MUR 2377

The following questions are propounded in furtherance of the Federal Election Commission's investigation of a mailer activity conducted by the Texas Republican Congressional Committee and Henry Santamaria, as treasurer, on behalf of the 1986 Tom Carter campaign, which was treated as an exempt volunteer activity.

1. In your responses to the complaint, and to interrogatories and a request for documents in this matter, you stated that the following payments were made in connection with the Carter mailer activity:

Payee	Date of Payment	Amount
U.S. Postmaster	September 24, 1986	\$5,000
U.S. Postmaster	September 30, 1986	\$5,000
The Mailbox	October 16, 1986	\$4,500
The Mailbox	October 24, 1986	\$3,500
Welch Communciations, Inc.	September 19, 1986	\$10,000
Welch Communications Inc.	October 21, 1986	\$ 9,061

- a. State whether these payments were initially made from your federal account.
- b. If these payments were not initially made from your federal account, state whether these payments were made from funds subject to the prohibitions and limitations of the Federal Election Campaign Act of 1971, as amended ("the Act") and identify the accounts from which the payments were initially made.
- 2. In the amended 1986 October Quarterly Report filed on December 8, 1986, Respondents first disclosed debts owed to the Texas Republican Campaign Committee and the Republican Party of Texas for an "Exempt Volunteer Activity" with respect to postage and printing costs. Subsequent disclosure reports stated that these debts were incurred due to payments made by mistake from your state and operating accounts.

State whether the Carter mailer activity is included in the payments from the state and operating accounts. If yes, explain the circumstances in detail.



# FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

May 6, 1988

# CERTIFIED MAIL RETURN RECEIPT REQUESTED

David R. Welch, President Welch Communications, Inc. 4001 N. 9th Street, Suite 226 Arlington, Virginia 22203

> MUR 2377 RE:

Dear Mr. Welch:

The Federal Election Commission has the statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. The Commission has issued the attached Interrogatories and Request for Production of Documents which require you to provide certain information, in connection with an investigation it is conducting. The Commission does not consider you a respondent in this matter, but rather a witness only.

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to the interrogatories and request for production of documents. However, you are required to submit the information under oath within 15 days of your receipt of this letter.

If you have any questions, please direct them to Sandra H. Robinson, the attorney handling this matter, at (202) 376-8200.

Sincerely.

Lawrence M. Noble

General Counsel

Enclosure

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Interrogatories and Request for Production of Documents

# DEFINITIONS For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows: "You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof. "Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity. "Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. "Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document. "Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, the present occupation or position of such 3 person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

# INSTRUCTIONS In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records. Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response. If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information. Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests. The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

# INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS MUR 2377 The National Republican Congressional Committee ("NRCC") made the following payments to Welch Communications, Inc. ("Welch") on the dates indicated: Two payments of \$5,478.75 each on August 21, 1986 \$13,350.00 on August 22, 1986 Describe in detail the services provided by Welch to the NRCC, that were connected with the above payments. Where appropriate, provide a copy of the product(s) which resulted from such services. The Texas Republican Congressional Committee ("TRCC") made the following payments to Welch on the dates indicated: \$10,000.00 on September 19, 1986 \$ 9,061.00 on October 21, 1986 a. Describe in detail the services provided by Welch to the TRCC, that were connected with the above payments. Where appropriate, provide a copy of the product(s) which resulted from such services. 3. a. State whether the services provided by Welch to the NRCC are related to the services it provided to the TRCC. If yes, describe the nature of this relationship in detail. State whether the TRCC or the Republican Party of Texas received any of the materials or services paid for by the NRCC. If yes, identify such services and materials and the cost associated with each. Provide a copy of all documents related to the business transactions discussed above, including but not limited to, contracts, receipts, vouchers, memoranda, and other correspondence.

WILEY, REIN & FIELDING 88 MAY 31 PM 4: 49 1776 K STREET, N.W. WASHINGTON, D. C. 20006 (202) 429-7000 JAN W. BARAN (202) 429-7330 May 31, 1988 Lawrence M. Noble, Esquire General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463 Sandra Robinson Attn: Re: MUR 2377 (Republican Party of Texas) Dear Mr. Noble: This response is submitted on behalf of the Republican Party of Texas (the "RPT"), in reply to the interrogatories and request for documents propounded by the Federal Election Commission (the "Commission") to the RPT on May 6, 1988. Enclosed are the sworn answers to these interrogatories and requests, along with their corresponding Exhibits. Sincerely, lan Jan W. Baran Counsel to the Republican Party of Texas JWB/slg Enclosure cc: John Weaver

RESPONSE OF THE REPUBLICAN PARTY OF TEXAS TO THE INTERROGATORIES OF THE FEDERAL ELECTION COMMISSION MUR 2377

<u>OUESTION</u> 1. In your responses to the complaint, and to interrogatories and a request for documents in this matter, you stated that the following payments were made in connection with the Carter mailer activity:

PAYEE	DATE OF PAYMENT	AMOUNT
U.S. Postmaster	September 24, 1986	\$5,000
U.S. Postmaster	September 30, 1986	\$5,000
The Mailbox	October 16, 1986	\$4,500
The Mailbox	October 24, 1986	\$3,500
Welch Communication	s,	
Inc.	September 19, 1986	\$10,000
Welch Communication	s,	
Inc.	October 21, 1986	\$9,061

- a. State whether these payments were initially made from your federal account.
- b. If these payments were not initially made from your federal account, state whether these payments were made from funds subject to the prohibitions and limitations of the Federal Election Campaign Act of 1971, as amended ("the Act") and identify the accounts from which the payments were initially made.

#### RESPONSE

Payments to the U.S. Postmaster and the Mailbox referred to above were originally made from the Republican Party of Texas' ("RPT") operating account. Further examination of the records pertinent to this matter indicate that both payments to Welch Communications were made from RPT's federal account. Copies of the checks issued to Welch Communications are

attached at Exhibit 1.1 The \$10,000 check issued from the federal account replaced the check drawn on RPT's state account attached at Exhibit 4 of RPT's March 16, 1988 response to Interrogatories and represents the actual payment to Welch Communications. 2

As for the payments from the operating account, much of the money in that account had been transferred from the federal account. In fact, as can be ascertained from the RPT's 1986 October Quarterly Report, over \$50,000 was transferred from the federal account to the operating account in September, 1986, and over \$120,000 was transferred in

Further, when the RPT contacted the Federal Election Commission regarding the improper payment of an exempt volunteer payment with operating account funds, it was with respect to postage paid from the RPT's operating account as indicated on the October, 1986 report. Again, because the amount noted was \$10,000 (which was the sum of one of the checks to Welch Communications) there was some confusion as to which payment was being discussed. As seen above, Welch Communications was paid from the proper account, and as stated in the RPT's March 16 response, the monies which were

the subject of the correspondence were repaid.

Both of these payments were reported by the RPT. the RPT's 1986 amended October Quarterly Report and its 30 Day Post-General Report. Even though there is a minor typographical error in the date reported for the \$10,000 check, the payment is clearly identified.

<sup>2</sup> The copy of the state account check attached at Exhibit 4 to RPT's March 16 filing was the copy of the unnegotiated check found in the RPT's files. Upon further consideration of this matter, I believe that the state account check was destroyed when the RPT realized that the check was drawn on its state account but should have been drawn on its federal account since this was exempt volunteer activity. While the check was itself destroyed, the copy of the check in the files had not been destroyed. A substitute check for \$10,000 was issued to Welch Communications from the federal account. Thus, it was the federal account from which this payment was made.

October, 1986 as disclosed in the RPT's 1986 Pre-General and Post-General reports. QUESTION 2. In the amended 1986 October Quarterly Report filed on December 8, 1986, Respondents first disclosed debts owed to the Texas Republican Campaign Committee and the Republican Party of Texas for an "Exempt Volunteer Activity" with respect to postage and printing costs. Subsequent disclosure reports stated that these debts were incurred due to payments made by mistake from your state and operating accounts. State whether the Carter mailer activity is included in the payments from the state and operating accounts. If yes, explain the circumstances in detail. RESPONSE As identified in response to Question 1, postage operating account. On the date of each of these disbursements, payments were made from the RPT operating

As identified in response to Question 1, postage
payments for some of the Carter mailer activity which is the
subject of this MUR were inadvertently made from the RPT's
operating account. On the date of each of these
disbursements, payments were made from the RPT operating
checking account at the request of Jane Matheson (former
Executive Director of the RPT) in the belief that the
disbursements were for operating postage unrelated to exempt
volunteer activities. Exempt volunteer activity payments are
normally issued out of the Texas Republican Congressional
Committee ("TRCC") account which is our federal account.
This problem was discovered by the RPT itself in December,
1986 and openly brought to the attention of the Commission
for assistance in resolving this accounting error. An
amended October Quarterly report was filed listing a debt

owed to the operating account for "Exempt Volunteer Activities (postage) " and a letter sent to the FEC notifying it of the mistake. The RPT also filed an amended 30 Day Post-General Report adding \$8,000 to its reported debt to the operating account, the amount paid to the Mail Box for postage. Furthermore, without ever receiving a response from the Commission as to how to properly rectify the mistake, the Party voluntarily repaid the operating account from its federal account for these exempt volunteer activities. Payment was made on February 11, 1987, more than a month prior to the time that the complaint, which led to this MUR, was filed with the Commission, and was reported on RPT's 1987 July 31 Mid-Year Report. (Attached at Exhibit 2 is the check which incorporates this transferred payment.) The above statements are true to the best of my knowledge and belief. Controller for the RPT AUSTIN, TEXAS Subscribed to and sworn before me this 26%

My Commission Expires: 2/2/85

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# TEXAS REPUBLICAN CONGRESSIONAL COMMITTEE P. O. BOX 855 PH. 512-477-9821

AUSTIN, TEXAS 78767

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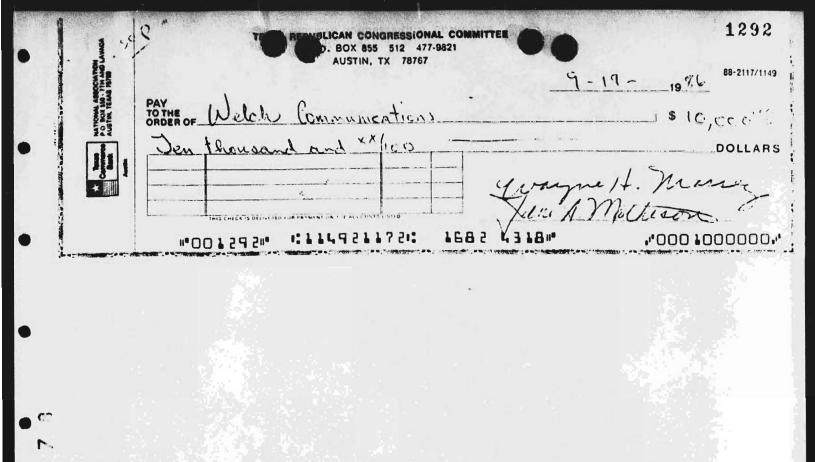
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# TEXAS REPUBLICAN CONGRESSIONAL COMMITTEE

P. O. BOX 355 PH. 512-477-9621 AUSTIN, TEXAS 78767 TEXAS COMMERCE BANK-AUSTIN

AUSTIN, TEXAS 78789 88-2117/1149

CHECK DATE

CONTROL NO.

CHECK AMOUNT

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02/11/87

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Twenty-One Thousand Eight Hundred Sixty-Four and 46/100 dollars

REPUBLICAN PARTY OF TEXAS
OPERATING A/C # 1537 3231
1300 GUADALUPE, SUITE 205
AUSTIN, TX 78701





# FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 11, 1988

CERTIFIED HAIL
RETURN RECEIPT
David R. Welch, President
Welch Communications, Inc.
4001 N. 9th Street, Suite 226
Arlington, Virginia 22203

**RE: MUR 2377** 

Dear Mr. Welch:

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On May 6, 1988, the Federal Election Commission ("the Commission") issued Interrogatories and Request for Documents to you pursuant to its statutory duty of enforcing the Federal Election Campaign Act of 1971, as amended. Those documents required you to provide certain information, in connection with an investigation the Commission is conducting. As you were informed, the Commission does not consider you a respondent in this matter, but rather a witness only.

To date, you have not responded to the Interrogatories and Request for Documents, nor have you requested an extension of time to respond. The Commission is still hopeful that you will cooperate with this investigation. However, unless we receive a response from you within five days, this Office will make appropriate recommendations to the Commission for further action.

Should you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble General Counsel

# Welch Communications A Division of The Wirthlin Group

July 22, 1988

Ms. Sandra H. Robinson Federal Elections Commission Washington, D.C. 20463

RE: MUR 2377

Dear Ms. Robinson:

As we discussed by telephone, the company formerly known as welch Communications, Inc., no longer exists as a functioning organization due to a December, 1987, acquisition by the Wirthlin Group. Corporate matters concerning old payables and receivables are currently being administered by my wife, Kathryn, out of our home in Arlington, Virginia.

Please be advised we are searching for the information you requested in your letter of May 6, 1988, and will be as helpful as possible. I hope you understand that these records are not located in our office, but probably in the attic of my garage—if they exist at all. In short, your request is somewhat more difficult than you might think.

Thank you for your patience.

