FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2575

DATE FILMED 6/24/92 CAMERA NO. 1

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QCC#4406
- Tue Mon 184

U.S. Department of Justice

United States Attorney

Middle District of Tennessee

879 United States Courthouse
Nashville, Tennessee 37203-3870

615/736-5151
FTS/852-5151

September 11, 1987

Mr. Larry Noble
Acting Senior Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C 20004

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
87 SEP 21 AM 10:31

Dear Mr. Noble:

Mr. Craig Donsanto of the Department of Justice suggested I refer this matter to you. An FBI agent in Cookeville, TN has received reports that an employee of the Toshiba Corporation in the Middle Tennessee area bought tickets to a fund-raiser for Congressman Bart Gordon totalling $600 and bought tickets to a fund-raiser for Senator Albert Gore, Jr. totalling $1,000.00. The agent's information is that this employee was subsequently reimbursed for these contributions by the company.

You can obtain additional information from the FBI agent who has done the preliminary investigation, Mr. Jim Harcum, Post Office Box 514, Cookeville, TN, Phone No. 615-526-8622.

Yours truly,

Harold B. McDonough

HAROLD B. McDONOUGH, JR.
Assistant U.S. Attorney

HBM/jr

cc: Jim Harcum, FBI
Craig Donsanto, Dept. of Justice

9204090334

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

29 September 1987

Mr. Harold B. McDonough, Jr.
Assistant US Attorney
US Department Of Justice
879 United States Courthouse
Nashville, TN 37203-3870

Re: Pre-MUR 184

Dear Mr. McDonough:

This is to acknowledge receipt of your letter on September 21, 1987, advising us of the possibility of a violation of the Federal Election Campaign Act of 1971, as amended, by the Toshiba Corporation, Congressman Bart Gordon, and Senator Albert Gore, Jr. We are currently reviewing the matter and will advise you of the Commissions's determination.

If you have any questions or additional information, please call Judybeth Greene, the staff member assigned to this matter, at (202) 376-5690. Our file number for this matter is Pre-MUR 184.

Pursuant to 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A), the Commission's review of this matter shall remain confidential.

Sincerely,

Lawrence M. Noble
Acting General Counsel

By: Lois G. Lerner
Associate General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
88 JAN 20 PM 2:37
SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

Pre-MUR #184
STAFF MEMBER: Greene

SOURCE OF MUR: Referral by Assistant U.S. Attorney

RESPONDENT(S): Toshiba-America, Inc.
Hiroshi Ikeda
Robert Traeger

RELEVANT STATUTE(S): 2 U.S.C. § 441b(a)
2 U.S.C. § 441e
2 U.S.C. § 441f

INTERNAL REPORTS CHECKED: Albert Gore for President Committee, Inc.
July 1987 Quarterly Report
Advisory Opinion 1980-10
Advisory Opinion 1982-100
Advisory Opinion 1985-3

FEDERAL AGENCIES CHECKED: Federal Bureau of Investigation
Special Agent

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I. GENERATION OF MATTER

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee which contained information concerning corporate contribution reimbursements by Toshiba-America, Inc.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The Assistant U.S. Attorney for the Middle District of Tennessee has referred information he received from an FBI special agent regarding a violation of federal election laws. The referral states that a Toshiba employee in Tennessee made campaign contributions to candidates for Federal offices and

received reimbursement from the company. The referral specifies that the employee bought $600 in tickets to a fundraiser for Congressman Bart Gordon and $1,000 in tickets to a fundraiser for Senator Albert Gore, Jr.

The FBI special agent who had initially informed the Assistant U.S. Attorney about this matter gave this Office more details in a September 30, 1987, phone conversation. The agent related that during the preceding three to four months, Robert Traeger, the Vice President of the Television Division of Toshiba-America, Inc. ("Toshiba") [1/], had been making campaign contributions for Toshiba out of his personal account and had been reimbursed by Toshiba. Pursuant to this arrangement, Traeger bought and received reimbursement for $1,000 in fundraiser tickets for Senator Albert Gore's presidential campaign, $1,000 in fundraiser tickets for Senator Jim Sasser's[2/] campaign and $600 in fundraiser tickets for Congressman Bart Gordon's campaign. The reimbursement by the corporation for these contributions was approved by Hiroshi Ikeda, the Executive Vice President for the Toshiba Tennessee manufacturing company. The agent also relayed information which

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1/ The references made to "Toshiba" are to Toshiba-America, Inc., the domestic subsidiary of Toshiba International Corporation which was incorporated in New York in 1965.

2/ Sasser's name was not included in the Assistant U.S. Attorney's referral.

indicates that more corporate-reimbursed contributions are planned in the near future. According to a Toshiba employee, Ikeda recently discussed the need to make more "contributions" with Traeger in order to protect the company's interests as legislation aimed at restricting Japanese imports is considered.

The July Quarterly Report of the Albert Gore, Jr. for President Committee, Inc., confirms that a $1,000 contribution was made by Robert Traeger, Vice President/General Manager of Toshiba-America, Inc., on June 18, 1987.[3/] The Sasser and Gordon campaigns do not list any contributions from Robert Traeger; however, their most recent reports cover an accounting period which ended June 30, 1987, and a contribution made after that date would not be reported until the committees file 1987 Year End Reports.

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3/ An examination of records possessed by Audit for the Title 26 matching program revealed that the $1,000 check to the Gore campaign signed by Robert Traeger was drawn on a joint account which he holds with his wife, Betty Traeger. In response to a letter from the Albert Gore, Jr. for President Committee, dated July 29, 1987, Mrs. Betty Traeger certified that one-half of the $1,000 contribution made on the couple's joint account should be attributed to her. Accordingly, Gore's committee received $500 in matching funds. If the Commission determines that there was corporate reimbursement of these contributions, they would no longer qualify for matching payment purposes. See 11 C.F.R. § 9034.3(e).

An amendment to the 1986 July Quarterly Report also reflected the reattribution of Mr. Traeger's contribution.

B. Legal Analysis

The information referred to the Commission reveals that an officer of Toshiba made contributions to Federal candidates and political committees for which he received reimbursement from the corporation. Hence, violations of 2 U.S.C. § 441b(a) and § 441f appear to be involved.

1. § 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with Federal elections.[4/] For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with ..." a Federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to Federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. In view of the foregoing, it appears

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4/ The Act does allow corporations to establish, administer and solicit contributions to separate segregated funds to be utilized by the corporation pursuant to § 441b(b)(2)(C). Neither Toshiba-America, Inc. nor Toshiba International has registered any such separate segregated funds with the Commission.

that the facts set forth in this report with respect to Toshiba's transactions reflect a violation of 2 U.S.C. § 441b(a) by the corporation. Accordingly, this Office recommends that the Commission find reason to believe Toshiba violated 2 U.S.C. § 441b(a).

The executives who participated in these transactions individually violated § 441b(a). Section 441b(a) makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, the General Counsel's Office also recommends that the Commission find reason to believe that those officers personally involved in initiating, developing or executing the reimbursement plan, and those who otherwise consented to the scheme by accepting reimbursement from the corporation, violated 2 U.S.C. § 441b(a). Those officers are: Robert Traeger, Vice President/General Manager of Toshiba who made contributions in his own name and received reimbursement from the corporation and Hiroshi Ikeda, Vice President of the Television Division of Toshiba in Tennesee, who authorized or approved the corporate reimbursements. Further investigation may reveal that other officers were involved.

There was no indication in the referral as to whether the political committees and candidates who received these

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contributions knew about the circumstances respecting these contributions. Therefore, based on present information, this Office does not make any recommendation at this time pertaining to the committees that received those contributions.

2. § 441f Contributions in Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" includes corporations such as Toshiba. The facts set forth in this report with respect to Toshiba's transactions reflect a violation of § 441f by Toshiba, which apparently executed a plan to funnel corporate contributions to Federal candidates and political committees through at least one corporate officer. Accordingly, the General Counsel's Office recommends that the Commission find reason to believe that Toshiba violated 2 U.S.C. § 441f.

In addition, this Office recommends that the Commission find reason to believe that Robert Traeger violated 2 U.S.C. § 441f. This section establishes individual liability for permitting one's name to be used to effectuate a contribution by another:

> "No person shall knowingly permit his name to be used to effect such a contribution..."

Robert Traeger, by apparently making contributions in his own name and receiving reimbursement from the corporation, has run afoul of § 441f's prohibitions.

The Commission has interpreted section 441f to apply not only to individuals who accept contributions in the name of

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another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. See MUR 1611. By authorizing the reimbursement of Robert Traeger's political contributions with corporate funds, Hiroshi Ikeda assisted Toshiba in making contribution in the name of another. Accordingly, this Office recommends that the Commission find reason to believe that Hiroshi Ikeda violated 2 U.S.C. § 441f.

3. § 441e Contributions by Foreign Nationals

The Act prohibits foreign nationals from making contributions directly or through any other person in connection with any election to any political office. 2 U.S.C. § 441e. The term "foreign national" is defined by 2 U.S.C. § 441e(b)(1) to mean a "foreign principal" as that term is defined in by 22 U.S.C. § 611(b). Section 611(b) defines "foreign principal" to include:

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of

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persons organized under the law of or having its principal place of business in a foreign country.

At the present time, this Office does not possess sufficient information to made a recommendation regarding any possible violation of this section. While Toshiba-America, Inc. is a domestic corporation, incorporated in New York in 1965, Mr. Ikeda's nationality status is unknown. Moreover, this Office has no information as to whether other officers of Toshiba-America, Inc. or Toshiba Interational who are foreign nationals participated in directing or authorizing the corporation's contribution reimbursements.

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f.
3. Find reason to believe that Robert Traeger violated 2 U.S.C. §§ 441b(a) and 441f.
4. Find reason to believe that Hiroshi Ikeda violated 2 U.S.C. § 441b(a) and 441f.
5. Approve the attached interrogatories.
6. Approve the attached letters and Factual and Legal Analyses.

Date 1/20/88

Lawrence M. Noble
General Counsel

Attachments
1. Referral Materials
2. Phonecon Memorandum
3. Proposed Letters and Factual and Legal Analyses and Proposed Interrogatories

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	Pre-MUR 184
Toshiba-American, Inc.	)	
Hiroshi Ikeda	)	
Robert Traeger	)	

(MUR 2575)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 25, 1988, the Commission decided by a vote of 6-0 to take the following actions in Pre-MUR 184:

1. Open a MUR.
2. Find reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f.
3. Find reason to believe that Robert Traeger violated 2 U.S.C. §§ 441b(a) and 441f.
4. Find reason to believe that Hiroshi Ikeda violated 2 U.S.C. § 441b(a) and 441f.
5. Approve the interrogatories, as recommended in the First General Counsel's report signed January 20, 1988.

(Continued)

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6. Approve the letters and Factual and Legal Analyses, as recommended in the First General Counsel's report signed January 20, 1988.

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

Attest:

Jan. 25, 1988
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary: Wed., 1-20-88, 2:37
Circulated on 48 hour tally basis: Thurs., 1-21-88, 11:00
Deadline for vote: Mon., 1-25-88, 11:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 28, 1988

Mr. John Anderson
General Counsel
Toshiba-America, Inc.
82 Totowa Road
Wayne, NJ 07470

RE: MUR 2575
Toshiba-America, Inc.

Dear Mr. Anderson:

On January 25, 1988, the Federal Election Commission found that there is reason to believe Toshiba America, Inc., violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 Toshiba-America, Inc. 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against Toshiba America, Inc. 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 pursued. 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.

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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.

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.

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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Interrogatories and Request for Documents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Toshiba-America, Inc.
82 Totowa Road
Wayne, New Jersey 07470

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, 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.

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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.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory 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.

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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.

INTERROGATORIES AND REQUEST FOR DOCUMENTS

TO: Toshiba-America, Inc.
82 Totowa Road
Wayne, NJ 07470

Please submit answers to the following questions:

1. State whether Toshiba-America, Inc. reimbursed Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,

b) Senator Albert Gore (for President),

c) Senator Jim Sasser, or

d) Any other candidate for federal office.

If so, please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation.

2. State whether Toshiba International reimbursed Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,

b) Senator Albert Gore (for President),

c) Senator Sasser, or

d) Any other candidate for Federal office.

If so, please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation.

3. State the job titles and responsibilites of Robert Traeger and Hiroshi Ikeda.

4. Describe the way in which Toshiba-America, Inc. reimbursed Robert Traeger for his contributions to political campaigns and candidates. Please note that this question includes both official and unofficial candidates.

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5. Identify the dates when Robert Traeger was reimbursed by Toshiba-America, Inc. for making political contributions to campaigns and candidates for public office. Please state the amounts of these reimbursements and provide supporting documentation.

6. State whether Hiroshi Ikeda authorized the reimbursement of Robert Traeger's political contributions by Toshiba-America, Inc.

7. State whether Hiroshi Ikeda directed Robert Traeger to make contributions to any particular candidates or political committees.

8. Identify all officers, directors and employees of Toshiba-America, Inc. and Toshiba International who were involved in authorizing the reimbursement of Robert Traeger's political contributions by Toshiba-America, Inc. Please identify the positions of these individuals in the company, their nationalities and explain their roles in authorizing the political contribution reimbursements.

9. Identify all officers, directors and employees of Toshiba-America, Inc. and Toshiba International, Inc. who were involved in directing Robert Traeger to make contributions to particular candidates or political committees. Please identify the positions of these individuals in the company, their nationalities and explain their roles in directing Traeger's political contributions.

10. State whether any officers or directors of Toshiba-America, Inc. or Toshiba International were aware that Robert Traeger was receiving reimbursement from Toshiba-America, Inc. for political contributions. Please indentify these individuals and the titles of their positions with Toshiba-America, Inc. or Toshiba International.

11. Explain Toshiba-America, Inc.'s policy regarding corporate reimbursement of its employees, officers and directors for their political contributions.

12. State whether Toshiba-America, Inc. reimbursed any other employee, officer or director, other than Robert Traeger, for making contribution to federal, state, or local candidates for public office. Please state the name and nationality of the individual reimbursed, the form, date and amount of the reimbursement and the identities of the candidate or committee that reportedly received such political contribution.