Sincerely,

David Welch

Senior Vice President

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# BEFORE THE FEDERAL ELECTION COMMISSION 4: 28

In the Matter of

Texas Republican Congressional Committee and Martha Weisend, as treasurer

SENSITIVE

MUR 2377 EXECUTIVE SESSION

DEC 1 3 1988

GENERAL COUNSEL'S REPORT

#### I. BACKGROUND

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On December 10, 1987, the Commission found reason to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents"), violated 2 U.S.C. § 441a(f). The Commission finding was based on a mailing activity conducted by Respondents on behalf of the Tom Carter campaign for the U.S. House of Representatives in 1986. Respondents treated this mailing activity as an exempt volunteer activity pursuant to 2 U.S.C. §§ 431(8)(B)(x) and (9)(B)viii), and as described in 11 C.F.R. §§ 100.7(b)(15) and 100.8(b)(16). In order to determine whether the volunteer exemption was applicable in this instance, the Commission approved interrogatories and a request for production of documents on January 27, 1988. Respondents submitted a response through counsel on March 16, 1988. On May 3, 1988, the Commission approved additional investigation in this matter. See MUR 2377 — General Counsel's Report, signed April

<sup>1.</sup> On August 26, 1988, the respondent committee filed an amendment to its Statement of Organization, wherein it made a change in treasurer. The current treasurer in Martha Weisend. Commission policy is to name the current treasurer of a political committee as a respondent in Matters Under Review, even if such treasurer did not hold that position at the time the alleged violation(s) occurred. Therefore, the name of the new treasurer has been substituted.

22, 1988. Interrogatories and a request for documents were mailed to Respondents on May 6, 1988. Respondents submitted the additional requested information on May 31, 1988. Attachment I.

On May 3, 1988, the Commission also approved interrogatories and a request for production of documents to be sent to Welch Communications, Inc. ("Welch"), as a non-respondent witness in this matter. To date, Welch has not responded to the discovery request.

### II. ANALYSIS

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# A. Alleged Violation of 11 C.F.R. \$ 102.5(a)

Commission regulations require that all disbursements, contributions, expenditures and transfers made by a political committee in connection with any federal election be made from its federal account. 11 C.F.R. § 102.5(a).

Following receipt of Respondents reply to interrogatories and request for production of documents on March 16, 1988, follow-up questions, approved by the Commission, were propounded to Respondents. These questions sought information about certain disbursements from Respondents' non-federal accounts, which appeared to have been made in connection with the Carter mailing activity.

# 1. Printing Costs

Welch was identified by Respondents as the sole vendor that assisted them with the Carter mailing activity. Respondents stated that it made two payments to Welch for services rendered

and that both payments were made from their federal account.2 their March 16, 1988, response Respondents had provided a copy of a check drawn on its non-federal account, entitled Texas Republican Campaign Committee, as evidence of the September 19, 1986, payment to Welch. Respondents explained in their current response that the check drawn on the non-federal account was never negotiated. According to Respondents, when it was realized that the check was drawn on the wrong account, a new check was issued from the federal account. It was stated that the original check from the state account was destroyed, although the file copy remained. Attachment I(3), footnote 2. Respondents attached a copy of the replacement check to Welch drawn from the federal account. The replacement check is dated September 19, 1986. Attachment I(8). Thus, it appears that payments for the printing costs incurred in connection with the Carter mailing activity were properly made from Respondents' federal account.

## 2. Postage Costs

Respondents made four separate disbursements connected with the postage costs that resulted from the Carter mailing activity. The total postage cost equaled \$18,000.3 Respondents stated that they made these disbursements from the operating account.

<sup>2.</sup> The payments to Welch were made on September 19, 1986, in the amount of \$10,000 and on October 21, 1986, in the amount of \$9,061. These disbursements were disclosed in Respondents' 1986 October Quarterly and Post-General Reports, respectively.

3. Respondents stated earlier in this matter that in addition to two payments made directly to the U.S. Postmaster, they made two payments for postage through The Mailbox, which acted as a conduit or agent, and made the direct payments to the Postmaster. See MUR 2377 - General Counsel's Report, signed April 22, 1988.

Attachment I(2). The operating account is not Respondents' federal account. Respondents stated that they initially made the disbursements from the operating account because they believed the payments were unrelated to exempt volunteer activities. Once the mistake was discovered by Respondents, they stated that they notified the Commission of the error in December 1986.

Respondents stated further that they repaid the operating account from the federal account on February 11, 1987, prior to the initiation of this current matter. Attachment I(4)-(5). A copy of the check evidencing the transfer was attached to the response. Attachment I(10).

Respondents further stated that most of the funds in the operating account at the time of the payments from such account consisted of transfers from the federal account. Specifically, Respondents stated that over \$50,000 was transferred from the federal account to the operating account in September 1986, and over \$120,000 was transferred in October 1986.4 Attachment I(3)-(4). The disbursements at issue were made between September 24, 1986, and October 24, 1986. Respondents did not, however, state the total amount or composition of funds in the operating account during this period. The Texas campaign finance law, however, prohibits contributions from corporations and labor unions, although it does not limit the amount that individuals or separate segregated funds may contribute to state political

<sup>4.</sup> In their 1986 October Quarterly Report, Respondents disclosed a total of \$54,210.24 disbursed to the operating account. In their 1986 Pre-General and Post-General Reports, Respondents disclosed a total of \$123,069.68 disbursed to the operating account.

committees.

Respondents made disbursements in connection with federal election activity from their non-federal account. Based on the foregoing, this Office recommends that the Commission find reason to believe Respondents violated 11 C.F.R. § 102.5(a).

# B. Subpoena and Order to Non-respondent Witness

On May 3, 1988, the Commission approved interrogatories and a request for production of documents directed to Welch

Communications, Inc., as a non-respondent witness in this matter. The questions to Welch were propounded to determine whether national party funds were used to make payments for campaign materials in connection with the Carter mailing activity. This question arose due to payments by the National Republican

Congressional Committee ("NRCC") to Welch as coordinated party expenditures on behalf of the Carter campaign, at a time in close proximity to Respondents' disbursements to this same vendor. See

MUR 2377 - General Counsel's Report, signed November 30, 1987.

Respondents had initially been questioned about these similar disbursements, but stated that they had no knowledge about the NRCC payments to Welch. See MUR 2377 - General Counsel's Report, signed April 22, 1988.

The discovery request was mailed to Welch on May 6, 1988, and was received at its office on May 12, 1988. Attachment 11. Staff of this Office attempted to contact David Welch, president of Welch on June 2 and 3, 1988; and finally spoke with him on June 13, 1988, to ascertain the status of his response to the interrogatories. At that time Mr. Welch stated that the company

had been acquired by another entity and that the records regarding the transactions at issue were in storage. He further stated that he had actually received the Commission's letter on May 19, 1988, because he was out of town until that time, and that he would need additional time to respond to the request. Staff advised Mr. Welch to submit a written request for an extension of time, along with an explanation of the circumstances. When no such letter or response was forthcoming, staff attempted to contact Mr. Welch in early July without success. A letter from this Office was sent to Mr. Welch informing him of the importance of responding to the Commission's discovery request. Attachment III. On July 14, 1988, Allison Sellin, Administrative Services Manager at Welch, contacted this Office. She again informed staff that the records were in storage, but that a volunteer was assisting with searching for the documents and information relevant to this matter. At that time Ms. Sellin proposed that the response would be submitted to this Office by the end of August 1988. Staff again requested that a written request for additional time be submitted explaining the circumstances. A letter dated July 22, 1988, signed by Mr. Welch, was subsequently mailed to this Office. Attachment IV. To date, Mr. Welch has not provided a substantive response to the interrogatories and request for production of documents, nor has he contacted this Office to explain the circumstances of his failure to respond.

The interrogatories and request for production of documents to Welch were not issued under a Subpoena or Order from the

Commission. Welch's assistance was sought in a cooperative manner. It is now apparent that a Subpoena and Order are necessary to relay the importance of responding to the Commission's request in this instance. Therefore, this Office recommends that the Commission approve the proposed Subpoena and Order directed to Welch Communications.

#### III. RECOMMENDATIONS

- 1. Find reason to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a).
- Approve the attached letter, Subpoena and Order directed to Welch Communications, Inc.

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Lawrence M. Noble General Counsel

# Attachments

1. Response from Respondents.

2. Copy of return receipt from Welch.

3. Letter to Welch regarding failure to respond to interrogatories.

<sup>5.</sup> According to the State of Virginia Corporation Commission, Welch Communications, Inc., was automatically dissolved on September 1, 1988, due to a failure to pay the required registration fee. Welch continues to answer its business telephone as "Welch Communications" and it is located at the same address where the interrogatories were initially mailed. Mr. Welch has stated that the "records [sought by the Commission] are not located in our office, but probably in the attic of my garage," therefore, the Subpoena and Order are addressed to him, as he appears to have control over the information sought, even though the company was acquired by another entity.

- Letter from Welch. Letter and Factual and Legal Analysis to Respondents. Letter, Subpoena and Order to Welch Communications.

Staff Person: Sandra H. Robinson

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# FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

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TO:	LAWRENCE M. NOBLE
	GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDE

COMMISSION SECRETARY

DATE: DECEMBER 6, 1988

SUBJECT: OBJECTIONS TO MUR 2377 - General Counsel's Report Signed November 30, 1988

The above-captioned document was circulated to the Commission on Friday, December 2, 1988 at 12:00

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	X
Commissioner Elliott	X
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for December 13, 1988

Please notify us who will represent your Division before the Commission on this matter.

#### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 2377

Texas Republican Congressional Committee) and Martha Weisend, as treasurer

## CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 11, 1989, do hereby certify that the Commission took the following actions in MUR 2377:

 Decided by a vote of 5-1 to find reason to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a).

Commissioners Aikens, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott dissented.

2. Decided by a vote of 4-2 to approve the letter, Subpoena and Order directed to Welch Communications, as recommended in the General Counsel's report dated November 30, 1988.

Commissioners Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioners Aikens and Elliott dissented.

Attest:

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Mariorie W Emmons

Marjorie W. Emmons
Secretary of the Commission



# FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 24, 1989

# CERTIFIED MAIL RETURN RECEIPT REQUESTED

David R. Welch Welch Communications 4001 N. 9th Street, Suite 226 Arlington, Virginia 22203

RE: MUR 2377

Dear Mr. Welch:

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

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

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 15 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

David R. Welch Page 2 If you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (800) 424-9530 or (202) 376-8200. Sincerely, rence M. Noble General Counsel Enclosure Subpoena and Order

BEFORE THE FEDERAL ELECTION COMMISSION In the Matter of MUR 2377 SUBPOENA TO PRODUCE DOCUMENTS ORDER TO SUBMIT WRITTEN ANSWERS David R. Welch TO: Welch Communications 4001 N. 9th Street, Suite 226 Arlington, Virginia 22203 Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals. Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of your receipt of this Order and Subpoena.

wherefore, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 19th, day of January 1988. 1989.

Danny L. McDonald, Chairman Federal Election Commission

ATTEST:

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Secretary to the Commission

Attachments
Questions and Document Request (3 pages)

### INSTRUCTIONS

In answering these questions and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

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

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

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

The following questions and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

### DEFINITIONS

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

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

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets,

-2reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. "Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document. "And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these questions and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.



### FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

January 24, 1989

Jan W. Baran, Esq. Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377

Texas Republican

Congressional Committee and Martha Weisend, as

treasurer

Dear Mr. Baran:

On March 31, 1987, the Federal Election Commission notified your clients, the Texas Republican Congressional Committee and Martha Weisend, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded tyour clients at that time.

Upon further review of the allegations contained in the complaint, and information supplied by your clients, the Commission, on January 11, 1989, found that there is reason to believe Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a), a provision of the Commission regulations. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against your clients. You may submit any factual or legal materials that you believe are relevant the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days receipt of this letter. Where appropriate, statements should submitted under oath.

Jan W. Baran, Esq. Page 2 In the absence of any additional information demonstrating that no further action should be taken against your clients, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent. Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. This matter will remain confidential in accordance with 2 U.S.C. §§ 437q(a)(4)(B) and 437q(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 Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200. Sincerely, Danny L. McDonald Chairman Enclosure Factual & Legal Analysis

# FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Texas Republican Congressional Committee and Martha Weisend,

MUR 2377

as treasurer

Commission regulations require that all disbursements, contributions, expenditures and transfers made by a political committee in connection with any federal election be made from its federal account. 11 C.F.R. § 102.5(a).

The Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents"), conducted a mailing activity on behalf of Tom Carter, a candidate for the U.S. House of Representatives from the State of Texas, 5th District, during the 1986 election cycle.

Respondents made four separate disbursements connected with the postage costs that resulted from the Carter mailing activity. On September 24, 1986, and September 30, 1986, Respondents disbursed \$5,000 to the U.S. Postmaster in connection with the mailing activity. On October 16, 1986, and October 24, 1986, Respondents disbursed \$4,500 and \$3,500, respectively, to The Mailbox in connection with the mailing activity. The total postage cost equaled \$18,000. Respondents made these disbursements from the operating account of the Republican Parry of Texas. The operating account is not a federal account.

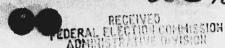
Respondents made disbursements in connection with federa.

<sup>1.</sup> The Mailbox acted as an agent or conduit for Respondents ...:
instance. Respondents wired the money to The Mailbox, which remade the payment to the Post Office for postage costs connect:
with the Carter mailing activity.

election activity from a non-federal account. Therefore, there is reason to believe Respondents violated 11 C.F.R. § 102.5(a).

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### WILEY, REIN & FIELDING

89 FEB 13 AM 10: 32

1776 K STREET, N.W. WASHINGTON, D. C. 20006 (202) 429-7000

JAN W. BARAN (202) 429-7330 February 9, 1989

TELECOPIER (202) 429-7049 TELEX 248349 WYRN UR

Lawrence M. Noble, Esquire General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Attn: Sandra H. Robinson

Re: MUR 2377

Texas Republican Congressional Committee and Martha Weisend, as

treasurer.

Dear Mr. Noble:

This response is in reply to Chairman Danny L. McDonald's letter of January 24, 1989 informing this office that the Federal Election Commission ("the Commission") has found reason to believe that the Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents") have violated 11 C.F.R. § 102.5(a) of the Commission regulations.

The Commission's Factual and Legal Analysis in this matter states that Respondents made four disbursements for postage from the operating account of the Republican Party of Teyas ("the Party") in connection with a mailing made by Respondents on behalf of Tom Carter, a candidate for the U.S. House of Representative from the state of Texas during the 1986 election cycle. The Factual and Legal Analysis is silent, however, with regard to several salient factors which affect this matter.

First, the Factual and Legal analysis neglects to mention that the Party sought the assistance of the Commission in December 1986, several months prior to the filing of this complaint against them, in order to resolve accounting discrepancies that the Party had identified. See May 31, 1988 Response of the Republican Party of Texas to the Interrogatories of the FEC in MUR 2377, at p. 3. The Commission did not respond to this request for assistance. Id. at p. 4. Nonetheless, the Party, of its own volition,

Mr. Lawrence M. Noble, Esquire February 9, 1989 Page 2 listed a debt to its federal account from its operating account and then repaid the operating account well before the complaint was filed in this matter. <u>Id</u>. at pp. 3-4. Furthermore, at the time of the payments in question, the Party had just transferred over \$120,000 from its Federal Account to its operating account. Id. at pp. 2-3. Thus, the operating account had more than enough funds raised subject to federal law to pay for any expenditures erroneously made for federal activity. Respectfully submitted, acur Jan W. Baran Carol A. Yalion Carol A. Laham Counsel to the Republican Party of Texas 0 Fred Meyer 4.3.



David and kate Welch 4638 North 14th Street Arlington, Virginia 22207 89 FEB 21 AM 9: 05

Mr. Lawrence M. Noble, General Counsel Federal Elections Commission Washington, D.C. 20463

RE: MUR 2377

Dear Mr. Noble:

Following are responses to each question posed in your "Subpoena to Produce Documents Order to Submit Written Answers."

1a. The two back payments of \$5,478.75 each to Welch were for printing, artwork and typesetting for direct mail piece (see invoices #1052 and #1053). The payment of \$15,550 was for printing, artwork, typesetting and shipping of a direct mail piece on behalf of the Carter for Congress campaign (see invoice #1050).

1b. No copies of the product are available.

La. The Theorem of \$10,000 and \$9,061 were for printing and shipping of three direct mail pieces (see invoice #1081).

2b. No copies of the product are available.

Ja. No.

3b. 60

79179

0

4. See enclosed invoices referred to above.

Please know that Welch Communications, Inc., no longer exists. These records were retrieved from our garage at home. I would appreciate no further demands upon our personal time.

Sincerely,

bavid k. Welch

1131

Welch Communications, Inc.

4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO: Texas Republican Party 1300 Guadulupe #205 Austin, Texas 78701 Attention: Jane Matheson, Executibe Director

5 hore or 10-1- in lack

FOR: Tom Carter mailings

DATE: September 18, 1986

0

0

JOB NO .: TC003X, TC004X, TC665

Description	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		Cost
Printing and	shipping of	TC003X,(62,000 pieces)	<b>\$3,0</b> 06.02
Printing and	Shipping of	TC004X,(87,000 pieces)	5,768.00
Printing and	shipping of	TC005, (149,000 pieces)	9,337.00
		rec'd 10,000,00 9-20-8	6 10,000.00
		belance = 9,0001.00	
		could bolance	

rec'd bolance

AMOUNT DUE UPON RECEIPT

\$19.061.00

Please return the yellow copy with your payment.

2% CHARGE ON UNPAID BALANCE OVER 30 DAYS.

No . 3360

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

National Republican Congressional Committee

320 1st Street, SE Washington, DC 20003 ATTN: Lisa Stratton

FOR:

Carter Image Mailer

DATE:

8-8-86

O JOB NO.:

0

T

0

TC001

Description	Cost
Printing (60,000 pieces)	<b>\$11650.00</b>
Artwork/typesetting	700.00
Shipping	1000.00

.22 4 04;

rec'd 8.26-86

TOTAL AMOUNT DUE UPON RECEIPT

13350.00



Welch Communications, Inc.

4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595 Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

National Republican Congressional Committee 320 lst Street, SE Washington, DC 20003 ATTN: Caroline Peterson

FOR:

Image/Issue Mailer

DATE:

8-16-86

- JOB NO .: TC003

Description

Cost

Cost

Printing

V

\$4978.75

Artwork/typesetting

500.00

\$4**988.**75

rec'd
9-2-86

2-86

TOTAL AMOUNT DUE UPON RECEIPT

5478.75

5478.75

Please return the yellow copy with your payment.

2% CHARGE ON UNPAID BALANCE OVER 30 DAYS.

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DAYS.

OHC DOCKES

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RECEIVED
RECEIVED
RECEIVED

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### BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

Texas Republican Congressional Committee and Martha Weisend, as treasurer

MUR 2377

### GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the Texas Republican Congressional Committee and Martha Weisend, as treasurer, based on the assessment of the information presently available.

Date

Lawrence M. Noble General Counsel









### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

SENSITIVE

October 27, 1989

### MEMORANDUM

TO:

The Commission

FROM:

Lawrence M. Noble

General Counsel

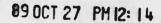
SUBJECT: MUR 2377

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 respondent of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on October 27 1989. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

### Attachments

- 1. Brief
- 2. Letter to respondent







### FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 27, 1989

Jan W. Baran, Esq. Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377
Texas Republican
Congressional Committee
Martha Weisend, as
treasurer

Dear Mr. Baran:

Based on a complaint filed with the Federal Election Commission on March 24, 1987, and information supplied by you on behalf of your clients, the Texas Republican Congressional Committee and Martha Weisend, as treasurer, the Commission, on December 10, 1987, found that there was reason to believe your clients, the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. § 441a(f) and instituted an investigation of this matter. On January 11, 1989, the Commission found reason to believe your clients violated 11 C.F.R. § 102.5(a).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten 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 the General Counsel, if possible.) The General Counsel's brief and any brief which you

Jan W. Baran, Esq. Page 2 may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe violations have occurred. If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement. Should you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200. Sincerely, Lawrence M. Noble General Counsel Enclosure Brief

# 90040791715

### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Texas Republican Congressional ) MUR 2377 and Martha Weisend, as treasurer )

### GENERAL COUNSEL'S BRIEF

### I. STATEMENT OF THE CASE

This matter was initiated by a complaint filed by the

Democratic Congressional Campaign Committee. The complaint was

based on a letter filed by Tom Carter, a candidate for the U.S.

House of Representatives from the state of Texas' 5th

Congressional District in the 1986 election cycle. In his

letter, Mr. Carter stated that his campaign had received

"contributions from the National Republican Congressional

Committee of approximately \$40,000 in coordinated funding. Also,

approximately \$40,000 in non-allocable assistance from the

Republican Party of Texas." The Texas Republican Congressional

Committee ("TRCC") is the federal account of the Republican Party

of Texas ("RPT").

The TRCC expended a total of \$37,061 on behalf of the Carter campaign. These expenditures were made in connection with four mailings on behalf of Carter that were distributed by the TRCC after September 19, 1986. The expenditures included payments totaling \$19,061 for printing and shipping 298,000 pieces of campaign materials used in the mailings, and payments totaling \$18,000 for postage. The TRCC has asserted that these

<sup>1.</sup> Mr. Carter lost the 1986 general election with 41% of the vote.

expenditures were made in connection with volunteer activity and, thus, are exempt from the contribution and expenditure limitations of 2 U.S.C. § 441a, pursuant to 2 U.S.C. §§ 431(8)(B)(x) and (9)(B)(viii). On December 10, 1987, the Commission found reason to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents"), violated 2 U.S.C. § 441a(f) and initiated an investigation into this matter. On January 11, 1989, the Commission found reason to believe Respondents violated 11 C.F.R. § 102.5(a).

### II. LEGAL ANALYSIS

### A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits national and state party committees from making any expenditure in connection with the general election campaign of a respective party candidate for the office of Representative, in a state with more than one Representative, which exceeds \$10,000. 2 U.S.C. \$ 441a(d). This limitation shall be adjusted according to the Consumer Price Index published by the U.S. Bureau of Labor Statistics. 2 U.S.C. \$ 441a(c) and 11 C.F.R. \$ 110.9(c). Multi-candidate committees, including party committees, are prohibited from making contributions to a candidate and his authorized committee with respect to any election for federal office that aggregate in excess of \$5,000. 2 U.S.C. \$ 441a(a)(2)(A). Commission regulations prohibit party committees from making independent expenditures on behalf of the general election campaigns of candidates for federal office.

11 C.F.R. § 110.7(b)(4).

The Act prohibits a political committee from knowingly making any expenditure in violation of the provisions established in Section 441a, and further provides that no officer or employee of a political committee shall knowingly make any expenditure on behalf of a candidate, in violation of the limitations imposed under Section 441a. 2 U.S.C. § 441a(f).

payments by a state or local party committee for the costs of campaign materials used by such committee in connection with volunteer activities on behalf of party nominees are not contributions or expenditures when certain criteria are met. The criteria require that:

- a) the payments must not be for campaign materials or activities used in connection with direct mail or similar types of general public communication or political advertising;
  - b) such payments must be made from contributions subject to the provisions of the Act; and
  - c) such payments must not be made from contributions designated for a particular candidate.

2 U.S.C. §§ 431(8)(B)(x) and 431(9)(B)(viii). The regulations define "direct mail" to include any mailing by a commercial vendor or made from commercial lists. 11 C.F.R.
§§ 100.7(b)(15)(i) and 100.8(b)(16)(i). The regulations also require that campaign materials paid for by state parties be distributed by volunteers and not by commercial or for-profit organizations, in order to qualify for the volunteer exemption.

11 C.F.R. §§ 100.7(b)(15)(iv) and 100.8(b)(16)(iv). Expenditures for volunteer exempt activity should be reported as disbursements

and need not be allocated to specific candidates. 11 C.F.R. \$\$ 100.7(b)(15)(v) and 100.8(b)(16)(v).

Campaign materials purchased with funds from the national committee of a political party, or campaign materials purchased by the national party committee and delivered to the state or local party committee, are not qualified for the volunteer exemption. Instead, expenditures for such materials are subject to the limitations of Section 441a(d). 11 C.F.R.

§§ 100.7(b)(15)(vii) and 100.8(b)(16)(vii).

In the House Report for the 1979 amendments to the Act, which discussed the exemptions described in Section 431, it is stated that the purpose of that section is "to encourage volunteers to work for and with local and state political party organizations." The test to determine whether an activity qualifies for the volunteer exemption requires an examination of how the campaign materials are used and by whom. The Report stated further that the provision "excludes all public communications or political advertising," and the mere purchase of campaign materials described in Section 431 does not mean their costs are exempt. Essentially, those same materials must be distributed by volunteers. H.R. Rep. No. 422, 96th Cong., 1st Sess. at 9 (1979), reprinted in FEC Legislative History of Federal Election Campaign Act Amendments of 1979 at 193 (GPO 1983). In presenting the proposed amendments to the Act to the U.S. House of Representatives, Representative Thompson included the following statement in his presentation:

"The new provision pertaining to political parties allow a State or local committee of a political party

Welch Communications, Inc. 4001 North 9th Street, Suite 220 Arlington, Virginia 22203 (703) 243-9595

TO:

National Republican Congressional Committee

320 1st Street, SE Washington, DC 20003 ATTN: Caroline Peterson

FOR:

Carter Reinforcement Mailer

DATE:

8-16-86

JOB NO.:

TC002

Description

Cost

Printing

(655,000

\$4988.75

Artwork/typesetting

500.00

084

rec'd 9-2-86

to purchase, without limit, campaign materials used in connection with volunteer activities on behalf of a candidate -- such as buttons, bumper stickers, and yard signs. This exemption will not apply to costs incurred for media advertising or mass mailings -- activities of this type would be subject to the contribution and expenditure limitations of the act."

125 Cong. Rec. H23813 (daily ed. September 10, 1979) (statement of Rep. Thompson), reprinted in FEC Legislative History of Federal Election Campaign Act Amendments of 1979 at 444 (GPO 1983).

Political committees, including party committees, that finance political activity in connection with both federal and non-federal elections shall establish a separate federal account or political committee for the purpose of financing federal election activity. Only funds subject to the prohibitions and limitations of the Act shall be deposited or received by such account or committee. All disbursements, contributions, expenditures and transfers made by the committee in connection with any federal election shall be made from its federal account or political committee, formed pursuant to the regulations.

11 C.F.R. § 102.5(a). Thus, payments for volunteer exempt activity made by a state party committee that qualifies as a political committee under the Act must be made from its federal account.

### B. Analysis

The primary issue in this matter is whether the Carter mailing activity conducted by the TRCC meets all of the criteria established for volunteer exempt activity and, thus, was not required to be allocated and disclosed as expenditures on behalf

of the Carter campaign.

The coordinated party expenditure limitation for a Representative in the state of Texas during the 1986 election cycle was \$21,810. 2 U.S.C. § 441a(d). Respondents assigned their coordinated party expenditure limitation to the National Republican Congressional Committee ("NRCC"), which disclosed making a total of \$41,942.59 on behalf of the Carter campaign. A copy of the letter of assignment was provided to substantiate this action. Respondents did not disclose making any direct or in-kind contributions to the 1986 Carter campaign in their financial disclosure reports filed with the Commission.

The campaign materials used in the Carter mailing activity consisted of three different flyers. As noted above, a total of 298,000 flyers were printed; thus, it appears that no more than this amount was mailed. Each flyer advocated the election of Tom Carter and the defeat of his opponent. Respondents were unable to give the precise dates of each mailing, but noted that payments for postage connected with the mailing activity were made on September 24 and 30, and October 16 and 24, 1986. The primary election was held in Texas on May 3, 1986, thus, the expenditures at issue were made in connection with the 1986 general election.

The flyers were mailed to households from a list of names owned by Respondents, entitled "Master Voter File." The list is

<sup>2.</sup> The Republican National Committee "(RNC") also assigned its coordinated party expenditure for the Carter campaign to the NRCC.

made up of the 7.5 million voters in the State of Texas,
maintained by political division. According to Respondents, it
was originally obtained from sources such as voter registration
lists.

The vendor that had direct involvement with the mailing activity was Welch Communications, Inc. ("Welch"). Welch printed the 298,000 pieces of materials and shipped them to Texas for use in the activity. Respondents paid Welch a total of \$19,061 in two installments, \$10,000 on September 19, 1986, and \$9,061 on October 21, 1986.