13. Please submit an itemized record of all disbursements by Toshiba-America, Inc. to Robert Traeger in 1986 and 1987, including the amount, nature and date of each disbursement, together with all related supporting documents.

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14. Please submit photocopies of all documents relating to the initiation, development and execution of Toshiba-America's reimbursement of officers, directors, and employees for political contributions.

15. Please submit photocopies of both sides of every check issued by Toshiba-America, Inc. to reimburse any director, officer or employee for campaign contributions.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Toshiba-America, Inc. MUR: 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information referred to the Commission reveals that Robert Traeger, an officer of the Toshiba-America corporation ("Toshiba"), has made contributions to federal candidates and political committees, for which he has received reimbursement from Toshiba. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision

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was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Toshiba has allegedly reimbursed Robert Traeger for his contributions to various candidates for federal office. Specifically, it is alleged that Toshiba-America, Inc. reimbursed Robert Traeger for buying $1,000 in fundraiser tickets for Senator Albert Gore's presidential campaign, $1,000 in fundraiser tickets for Senator Jim Sasser's campaign and $600 in fundraiser tickets for Congressman Bart Gordon's campaign. The reimbursement by the corporation for these contributions was approved by Hiroshi Ikeda, Executive Vice President for the Toshiba Tennessee manufacturing company. Accordingly, there is reason to believe that these corporate reimbursements violate 2 U.S.C. § 441b.

B. Section 441f Contributions in Name of Another

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). The facts set forth in this Analysis with respect to Toshiba's transactions reflect a violation of Section 441f by Toshiba in its apparent execution of a plan to funnel corporate contributions to federal candidates and political committees through at least one corporate officer. Accordingly, there is

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reason to believe that Toshiba-America, Inc. violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 28, 1988

Mr. Robert H. Traeger
3635 Knollwood Road
Nashville, TN 37215

RE: MUR 2575
Robert H. Traeger

Dear Mr. Traeger:

On January 25, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Interrogatories and Request for Documents

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Robert H. Traeger
3635 Knollwood Road
Nashville, Tennessee 37215

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, 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.

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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.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory 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.

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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.

INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Robert H. Traeger
3635 Knollwood Road
Nashville, TN 37215

Please submit answers to the following questions:

1. State whether you made political contributions in 1986 or 1987 to political campaigns of:

a. Congressman Bart Gordon,

b. Senator Albert Gore (for President),

c. Senator Jim Sasser, or

d. Any other candidate for public office.

If so, please indicate the amount and date of each contribution to these candidates or their campaign committees.

2. State whether Toshiba-America, Inc. reimbursed you for your contributions to Congressman Bart Gordon, Senator Albert Gore or Senator Jim Sasser or any of their campaign committees. Please list the date, amount and form (i.e. bonus, cash, check, advance, salary increase, etc.) of all such corporate reimbursement payments.

3. State whether any director or officer of Toshiba-America, Inc. or Toshiba International directed you to contribute to the campaigns of Congressman Bart Gordon, Senator Albert Gore or Senator Jim Sasser or suggest that you do so. If so, please identify these individuals, including their nationalities and positions in the company and the content of the conversation with those individuals regarding your campaign contributions.

4. Identify the individual(s) who authorized Toshiba-America, Inc. to reimburse you for your political contributions. Please include the positions and nationalities of these individuals.

5. Identify the individual(s) who initiated the plan or system through which Toshiba-America, Inc. reimbursed you for your political contributions. Please include the position and nationality of these individuals and explain your knowledge of the plan.

6. Explain how you were first approached by officials of Toshiba-America, Inc. regarding its plan to repay you for your political contributions.

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7. State whether Toshiba-America, Inc. compensated you financially or otherwise, for giving contributions to candidates and political committees beyond the amount of direct reimbursements.

8. State whether other Toshiba-America, Inc. officers, directors or employees were reimbursed by Toshiba-America for making contributions to candidates or their political committees.

9. State whether you were reimbursed for contributions made to candidates other than Congressman Bart Gordon, Senator Albert Gore and Senator Sasser. If so, please identify the contributions for which you were reimbursed.

10. State whether you informed any of the recipients of your contributions that Toshiba-America, Inc. had reimbursed you or planned to reimburse you for your contribution.

11. State whether any of the political committees or candidates to whom you gave contributions knew from any other source that Toshiba-America had reimbursed you or planned to reimburse you for your contribution.

12. State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

13. State whether Toshiba International, Inc. was involved in any way, either directly or indirectly, in providing reimbursement for your contributions to political committees. Please explain.

14. State whether Toshiba International, Inc. was involved in any way, either directly or indirectly, in directing you to make contributions to particular candidates or political committees. Please explain.

15. Please provide photocopies of both sides of every check received as reimbursement for a campaign contribution and every check written as a direct campaign contribution for which reimbursement was paid or promised by Toshiba-America, Inc. or any Toshiba America representative.

16. Please provide photocopies of any documents relating to the initiation, development and execution of Toshiba's reimbursement of campaign contributions.

17. Please provide an itemized list with supporting documentation of all forms of payment which you have received from Toshiba-America, Inc. within the past two years stating the date, amount, form and nature of each payment.

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18. Please provide an itemized list with supporting documentation of all contributions you made to candidates and their political committees within the past two years, stating the date, amount and receipt of each contribution.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Robert H. Traeger MUR 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information referred to the Commission reveals that Robert Traeger, an officer of the Toshiba-America corporation, ("Toshiba"), has made contributions to federal candidates and political committees for which he has received reimbursement from Toshiba. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with Federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a Federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision

9204090341 5

is written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officers who participate in any arrangement designed to reimburse individuals for their campaign contributions with corporate funds incur personal liability under the Act.

Toshiba has allegedly reimbursed Robert Traeger for his contributions to various candidates for federal office. Specifically, it is alleged that Toshiba reimbursed Robert Traeger for buying $1,000 in fundraiser tickets for Senator Albert Gore's presidential campaign, $1,000 in fundraiser tickets for Senator Jim Sasser's campaign and $600 in fundraiser tickets for Congressman Bart Gordon's campaign. Robert Traeger is the Vice President/General Manager of Toshiba.

Toshiba's reimbursement for Robert Traeger's political contributions constitutes an apparent violation of 2 U.S.C. § 441b on the part of the corporation. Accordingly, there is reason to believe Robert Traeger's involvement in this transaction also constitutes an apparent violation of 2 U.S.C. § 441b as he is a corporate officer who consented to a prohibited contribution under that section by receiving reimbursements for his campaign contributions. See 11 C.F.R. § 114.2(d).

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B. **Section 441f Contributions in Name of Another**

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person...." The term "person" includes corporations such as Toshiba. This section also establishes individual liability for permitting one's name to be used to effectuate a contribution by another:

> "No person shall knowingly permit his name to be used to effect such a contribution..."

Robert Traeger, by making contributions in his own name and receiving reimbursement from the corporation, has run afoul of Section 441f's prohibitions. Accordingly, there is reason to believe that Robert Traeger violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 28, 1988

Hiroshi Ikeda
Executive Vice President
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee 37087

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Ikeda:

On January 25, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Interrogatories and Request for Documents

9204090341 9

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Hiroshi Ikeda
Executive Vice President
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee 37087

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, 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.

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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.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory 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.

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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.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

TO: Hiroshi Ikeda

Please submit answers to the following questions:

1. State whether you authorized Toshiba-America, Inc. to reimburse Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,

b) Senator Albert Gore (for President),

c) Senator Sasser, or

d) Any other candidate for Federal office.

If so, please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation. If you did not authorize any of the above reimbursements, please identify the individual or individuals who gave their authorization.

2. State whether you, or any other director or officer, directed Robert Traeger to make contributions to the campaigns of Congressman Bart Gordon, Senator Albert Gore or Senator Jim Sasser. If so, please explain.

3. State whether you are an American citizen or lawfully admitted for permanent residence in the United States and state the date and place of your birth.

4. Identify the individual or individuals who initiated the plan or system through which Toshiba-America, Inc. reimbursed Robert Traeger for political contributions. Please explain.

5. State whether Toshiba-America, Inc. reimbursed officers, directors or employees other than Robert Traeger for making contributions to candidates or their political committees. If so, please state the date, amount and form of each reimbursement and whether you authorized the payment. In addition, please identify the individuals who received reimbursement from Toshiba and the committees that received contributions for which the contributors were reimbursed by Toshiba.

6. State whether any information was conveyed to any candidate or candidate's committee regarding Toshiba's reimbursement or direction of Robert Traeger's contributions.

7. State whether Toshiba International, Inc. was involved in any way, directly or indirectly, in providing reimbursement to Toshiba-America, Inc. for its reimbursement of Robert Traeger's political contributions or of any other employee's, officer's or director's political contributions. If so, please explain.

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8. State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

9. State whether Toshiba International, Inc. was involved in any way, directly or indirectly, in directing Robert Traeger or any other officer, director or employee to make contributions to particular candidates or political committees. Please explain.

10. Please provide photocopies of all documents relating to the initiation, development and/or execution of Toshiba-America reimbursement of campaign contributions.

11. Please provide photocopies of all documents relating to your authorization of Toshiba America's reimbursement of Robert Traeger for his political contributions.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Hiroshi Ikeda MUR 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information referred to the Commission reveals that Robert Traeger, an officer of the Toshiba-America corporation, has made contributions to federal candidates and political committees for which he has received reimbursement from the Toshiba-America corporation. Hiroshi Ikeda, the Executive Vice President for the Toshiba Tennessee manufacturing company reportedly authorized the corporation to make these reimbursements. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Contributions by Corporations

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or

9204090342 5

political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is clearly prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who participates in any arrangement designed to reimburse individuals for their campaign contributions with corporate funds incurs personal liability under the Act.

Toshiba-America, Inc. has allegedly reimbursed Robert Traeger for his contributions to various candidates for federal office. Specifically, it is alleged that Toshiba-America, Inc. reimbursed Robert Traeger for buying $1,000 in fundraiser tickets for Albert Gore's presidential campaign, $1,000 in fundraiser tickets for Senator Sasser's campaign and $600 in fundraiser tickets for Congressman Bart Gordon's campaign. The reimbursement by the corporation for these contributions was reportedly approved by Hiroshi Ikeda, the Executive Vice President for the Toshiba Tennessee manufacturing company.

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Hiroshi Ikeda's involvement in this transaction constitutes an apparent violation of 2 U.S.C. § 441b as he consented to a prohibited contribution under that section by authorizing the company to reimburse Traeger with corporate funds. See 11 C.F.R. § 114.2(d).

2. Section 441f Contributions in Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" includes corporations such as Toshiba. The facts set forth in this report with respect to Toshiba's transactions reflect a scheme by which Toshiba made corporate contributions to federal candidates and political committees under Robert Traeger's name.

The Commission has interpreted section 441f to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. See MUR 1611. By authorizing the reimbursement of Robert Traeger's political contributions with corporate funds, Hiroshi Ikeda assisted Toshiba in making contributions in the name of another. Accordingly, there is reason to believe that Hiroshi Ikeda violated 2 U.S.C. § 441f.

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MCC#6344

PERKINS COIE

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

February 5, 1988

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

Re: MUR 2575 - Robert H. Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

This letter is to request an extension of time in which to respond to the Federal Election Commission's finding of reason to believe in the above-referenced Matter Under Review.

Your letter of January 28, 1988, notifying Mr. Traeger of the Commission's findings, was received by him on February 1, 1988. The response is currently due, therefore, no later than February 16. We were retained by Mr. Traeger on February 4. In order to compile the necessary information and documents and to prepare a complete response to the 18 interrogatories and requests for documents contained in your letter, we request an additional 20 days within in which to respond. With this extension, the response would be due no later than March 7, 1988.

Thank you for your prompt consideration of this request. If you have any questions, please do not hesitate to contact either the undersigned or Judith L. Corley of this office.

Very truly yours,

Robert F. Bauer
Counsel to Robert H. Traeger

cc: Robert H. Traeger

16220

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -8 PM 2:49

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MCC#1343 HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 FEB -5 PM 12:34

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Robert F. Bauer/Judith L. Corley

ADDRESS: Perkins Coie
1110 Vermont Ave., N.W.
Washington, D.C. 20005

TELEPHONE: 202/887-9030

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -9 PM 1:32

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.

2/4/88
Date

R H Traeger
Signature

RESPONDENT'S NAME: Robert H. Traeger

ADDRESS: Toshiba America, Inc.
1420 Toshiba Drive
Lebanon, TN 37087

HOME PHONE:

BUSINESS PHONE: 615/444-8501

9204090034 29

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 9, 1988

Robert F. Bauer, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D. C. 20005

RE: MUR 2575
Robert H. Traeger

Dear Mr. Bauer:

This is in response to your letter dated February 5, 1988, which we received on February 8, 1988, requesting an extension until March 7, 1988 to respond to the Commission's reason to believe determination in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by close of business on March 7, 1988.

If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

9204090343O

GCC#6356

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

February 8, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB -8 PM 5:01

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
Washington, D.C. 20463

Attention: Marybeth Greene

Re: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Noble:

This office represents Mr. Hiroshi Ikeda in the above-captioned matter. Enclosed please find an executed Statement of Designation of Counsel which confirms our representation.

Mr. Ikeda received Chairman Thomas J. Josefiak's letter of January 28, 1988 on February 1, 1988. Chairman Josefiak's letter was accompanied by Interrogatories and Request for Documents with a requested response date of 15 days after receipt, i.e., February 16. I hereby request an extension of 20 days up to and including March 7, 1988, within which to respond and to produce documents. An extension is necessary in order to produce documents and to enable counsel to travel to Tennessee to confer with Mr. Ikeda for the purpose of preparing a response on his behalf.

Your favorable consideration of this request will be appreciated.

Sincerely,

Jan W. Baran

Enclosure
cc: Hiroshi Ikeda

9204090343 1

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Jan W. Baran

ADDRESS: Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

TELEPHONE: 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.

2/3/1988
Date

H. Ikeda
Signature

RESPONDENT'S NAME: Hiroshi Ikeda

ADDRESS:

HOME PHONE:

BUSINESS PHONE:

9204090343 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 9, 1988

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

This is in response to your letter dated February 8, 1988, which we received on the same date, requesting an extension of 20 days until March 7, 1988 to respond to the Commission's reason to believe findings in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by close of business on March 7, 1988.

If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

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MUR 2575
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 FEB 18 AM 8:51

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKARSLAW-WASH
TELECOPIER:
(202) 393-5760
DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000
ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700
40 FLOOR, HIGHTA CENTRAL BUILDING
1-2-9 HIGHI SHINBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-588-3850

February 12, 1988

Judybeth Greene, Esq.
Office of General Counsel
Federal Election Commission
999 E Street
Washington, D.C. 20463

Re: MUR 2575
Toshiba America, Inc., et al.

Dear Ms. Greene:

Skadden, Arps, Slate, Meagher & Flom has been retained to represent Toshiba America, Inc. in the above-referenced action. Unfortunately, I have yet to receive the Designation of Counsel form. I expect to receive it on February 17, 1988. I will hand-deliver it to your office, under separate cover, on that day.

I am requesting an additional twenty days to respond to the reason to believe finding and the interrogatories so that, to the extent possible, the corporation has an opportunity to ascertain the facts in this matter.

If the twenty day extension is granted, based on the date of receipt of the reason to believe notice, the response would be due on March 8, 1988.

Thank you for your consideration of this request.

Sincerely,

Kenneth A. Gross

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 FEB 18 AM 8:16

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Kenneth A. Gross, Esq.

ADDRESS: Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

TELEPHONE: (202) 371-7000

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.

FEB 15 1988
Date February 15, 1988

Signature
Nobuo Ishizaka, Chairman & CEO
Toshiba America, Inc.

RESPONDENT'S NAME: Toshiba America, Inc.

ADDRESS: 375 Park Avenue
New York, New York 10152

HOME PHONE: (212) 838-6508

BUSINESS PHONE: (212) 308-2040

9204090343 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 19, 1988

Kenneth Gross, Esquire
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.

Dear Mr. Gross:

This is in response to your letter dated February 12, 1988, which we received on February 18, 1988, requesting an extension of 20 days to respond to the Commission's reason to believe finding in the above-captioned matter. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by close of business on March 8, 1988.

If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

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CCT 6646

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FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 MAR -1 PM 4:37

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

March 1, 1988

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

Attn: Lois Lerner

RE: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Noble:

I am writing with respect to Mr. Ikeda's response in this matter currently due on March 7, 1988. Due to scheduling difficulties with Mr. Ikeda, I hereby request an additional seven days in which to respond to the Commission's Interrogatories and Request for Production of Documents to and including March 14, 1988.

Your favorable consideration of this request will be appreciated.

Sincerely yours,

Jan W. Baran

JWB/slg
cc: Hiroshi Ikeda

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plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 3, 1988

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

This is in response to your letter dated March 1, 1988, requesting an extension of an additional seven days to respond to the Commission's 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 close of business on March 14, 1988.

If you have any questions, please contact Judybeth Greene, the attorney assigned to this matter at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

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MCC#6705

PERKINS COIE

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

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 MAR -7 PM 3:58

March 7, 1988

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

Re: MUR 2575 - Robert H. Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

Respondent Robert H. Traeger herewith replies through counsel to the Federal Election Commission's Interrogatories and Requests for production of Documents dated January 28, 1988.

Respondent intends to file in the near future an additional reply on the merits to the Commission's finding of reason to believe that Mr. Traeger violated the Federal Election Campaign Act of 1971, as amended. At this time, it is sufficient to state that Mr. Traeger believed, at the time it was proposed and implemented, that the method used to increase his salary to make political contributions was lawful.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Robert H. Traeger

16830

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Before the Federal Election Commission

MUR 2575

Respondent: Robert H. Traeger

ANSWERS TO INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

The answers to these interrogatories are based on the recollections of Robert H. Traeger, and on information derived from the files and records in Mr. Traeger's possession and control.

Interrogatory No. 1:

State whether you made political contributions in 1986 or 1987 to the political campaigns of:

a. Congressman Bart Gordon,
b. Senator Albert Gore (for President),
c. Senator James Sasser, or
d. Any other candidate for public office.

If so, please indicate the amount and date of each contribution to these candidates or their campaign committees.

During 1986 and 1987, Mr. Traeger made the following political contributions:

1/20/86	James Sasser	$500.00
4/1/86	Bart Gordon	$250.00
6/15/86	Steve Cobb	$25.00
1/20/87	Joe Bell	$50.00
6/11/87	Albert Gore	$1,000.00
7/16/87	Bart Gordon	$600.00
11/16/87	Bart Gordon	$250.00
11/16/87	Bob Clement	$100.00

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Interrogatory No. 2:

State whether Toshiba-America, Inc. reimbursed you for your contributions to Congressman Bart Gordon, Senator Albert Gore or Senator James Sasser or any of their campaign committees. Please list the date, amount and form (i.e., bonus, cash, check, advance, salary increase, etc.) of all such corporate reimbursement payments.

Mr. Traeger was reimbursed by Toshiba-America, Inc. for the following contributions by means of bonus checks in the following amounts:

		Contribution		Bonus
6/11/87	Albert Gore	$1,000.00	6/11/87	$1,626.01
7/16/87	Bart Gordon	$600.00	7/16/87	$975.61
11/16/87	Bart Gordon	$250.00	11/23/87	$880.40[1/]
	Bob Clement	$100.00		

In addition, Mr. Traeger was reimbursed by Toshiba-America, Inc. for the following contributions made by his wife, Betty R. Traeger, by means of bonus checks in the following amounts:

		Contribution		Bonus
5/15/87	James Sasser	$1,000.00	5/15/87	$1,839.92
11/19/87	Albert Gore	$250.00	11/23/87	$880.40[1/]
11/27/87	Terry Holcomb	$500.00	11/25/87	$604.41

These amounts represent the gross amounts paid, on each day cited, to Mr. Traeger; when adjusted for tax withholding, they resulted in a net reimbursement to Mr. Traeger in the full

---

1/ This reimbursement covers three contributions made by Mr. Traeger and his wife:

11/16/87	Bart Gordon	$250
11/16/87	Bob Clement	$100
11/19/87	Albert Gore	$250

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amount of the contributions made by Mr. Traeger and his wife.

Interrogatory No. 3:

State whether any director or officer of Toshiba-America, Inc. or Toshiba International directed you to contribute to the campaigns of Congressman Bart Gordon, Senator Albert Gore or Senator James Sasser or suggested that you do so. If so, please identify the individuals, including their nationalities and positions in the company and the content of the conversations with those individuals regarding your campaign contributions.

No director or officer of Toshiba-America, Inc. or Toshiba International suggested or directed that Mr. Traeger make any contribution to any campaign for public office.

Interrogatory No. 4:

Identify the individual(s) who authorized Toshiba-America, Inc. to reimburse you for your political contributions. Please include the positions and nationalities of these individuals.

The individual who authorized the reimbusement of Mr. Traeger for his political contributions was Mr. Hiroshi Ikeda, a Japanese citizen, who is Chief Executive Officer of Toshiba-America, Inc.

Interrogatory No. 5:

Identify the individual(s) who initiated the plan or system through which Toshiba-America, Inc. reimbursed you for your political contributions. Please include the position and nationality of these individuals and explain your knowledge of the plan.

The individual who initiated the plan for reimbursement for

9204090344 2

political contributions was Mr. Traeger, a United States citizen, who is Vice President and General Manager of the Manufacturing Division of Toshiba-America, Inc. His knowledge of the plan comes from his having initiated it.

Interrogatory No. 6:

Explain how you were first approached by officials of Toshiba-America, Inc. regarding its plan to repay you for your political contributions.

As stated in response to Interrogatory No. 5, Mr. Traeger was not approached by any official of Toshiba-America regarding a plan to reimburse him for political contributions.

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Interrogatory No. 7:

State whether Toshiba-America, Inc. compensated you financially or otherwise, for giving contributions to candidates and political committees beyond the amount of direct reimbursements.

No.

Interrogatory No. 8:

State whether other Toshiba-America, Inc. officers, directors, or employees were reimbursed by Toshiba-America for making contributions to candidates or their political committees.

Mr. Traeger has no personal knowledge of other officers, directors or employees who may have been reimbursed by

Toshiba-America, Inc. for making contributions to candidates or their political committees.

Interrogatory No. 9:

State whether you were reimbursed for contributions made to candidates other than Congressman Bart Gordon, Senator Albert Gore and Senator Sasser. If so, please identify the contributions for which you were reimbursed.

All contributions to candidates for which Mr. Traeger was reimbursed are identified in the response to Interrogatory No. 2 above.

Interrogatory No. 10:

State whether you informed any of the recipients of your contributions that Toshiba-America, Inc. had reimbursed you for your contributions.

Mr. Traeger did not inform any of the recipients of his contributions that Toshiba-America, Inc. had reimbursed him for his contributions.

Interrogatory No. 11:

State whether any of the political committees or candidates to whom you gave contributions knew from any other source that Toshiba-America had reimbursed you or planned to reimburse you for your contribution.

Upon information and belief, Toshiba-America, Inc. has, within the past two weeks, contacted some, if not all, of the candidates to whom Mr. Traeger made reimbursed contributions and informed these candidates that Toshiba-America had reimbursed him.

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Toshiba International, Inc. was not involved in any way, directly or indirectly, in directing Mr. Traeger to make contributions to particular candidates or political committees.

Interrogatory No. 15:

> Please provide photocopies of both sides of every check received as reimbursement for a campaign contribution and every check written as a direct campaign contribution for which reimbursement was paid or promised by Toshiba-America, Inc. or any Toshiba-America representative.

Photocopies of all checks received as reimbursement and all checks written as direct campaign contributions for which reimbursement was paid are attached to these responses to interrogatories.

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Interrogatory No. 16:

> Please provide photocopies of any documents relating to the initiation, development and execution of Toshiba's reimbursement of campaign contributions.

Upon information and belief, there are no documents related to the initiation, development and execution of Toshiba-America's reimbursement of campaign contributions.

Interrogatory No. 17:

> Please provide an itemized list with supporting documentation of all forms of payment which you have received from Toshiba-America, Inc. within the past two years stating the date, amount and nature of each payment.

Respondent objects to this interrogatory as overly broad and unduly burdensome. The interrogatory does not seek relevant information. Mr. Traeger has provided all available information concerning reimbursements to him by Toshiba-America, Inc. for political contributions.

Interrogatory No. 18:

Please provide an itemized list with supporting documentation of all contributions you made to candidates and their political committees within the past two years, stating the date, amount and receipt of each contribution.

All contributions made by Mr. Traeger to candidates and their political committees have been itemized above in response to Interrogatories No. 1 and 2. Supporting documentation for these contributions was provided in response to Interrogatory No. 15.