Another vendor, The Mailbox, was involved in the mailing activity, but only as a conduit for the payment of postage costs incurred in Dallas. The funds were wired to The Mailbox, which then paid the Post Office on behalf of Respondents. Apparently, the Post Office in Austin, Texas would not accept payment for postage costs incurred in Dallas. The payments wired to The Mailbox were \$4,500 on October 16, 1986, and \$3,500 on October 24, 1986. The other two payments made directly to the Post Office for postage were made on September 24 and 30, 1986; each payment was in the amount of \$5,000.

There is no evidence that a commercial vendor or a commercial list was used to distribute the campaign materials used in the Carter mailing activity. There is also no evidence

<sup>3.</sup> Due to payments received by Welch from the NRCC in close proximity to payments received from Respondents, it initially appeared that the NRCC payments may have been related to the Carter mailing activity. It has been determined that Respondents did not receive any of the services or materials paid for by the NRCC.

to refute Respondents' statement that the funds used to pay for the Carter mailing activity were not designated for any particular candidate. Further, a review of Respondents' disclosure reports filed during the 1986 calendar year demonstrated that they did not receive transfers from national party committees during that period. Thus, there is no evidence that national party funds were used to pay for costs connected with the mailing activity.

Respondents initially made the four payments to the U.S. Postmaster and The Mailbox for postage costs connected with the Carter mailing activity, discussed above, from the RPT operating account. The payments from the operating account were authorized by the former Executive Director of the RPT, apparently on the initial belief that they were unrelated to activity claimed to qualify for the volunteer exemption. As noted above, the disbursements from the non-federal account for postage were made in September and October 1986, and totaled \$18,000. Respondents transferred a reimbursement from the federal to the non-federal account on February 11, 1987. The Texas campaign finance law prohibits contributions from labor unions and corporations, however, individuals and separate segregated funds are not limited in the amount that they may contribute to state political committees. Although Respondents stated that "much" of the money in the operating account had been transferred from the federal

account,  $^4$  it appears that such transfers do not account for the total sum of the funds deposited in the non-federal account. Thus, the mailing activity does not meet the volunteer exemption criteria because payments made from the non-federal account included funds not subject to the limitations of the Act. See 2 U.S.C. §§ 431(8)(B)(x)(2) and (9)(B)(viii)(2).

Respondents were unable to determine the number of volunteers that participated in the mailing activity, nor was there any record of the amount of time expended by volunteers. Respondents did state that such volunteers were not paid for their services. Respondents stated further that the volunteers picked up the mailings shipped by Welch, unpacked, labeled and sorted them, and packaged and delivered the mailings to the Post Office.

Nevertheless, an examination of how the materials were used does not demonstrate sufficient volunteer activity. The printed materials were shipped by Welch to Respondents, sorted and repackaged by volunteers and delivered to the post office for mailing. The Mailbox was involved in the payment of the postal costs incurred in two instances.

Respondents made payments for the Carter mailing activity from funds not subject to the limitations of the Act and have not demonstrated sufficient volunteer activity in connection with the mailing. Respondents assigned their coordinated party

<sup>4.</sup> Respondents' 1986 October Quarterly, Pre-General and Post-General reports disclosed transfers to the RPT totaling \$54,210.24 made in September 1986, and transfers totaling \$123,069.68 in October 1986.

expenditure limitation to the NRCC. Therefore, this Office recommends that the Commission find probable cause to believe Respondents violated 2 U.S.C. § 441a(f) by making excessive expenditures on behalf of Tom Carter's federal campaign for the 1986 general election. This Office also recommends that the Commission find probable cause to believe Respondents violated 11 C.F.R. § 102.5(a) by making disbursements in connection with a federal election from their non-federal account.

### III. GENERAL COUNSEL'S RECOMMENDATIONS

- 1. Find probable cause to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. § 441a(f).
- 2. Find probable cause to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a).

10/25/87

Lawrence M. Noble General Counselp



# WILEY, REIN & FIELDING

1776 K STREET, N.W.
WASHINGTON, D. C. 20006
(202) 429-7000

JAN W. BARAN (202) 429-7330

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November 9, 1989

TELECOPIER (202) 429-7049 TELEX 248349 WYRN UR

Lawrence M. Noble, Esquire General Counsel Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Attn: Sandra H. Robinson

Re: MUR 2377 (Texas Republican

Congressional Committee and Martha Weisend, as Treasurer)

Dear Mr. Noble:

I am in receipt of your letter of October 27, 1989 notifying me that the Office of General Counsel is prepared to recommend that the Federal Election Commission find probable cause to believe that the Texas Republican Congressional Committee and Martha Weisend, as Treasurer ("Respondents" or "State Party") violated the Federal Election Campaign Act of 1971, as amended ("the Act") in Matter Under Review 2377, and enclosing the General Counsel's Brief in this matter.

A responsive brief is currently due on November 14, 1989. In order to fully confer with our clients in Texas, as well as to locate those individuals with knowledge of the facts of this matter who are no longer employed by the Texas Republican Congressional Committee, and to enable Respondents to fully and fairly respond to the General Counsel's recommendations, we respectfully request a twenty day extension to and including December 4, 1989 within which to respond. This request will not prejudice the resolution of this matter in any way.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan W. Baran

cc: Fred Meyer
Martha Weisend



### FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

November 13, 1989

Jan W. Baran, Esq. Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

> RE: MUR 2377

Texas Republican Congressional Committee and Martha Weisend, as

treasurer

Dear Mr. Baran:

This is in response to your letter dated November 9, 1989, which we received on November 9, 1989, requesting an extension of 20 days, until December 4, 1989, to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on December 4, 1989.

If you have any questions, please contact Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble

General Counsel





# WILEY, REIN & FIELDING

1776 K STREET, N. W. WASHINGTON, D. C. 20006 (202) 429-7000

December 5, 1989

TELECOPIER (202) 429-7049 TELEX 248349 WYRN OFFICE OF COMMISS

WRITER'S DIRECT DIAL NUMBER

The Honorable Marjorie W. Emmons Commission Secretary Federal Election Commission 999 E Street, N.W. Washington, D.C. 20463

Re: MUR 2377 (Texas Republican Congressional Committee, et al.)

Dear Madame Secretary:

Enclosed please find Respondents' Brief and ten copies in the above-captioned matter filed pursuant to 11 C.F.R. § 111.16(c).

We have enclosed at Exhibit 1 a faxed copy of an Affidavit from Bruce Lott. As we have informed the General Counsel's Office, the original Affidavit has been lost by the courier. We will forward another signed original to you upon receipt.

Sincerely,

Jan W. Baran

Enclosure

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cc: Martha Weisend

Lawrence M. Noble, Esquire (3 copies)

### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Texas Republican Congressional ) MUR 2377

Committee and Martha Weisend, )
as Treasurer )

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### RESPONDENTS' BRIEF

The Texas Republican Congressional Committee of the Republican Party of Texas ("RPT") and Martha Weisend, as Treasurer hereby file this Respondents' Brief and Affidavit of Bruce Lott pursuant to 2 U.S.C. § 437g(a)(3) and in response to the General Counsel's Brief of October 25, 1989, in Matter Under Review ("MUR") 2377. The General Counsel's Brief recommends that the Commission find probable cause to believe that Respondents violated the Federal Election Campaign Act of 1971, as amended (the "Act"). Respondents urge the Commission to reject this recommendation, and find in lieu thereof no probable cause to believe.

### I. FACTS

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This matter involves a complaint filed by the Democratic Congressional Campaign Committee in March, 1987 regarding the volunteer activity undertaken by the Republican Party of Texas on behalf of Tom Carter, a candidate for the United States House of Representatives from the 5th Congressional District of Texas, in late 1986. In December, 1987 the

Commission found reason to believe that the Texas Republican Congressional Committee ("TRCC"), and its treasurer at that time, Henry Santamaria violated section 441a(f) of the Act with regard to these activities. In January, 1989 the Commission also found reason to believe that the TRCC, and its current treasurer, Martha Weisend violated 11 C.F.R. § 102.5.1

Specifically, three flyers, consisting of 298,000 pieces, were distributed by volunteers on behalf of Tom Carter in late September and early October 1986. The volunteer activity consisted of extensive participation by volunteers, including: 1) picking up shipments of campaign materials; 2) unpacking them; 3) individually labelling each of the 298,000 flyers; 4) sorting the thousands of pieces; 5) packaging them by postal route for delivery to the Post Office; 6) and delivering the flyers to the Post Office.

The General Counsel's Brief raises two questions with regard to these mailings: whether the RPT has demonstrated "sufficient volunteer activity" such that the payment for the campaign activity is exempt from the definition of contribution and expenditure pursuant to 2 U.S.C. §§ 431(8)(B)(x) and (9)(B)(viii), and therefore not subject to

To Respondents' knowledge, the Commission has never found reason to believe that the TRCC and Martha Weisend, as Treasurer, violated section 441a of the Act.

the limits of 2 U.S.C. § 441a(d);<sup>2</sup> and whether the funds used to pay the postage of these mailings were funds raised subject to the prohibitions of the Act.

### II. THE ACT

The Volunteer Activity Exemption

The Act states that:

The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party . . .

do not constitute expenditures under the Act. 2 U.S.C. § 431(9)(B)(viii). See also 2 U.S.C. § 431(8)(B)(x). The Commission has issued a Regulation with regard to this volunteer activity exemption which states in pertinent part:

The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not an expenditure, provided that the following conditions are met.

The General Counsel's Brief acknowledges that:

"[t]here is no evidence that a commercial vendor or a commercial list was used to distribute the campaign materials used in the Carter mailing activity," and further that "there is no evidence that national party funds were used to pay for costs connected with the mailing activity." General Counsel's Brief at pp. 7, 8.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations . . . .

11 C.F.R. § 100.8(b)(16) (emphasis added). See also 11 C.F.R. § 100.7(b)(15).

## III. DISCUSSION

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## 1. Volunteer Activity

The regulations do not state that a specific number of volunteers are required for an activity to be considered volunteer activity; or that a specific quantity of time must be spent by volunteers on that activity to be considered volunteer activity; or that a specific type of activity be engaged in by volunteers in order to be considered volunteer activity as "envisioned" by Congress. To the contrary, both the Regulations and the legislative history of the Act, which the RPT brought to the attention of the Commission, and which has been incorporated into the General Counsel's Brief, is silent as to these factors.<sup>3</sup>

The purpose of this section is to (continued...)

The Committee on House Administration Report specifically addressed this exemption. The Report states in full:

3(...continued) encourage volunteers to work for and with local and state political party organizations. The cost of campaign materials purchased by a State or local party organization which support Federal candidates who have been nominated by a political party are not contributions to the Federal candidates if the campaign materials are used by the State or local party organization in connection with volunteer activities. To be eligible for the exemption, the campaign materials must be purchased by the State or local party committee. Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee would not come within the exemption.

The test for determining volunteer activities is twofold -- how the campaign materials are used and by whom. The bill excludes all general public communications or political advertising. Although the bill does give examples of campaign materials which are customarily used in connection with volunteer activities, the purchase of an item on that list does not automatically mean that the cost is exempted. For example, the cost of printing a party tabloid featuring Federal candidates would be exempted if the tabloid were distributed by volunteers at a shopping center or door-to-door. However, if the same tabloid were distributed by a commercial vendor, the cost of the tabloid would not be exempted. Since the purpose is to encourage volunteer participation, distribution by commercial or for-profit operations is not exempted. Payments by the party organization for travel and subsistence or customary token payments by the party organization to individuals does not, however, remove the individual from the volunteer category.

(continued...)

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Further, an examination of the types of campaign materials which are customarily used in connection with volunteer activities evidences that Congress did not have certain "minimums" in mind when it passed this amendment to the Act. For instance, pins are campaign materials which may be purchased by the state parties without limit pursuant to the volunteer exemption for use in connection with volunteer activities. These pins are usually placed in bowls on

A state or local party organization must use contributions which are subject to the prohibitions and limitations of the Act to pay for these campaign materials. However, if the campaign materials contain reference to both State and Federal candidates, the party organization may allocate the costs between the State and Federal candidates. The money used to pay the cost attributable to State candidates would be subject to State, not Federal law.

Finally, a party organization may not use contributions designated to be spent on behalf of a particular candidate or candidates to purchase campaign materials supporting such designated candidate or candidates. The basic test for determining whether a contribution has been designated is whether the contributor retains control over the funds. Since the purpose of this exemption is to promote party activity, the party, not the contributor, must make the final decision as to which candidate or candidates will receive the benefits.

H.R. Rep. No. 422. 96th Cong., 1st Sess. at 9 (1979). reprinted in FEC Legislative History of the Federal Election Campaign Fund Act of 1979 at 193 (GPO 1983).

<sup>3(...</sup>continued)

volunteer's desks, or handed out by volunteers on street corners or at rallies to anyone willing to take them. The commission has never suggested that a certain number of individuals must spend some specific minimum number of hours distributing buttons for them to qualify under the volunteer exemption.

Bumper stickers are also a classic example of campaign materials which are used in connection with volunteer activity pursuant to this exemption. Volunteers pass them out on street corners or at rallies to anyone willing to take them, or take them home and put them on their cars. The Commission has never suggested that any specific number of volunteers must participate in this activity, or that the volunteers must distribute the stickers or affix them in any particular fashion for them to qualify under the volunteer exemption. The same holds true for yard signs, hand bills, and posters. Each may be printed by a commercial printer, delivered to campaign headquarters by a commercial hauler, and then distributed by volunteers, as they deem appropriate.