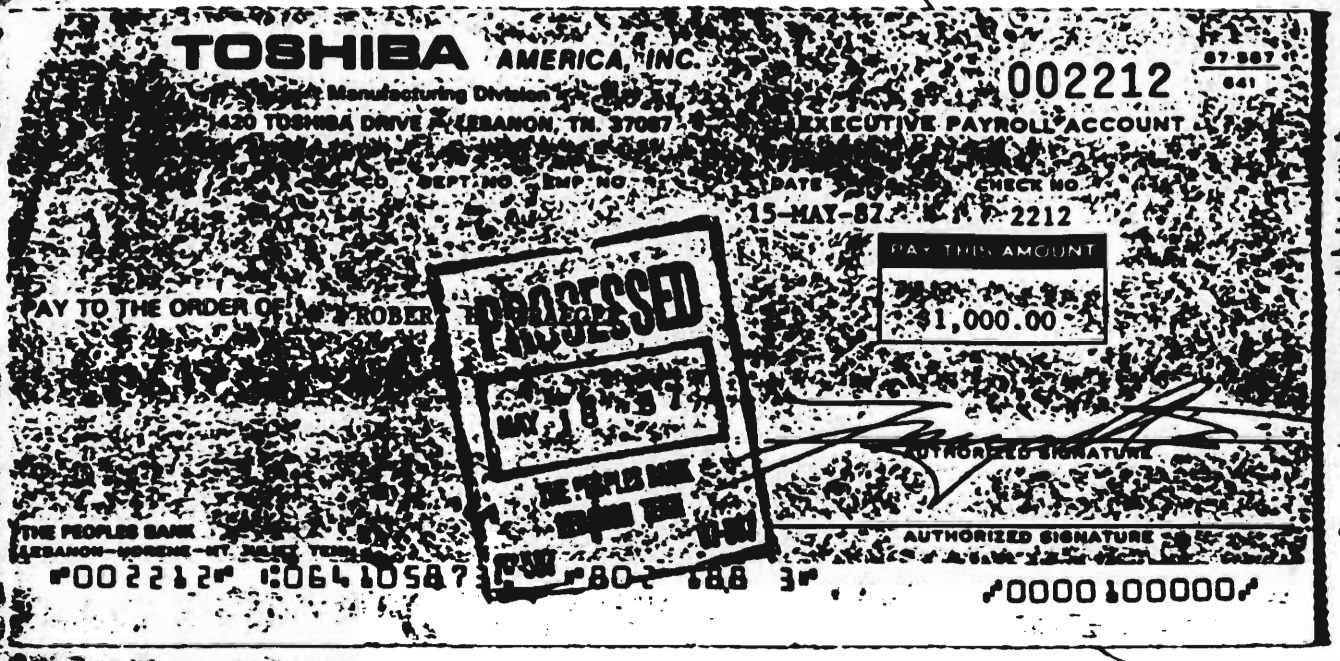
Respectfully submitted,

Robert F. Bauer
Judith L. Corley
Counsel for Robert H. Traeger

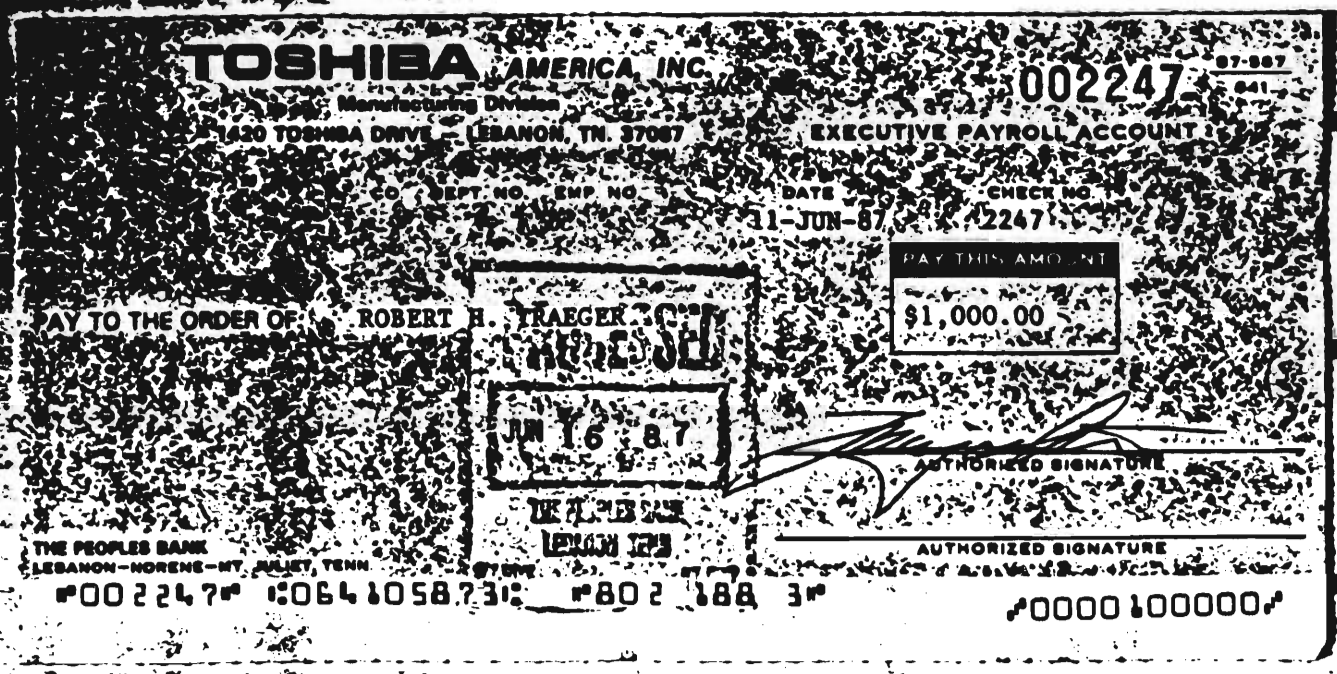
cc: Robert H. Traeger

16240

92040903446



TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE — LEBANON, TN. 37087
87-887
641
002212
EXECUTIVE PAYROLL ACCOUNT
CO. DEPT. NO. EMP. NO.
DATE 15-MAY-87
CHECK NO. 2212
PAY THIS AMOUNT
$1,000.00
PAY TO THE ORDER OF ROBER
PROCESSED
MAY 18 87
AUTHORIZED SIGNATURE
THE PEOPLES BANK
LEBANON—NORENE—MT. JULIET, TENN.
AUTHORIZED SIGNATURE
⑈002212⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈



TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE — LEBANON, TN. 37087
87-887
641
002247
EXECUTIVE PAYROLL ACCOUNT
CO. DEPT. NO. EMP. NO.
DATE 11-JUN-87
CHECK NO. 2247
PAY THIS AMOUNT
$1,000.00
PAY TO THE ORDER OF ROBERT H. TRAEGER
PROCESSED
JUN 16 87
AUTHORIZED SIGNATURE
THE PEOPLES BANK
LEBANON—NORENE—MT. JULIET, TENN.
AUTHORIZED SIGNATURE
⑈002247⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈

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COMMERCE UNION BANK
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Robert R Thayer

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PAY ANY BANK, P.E.O.
COMMERCE
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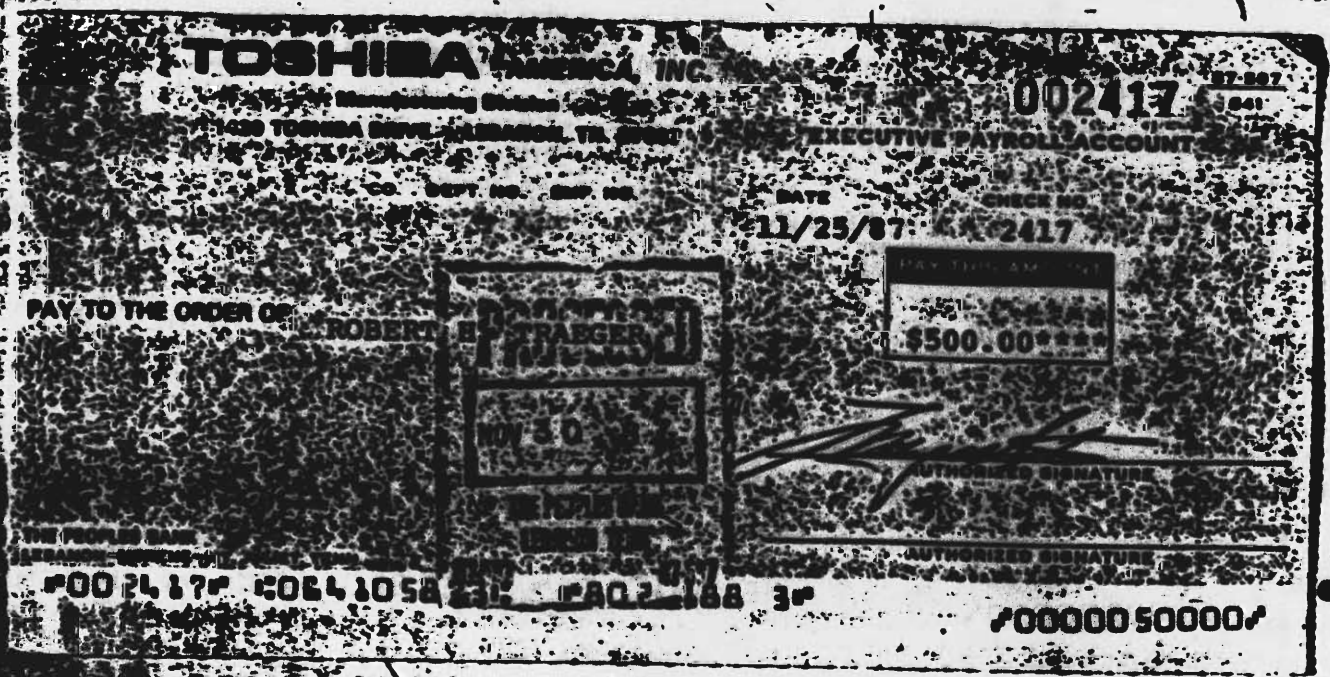
Robert R Thayer

PAY ANY BANK, P.E.O.
SCHOOL CREDIT UNION
NASHVILLE, TENN.

NOV 24 97

0010104128311246B7 9329 0109833870 DEP-DTH

⑈111805081⑈


TOSHIBA AMERICA, INC.

002417

EXECUTIVE PAYROLL ACCOUNT

DATE 11/25/87

2417

$500.00

PAY TO THE ORDER OF ROBERT

NOV 30

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

⑈002417⑈ ⑆064105⑆ ⑈0022 188 3⑈ ⑈00000 50000⑈

Robert R. Thorson

0101341151118787 3738 - 0109833870 DEP-OTH

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NOV 13 1978
DEPT. OF NAT. RES.
DIV. OF WATER RES.

42 A

ACCOUNT NO.

9204090345 2

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4194

Pay to the order of Congressman Bob Gordon Campaign $ 250.00

two hundred fifty and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For _____

/00000250000/

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4195

11/16 19 87

Pay to the order of Clement for Congress $ 100.00

One hundred and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For _____

/00000010000/

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3644

5/15/ 1987

Pay to the order of Friends of Jim Sasser $ 1000.00

One thousand and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

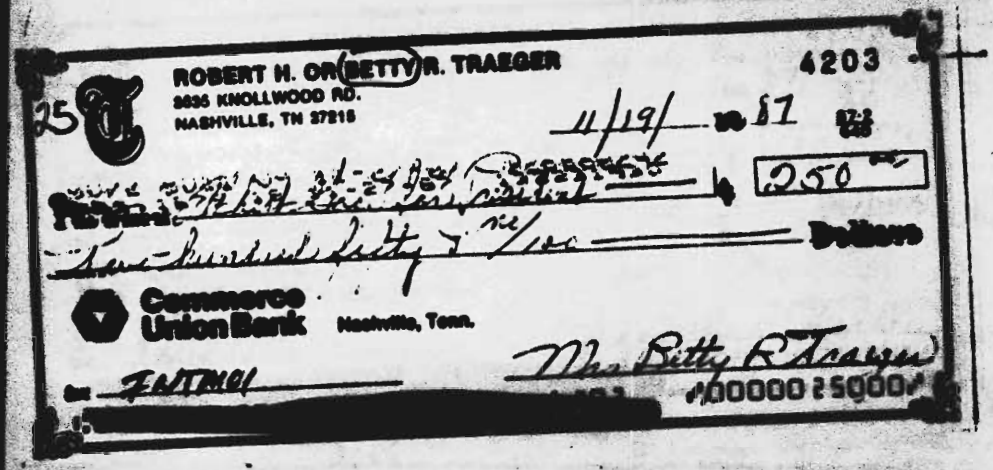
For _____ Mrs Betty R. Traeger

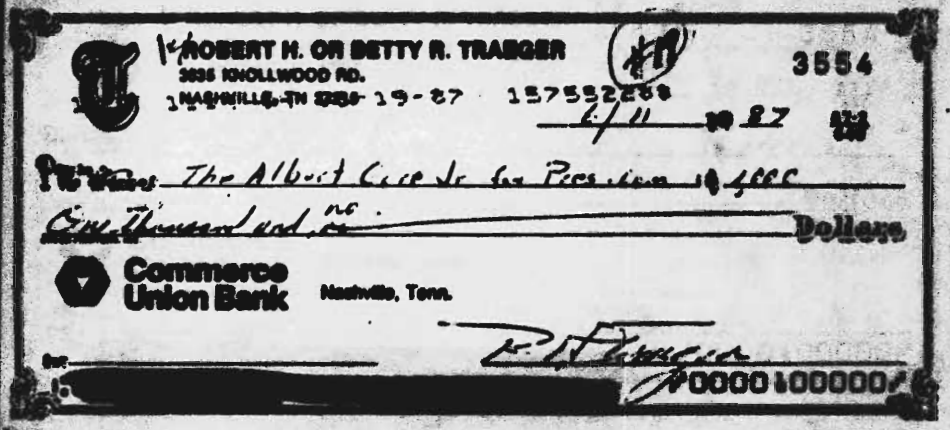
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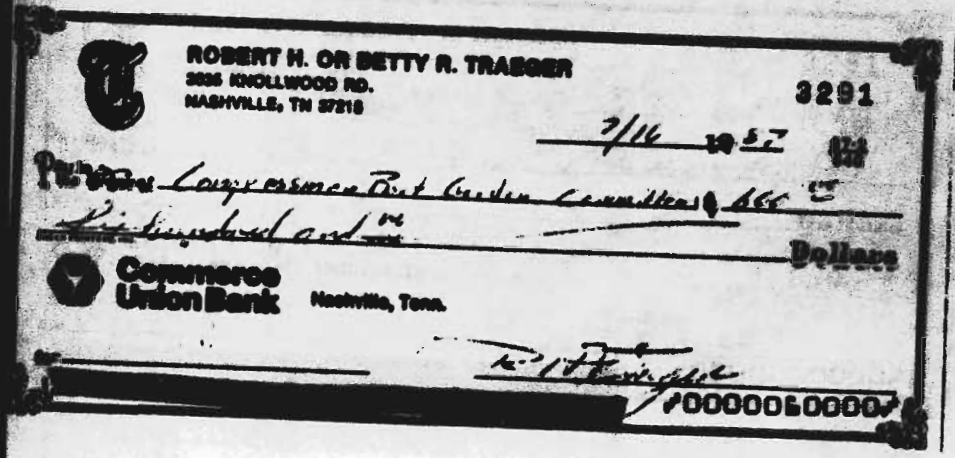
FOR DEPOSIT ONLY
BART GORDON FOR CONGRESS

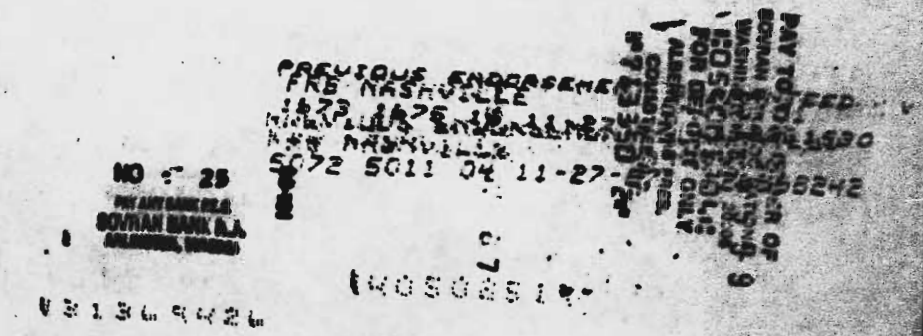
Pay to the Order of
THIRD NATIONAL BANK
NASHVILLE, TENN.
FOR DEPOSIT ONLY
CITIZENS FOR BOB CLEMENT
421-29-24

9204090345 3


ROBERT H. OR BETTY R. TRAEGER
3036 KNOLLWOOD RD.
NASHVILLE, TN 37215
4203
11/19 19 87
Pay to the Order of Congressman Bill Gordon Committee $ 250 00
Two hundred fifty and 00/100 Dollars
Commerce Union Bank Nashville, Tenn.
For FAITHCI
Mrs Betty R Traeger
⑈000002500⑈


ROBERT H. OR BETTY R. TRAEGER
3036 KNOLLWOOD RD.
NASHVILLE, TN 37215 19-87 157552268
3554
2/11 19 87
Pay to the Order of The Albert Gore Jr for Pres Com $ 1000 00
One thousand and no/100 Dollars
Commerce Union Bank Nashville, Tenn.
For
⑈000100000⑈


ROBERT H. OR BETTY R. TRAEGER
3036 KNOLLWOOD RD.
NASHVILLE, TN 37215
3291
3/16 19 87
Pay to the Order of Congressman Bill Gordon Committee $ 500 00
Five hundred and no/100 Dollars
Commerce Union Bank Nashville, Tenn.
For
⑈000050000⑈


PREVIOUS ENDORSEMENT GUARANTEED
FRB NASHVILLE
1373 1126 04 11-27-87
NASHVILLE
5072 5011 04 11-27-87
NO 25
SOVRAN BANK N.A.
PAY TO THE ORDER OF
FOR DEPOSIT ONLY
BANK OF CORDON FOR CONGRESS


PREVIOUS ENDORSEMENT GUARANTEED
FRB NASHVILLE
1377 1114 04 08-19-87
157552268
15-120
FOR DEPOSIT ONLY
BANK OF CORDON FOR CONGRESS

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4224

11/27 19 87 87-2 640

PAY TO THE ORDER OF Friends for Terry Holcomb $ 500.00

Five Hundred & no/100 Dollars

Commerce Union Bank Nashville, Tenn.

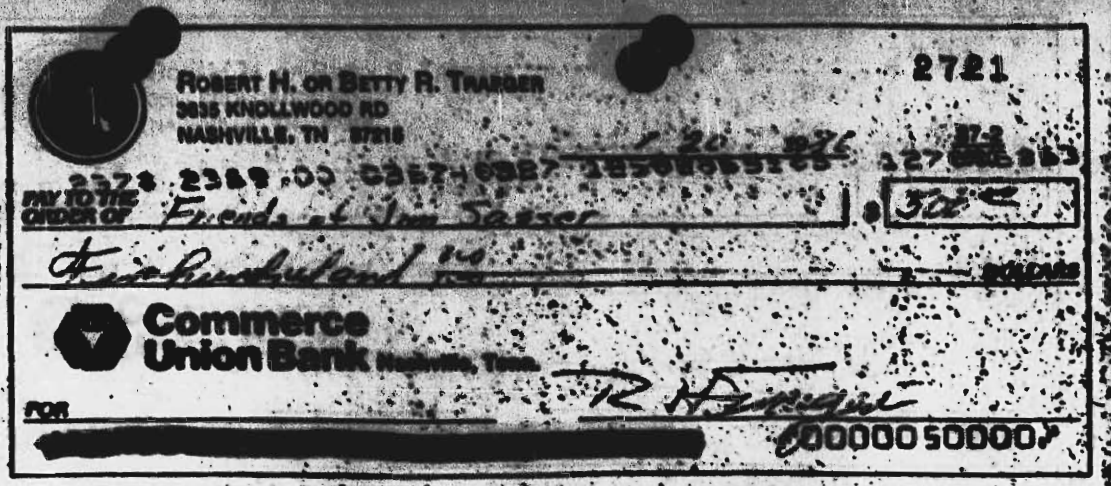
FOR R&B

Mrs Betty R Traeger

⑈00000 90000⑈

⑆092409034⑆54

For Deposit Only
Friends for Terry Holcomb
A/C 0095418910



ROBERT H. OR BETTY R. TRABER
3635 KNOLLWOOD RD
NASHVILLE, TN 37216

2721

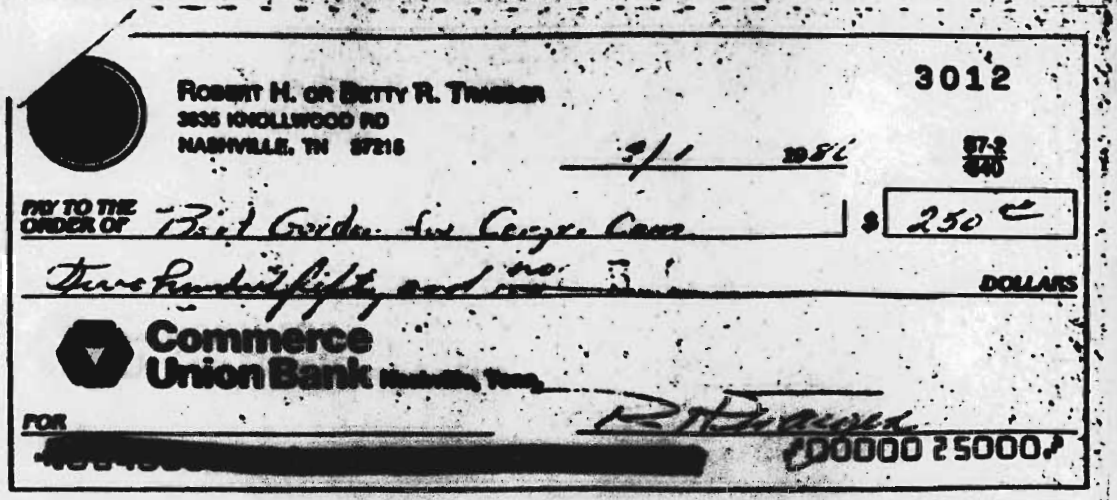
PAY TO THE ORDER OF Friends of Jim Sasser — $ 50 00

Fifty and no/100 DOLLARS

Commerce Union Bank Nashville, Tenn.

FOR [redacted] R H Traber

⑆000000 50000⑆



ROBERT H. OR BETTY R. TRABER
3635 KNOLLWOOD RD
NASHVILLE, TN 37216

3012

3/1 1986

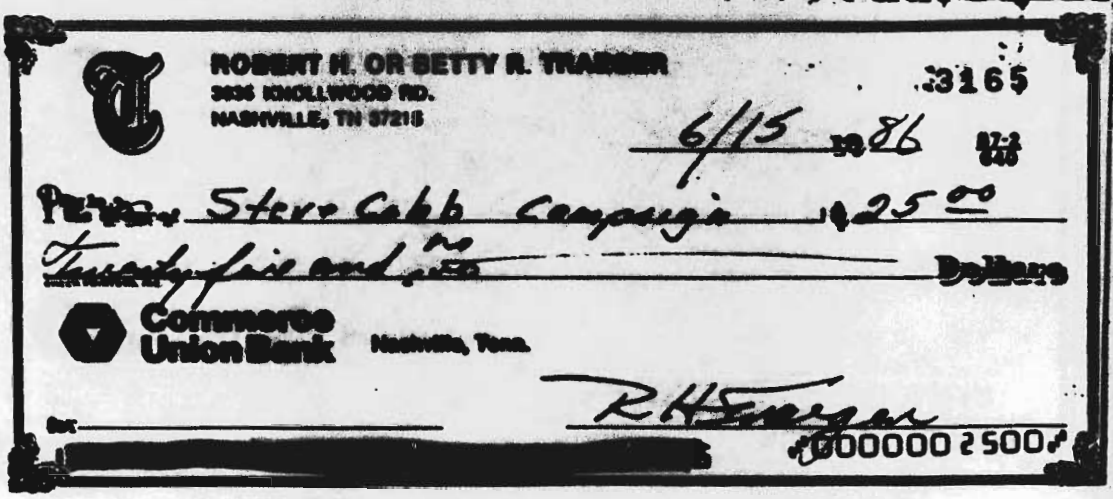
PAY TO THE ORDER OF Bill Gordon for Congress Comm — $ 250 00

Two hundred fifty and no/100 DOLLARS

Commerce Union Bank Nashville, Tenn.

FOR [redacted] R H Traber

⑆000000 25000⑆



ROBERT H. OR BETTY R. TRABER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37216

3165

6/15 1986

Pay to the order of Steve Cobb Campaign — $ 25 00

Twenty five and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For [redacted] R H Traber

⑆000000 2500⑆

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9204060034 56

FOR DEPOSIT ONLY
THIRD NATIONAL BANK

PROCESSED
THIRD NATL BANK
NASHVILLE, TENN.

874

FOR DEPOSIT ONLY
BANK OF COMMERCE

NATIONAL BANK

FEB 86

UNDERSIGNED'S AGREEMENT GUARANTEED

125940651

FOR DEPOSIT ONLY
BANK OF COMMERCE

ROBERT H. OR BETTY R. TRA[illegible]
3535 KNOLLWOOD RD.
NASHVILLE, TN 37215

3283

1/30 19 87

Pay to Bell for Representation $ 50.00

Fifty and 00 Dollars

Commerce Union Bank Nashville, Tenn.

R H Trotter

[redacted] 0000005000

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GCC#6765
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 MAR 14 AM 10:06

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKARSLAW-WASH
TELECOPIER:
(202) 393-5760

DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000

ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800

ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000

300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000

333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

16 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 NISHI SHIMBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-503-3690

March 8, 1988

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463
Attn: Judybeth Greene, Esq.

Re: MUR 2575
Toshiba America, Inc.

Dear Mr. Noble:

I. Background

This response, including the attached answers to the interrogatories, is submitted on behalf of Toshiba America, Inc. ("TAI"), a New York corporation. TAI is headquartered in Wayne, New Jersey, and the Chief Executive's offices are located in New York City. The individuals who were involved in the alleged misconduct are executives at a TAI manufacturing plant in Lebanon, Tennessee. TAI manufactures microwave ovens and color television sets at the Lebanon facility.

II. Commission's Findings

On January 25, 1988, the Commission found reason to believe that TAI violated 2 U.S.C. §§ 441b and 441f. The Commission based its finding on the allegation that TAI reimbursed Robert Traeger for $2,600 in contributions for tickets to fundraisers of three campaigns. The Commission further reasoned that since Hiroshi Ikeda, the Executive Vice President of the TAI plant in Tennessee, approved the reimbursements, it had a sufficient basis to find reason to believe against the corporation for the actions of its two employees. The Commission also found reason to believe against TAI for a violation of section 441f because it appeared that it funneled corporate funds to federal candidates through at least one corporate officer.

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III. Facts

This matter did not come to the attention of TAI until the Commission notified the parties that it found reason to believe that a violation may have occurred. After learning of the alleged violations, TAI initiated an immediate inquiry into this matter. In the course of that inquiry, TAI has learned that the corporation made payments to a corporate executive who in turn made contributions in the same amount to federal candidates. The following discussion relates TAI's understanding of how this came about.

Robert Traeger, the Vice President and General Manager of the Tennessee plant, devised a plan whereby he would be paid additional compensation to cover contributions he anticipated making to candidates. Prior to making any contributions, Mr. Traeger went to his boss, Hiroshi Ikeda, the Executive Vice President of the Tennessee plant, and asked him to approve this plan.

At the time Mr. Traeger met with Mr. Ikeda (in April or May 1987), to discuss Mr. Traeger's plan, Mr. Ikeda had been in the United States approximately nine months.* Mr. Ikeda is totally unfamiliar with American politics, and he was not involved in Japanese political matters before he came to the United States. It should be noted, however, that corporate contributions are permissible in Japan and is the most common method of making contributions to candidates. Because of Mr. Ikeda's unfamiliarity with American politics and contribution practices, he was totally dependent on Mr. Traeger when it came to such matters. Moreover, Mr. Traeger led Mr. Ikeda to believe that the proposed activity was permissible. With that understanding, Mr. Ikeda approved the additional payments.

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* From the date of the April or May, 1987, meeting until the time the Commission found reason to believe, Mr. Ikeda and Mr. Traeger did not discuss anything pertaining to political contributions.

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Mr. Traeger decided whether to make contributions, to whom they should be made, and how much should be contributed. Mr. Traeger obtained the salary increase to cover the amount of the contributions he made by requesting payment directly from the comptroller of the Tennessee plant, Mr. Norm Nelson. Mr. Nelson sought Mr. Ikeda's approval of the first three payments to Traeger (the three contributions mentioned in the Commission's analysis) and, based on his prior discussion with Mr. Traeger, Mr. Ikeda approved the payments. See print-outs submitted with the interrogatory responses. Although Mr. Nelson did not seek Mr. Ikeda's approval after the first three payments, Mr. Traeger received two additional payments from the corporation for four additional contributions. The total amount disbursed to Mr. Traeger as salary increases for political contributions was $3,700, representing a total of seven contributions to five candidates. (One of the payments from the corporation covered three contributions).

After learning these facts, TAI promptly took the following steps to rectify the situation and ensure that impermissible activity does not recur:

a) TAI notified the recipient candidate committees, which are mentioned in the reason to believe notice, that they may have received improper contributions, and further informed them that it would facilitate refunds.*

b) TAI prepared a memorandum for distribution to its corporate executives outlining the rules concerning political contributions.

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* Prior to the time of this filing, TAI received confirmation from Gore for President that it refunded $750 to Betty Traeger and $500 to Robert H. Traeger. Those two contributions represent the total amount Gore for President received from the Traegers.

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c) TAI decided to expressly prohibit, as a matter of company policy, the making of corporate contributions, in any form or through any method, for federal or state elections.

d) TAI conducted a review and determined that the activity which occurred in this matter did not occur anywhere else in the company and that this was an isolated incident.

The only individuals who knew about the payments to Mr. Traeger were Hiroshi Ikeda, Norm Nelson, and apparently Tsunehiro Miyashita, the assistant treasurer of the Lebanon plant. It appears that Mr. Miyashita's only involvement was ministerial in that he signed the checks made out to Mr. Traeger. No other corporate employees were aware such activity had taken place prior to notification from the FEC.

In sum, since the time that TAI learned of this matter, it has taken every conceivable step to reverse the transactions in question and ensure that they do not recur.

IV. Past Commission Action

The pertinent facts of this case are materially indistinguishable from a similar matter which involved the use of corporate monies in making contributions in the name of another. See MUR 1094 (John Nicholson) (July 22, 1981). In that matter the highest ranking executive in the corporation consented to and facilitated the making of corporate contributions to individuals who, in turn, contributed those monies to a presidential campaign in their own names. Beyond the reason to believe stage, the Commission took no further action against the corporation, although it held the executive accountable for the violations.

The factors cited as the basis for not further pursuing the corporation in MUR 1094 parallel the mitigating factors in this case. In that MUR, the National Association of Real Estate Investment Trusts ("NAREIT"), a corporation, made five $250 contributions to John

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Anderson's presidential campaign. The contributions were given in the names of individuals so the funds could be matched with public funds. John Nicholson, the Executive Vice President of NAREIT (the senior staff position), implemented a plan along with the NAREIT Program Committee Chairman, whereby five individuals, including Nicholson, would each make a contribution out of their personal accounts to Anderson for President, in the amount of $250 each. NAREIT reimbursed the five contributors. Counsel for NAREIT argued that "one isolated transaction of an individual or individuals should not be attributed to [NAREIT] or any of its elected Officers or Directors who may have been innocently and inadvertently involved." Counsel further argued that a) if a violation occurred it did not arise out of any policy or practice of [NAREIT], b) NAREIT took steps to reverse the contributions upon learning the facts, and c) none of the officers or directors, except for Mr. Nicholson and the other individuals involved in carrying out the illegal conduct, were aware of the transactions.