Ironically, the volunteer activity engaged in by the RPT in connection with these flyers on behalf of Tom Carter is on its face much more extensive in terms of both time and effort than anything required of volunteers who handle pins, bumper stickers, and yard signs. Here, at a minimum, volunteers 1) picked up shipments of campaign materials; 2) unpacked them; 3) labelled each piece; 4) sorted the thousands of

pieces; 5) packaged them for delivery to the Post Office; and then 6) took them to the Post Office. See March 15, 1988
Response of the Republican Party of Texas Before The Federal
Election Commission in MUR 2377 and Affidavit of Michael
Davis at p. 2. An eye witness to the volunteer activity
attests:

We also had the support of hundreds of Republican Party of Texas volunteers, who assisted in putting out the mailings which are at issue in this MUR. I can say without hesitation that there were, over the course of the campaign, in the vicinity of 1700 persons who volunteered to work. The volunteers worked tirelessly for the three or four week period during which we were trying to get out the mailings which are the subject of this MUR. They often worked from nine or ten in the morning until ten at night. Over the course of these four weeks, I saw at least 200 volunteers working on the specific activities which are the subject of the Federal Election Commission's investigation. I can recall at least one day in which over 100 volunteers worked on the Republican Party of Texas' volunteer mailings. The mailings were unpackaged, labelled, sorted, bundled by carrier route, and hauled to the Post Office by volunteers. This means that 298,000 labels were individually placed on 298,000 pieces of mail, and then they were sorted and This was an enormous task and could not have been accomplished without the dedication of hundreds of individuals day in and day out for weeks. These activities easily required better than 100 man hours per day, and, as I stated above, the one day that 100 volunteers worked on this project, Between 500 and 1000 hours of manual labor may have been logged. These mailings simply could not have been done without the volunteers.

describe not only the overwhelming volunteer effort in Texas - more than 10,000 volunteers - but the efforts of Pat Matsumoto, one of the volunteers previously identified by the

of Tom Carter.

Pat Matsumoto tops the All-Star team. A chart in Tom Carter's congressional campaign headquarters says so.

Mrs. Matsumoto places well ahead of all other Republican volunteer votegetters with 14 gold stars by her name. That's a star for every 50 hours spent helping Carter try to upset Democrat U.S. Rep. John Bryant in the November general election.

"That's not accurate," said Mrs. Matsumoto, in between taking phone calls from volunteers. "All of mine are not up. I've worked as much as 9 a.m. to sometimes 1 o'clock in the morning."

That's no brag, just fact. Carter

By his count, Mrs. Matsumoto, who turned 45 on Sunday, has logged more than 1,600 hours on the campaign since March 20. She is among the GOP "super volunteers" -- members of Republican women's clubs who drive the Republican Party and provide an irreplaceable freelabor pool for its candidates.

Dallas Morning News, Sept. 22, 1986, "REPUBLICAN 'SUPER VOLUNTEER' Women logs 1,600 hours on Carter's congressional race. See Exhibit 2.

The General Counsel's Brief does not dispute that the volunteers played an essential role in the distribution of these flyers. It concludes, rather, without any basis or precedent, that "an examination of how the materials were used does not demonstrate sufficient volunteer activity" without stating what is "sufficient," or how or under what criteria such "judgments" are made. As seen above, neither the Act nor regulations specify any minimum amount of volunteer activity, nor has the Commission issued regulations which identify specific activities which must be engaged in by volunteers. Moreover, the volunteer activity referred to in the legislative history required less effort than that given by these volunteers. Congress, as noted above, did not establish any minimum amount of volunteer activity. Quite to the contrary, Congress was attempting to assist state parties by expanding the use of volunteer activities. 4 Nor, as also

In speaking of this 1979 amendment to the Act, Congressman Frenzel stated that:

There are many changes in H.R. 5010 that I believe important, but none more important than the increased flexibility given to our State and local party committees.

These committees, Mr. Speaker, were virtually excluded from the 1976 (continued...)

4(...continued)
Presidential election. Some of the problems were recognized by President
Carter and were made part of his election recommendations. The Kennedy Institute at Harvard made special note of the adverse effect our election law has had on the State and local party committees. Some similar thoughts were recently repeated by Dr. Herb Alexander, the dean of election law specialists.

These are the broadest based units of political involvement in our election system. H.R. 5010 will permit them, in fact, encourage them to once again play an important role in electing Federal candidates.

## STATE AND LOCAL PARTY COMMITTEES

H.R. 5010 makes the following changes for these party committees:

Second. Exempted activities. H.R. 5010 permits payments for campaign materials such as: pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs. The bill will also allow payments for costs of voter registration and get-out-the-vote activity when done on behalf of their Presidential ticket. These party committees will not incur reporting obligation unless these payments are in excess of \$5,000 during a calendar year.

Third. Volunteer activities. Additionally, H.R. 5010 extends the volunteer exemptions to all political party committees. . . .

125 Cong. Rec. H23814 (daily ed. September 10, 1979) (statement of Rep. Frenzel), reprinted in FEC Legislative History of the Federal Election Campaign Fund Act of 1979 at 445 (GPO 1983).

noted above, do the Commission's own Regulations establish any such minimum standard of volunteer activity. Thus, the General Counsel's Brief's conclusion is nothing more than an unprecedented, subjective, argument that more unspecified volunteer activity is required for these mailings to come within the exemption. As described above, the volunteer activity was integral to the distribution of the materials. Thus, any conclusion that these mailers were not the result of volunteer activities is insupportable under the circumstances. In sum, this volunteer activity fits squarely within the exemption provided by 2 U.S.C. § 431(9)(B)(viii), and is precisely what was contemplated by Congress when it passed this exemption, if not above and beyond all expectation.

Regulations establishing more specific standards consistent with the Act for volunteer activities by state and local parties, and setting certain minimums for volunteer hours in connection with these activities, then it should do so. If the Commission wishes to ordain some particular function which volunteers must perform, then it should do so. Until that time, however, the Commission must accept the General Counsel's Brief's own conclusion that "[t]here is no evidence that a commercial vendor or a commercial list was used to distribute the campaign materials," General Counsel's Brief at p. 7, and the unchallenged evidence in the record that

volunteers played a substantial and essential role in this mailing.

# 2. Financial Activity

The second, independent, issue in this matter is the source of payments to the U.S. Postmaster and the Mail Box in connection with these volunteer activities. The Commission has made a finding that the RPT violated 11 C.F.R. § 102.5 with regard to these payments, although the General Counsel's Brief provides no rationale for this finding.

The facts regarding these payments are well established: Payments were made to the U.S. Postmaster and the Mailbox from the RPT's operating account for postage believed at the time to be unrelated to volunteer activity; when these payments were made, the operating account contained more than \$170,000 of money raised "subject to the limitations and prohibitions of the Act" and which had been transferred from the RPT's federal account to its operating account in September and October, 1986; upon learning that the Mailbox and U.S. Postmaster payments were in fact for postage in connection with exempt volunteer activity the RPT notified the Commission by certified mail in December, 1986 and requested advice concerning these payments; while no response was ever received from the Commission, the RPT listed its erroneous payments as a debt to the operating account; and the RPT then conscientiously repaid the operating account on

"February 11, 1987, more than a month prior to the time the complaint, which led to this MUR, was filed with the Commission." May 31, 1988 Response of the Republican Party of Texas before the Federal Election Commission in MUR 2377, pp. 2-4. Thus, the RPT actually paid twice for these very same expenditures out of money raised subject to the limitations and prohibitions of the Act as required by 11 C.F.R. § 100.8(b)(16) and 100.7(b)(15).

Despite these facts, the General Counsel's Brief argues that the payments for the postage for these mailings came from non-federal funds, and that the mailings therefore do not qualify for the volunteer exemption. First, as noted above, the postage cost \$18,000, and the account from which payment was made contained over \$170,000 in federal funds. Thus, there were far more than sufficient federal funds on hand to pay for these mailings. In fact, the General Counsel's Brief acknowledges that the TRCC's reports disclosed more than \$170,000 in transfers to the operating account in September and October, 1986, General Counsel's Brief at p. 9, n. 4, and does not dispute the fact that these payments were made from funds subject to the limitations and prohibitions of the Act.

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Second, the Commission's Regulations allow State Parties to pay for exempt activities out of accounts containing non-federal funds, under certain circumstances and provided careful accounting records are maintained. Section

- 16 under analogous circumstances. 5 The Act itself requires only that payments were made "from contributions subject to the limitations and prohibitions of the Act, which these were. Accordingly, the FEC should find no probable cause to believe Respondents violated section 441a(f) of the Act. Further, the FEC should take no further action with respect to 11 C.F.R. § 102.5. Respectfully submitted, aran Jan W. Baran Carel a . Kakon Carol A. Laham WILEY, REIN & FIELDING 1776 K Street, N.W. Washington, D.C. 20006 (202) 429-7000 Counsel for Respondents as Treasurer December 4, 1989

Texas Republican Congressional

Committee and Martha Weisend,

The General Counsel's Brief also acknowledges that "[t]he Texas campaign finance law prohibits contributions from labor unions and corporations." General Counsel's Brief at p. 8. Texas also has a mechanism for insuring that any PAC money which it receives consists of no corporate and labor union money. See Texas Elec. Code Ann. §§ 251.010 and 251.011.

And

ALL STATE LEGISL SUPPLY CO. ONE COMMERCE DRIVE CRANF

BEFORE THE PEDERAL ELECTION COMMISSION
City of Bloom
NUR 2377

Harrison County

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#### AFFIDAVIT OF BRUCE LOTT

BRUCE LOTT, being first duly sworn, deposes and says:

- 1. I am Bruce Lott. I served as Campaign Manager of the Tom Certer For Congress Committee in the election for the United States House of Representatives seat from the 5th Congressional District of Texas in 1986.
- 2. I am familiar with the volunteer activity
  undertaken by the Republican Party of Texas on behalf of Tom
  tarter, and was the committee's lieison with the Republican
  Party of Texas with respect to those activities. Thus, I amIntlustely familiar with the breadth and scope of the
  volunteer activity on behalf of Tom Carter by the Republican
  Party of Texas, including the activity which is the subject
  of Matter Under Review 2377.
- itself had a hierarchy of volunteers which participated in the volunteer activity. For instance, we had a Hoadquarters consistent who was a volunteer, and but as least 1800 volunteer hours into the campaign. Further, we had "Day Chairmen" who were volunteers. They Chairmen were volunteers who were responsible for getting volunteers for that particular day.

  Thus, we had a new Chairmen for Monday through Saturday, and in some instances there was more than one Day Chairman for a

particular day: one for the morning, and one for the afternoon.

We also had the support of hundreds of Republican Party of Texas volunteers, who assisted in putting out the mailings which are at issue in this MUR. I can say without hesitation that there were, over the course of the campaign, in the vicinity of 1700 persons who volunteered to work. The volunteers worked tirelessly for the three or four week period during which we were trying to get out the mailings which are the subject of this MUR. They often worked from nine or ten in the morning until ten at night. Over the course of those four weeks, I saw at least 200 volunteers wayking an the apacific activities which are the subject of the Federal Election Commission's investigation. I can recall at least one day in which over 100 volunteers worked on the Republican Party of Texas' volunteer mailings. Tho meilings were unparkaged, labelled, serbed, bundled by carrier route, and hauled to the Post Office by volunteers. Whis means that BOO,000 labels were individually placed ---298,000 pieces of mail, and then they were sorted and bundled. This was an enormous task and could not have been accomplished without the dedication of hundreds of Individuals day in and day out for weeks. These activities easily required better than 100 man hours per day, and, as I stated above, the one day that 100 volunteers worked on this project, Between 500 and 1000 hours of manual labor may have

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been logged. These mailings simply could not have been done without the volunteers.

Bruce Lott

Gulsport Bilowi, Mississippi

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of December, 1989.

Notary Public

My Commission Expires April 28, 1992

STORY 1

PUBLICATION DATE NEWSPAPER EDITION SECTION PAGE STORY SIZE HEADLINE

09/22/86
The Dallas Morning News
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GOP'S ARMY OF WOMEN 10,000 Texas volunteers are force to be reckoned with, party says

BYLINE Kevin Merida

KEYWORD-HIT

Through a network of 180 clubs statewide, Republican women are providing their party with perhaps the most potent volunteer army in Texas politics.

From Amarillo to Brownsville, more than 10,000 GDP women -- 2,000 in Dallas County alone -- fuel the campaigns of Republican candidates and carry the bulk of the party workload.

They lick the stamps, run the phone banks, host the coffees, walk the precincts and staff local party headquarters. They have their own political action committees, participate in fund rassing and polling for candidates, and train their members for elective office.

Their clubs have become political folklore in Texas, a society of "womanpower' that candidates and officials find indispensable.

Moreover, GOP officials say, the women's clubs are largely responsible for the growth and development of many of the local party organizations in Texas.

"That's the key to the Republican Farty in Dallas County,' said county GOP Chairman Fred Meyer. "They supply the intelligence, the planning and the implementing of the Republican program.'

Candidates from former Gov. Bill Clements to U.S. Rep. Steve Bartlett of Dallas have credited much of their success to the volunteer efforts of Republican women's clubs.

Rexar County state district Judge Roy Barrera Jr. has said his candidacy for attorney general took off after a well-received speech he made at a convention of the Texas Federation of Republican Women last October in Midland. The federation is the umbrella group for the state's 180 clubs.

State Sen. Cyndi Taylor Krier, R-San Antonio, has praised the federation for helping her win election to the Texas Senate. She is the only woman serving in that chamber.

"We're like ripples on a stream,' said Claire Burnett of the Garland Republican Women's Club. "Do you know how many people we talk to on a daily basis?'

Democratic women contribute substantially to their party, but they have nothing that compares to the organized union of Republican women's clubs. Democratic Farty officials do not even have a count of the number of Democratic women's clubs around the state. Ed Martin, the state Democratic Party executive director, said there are 14 clubs chartered with the state party. He said there are many other clubs affiliated with their local parties.

But in Dallas County, for example, the Republican Party claims 26 women's clubs with a combined membership of 2,000. The principal Democratic women's group is the Democratic Women of Dallas County, which was founded in 1920. It has 300 members, one third of whom are men.