The Commission considered these arguments and found Mr. Nicholson personally liable for the contributions, but took no further action against NAREIT, the corporate contributor. The reasons stated in the General Counsel's report for not further pursuing NAREIT are as follows:

a) No other officer or director of NAREIT (other than John Nicholson and others involved in making the contributions) had any knowledge of the transactions involving political payments, and

b) NAREIT voluntarily apprised the Commission of the violation at issue and undertook to reverse the illegal transactions.

The mitigating factors in MUR 1094 are in accord with the mitigating factors in this case. (Of course, TAI could not have brought this matter to the attention of the Commission because TAI did not learn of the possible violation until it received the reason to believe notice.) In fact, TAI has gone further than NAREIT in mitigating any impropriety, and the role that

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Mr. Nicholson played in carrying out the reimbursement scheme in MUR 1094 was far more active than the unwitting approval Mr. Ikeda provided in the present matter. Moreover, Mr. Ikeda is not the highest ranking official at TAI, he is merely the head of the Tennessee plant. The TAI high level officials at corporate headquarters and in the Chief Executive's office had no knowledge of the activity in question until the Commission found reason to believe.

Other Commission actions in similar circumstances support the same result as in the Nicholson matter. In MUR 1181, the Commission took no action against several corporations which made contributions in the names of individuals to George Bush's 1980 Presidential Committee even though the president of six of the corporations orchestrated the reimbursement of corporate funds to the individuals. Also, in the same matter, the Commission followed the recommendation of the General Counsel not to impute liability to the recipient campaign committee, notwithstanding the fact that the individual who carried out the illegal scheme was an official of the Presidential Committee. See MUR 1181 (Jualita Rivera de Vincenti) (May 20, 1981). In MUR 1181, it appears that the Commission was persuaded by the cooperation of the respondents and the prompt refund of the contributions.

It would be patently unfair to further pursue TAI for isolated actions in a Tennessee plant when it has taken prompt action to mitigate the improper conduct and ensure that it does not recur. Furthermore, even if TAI could technically be held accountable for the acts of its employees in this case, no further action beyond the reason to believe finding is needed to redress such culpability.

Accordingly, for the reasons stated, TAI respectfully requests that the Commission take no further action against it in this matter.

Sincerely,

Kenneth A. Gross

Enclosures

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CORPORATION CERTIFICATION

DISTRICT OF COLUMBIA)
) ss.:
)

NOBUO ISHIZAKA, being of full age, duly sworn according to law, upon oath deposes and says:

1. I am the Chairman and Chief Executive Officer of Toshiba America, Inc. and am authorized to execute these responses to interrogatories on its behalf.

2. The statements made in the attached responses to interrogatories are true to the best of my knowledge, information and belief.

Dated: March 3, 1988

Sworn to before me this
3rd day of March, 1988.

Janet Tyler Cushman

My Commission Expires September 30, 1990

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**RESPONSES OF TOSHIBA AMERICA, INC.
TO INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS IN MUR 2575**

Toshiba America, Inc. ("TAI") hereby responds to interrogatories with knowledge respecting the actions of the person executing these responses on behalf of the corporation and upon information and belief respecting the actions of all other persons.

INTERROGATORY NO. 1:

State whether TAI reimbursed Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,
b) Senator Albert Gore (for President),
c) Senator Jim Sasser, or
d) Any other candidate for Federal office.

If so, please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation.

RESPONSE TO INTERROGATORY NO. 1:

a) Yes.

b) Yes.

c) Yes.

d) Yes. Citizens for Bob Clement and Friends for Terry Holcomb.

TAI made payments to Robert Traeger as follows:

May 15, 1987	$1000
June 11, 1987	$1000
July 16, 1987	$600
November 23, 1987	$600

November 25, 1987 $500

All of such reimbursements were made by salary increase in the form of checks.

INTERROGATORY NO. 2:

State whether Toshiba International reimbursed Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,
b) Senator Albert Gore (for President),
c) Senator Jim Sasser, or
d) Any other candidate for Federal office.

If so, Please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation.

RESPONSE TO INTERROGATORY NO. 2:

a) No.

b) No.

c) No.

d) No.

INTERROGATORY NO. 3:

State the job titles and responsibilities of Robert Traeger and Hiroshi Ikeda.

RESPONSE TO INTERROGATORY NO. 3:

Robert Traeger is Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of TAI. Mr. Traeger's responsibilities include the management of the portion of the TAI plant which manufactures color television sets. Hiroshi Ikeda is Executive Vice President of the Manufacturing Division

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of the Consumer Products Group of TAI. Mr. Ikeda's responsibilities include the management of the TAI plant which manufactures color television sets and microwave ovens.

INTERROGATORY NO. 4:

Describe the way in which TAI reimbursed Robert Traeger for his contributions to political campaigns and candidates. Please note that this question includes both official and unofficial candidates.

RESPONSE TO INTERROGATORY NO. 4:

Robert Traeger or Betty Traeger, Mr. Traeger's wife, made contributions to candidates in the form of personal checks from their joint account. At the request of Robert Traeger, TAI made payments to Mr. Traeger in the amount of these contributions in the form of checks. TAI is unsure what "official and unofficial candidates" means, but the answer is responsive as to all candidates which meet the definition of candidate under the Federal Election Campaign Act, regardless of whether they have declared their candidacy.

INTERROGATORY NO. 5:

Identify the dates when Robert Traeger was reimbursed by TAI for making political contributions to campaigns and candidates for public office. Please state the amounts of these reimbursements and provide supporting documentation.

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RESPONSE TO INTERROGATORY NO. 5:

TAI made payments to Robert Traeger as follows:

May 15, 1987	$1000
June 11, 1987	$1000
July 16, 1987	$600
November 23, 1987	$600
November 25, 1987	$500

Relevant documents are provided herewith.

INTERROGATORY NO. 6:

State whether Hiroshi Ikeda authorized the reimbursement of Robert Traeger's political contributions by TAI.

RESPONSE TO INTERROGATORY NO. 6:

Hiroshi Ikeda authorized payments as per request of Robert Traeger.

INTERROGATORY NO. 7:

State whether Hiroshi Ikeda directed Robert Traeger to make contributions to any particular candidates or political committees.

RESPONSE TO INTERROGATORY NO. 7:

No. Mr. Traeger made all decisions with regard to making contributions.

INTERROGATORY NO. 8:

Identify all officers, directors and employees of TAI and Toshiba International who were involved in authorizing the reimbursement of Robert Traeger's political contributions by TAI. Please identify the positions of these individuals in the company, their nationalities

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and explain their roles in authorizing the political contribution reimbursements.

RESPONSE TO INTERROGATORY NO. 8:

Hiroshi Ikeda - Executive Vice President of the Manufacturing Division of the Consumer Products Group of TAI; Japanese. Mr. Ikeda, agreed to the payment concept presented to him by Robert Traeger. Mr. Ikeda initialed three authorization print-outs for the checks dated May 15, 1987, June 11, 1987 and July 16, 1987.

Robert H. Traeger - Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of TAI; American. Mr. Traeger conceived of the plan to receive additional salary payments in the amount of the contributions he and his wife made to candidates.

Norm Nelson - Comptroller of Finance Department of the Manufacturing Division of the Consumer Products Group of TAI; American. Mr. Nelson obtained Mr. Ikeda's initials on the above-referenced print-outs.

No one at Toshiba International was involved with any transaction at issue herein.

INTERROGATORY NO. 9:

Identify all officers, directors and employees of TAI and Toshiba International, Inc. who were involved in directing Robert Traeger to make contributions to particular candidates or political committees. Please identify the positions of these individuals in the compa-

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ny, their nationalities and explain their roles in directing Traeger's political contributions.

RESPONSE TO INTERROGATORY NO. 9:

None. Robert Traeger made all such decisions.

INTERROGATORY NO. 10:

State whether any officers or directors of TAI or Toshiba International were aware that Robert Traeger was receiving reimbursement from TAI for political contributions. Please identify these individuals and the titles of their positions with TAI or Toshiba International.

RESPONSE TO INTERROGATORY NO. 10:

Hiroshi Ikeda - Executive Vice President of the Manufacturing Division of the Consumer Products Group of TAI.

Robert H. Traeger - Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of TAI.

Norm Nelson - Comptroller of Finance Department of the Manufacturing Division of the Consumer Products Group of TAI.

Tsunehiro Miyashita - Vice President and Assistant Treasurer of Manufacturing Division of the Consumer Products Group of TAI. Mr. Miyashita was presumably aware of these payments by virtue of signing the checks made out to Robert Traeger.

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INTERROGATORY NO. 11:

Explain TAI's policy regarding corporate reimbursement of its employees, officers and directors for their political contributions.

RESPONSE TO INTERROGATORY NO. 11:

TAI has no policy regarding corporate reimbursement of its employees, officers, or directors for their political contributions.

INTERROGATORY NO. 12:

State whether TAI reimbursed any other employee, officer or director, other than Robert Traeger, for making contributions to federal, state, or local candidates for public office. Please state the name and nationality of the individual reimbursed, the form, date and amount of the reimbursement and the identities of the candidate or committee that reportedly received such political contribution.

RESPONSE TO INTERROGATORY NO. 12:

TAI made no other such payments.

INTERROGATORY NO. 13:

Please submit an itemized record of all disbursements by TAI to Robert Traeger in 1986 and 1987, including the amount, nature and date of each disbursement, together with all related supporting documents.

RESPONSE TO INTERROGATORY NO. 13:

TAI objects to interrogatory No. 13 as unduly burdensome and irrelevant. As an employee, Robert Traeger received numerous disbursements from TAI such as salary payments. The only disbursements that TAI made to Robert Traeger in 1986 and 1987 that in any way relate to

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the investigation in this matter are the disbursements listed in response to Interrogatory No. 1.

INTERROGATORY NO. 14:

Please submit photocopies of all documents relating to the initiation, development and execution of TAI's reimbursement of officers, directors, and employees for political contributions.

RESPONSE TO INTERROGATORY NO. 14:

All relevant documents are produced herewith.

INTERROGATORY NO. 15:

Please submit photocopies of both sides of every check issued by TAI to reimburse any director, officer or employee for campaign contributions.

RESPONSE TO INTERROGATORY NO. 15:

All relevant documents are produced herewith.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002212 87-887 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT NO. EMP. NO.

DATE 15-MAY-87

CHECK NO. 2212

PAY THIS AMOUNT

$1,000.00

PAY TO THE ORDER OF: ROBERT H. TRAEGER

MAY 18 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORNE–MT. JULIET, TENN.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002247 87-887 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT. NO. EMP. NO.

DATE 11-JUN-87

CHECK NO. 2247

$1,000.00

PAY TO THE ORDER OF: ROBERT H. TRAEGER

JUN 17 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORNE–MT. JULIET, TENN.

⑈002247⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈

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Robert H Truegar

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TOSHIBA AMERICA, INC.
(Manufacturing Division)
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002282 97-567/641

EXECUTIVE PAYROLL ACCOUNT

CO.	DEPT. NO.	EMP. NO.	DATE	CHECK NO.
			7/16/87	2282

PAY TO THE ORDER OF: ROBERT H. TRAEGER

*****$600.00

JUL 20 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—HERMITAGE—MT. JULIET, TENN.

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Robert H. Kruger

[illegible]

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE — LEBANON, TN. 37087

002417 87-597 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT. NO. EMP. NO.

DATE 11/25/87 CHECK NO. 2417

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$500.00****

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AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—NORENE—MT. JULIET, TENN.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE — LEBANON, TN. 37087

002416 87-597 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT. NO. EMP. NO.

DATE 11/23/87 CHECK NO. 2416

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$600.00****

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AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—NORENE—MT. JULIET, TENN.

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

DUPLICATE

JAN W. BARAN
(202) 429-7330

March 14, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
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Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Attn: Judybeth Greene

Re: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Noble:

This letter, along with the enclosed Response to the Interrogatories of the Federal Election Commission in MUR 2575 (Attachment A, and related exhibits), collectively referred to as "the Response", is submitted on behalf of Hiroshi Ikeda ("the Respondent") in Matter Under Review ("MUR") 2575. This Response concerns the Federal Election Commission's ("the FEC" or "the Commission") finding that there is reason to believe that Mr. Ikeda violated the Federal Election Campaign Act, as amended.

Introduction

This case concerns the manner in which contributions were made by Robert Traeger, a General Manager of the Lebanon, Tennessee facilities of Toshiba America, Inc. (TAI) and then later reimbursed by TAI.

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This response will detail Mr. Ikeda's role in these transactions and will show that Mr. Ikeda, a Japanese national, new to the United States, was not participating in any scheme to violate 2 U.S.C. §§ 441b(a) or 441f, but rather believed he was enabling Mr. Traeger to engage in transactions suggested by Mr. Traeger which he believed was acceptable practice in the United States.

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Facts

Mr. Ikeda came to the United States in July, 1986 to assume the position of Executive Vice President and General Manager of TAI's Lebanon, Tennessee facilities. Response to Interrogatories (hereinafter "Ints.") at #1. Mr. Ikeda, born in Chiba, Japan, Id. at #3, has been employed by Toshiba since 1965 and has dedicated his career to that company. He was not familiar with the United States or its customs, especially its political customs, before his arrival in July of 1986. Id. at #1. His main concern as Executive Vice President of TAI's Lebanon, Tennessee facilities is the production of color television sets. This facility also produces microwave ovens. Id. at #8.

Mr. Traeger, a general manager of TAI's Tennessee facility, was already so employed when Mr. Ikeda arrived in

this country. Id. at #4. Mr. Traeger was involved in community affairs and functioned unofficially as Toshiba's representative to the local community.

In early May, 1987, ten months after arriving in the United States Mr. Ikeda was approached by Mr. Traeger. Id. Mr. Traeger explained that he would like to make contributions for which he would like to be reimbursed by TAI. Id. Mr. Traeger represented that being reimbursed by the company is acceptable practice in the United States. Id.