"But if you want to talk about women, said Martin, "let's talk about who pursues policies of concern to women. I don't care how many

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policy that is import Martin said the Democratic Party is more sensitive to women in such areas as child care and equal pay with men. And he said that under the Democratic administration of Gov. Mark White women have been given more positions of responsibility than under the Republican administration of former Gov. Bill Clements. In reference to the GOP women's federation, Martin said: "It sounds kind of like the Junior League to me. ' Nonetheless, some Democrats acknowledge that the effectiveness of the GOP women's clubs is unmatched in the Democratic Party. "I think it is a real interesting phenomenon how potent that has been, ' said Grego Cooke, president-elect of the Dallas Democratic Forum, "and I don't really think there has been a Democratic counterpart. Cooke, along with many Democrats, said he believes that the advantage Republican women's clubs have over the Democrats' is a function of economics. Cooke said the Democratic Party has considerably more working-class women than does the GOP, women who cannot afford to spend all day on politics. If there has been a stereoptypical slap at the GOP women's clubs -publicly by Democrats and privately by some Republicans -- it is that they are mostly cookies-and-tea sororities. "We're very proud of the fact that many of our members are involved in the decision-making level of campaigns, 'said Celeste Guerrero, president of the Democratic Women of Dallas County. "We're just a very integral part of the Democratic Farty . . . . We've been accepted on an equal basis for such a long time. And I think that's the difference between as and the women of the Republican Party.' Barbara Campbell, president of the Texas Federation of Republican Women, said the notion that the federation is a collection of ladies' social clubs is outdated.

"I would say that might have been in the past, where the women felt they were taken off the shelf and put back, she said. "But it is not just a tea party. It is real, real work being accomplished."

In 1984, for instance, the members of the federation's clubs volunteered 650,000 hours statewide to candidates and party activities, Mrs. Campbell said. The clubs' FACs contributed more than \$150,000 to Republican campaigns across Texas, she said.

In addition, the number of women candidates statewide has increased from 48 in 1984 to 130 in 1986. More than 100 of this year's candidates are federation members, she added.

"I think we're coming a long, long way," Mrs. Campbell said. "We are having an impact and working with the men and it's not a feminist issue as I think it is with the Democrats. We look at the candidate first and not the sex of the candidate."

Members of both parties point to examples of women who have attained important political leadership positions. Among those that Republicans name are June Deason, who is heading Barrera's attorney general campaign, and Martha Weisend, co-chairman of the Clements qubernatorial campaign. Among Democrats whom members of their party point to are Millie Bruner, special assistant to U.S. Sen. Lloyd Dentsen, and Cinda Crawford, who manages U.S. Rep. Martin Frost's congressional offices in Dallas County.

Steve Cosgrove, president of the Texas Young Republicans, said the real strength of the GOP women is their knowledge of the politics of neighborhoods. Cosgrove recalled that when Steve Tiemann was beginning his unsuccessful primary race for state representative in Dallas County this year, a GOP women's club operating in the Lake Highlands area was of tremendous help. The women were able to go house by house, without use of a map or precinct list, and identify who would put up a yard

sian, who would host ception, who had voted candidate in 1982. "I just sat there in awe, ' said Cosgrove. "I had never seen anything like that. At the September monthly meeting of the Dallas County Council of Republican Women's Clubs, Tom Carter, his campaign literature in tow. was softly working the crowd. "Come on over to the campaign and give us a hand, ' he told one woman. Carter, who is embroiled in an aphill race against 5th District U.S. Rep. John Bryant, had already benefited indirectly from the council's efforts. At that point -- Sept. 2 -- board member Pat Matsumoto had contributed 1,600 hours of her time. "These women have as much political campaign experience and know-how as anybody anywhere, 'Carter said. On Oct. 18, the Dallas County Republican Party plans to honor its women -- not only the county's 19 candidates and officeholders but also those who work in the trenches. Former U.S. Ambassador to the United Nations Jeane Kirkpatrick will be the keynote speaker at a luncheon titled "Women are Winners." Addressing the council's meeting earlier this month, Gaylord Broadcasting Co. Fresident William Banowsky told the women: "My view is that Ronald Reagan owes more in his presidency to the federated Republican women than any other single group. "The Reagan revolution would have been impossible without you. 'he added. "And I know you have only just begun." \*\*END OF STORY REACHED\*\* STORY 2 PUBLICATION DATE 09/22/86 NEWSPAPER The Dallas Morning News EDITION HOME FINAL SECTION NEWS PAGE 20A STORY SIZE 13 INCHES T HEADLINE REPUBLICAN 'SUPER VOLUNTEER' Woman logs 1,600 hours on Carter's congressional race CHARTS, GRAPHS, PHOTOS Photo: Pat Matsumoto says she is working for Tom Carter in order to oust Rep. John Bryant. (DMN - David Leeson.) : LOCATION: Volunteers. O BYLINE Kevin Merida **KEYWORD-HIT** Pat Matsumoto tops the All-Star team. A chart in Tom Carter's congressional campaign headquarters says Mrs. Matsumoto places well ahead of all other Republican volunteer vote-getters with 14 gold stars by her name. That's a star for every 50 hours spent helping Carter try to upset Democratic U.S. Rep. John Bryant in the November general election. "That's not accurate,' said Mrs. Matsumoto, in between taking phone calls from volunteers. "All of mine are not up. I've worked as much as 9 a.m. to sometimes to clock in the morning. That's no brag, just fact. Carter says so. By his count, Mrs. Matsumoto, who turned 45 on Sunday, has logged more than 1,600 hours on the campaign since March 20. She is among the GOP "super valuateers' - members of Republican women's clubs who drive the Republican Party and provide an irreplaceable free-labor pool for its candidates. Her effort, she said. is the result of a burning desire to dump

Bryant, who she believes too liberal to represent the 5th Congressional District, which includes the central and eastern parts of Dallas County.

"A lot of times I would rather stay in bed, listen to the birds sing, she said. "But I get up because I believe in my country. You might think this sounds corny, but I love my country. And I'm here to work for candidates who represent the best interests of the country."

In 1982, Mrs. Matsumoto moved from Saipan — north of Guam — to Mesquite. She wanted her three children, now ages 17, 19 and 22, to have the benefit of American schools. Her bushand, John, who is part Japanese, stayed behind to run his business enterprises, which include an office building and a theater.

Mrs. Matsumoto got involved with the Mesquite Republican women's club soon after she arrived in town. She saw a meeting notice in the local newspaper. "I was afraid to go, because I had always heard the Republicans were rich people and I didn't belong. But I looked around Mesquite and I saw a lot of average houses and I said, "How many rich people can there be in Mesquite?"

She went on to become a precinct chairwoman in her neighborhood and an active GOP volunteer. Today, she is a vice president of the Mesquite women's club and a board member of the Dallas County Council of Republican Women. Mrs. Matsumoto typifies the GOP "super volunteer." She is a homemaker who has considerable free time — a point often noted by Democrats, who say most of their female volunteers are working-class women who can't afford to put in the time of women such as Mrs. Matsumoto.

"The more money you make, the more you spend, said Mrs. Matsumoto, explaining why she remains a homemaker. Her husband provides for the family through his businesses.

"If I was to go to work,' she said, "I'd just spend that money. What I'm doing now is more rewarding . . . And I'm fortunate to be able to do that.'

Mrs. Matsumoto said she frequently puts in 10- to 12-hour days with the Carter campaign. As the headquarters chairman, she is responsible for coordinating volunteers, making work assignments. She is on the phone virtually the entire day.

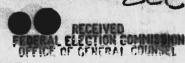
Mrs. Matsumoto knows, however, that she will be leaving in the next few years to reunite with her husband.

In the meantime, an autographed picture of a familiar figure makes the time seem well-spent.

"Tom got me this straight from the president's office, 'she said, pointing at the framed photograph of Ronald Reagan hanging on the Wall- "That's his real signature, by hand. So I'm kind of proud of that." That's something worth working for.

DEC 4783





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December 6, 1989

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Sandra Robinson

Re: MUR 2377 (Texas Republican Campaign Committee, et al.)

Dear Mr. Noble:

Enclosed please find the original executed Affidavit of Bruce Lott attached as Exhibit 1 to Respondents' Brief filed yesterday in the above-captioned matter. We have also enclosed an unexecuted copy of the Affidavit to assist you in reading this document.

Sincerely,

Carol a. Hakan

Carol A. Laham

cc: Martha Weisend

BEFORE THE FEDERAL ELECTION COMMISSION

City of Bilexi

MUR 2377

Harrison County

#### AFFIDAVIT OF BRUCE LOTT

BRUCE LOTT, being first duly sworn, deposes and says:

- 1. I am Bruce Lott. I served as Campaign Manager of the Tom Carter For Congress Committee in the election for the United States House of Representatives seat from the 5th Congressional District of Texas in 1986.
- 2. I am familiar with the volunteer activity
  undertaken by the Republican Party of Texas on behalf of Tom
  carter, and was the committee's Halson with the Republican.
  Party of Texas with respect to those activities. Thuc, I amintimately familiar with the breadth and scope of the
  volunteer activity on behalf of Tom Carter by the Republican
  Party of Texas, including the activity which is the subject
  of Matter Under Review 2377.
- 3. To provide some background, Tom Carter's campaign itself had a hierarchy of volunteers which participated in the volunteer activity. For instance, we had a Headquarters chairman who was a volunteer, and put at least 1500 volunteer hours into the campaign. Further, we had "Day Chairmen" who was a volunteers Day Chairman was volunteers who were responsible for getting volunteers for that particular day. Thus, we had a Day Chairman for Monday through Saturday, and in some instances there was more than one Day Chairman for a

particular day: one for the morning, and one for the afternoon.

4. We also had the support of hundreds of Republican Party of Texas volunteers, who assisted in putting out the mailings which are at issue in this MUR. I can say without hesitation that there were, over the course of the campaign, in the vicinity of 1700 persons who volunteered to work. volunteers worked tirelessly for the three or four week period during which we were trying to get out the mailings which are the subject of this MUR. They often worked from nine or ten in the morning until ten at night. Over the course of those four weeks, I saw at least 200 volunteers working on the epocific activities which are the subject of the Federal Election Commission's investigation. I can recall at least one day in which over 100 volunteers worked on the Republican Party of Texas' volunteer mailings. Tho meilings were unpackaged, labelled, excted, bendled by carrier route, and hauled to the Post Office by volunteers. Whis menns that 200,000 labels were individually placed in 298,000 pieces of mail, and then they were sorted and bundled. This was an enormous task and could not have been accomplished without the dedication of hundreds of Individuals day in and day out for weeks. These activities easily required better than 100 man hours per day, and, as I stated above, the one day that 100 volunteers worked on this project, Between 500 and 1000 hours of manual labor may have

been logged. These mailings simply could not have been done without the volunteers. Gulport Mississippi of December, 1989. My Commission Expires April 28, 1992 My Commission Expires:

## BEFORE THE FEDERAL ELECTION COMMISSION

City of Biloxi ) MUR 2377
Harrison County )

#### AFFIDAVIT OF BRUCE LOTT

BRUCE LOTT, being first duly sworn, deposes and says:

- 1. I am Bruce Lott. I served as Campaign Manager of the Tom Carter For Congress Committee in the election for the United States House of Representatives seat from the 5th Congressional District of Texas in 1986.
- 2. I am familiar with the volunteer activity undertaken by the Republican Party of Texas on behalf of Tom Carter, and was the Committee's liaison with the Republican Party of Texas with respect to those activities. Thus, I am intimately familiar with the breadth and scope of the volunteer activity on behalf of Tom Carter by the Republican Party of Texas, including the activity which is the subject of Matter Under Review 2377.
- 3. To provide some background, Tom Carter's campaign itself had a hierarchy of volunteers which participated in the volunteer activity. For instance, we had a Headquarters Chairman who was a volunteer, and put at least 1500 volunteer hours into the campaign. Further, we had "Day Chairmen" who were volunteers. Day Chairmen were volunteers who were responsible for getting volunteers for that particular day. Thus, we had a Day Chairman for Monday through Saturday, and in some instances there was more than one Day Chairman for a

particular day: one for the morning, and one for the afternoon.

4. We also had the support of hundreds of Republican party of Texas volunteers, who assisted in putting out the mailings which are at issue in this MUR. I can say without hesitation that there were, over the course of the campaign, in the vicinity of 1700 persons who volunteered to work. volunteers worked tirelessly for the three or four week period during which we were trying to get out the mailings which are the subject of this MUR. They often worked from nine or ten in the morning until ten at night. Over the course of these four weeks, I saw at least 200 volunteers working on the specific activities which are the subject of the Federal Election Commission's investigation. I can recall at least one day in which over 100 volunteers worked on the Republican Party of Texas' volunteer mailings. mailings were unpackaged, labelled, sorted, bundled by carrier route, and hauled to the Post Office by volunteers. This means that 298,000 labels were individually placed on 298,000 pieces of mail, and then they were sorted and bundled. This was an enormous task and could not have been accomplished without the dedication of hundreds of individuals day in and day out for weeks. These activities easily required better than 100 man hours per day, and, as I stated above, the one day that 100 volunteers worked on this project, Between 500 and 1000 hours of manual labor may have Notary Public

of \_\_\_\_\_, 1989.

My Commission Expires:

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day



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#### BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

MUR 2377

Texas Republican Congressional Committee and Martha Weisend, as treasurer

EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

JAN 23 1989

#### I. BACKGROUND

On December 10, 1987, the Commission found reason to believe the Texas Republican Congressional Committee and its treasurer violated 2 U.S.C. § 441a(f) and initiated an investigation into this matter. On January 11, 1989, the Commission found reason to believe Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents"), violated 11 C.F.R. § 102.5(a).

This matter was initiated by a complaint filed by the Democratic Congressional Campaign Committee. The complaint was based on a letter filed by Tom Carter, a candidate for the U.S. House of Representatives from the state of Texas' 5th Congressional District in the 1986 election cycle. In his letter, Mr. Carter stated that his campaign had received "contributions from the National Republican Congressional Committee of approximately \$40,000 in coordinated funding. Also,

<sup>1.</sup> Respondents' brief notes that the Commission did not find reason to believe Martha Weisend violated Section 441a(f). In accordance with the Commission's policy to name the current treasurer in matters under review, Ms. Weisend was substituted as treasurer following the filing of an amended statement of organization naming her in that position after the initiation of this matter. See MUR 2377 - General Counsel's Report signed November 30, 1988.

<sup>2.</sup> Mr. Carter lost the 1986 general election with 41% of the vote.

approximately \$40,000 in non-allocable assistance from the Republican Party of Texas." The Texas Republican Congressional Committee ("TRCC") is the federal account of the Republican Party of Texas ("RPT").

The TRCC expended a total of \$37,061 on behalf of the Carter campaign. These expenditures were made in connection with four mailings on behalf of Carter that were distributed by the TRCC after September 19, 1986. The expenditures included payments totaling \$19,061 for printing and shipping 298,000 pieces of campaign materials used in the mailings, and payments totaling \$18,000 for postage. The TRCC has asserted that these expenditures were made in connection with volunteer activity and, thus, are exempt from the contribution and expenditure limitations of 2 U.S.C. \$ 441a, pursuant to 2 U.S.C. \$\$ 431(8)(B)(x) and (9)(B)(viii).

On October 27, 1989, the General Counsel's brief was mailed to Respondents. The General Counsel's brief recommended that the Commission find probable cause to believe that Respondents violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 102.5(a). Respondents submitted a response brief on December 5, 1989, and supplemented their brief with a signed affidavit received on December 6, 1989.

### II. ANALYSIS

This Office relies on its analysis as set forth in the General Counsel's brief dated October 25, 1989. Respondents' analysis presented in their brief is not persuasive in the circumstances of this matter.

Respondents restated their assertion that volunteers were sufficiently involved with the Carter mailing activity to qualify for the exemption at 2 U.S.C. §§ 431(8)(B)(x) and (9)(B)(viii). In further support of this assertion, Respondents submitted an affidavit signed by Carter's campaign manager and copies of newspaper articles that reported on the level of volunteer involvement in the 1986 elections. Although the items, in part, discussed the Carter campaign, their primary focus was on the level of volunteer activity generally found in that and other federal campaigns, rather than on the level of volunteer activity involved in the mailings at issue here.

The affidavit submitted by Respondents did indicate the number of volunteers that had worked on the Carter mailing activity. Such information had not been previously submitted. Although the affidavit stated that "there were, over the course of the campaign, in the vicinity of 1700 persons who volunteered to work," it was further stated that "at least 200 volunteers" worked "on the specific activities which are the subject of the Federal Election Commission's investigation." See, Respondents brief at Exhibit 1, page 2.

Respondents asserted that neither the Federal Election Campaign Act of 1971, as amended ("the Act"), or Commission regulations prescribe a minimum amount, or type, of volunteer activity required to qualify for the exemptions at Sections 431(8)(B)(x) and 431(9)(B)(viii). The test used by this Office to determine whether the exemptions applied has been that espoused by Congress in the House Report on the 1979 amendments,

which is, how the materials were used and by whom. Respondents have not presented any new evidence of other duties performed by the volunteers in connection with the Carter mailing activity.

It is the position of this Office that duties previously described by Respondents as performed by the volunteers were insufficient to qualify for the exemptions.

Notwithstanding the level of volunteer activity in the Carter mailing activity, Respondents made payments for the mailing costs incurred from funds not subject to the provisions of the Act. Specifically, they made such payments from their non-federal account. The Texas campaign finance law prohibits contributions from corporations and labor unions, but does not limit the amount that may be contributed to political committees. Although at least \$177,279 was transferred by Respondents from their federal account to their non-federal account in close proximity to the time the payments at issue were made, Respondents have not provided any information about the other funds in the non-federal account at that time.

Respondents refer to Section 102.5(b)(1)(ii) in support of their position that the payments from the non-federal account are permitted in these circumstances. See, Respondents' brief, pages 14-15. Such reference is not relevant. Respondents are governed by Section 102.5(a) of Commission regulations, in that they do qualify as a political committee under the Act and have established a federal account pursuant to that subsection. Even if Section 102.5(b)(1)(ii) was applicable in this instance, as noted above, Respondents have not provided any evidence of a

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reasonable accounting method to demonstrate that permissible funds were available as required by that subsection. Thus, it is not clear that Respondents made these payments from funds subject to the limitations of the Act. Respondents have also made disbursements for federal election activity from a non-federal account, which is also proscribed by Section 102.5(a).

Respondents made payments for the Carter mailing activity from their non-federal account and, thus, from funds not subject to the limitations of the Act. In addition, Respondents have not demonstrated sufficient volunteer activity in connection with the mailing. Respondents assigned their coordinated party expenditure limitation to the NRCC. Therefore, this Office recommends that the Commission find probable cause to believe Respondents violated 2 U.S.C. § 441a(f) by making excessive expenditures on behalf of Tom Carter's federal campaign for the 1986 general election. This Office also recommends that the Commission find probable cause to believe Respondents violated 11 C.F.R. § 102.5(a) by making disbursements in connection with a federal election from their non-federal account.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

## IV. RECOMMENDATIONS

- 1. Find probable cause to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 2 U.S.C. § 441a(f).
- 2. Find probable cause to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a).
  - 3. Approve the attached conciliation agreement and letter.

1/5/90 Date (/

Lawrence M. Noble General Counsel

Attachments:

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1. Conciliation Agreement

2. Letter

Staff assigned: Sandra H. Robinson

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of ) ) MUR 2377

Texas Republican Congresssional )

Committee and Martha Weisend, as )

treasurer )

## CERTIFICATION

- I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 23, 1990, do hereby certify that the Commission took the following actions in MUR 2377:
  - 1. Failed in a vote of 2-4 to pass a motion to approve the recommendations contained in the General Counsel's report dated January 5, 1990.

Commissioners McGarry and McDonald voted affirmatively for the motion; Commissioners Aikens, Elliott, Josefiak, and Thomas dissented.

(continued)

Federal Election Commission Certification for MUR 2377 January 23, 1990

Page 2

#### Decided by a vote of 6-0 to 2.

- Take no further action with respect a) to the violation of 2 U.S.C. § 44la(f).
- Find probable cause to believe the b) Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a).
- Direct the Office General Counsel to c)
  - 1) Amend the proposed conciliation agreement attached to the General Counsel's report dated January 5, 1990.
  - Amend the draft letter attached to 2) the General Counsel's report in order to conform to the changes noted above.
  - 3) Circulate the revised conciliation agreement and letter for Commission approval on a tally vote basis.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

1-26-90 Date

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Marione W Commans Marjorie W. Emmons

Secretary of the Commission



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### BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

Texas Republican Congressional Committee and Martha Weisend, as treasurer

MUR 2377

## GENERAL COUNSEL'S REPORT

## I. BACKGROUND

In the Matter of

On January 23, 1990, the Commission found probable cause to believe the Texas Republican Congressional Committee and Martha Weisend, as treasurer ("Respondents"), violated 11 C.F.R.

§ 102.5(a) with respect to a mailing activity it conducted on behalf of a federal candidate during the 1986 election cycle. On that same date, the Commission determined to take no further action with regard to the reason to believe finding that Respondents violated 2 U.S.C. § 441a(f). The Commission also directed this Office to revise the conciliation agreement and letter to Respondents, and to recirculate them for the Commission's review. These revised documents are attached. Copies of the originals have also been attached to facilitate a comparison. This Office recommends that the Commission approve the attached revised documents.

#### RECOMMENDATION II.

1. Approve the revised conciliation agreement and letter to the Texas Republican Congressional Committee and Martha Weisend, as treasurer.

General Counsel

Attachments

0 0 Revised conciliation agreement and letter
 Original conciliation agreement and letter

Staff Assigned: Jeff Long

### BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2377
Texas Republican Congressional	)	
Committee and Martha Weisend,	)	
as treasurer	)	

## CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 7, 1990, the Commission decided by a vote of 6-0 to approve the revised conciliation agreement and letter to the Texas Republican Congressional Committee and Martha Weisend, as treasurer, as recommended in the General Counsel's report dated February 2, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry and Thomas voted affirmatively for the decision.

Attest:

Date

Marjorie W. Emmons Secretary of the Commission

Received in the Secretariat: Friday, Feb. 2, 1990 4:40 p.m. Circulated to the Commission: Monday, Feb. 5, 1990 11:00 a.m. Deadline for vote: Wednesday, Feb. 7, 1990 11:00 a.m.





WASHINGTON, D.C. 20463

February 13, 1990

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377
Texas Republican
Congressional Committee
and Martha Weisend, as
treasurer

Dear Mr. Baran:

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On January, 23 1990, the Federal Election Commission found that there is probable cause to believe your clients, Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a), a provision of Commission regulations, in connection with the mailing activity they conducted on behalf of a federal candidate during the 1986 election cycle. After considering the circumstances of the matter, the Commission determined on that same date to take no further action against your clients with regard to the reason to believe finding that they violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Jan W. Baran, Esquire Page 2 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 within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission. If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 376-5690. Sincepely, Lawrence M. Noble General Counsel Enclosure Conciliation Agreement



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## BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

Texas Republican Congressional
Committee and Martha Weisend, as
treasurer

National Republican Congressional
Committee and Jack McDonald, as
treasurer

Tom Carter

Tom Carter for Congress and Glenn H.
Gage, as treasurer

### GENERAL COUNSEL'S REPORT

## I. BACKGROUND

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Attached is a conciliation agreement which has been signed by Jan Baran, counsel to the Texas Republican Congressional Committee and Martha Weisend, as treasurer ("the Committee").

-2-

On January 23, 1990, the Commission found no probable cause to believe the Committee violated 2 U.S.C. § 441a(f), leaving a only a 11 C.F.R. § 102.5 violation which relates solely to the Texas Republican Congressional Committee.

Therefore, this Office also recommends that the Commission find no reason to believe that the National Republican Congressional Committee and Jack McDonald, as treasurer, Tom Carter, and Tom Carter for Congress and Glenn H. Gage, as treasurer, violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377. These Respondents had been served with a copy of the complaint and had responded, but the Commission had not previously made any finding with respect to them.

## II. RECOMMENDATIONS

- Reject the attached conciliation agreement with Texas Republican Congressional Committee and Martha Weisend, as treasurer.
- 2. Approve the attached proposed conciliation agreement.
- 3. Find no reason to believe that the National Republican Congressional Committee and Jack McDonald, as treasurer, Tom Carter, and Tom Carter for Congress and Glenn H. Gage, as treasurer, violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377, and close the file as it pertains to these Respondents.

4. Approve the attached letters. General Counsel Attachments 1. Conciliation Agreement and Photocopy of civil penalty check.

2. Marked Conciliation Agreement. 3. Excerpts of Reports and Filings.
4. Proposed Conciliation Agreement
5. Letters to Respondents. 6. Counsel's letter. Staff Assigned: Jeffrey Long

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Texas Republican Congressional Committee and Martha Weisend, as treasurer

National Republican Congressional Committee and Jack McDonald, as treasurer

Tom Carter

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Tom Carter for Congress and Glenn H. Gage, as treasurer

MUR 2377

## CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 10, 1990, the Commission decided by a vote of 4-1 to take the following actions in MUR 2377:

- 1. Reject the conciliation agreement with Texas Republican Congressional Committee and Martha Weisend, as treasurer, as recommended in the General Counsel's Report dated May 8, 1990.
- Approve the proposed conciliation agreement, as recommended in the General Counsel's Report dated May 8, 1990.
- 3. Find no reason to believe that the National Republican Congressional Committee and Jack McDonald, as treasurer, Tom Carter, and Tom Carter for Congress and Glenn H. Gage, as treasurer, violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377, and close the file as it pertains to these Respondents.

(continued)

Page 2

4. Approve the letters, as recommended in the General Counsel's Report dated May 8, 1990.

Commissioners Elliott, Josefiak, McDonald, and Thomas voted affirmatively for the decision; Commissioner Aikens dissented; Commissioner McGarry did not cast a vote.

Attest:

5-11-90

Date

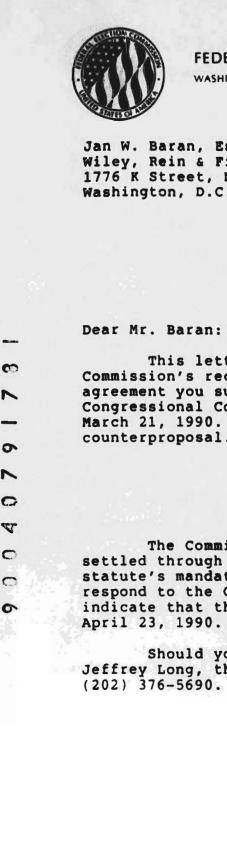
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Marjorie W. Emmons Secretary of the Commission

Received in the Secretariat: Tuesday, May 8, 1990 12:36 p.m. Circulated to the Commission: Tuesday, May 8, 1990 4:00 p.m. Deadline for vote: Thursday, May 10, 1990 4:00 p.m. At the time of deadline, 4 affirmative votes had not been received. Final vote received: Thursday, May 10, 1990 at 5:38 p.m.



WASHINGTON DC 20463

May 14, 1990

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

> RE: MUR 2377 Texas Republican Congressional Committee and Martha Weisend, as treasurer

Dear Mr. Baran:

This letter is to confirm the Federal Election Commission's receipt of the counter-proposed conciliation agreement you submitted on behalf of the Texas Republican Congressional Committee and Martha Weisend, as treasurer, on March 21, 1990. The Commission has reviewed and rejected the counterproposal.

The Commission is still hopeful that this matter can be settled through a conciliation agreement. In light of the statute's mandatory 90 day limit for conciliation, you should respond to the Commission as soon as possible. Our records indicate that the conciliation period in this matter expired on April 23, 1990. See 2 U.S.C. § 437g(a)(4)(A)(i).