Mr. Ikeda had no previous experience with the making of campaign contributions in the United States. In fact, Mr. Ikeda was not familiar with American politics or American politicians. Id. at #1. Mr. Ikeda approved the reimbursement requested by Mr. Traeger. Id. In making this decision, Mr. Ikeda was simply deferring to Mr. Traeger on matters of community relations as he had done since his arrival in the United States. As evidenced by public record, Mrs. Traeger apparently made a $1000 contribution to Senator Sasser.

Thereafter, Mr. Nelson, the comptroller of TAI's Tennessee facilities requested that Mr. Ikeda initial the payroll printout routinely distributed to him which reflected the check issued to Mr. Traeger. This check was issued on

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May 15, 1987. Exhibit 5. Mr. Ikeda signed and dated the printout granting Mr. Traeger a reimbursement. See Exhibit 1. Ints. at #1.

This same procedure was repeated each time that Mr. Traeger wanted additional reimbursements except that Mr. Ikeda was not asked to initial the printouts which reflected the November, 1987 reimbursements. Id.

Argument

As is apparent from the facts discussed above, Mr. Ikeda did not direct Mr. Traeger to make political contributions or even suggest to him that he make contributions. Ints. at #2. To the contrary, Mr. Traeger approached Mr. Ikeda about these reimbursements and told him that such a procedure was acceptable practice. Id. at ##1 & 4. Mr. Ikeda did not question the propriety of the plan as it involved a subject matter unfamiliar to him and, at best peripheral to his responsibilities at TAI. Id. at #8. Thus, he believed that he was authorizing Mr. Traeger to participate in a generally accepted practice as it was represented to him. Moreover, the fact that Mr. Ikeda deferred to Mr. Traeger on matters of public relations and the community, an area in which Mr. Traeger had great experience and Mr. Ikeda had none, is

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eminently understandable given that Mr. Ikeda had only been in the United States for a matter of months when Mr. Traeger proposed this plan to him. Mr. Ikeda was caught so unaware in this matter that he did not even know to whom the contributions were made, when they were made, or their amounts. Id. at #1. Rather, he had to ask TAI's comptroller to prepare a list of these transactions so that he could respond to the Commission's investigation. Id. Any alleged violations of the law which resulted from these activities were at all times unknown to Mr. Ikeda. Id. at #4.

Clearly Mr. Ikeda was unaware of the restrictions found in 2 U.S.C. § 441b, nor did he have any reason to suspect that a corporation could not make a contribution in connection with Federal elections. To the contrary, Mr. Ikeda was led to believe that the activity suggested to him by Mr. Traeger was a permissible and accepted corporate practice in the United States. To characterize Mr. Ikeda's action in this case as either authorization of a corporate contribution or "consent" to any contribution in violation of section 441b would therefore be grossly unfair. Mr. Ikeda did not take any affirmative steps to have these contributions made. He did not direct Mr. Traeger to make the contributions. Rather he was simply being responsive to what

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appeared to be a reasonable request by one of TAI's general managers who was active in community affairs. Mr. Ikeda was in no way culpable and thus no violation of section 441b should be found against him.

With respect to the Commission's finding of reason to believe that Mr. Ikeda violated 2 U.S.C. § 441f, that section by its terms does not apply to Mr. Ikeda. Section 441f states only that "[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution." The facts in this regard are clear: Mr. Ikeda did not make a contribution in the name of another person, nor did he permit his name to be used to effect these contributions.[1] Mr. Ikeda himself never even had the desire to make a contribution, nor did he ever have the desire for TAI to make a contribution. Thus, a finding against Mr. Ikeda with respect to this provision is not only inappropriate given the language of the statute, but unwarranted given the facts of this case.

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[1] The General Counsel's Factual and Legal Analysis contains a reference to MUR 1611 stating that this MUR stands for the proposition that those who "assist" in the making of section 441f contributions are also liable under that provision. However, Respondent has no basis upon which to respond to this allegation since MUR 1611 has not been closed and is not on the public record.

While the General Counsel's Factual and Legal Analysis did not address 2 U.S.C. § 441e, the Commission's Interrogatories ask questions pertinent to that provision. However, this provision is not implicated in this matter. It is true that Mr. Ikeda is not a citizen of the United States nor admitted for permanent residence. Ints. at #3. However, he has not violated any provision of the Act simply by virtue of that fact. Section 441e states that it is "unlawful for a foreign national directly or through any other person to make any contribution of money ... in connection with an election." Again, by its terms Section 441e does not apply to Mr. Ikeda. He clearly did not make these contributions directly. Moreover, he did not make these contributions indirectly. The overwhelming fact in this case is that Mr. Traeger was responsible for making these contributions and for TAI's involvement in this matter.

Further, to Mr. Ikeda's knowledge, no foreign money was involved in the making of these contributions. TAI is an American company with American holdings to the best of Mr. Ikeda's information. Further, Toshiba International was not involved in this transaction, and to Mr. Ikeda's knowledge are not even affiliated corporations. Id. at ##7 & 9. All

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monies spent by TAI are its alone. Thus, section 441e is not implicated by these contributions.

Conclusion

Mr. Ikeda was not an active participant in the making of any contributions to any candidates. As seen above, he was only in this country for a short period before Mr. Traeger approached him about this political activity. His lack of knowledge about American politics and about campaign financing in particular made him easily victimized.

Sincerely,

Jan W. Baran

Carol A. Laham

Carol A. Laham

Counsel for Hiroshi Ikeda

Enclosures
cc: Hiroshi Ikeda

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RESPONSE TO THE INTERROGATORIES OF THE FEDERAL ELECTION COMMISSION IN MUR 2575

QUESTION 1. State whether you authorized Toshiba-America, Inc. to reimburse Robert Traeger for contributions to the campaigns of:

a) Congressman Bart Gordon,

b) Senator Albert Gore (for President),

c) Senator Sasser, or

d) Any other candidate for Federal office.

If so, please indicate the amount, date and form (i.e. bonus, cash, check, advance, salary increase, etc.) of each reimbursement by the corporation. If you did not authorize any of the above reimbursements, please identify the individual or individuals who gave their authorization.

RESPONSE

I acknowledge that Toshiba America reimbursed Robert Traeger for contributions to Robert Clement, Congressman Bart Gordon, Senator Albert Gore, Terry Holcomb, and Senator Sasser. These checks were issued on the following dates and in the following amounts:

May 15, 1987	-	$1,000.00;
June 11, 1987	-	$1,000.00;
July 16, 1987	-	$ 600.00;
November 23, 1987	-	$ 600.00;
November 25, 1987	-	$ 500.00.

I did not request or suggest that Mr. Traeger make any contributions to any candidate. As indicated in response to Interrogatory 4 below, Mr. Traeger requested, on his own initiative, that he be permitted to make reimbursable contributions to several candidates. I am not familiar with American politics nor, more specifically, with any of the particular candidates to whom contributions were made. As a

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result, I defer to Mr. Traeger who is active in community affairs on these matters. When he asked whether he could make reimbursable contributions to candidates, and explained that this is acceptable practice in the United States, I approved of his suggestions.

Upon receiving notice of this investigation from the Federal Election Commission, I obtained a list of the people to whom contributions were made, the amounts of the contributions, and the amounts and dates of the bonus checks issued to Mr. Traeger. This list was prepared by Mr. Norman Nelson, comptroller of Toshiba America's Lebanon, Tennessee facilities, at my request. Contributions to the following candidates and in the following amounts were made:

Senator Sasser (May)	-	$1,000.00;
Senator Gore (June)	-	$1,000.00;
Congressman Gordon (July)	-	$ 600.00;
Congressman Gordon (Nov.)	-	$ 250.00;
Robert Clement (Nov.)	-	$ 100.00;
Senator Gore (Nov.)	-	$ 250.00;
Terry Holcomb (Nov.)	-	$ 500.00.

I was asked by Mr. Norman Nelson to initial the company printouts regularly distributed to me which reflected the issuance of the May, June, and July checks noted above. Mr. Nelson did not ask me to initial the company printout which reflected the issuance of the November checks.

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QUESTION 2. State whether you, or any other director or officer, directed Robert Traeger to make contributions to the campaigns of Congressman Bart Gordon, Senator Albert Gore or Senator Jim Sasser. If so, please explain.

RESPONSE

I did not direct Robert Traeger to make any contributions to any candidates, and to my knowledge, no other director or officer directed Robert Traeger to make any contributions to any candidates.

QUESTION 3. State whether you are an American citizen or lawfully admitted for permanent residence in the United States and state the date and place of your birth.

RESPONSE

I was born in Chiba, Japan, on September 11, 1941. I am currently in the United States on a Visa issued July 10, 1986. I am a Japanese citizen not admitted for permanent residence in the United States. I am not an American citizen.

QUESTION 4. Identify the individual or individuals who initiated the plan or system through which Toshiba-America, Inc. reimbursed Robert Traeger for political contributions. Please explain.

RESPONSE

Robert Traeger, a general manager at Toshiba America's Lebanon, Tennessee facilities who was so employed prior to my arrival in the United States, proposed this plan of

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reimbursement in early May, 1987. On each occasion in which a contribution was made, Mr. Traeger approached me with an invitation to a fundraising event which he had received. Mr. Traeger suggested that a contribution be made to the above-named individuals (See response to Interrogatory 1) and that the company reimburse him for the contributions. In seeking my permission for reimbursement, Mr. Traeger stated that this type of reimbursement was acceptable practice in the United States. Until I received the notification from the Federal Election Commission I did not know that Federal election laws existed or applied. I at all time assumed that these transactions were within the law.

To my knowledge, no other person suggested to Mr. Traeger that Toshiba America should reimburse him for these contributions.

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QUESTION 5. State whether Toshiba-America, Inc. reimbursed officers, directors or employees other than Robert Traeger for making contributions to candidates or their political committees. If so, please state the date, amount and form of each reimbursement and whether you authorized the payment. In addition, please identify the individuals who received reimbursement from Toshiba and the committees that received contributions for which the contributors were reimbursed by Toshiba.

RESPONSE

To my knowledge, Toshiba America has not reimbursed any other officers, directors or employees for making contributions to candidates or their political committees.

QUESTION 6. State whether any information was conveyed to any candidate or candidate's committee regarding Toshiba's reimbursement or direction of Robert Traeger's contributions.

RESPONSE

It is my understanding that since the initiation of this matter Toshiba America has conveyed information to some or all of the candidates or candidates' committees regarding these contributions.

QUESTION 7. State whether Toshiba International, Inc. was involved in any way, directly or indirectly, in providing reimbursement to Toshiba-America, Inc. for its reimbursement of Robert Traeger's political contributions or of any other employee's, officer's or director's political contributions. If so, please explain.

RESPONSE

To my knowledge, Toshiba International was not involved in any way, either directly or indirectly, in these transactions. In fact, to my knowledge Toshiba America and Toshiba International are not affiliated corporations.

QUESTION 8. State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

9204090349 3

RESPONSE

I am the Executive Vice President and General Manager of Toshiba America's Lebanon, Tennessee facilities. As such, my primary responsibility is the supervision of the manufacturing of color television sets. This facility also manufactures microwave ovens. However, I do not directly supervise the production of these ovens.

QUESTION 9. State whether Toshiba International, Inc. was involved in any way, directly or indirectly, in directing Robert Traeger or any other officer, director or employee to make contributions to particular candidates or political committees. Please explain.

RESPONSE

To my knowledge, Toshiba International was not involved in any way, either directly or indirectly, in directing Robert Traeger or any other officer, director or employee to make contributions to particular candidates or political committees.

QUESTION 10. Please provide photocopies of all documents relating to the initiation, development and/or execution of Toshiba-America reimbursement of campaign contributions.

RESPONSE

These documents have been provided as Exhibits 1-5 of this Response. Exhibits 1 through 4 are copies of TAI's May,

9204090349 4

June, July and November, 1987 printouts respectively. Exhibit 5 is copies of each reimbursement check issued to Mr. Traeger as identified in this response.

QUESTION 11. Please provide photocopies of all documents relating to your authorization of Toshiba-America's reimbursement of Robert Traeger for his political contributions.

RESPONSE

There are no additional documents in response to this request.

The above statements are true to the best of my knowledge and belief.

H. Ikeda

Hiroshi Ikeda

LEBANON, TENNESSEE

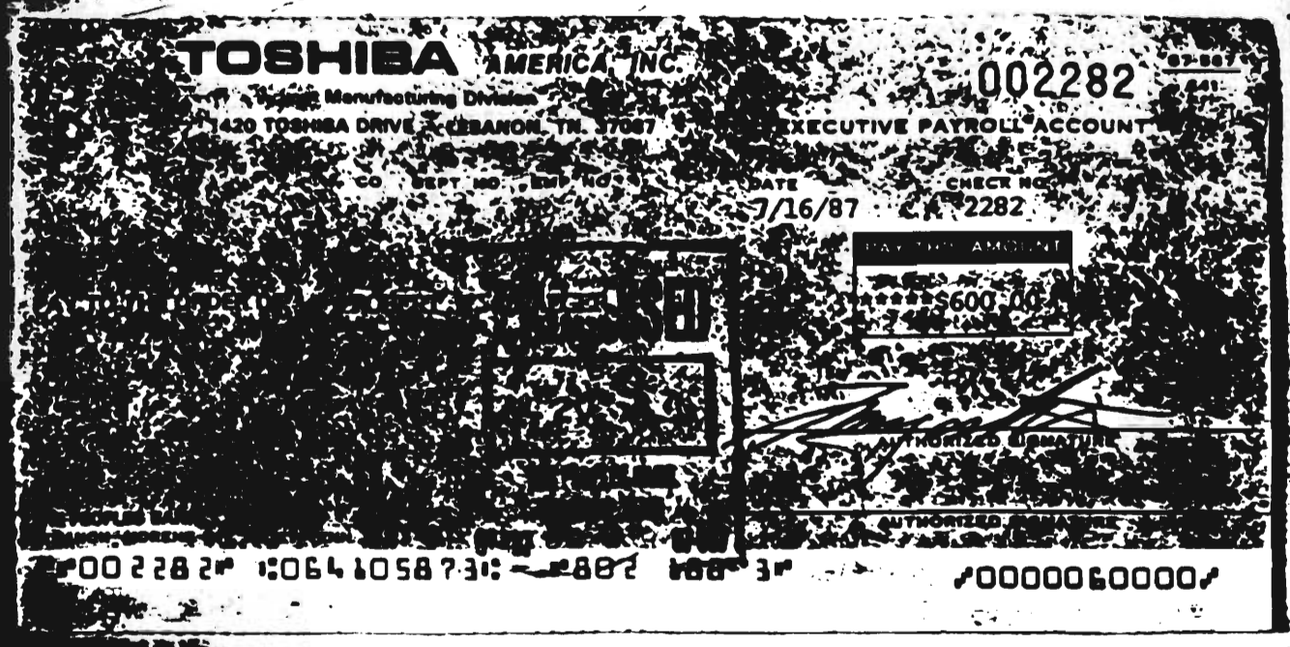
Subscribed to and sworn to before me this 11th day of March, 1988.