Should you have any further questions, please contact Jeffrey Long, the staff member assigned to this matter, at

Since ely,

Lawrence M. Noble

General Counsel

Enclosure Conciliation Agreement



WASHINGTON, D.C. 20463

May 14, 1990

Tom Carter
513 Blanco Street
Mesquite, Texas 75150

RE: MUR 2377 Tom Carter

Dear Mr. Carter:

On March 27, 1987, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 10, 1990, the Commission found that there is no reason to believe Tom Carter violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377. Accordingly, the file has been closed in this matter as it pertains to you. This matter will become a part of the public record within 30 days after it is closed with respect to all other respondents involved. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble General Counsel





WASHINGTON, D.C. 20463

May 14, 1990

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377
National Republican
Congressional Committee and
Jack McDonald, as treasurer

Dear Mr. Baran:

On March 27, 1987, the Federal Election Commission notified your clients, the National Republican Congressional Committee and Jack McDonald, as treasurer ("Committee"), of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 10, 1990, the Commission found that there is no reason to believe the National Republican Congressional Committee and Jack McDonald, as treasurer violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377. Accordingly, the file has been closed in this matter as it pertains to your clients. This matter will become a part of the public record within 30 days after it is closed with respect to all other respondents involved. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble General Counsel



WASHINGTON, D.C. 20463

May 14, 1990

Glenn H. Gage, Treasurer Tom Carter for Congress 2121 San Jancinto Street Lock Box 91 Dallas, Texas 72501

RE: MUR 2377
Tom Carter for Congress
and Glenn H. Gage, as
treasurer

Dear Mr. Gage:

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On March 27, 1987, the Federal Election Commission notified Tom Carter for Congress ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On May 10, 1990, the Commission found that there is no reason to believe Tom Carter for Congress and Glenn H. Gage, as treasurer, violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377. Accordingly, the file has been closed in this matter as it pertains to Tom Carter for Congress and you, as treasurer. This matter will become a part of the public record within 30 days after it is closed with respect to all other respondents involved. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

Sincerely,

Lawrence M. Noble General Counsel

# BEFORE THE FEDERAL ELECTION CONNISSION

In the Matter of

Texas Republican Congressional Committee and Martha Weisend, as treasurer SENSITIVE

MUR 2377

## GENERAL COUNSEL'S REPORT

## I. BACKGROUND

Attached is a conciliation agreement which has been signed by Jan Witold Baran, counsel for the Texas Republican Congressional Committee and Martha Weisend, as treasurer.

The attached agreement contains no changes from the agreement approved by the Commission on May 10, 1990. A check for the civil penalty was received on March 21, 1990.

## II. RECOMMENDATIONS

- Accept the attached conciliation agreement with the Texas Republican Congressional Committee and Martha Weisend, as treasurer.
- 2. Close the file.
- 3. Approve the attached letters.

Lawrence M. Noble General Counsel

6/5/90 Date

BY:

Lois G. Lerner

Associate General Counsel

## Attachments

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- 1. Conciliation Agreement
- 2. Photocopy of civil penalty check
- 3. Letter to Respondent
- 4. Letter to Complainant

Staff Assigned: Jeffrey Long

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Texas Republican Congressional Committee and Martha Weisend, as treasurer

MUR 2377

## CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 11, 1990, the Commission decided by a vote of 4-0 to take the following actions in MUR 2377:

- Accept the attached conciliation agreement with the Texas Republican Congressional Committee and Martha Weisend, as treasurer, as recommended in the General Counsel's report dated June 5, 1990.
- 2. Close the file.
- Approve the attached letters, as recommended in the General Counsel's report dated June 5, 1990.

Commissioners Aikens, Elliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Josefiak and Thomas did not cast votes.

Attest:

6-11-90

Date

Majorie W. Emmons

Secretary of the Commission

Marjone W Emissons

Received in the Secretariat: Wednesday, June 6, 1990 3:58 p.m. Circulated to the Commission: Thursday, June 7, 1990 11:00 a.m. Deadline for vote: Monday, June 11, 1990 11:00 a.m.

WASHINGTON, D.C. 20463

June 13, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert F. Bauer, Counsel
Democratic Congressional
Campaign Committee
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

CLOSED

RE: MUR 2377

Dear Mr. Bauer:

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This is in reference to the complaint you filed with the Federal Election Commission on March 24, 1987, concerning the Republican Party of Texas and its activities in the 1986 general election with respect to Tom Carter.

After conducting an investigation in this matter, the Commission found that there was probable cause to believe Texas Republican Congressional Committee and Martha Weisend, as treasurer, violated 11 C.F.R. § 102.5(a), a provision of Commission regulations. On June 11, 1990 a conciliation agreement signed by the respondent was accepted by the Commission, thereby concluding the matter. Accordingly, the Commission closed the file in this matter. A copy of this agreement is enclosed for your information.

A Statement of Reasons explaining the Commission's decision to take no further action against the Texas Republican Congressional Committee with respect to the violation of 2 U.S.C. § 441a(f) is also enclosed. This document will be placed on the public record as part of the file in MUR 2377.

In addition, on May 10, 1990, the Commission also found no reason to believe the National Republican Congressional Committee and Jack McDonald, as treasurer, Tom Carter, and Tom Carter for Congress and Glenn H. Gage, as treasurer, violated any statute within the Commission's jurisdiction on the basis of the complaint filed in MUR 2377. Accordingly, the Commission closed the file in this matter

Robert F. Bauer Page 2 If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202). 376-5690. Sincerely, Lawrence M. Noble General Counsel Enclosure Conciliation Agreement Statement of Reasons C d. C 0 0

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## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Texas Republican ) MUR 2377

Congressional Committee )
and Martha Weisend, )
as treasurer )

## STATEMENT OF REASONS

Chairman Lee Ann Elliott

Commissioner Joan D. Aikens

Commissioner Thomas J. Josefiak

Commissioner Scott E. Thomas

On January 23, 1990, the Federal Election Commission voted to find probable cause to believe the Texas Republican Congressional Committee ("TRCC") and Martha Weisend, as treasurer, violated 11 CFR \$102.5. The Commission also voted to take no further action with respect to a prior finding of reason to believe the respondents had violated 2 U.S.C. \$441a(f).

Payments by state or local party committees for costs of campaign materials used in connection with volunteer activities on behalf of federal candidates are, within certain criteria, exempt from contribution and expenditure limitations for such candidates under 2 U.S.C. §431(8)(B)(x) and (9)(B)(viii). Such payments must be financed by funds permissible under the Act, and organizations with both federal and non-federal

<sup>1.</sup> The motion to take these actions passed unanimously, after a substitute motion which included accepting the Office of General Counsel's recommendation to find probable cause to believe the respondents had violated 2 U.S.C. §441a(f) failed by a vote of two to four (Commissioners McDonald and McGarry voting affirmatively).

accounts must make all payments for federal election activity from their federal account, pursuant to 11 CFR \$102.5.

In this matter, the finding of a violation of \$102.5 of the Commission's regulations was based upon evidence that payments for \$18,000 in postage costs for mailings used in volunteer activity on behalf of a federal candidate were initially made from the Republican Party of Texas' non-federal operating account rather than from TRCC, its federal account.\4 In mitigation of the violation, respondents noted that TRCC had transferred more than \$170,000 to its operating account during the relevant time period, indicating a sufficient amount of federally permissible funds within the non-federal account to cover the costs of the postage. Based on this information, and because evidence about the nature of these or other funds in the operating account would date back over three years, we concluded that investigation into the precise composition of funds contained in the operating account would be unwarranted, and that no further action should be taken upon the \$441a(f) finding insofar as possible use of impermissible funds for the mailing activity.

In recommending the Commission find probable cause to believe respondents violated §441a(f), the General Counsel also argued that the amount of volunteer activity involved in

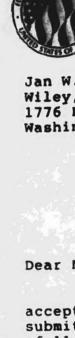
<sup>2.</sup> Contributions to the party's non-federal account would be raised under Texas law, which prohibits contributions from corporations and unions, consistent with 2 U.S.C. \$441b, but does not place a limit upon the amount of contributions from individuals, in contrast to 2 U.S.C \$441a(a).

exemption from the contribution and expenditure limitations. The evidence before the Commission, however, indicated that the role of commercial vendors in distributing these materials was limited to printing and shipping the materials to the party and assisting in payment to the post office. It appeared that volunteers were used extensively in preparing the 298,000 mail pieces for distribution: unpackaging, labelling, sorting by zip code, bundling by carrier route and delivering to the post office. We concluded, therefore, that the scope of volunteer involvement in these activities satisfied the Act's requirements that such campaign materials be used "in connection with volunteer activity."

producing these mailings was insufficient to qualify for the

March 12, 1990

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## FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 13, 1990

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377
Texas Republican
Congressional Committee
and Martha Weisend, as
treasurer

Dear Mr. Baran:

On June 11, 1990, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 11 C.F.R. § 102.5(a). Accordingly, the file has been closed in this matter as it pertains to your clients.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble General Counsel

Enclosure Conciliation Agreement

## In the Matter of MUR 2377 Texas Republican Congressional Committee and Martha Weisend, as treasurer CONCILIATION AGREEMENT This matter was initiated by a signed, sworn, and notarized complaint by the Democratic Congressional Campaign Committee. An investigation was conducted, and the Federal Election Commission ("Commission") found probable cause to believe that the Texas Republican Congressional Committee and Martha Weisend, as treasurer (Respondents"), violated 11 C.F.R. § 102.5(a). NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. \$ 437g(a)(4)(A)(i), do hereby agree as follows: The Commission has jurisdiction over the Respondents I. and the subject matter of this proceeding. Respondents have had a reasonable opportunity to ST. demonstrate that no action should be taken in his matter. 0 Respondents enter voluntarily into this agreement with 0 the Commission. The pertinent facts in this matter are as follows: 1. Texas Republican Congressional Committee is a political committee within the meaning of 2 U.S.C. § 431(4). Martha Weisend is the current treasurer of Texas 2. Republican Congressional Committee. At the time of the transactions which are the subject of this matter, Ms. Weisend was not the treasurer.

BEFORE THE PEDERAL ELECTION COMMISSION

-2-

- 3. Political committees, including party committees, that finance political activity in connection with both federal and non-federal elections shall establish a separate federal account or political committee for the purpose of financing federal election activity. Only funds subject to the prohibitions and limitations of the Act shall be deposited or received by such account or committee. All disbursements, contributions, expenditures and transfers made by the committee in connection with any federal election shall be made from its federal account or political committee, formed pursuant to the regulations. 11 C.F.R. § 102.5(a).
- 4. Respondents expended a total of \$37,061 on behalf of Tom Carter's federal campaign for the 1986 general election. These expenditures were made in connection with four mailings on behalf of Carter that were distributed by Respondents after September 19, 1986. The expenditures included payments totaling \$19,061 for printing and shipping 298,000 pieces of campaign materials used in a mailing activity and payments totaling \$18,000 for postage connected with that activity.
- 5. Respondents made the payments for postage costs connected with the Carter mailing activity from the Republican Party of Texas' operating account, which is a non-federal account.
- 6. These payments coincided with the transfers of more than \$170,000 in funds from the Texas Republican Congressional Committee to the Republican Party of Texas' operating account in September and October, 1986.

-3-Upon recognizing that it had made this accounting error, Respondents amended their disclosure reports to show a debt to the Republican Party of Texas operating account. In addition, Respondents immediately notified the Commission by certified letter in December, 1986 of its accounting error. 8. Respondents repaid the operating account for this accounting error in February, 1987, more than a month prior to the initiation of this civil complaint. V. Respondents made disbursements in connection with a federal election from their non-federal account in violation of 11 C.F.R. \$ 102.5(a). VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one thousand six hundred and twenty-five dollars (\$1,625), pursuant to 2 U.S.C. \$ 437g(a)(5)(A). VII. The Commission, on request of anyone filing a complaint \*SF under 2 U.S.C. § 437g(a)(1) concerning the matters at issue 0 herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any 3 requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

- IX. Respondents 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.
- X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble General Counsel Date 6/13/91)

FOR THE RESPONDENTS:

(Name) Jan W. Baran

(Position)

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Counsel for the Texas Republican Congressional Committee, and

Martha Weisend, as Treasurer

5/29/90 Date





WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2.377

DATE FILMED 2/26/90 CAMERA NO. 2
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## FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2377.



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## FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

July 19, 1990

Jan W. Baran, Esquire Wiley, Rein & Fielding 1776 K Street, N.W. Washington, D.C. 20006

RE: MUR 2377

Texas Republican Congressional Committee and Martha Weisend, as treasurer

Dear Mr. Baran:

By letter dated June 13, 1990, the Office of the General Counsel informed you of the acceptance of the signed conciliation agreement on your client's behalf and the closing of the file in this matter. Enclosed with that letter was a copy of the fully executed conciliation agreement.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to take no further action with respect to a prior finding of reason to believe your clients had violated 2 U.S.C. § 441a(f). This document will be placed on the public record as part of the file of MUR 2377.

If you have any questions, please contact Jeffrey Long, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble General Counsel

BY: Lois G. Lerner

Associate General Counsel

Enclosure
Statement of Reasons

## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Texas Republican ) MUR 2377

Congressional Committee )
and Martha Weisend, )
as treasurer )

## STATEMENT OF REASONS

Chairman Lee Ann Elliott

Commissioner Joan D. Aikens

Commissioner Thomas J. Josefiak

Commissioner Scott E. Thomas

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producing these mailings was insufficient to qualify for the exemption from the contribution and expenditure limitations. The evidence before the Commission, however, indicated that the role of commercial vendors in distributing these materials was limited to printing and shipping the materials to the party and assisting in payment to the post office. It appeared that volunteers were used extensively in preparing the 298,000 mail pieces for distribution: unpackaging, labelling, sorting by zip code, bundling by carrier route and delivering to the post office. We concluded, therefore, that the scope of volunteer involvement in these activities satisfied the Act's requirements that such campaign materials be used "in connection with volunteer activity."

March 12, 1990

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