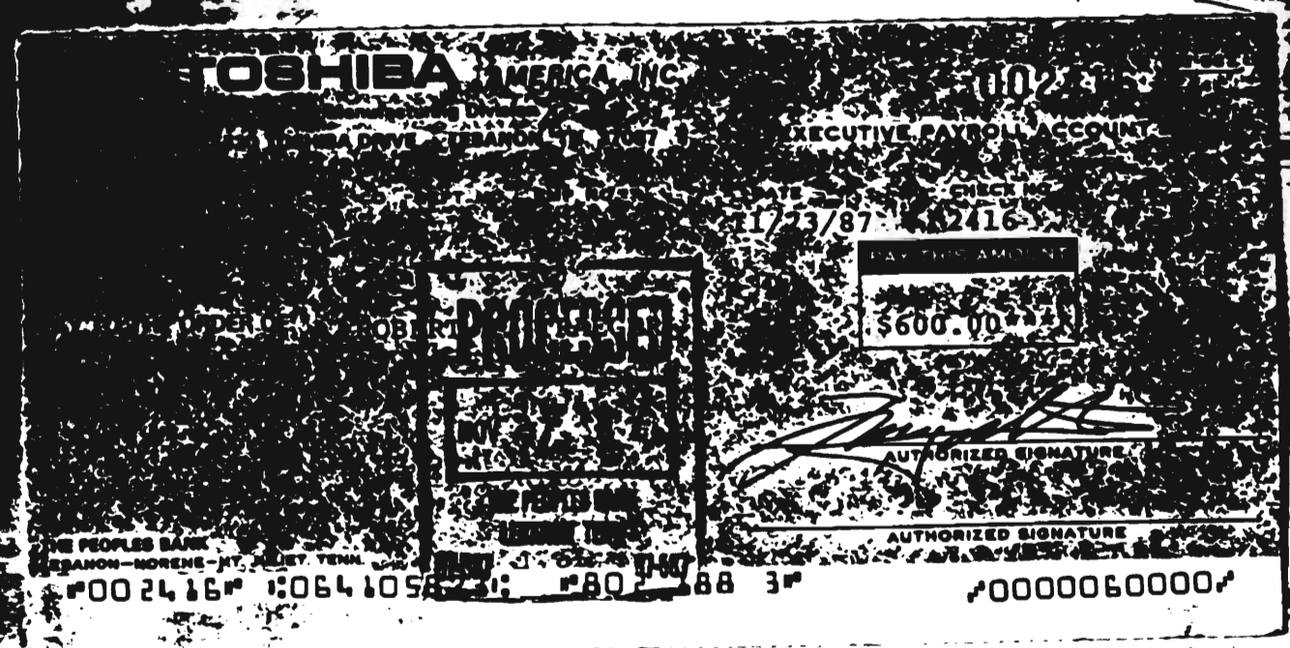
Carol C. Bush

Notary Public

Commission Expires 2-5-92

9204090034 95


TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE LEBANON, TN. 37087
002282
EXECUTIVE PAYROLL ACCOUNT
DATE 7/16/87
CHECK NO. 2282
$600.00
AUTHORIZED SIGNATURE
⑈002282⑈ ⑆064105873⑆ 882 3⑈ ⑈0000060000⑈


TOSHIBA AMERICA, INC.
002
EXECUTIVE PAYROLL ACCOUNT
11/23/87
2416
$600.00
AUTHORIZED SIGNATURE
AUTHORIZED SIGNATURE
THE PEOPLES BANK
LEBANON—MORENE—MT. JULIET, TENN.
⑈002416⑈ ⑆064105 ⑆ 80 88 3⑈ ⑈0000060000⑈

Robert A Trager

PAY ANY BANK P&D
COMMERCE
LONDON BANK
87-2

JY W 17

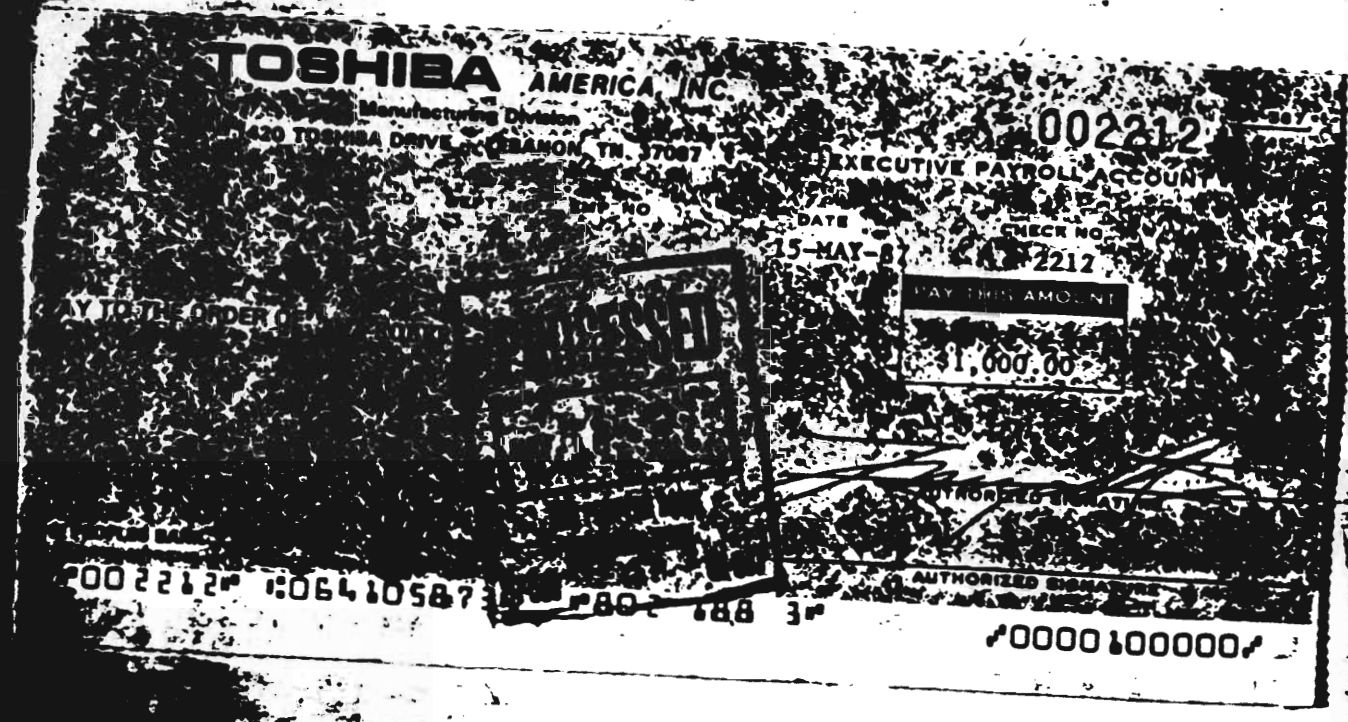
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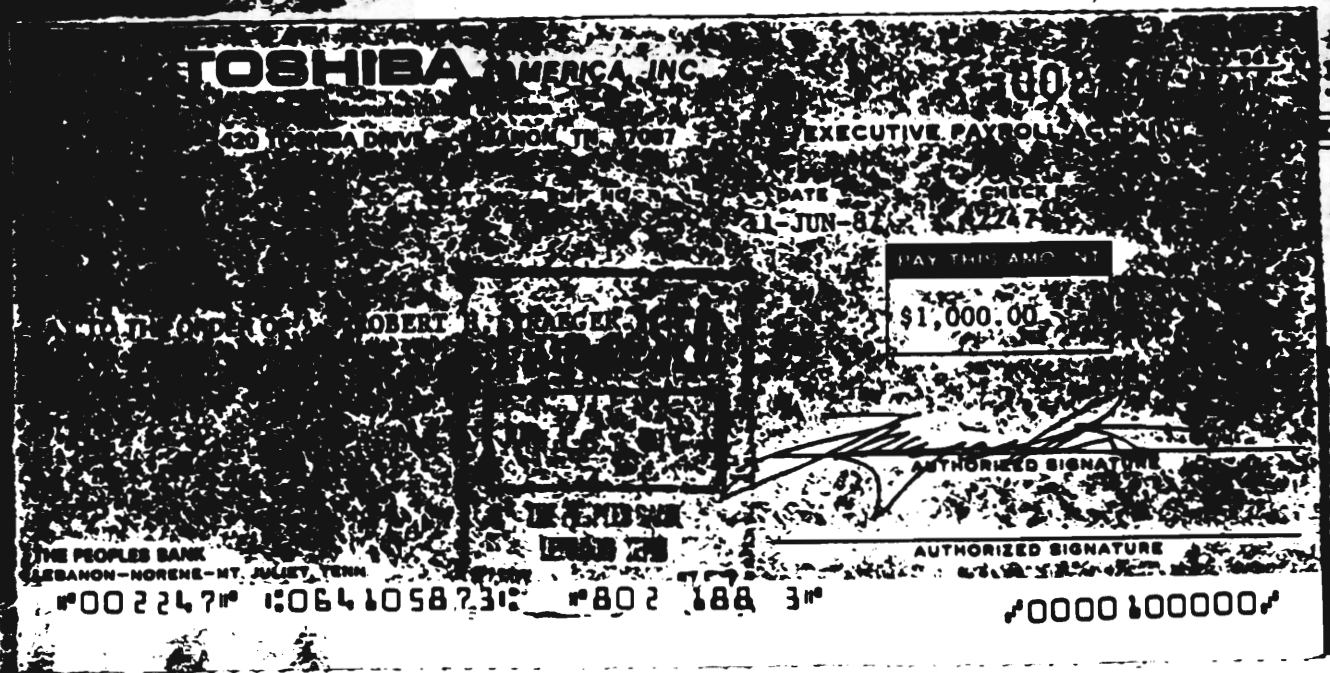
Robert A Trager

PAY ANY BANK P&D
COMMERCE
LONDON BANK
87-2

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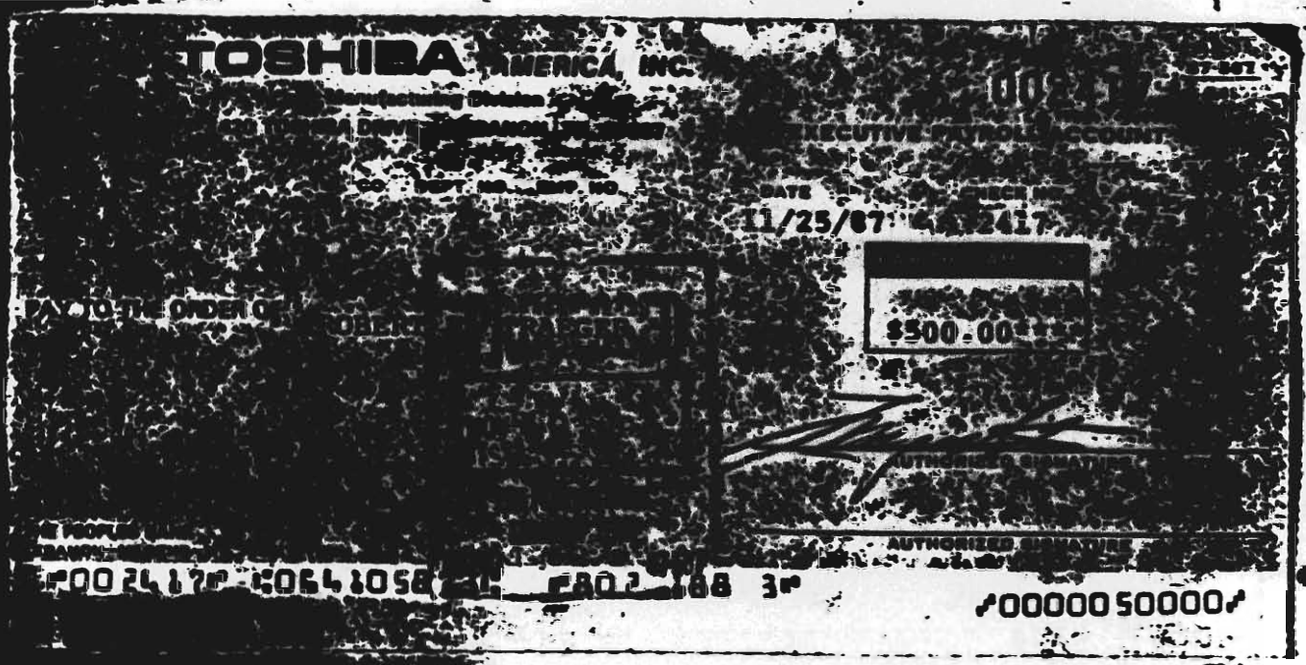
PAY ANY BANK


TOSHIBA AMERICA, INC.
Manufacturing Division
420 TOSHIBA DRIVE LEBANON, TN. 37087
002212
EXECUTIVE PAYROLL ACCOUNT
DATE
15-MAY-8
CHECK NO.
2212
PAY THIS AMOUNT
$1,000.00
AUTHORIZED SIGNATURE
⑈002212⑈ ⑆064105827⑆ ⑈802 188 3⑈
⑈0000100000⑈


TOSHIBA AMERICA, INC.
EXECUTIVE PAYROLL
DATE
21-JUN-8
PAY THIS AMOUNT
$1,000.00
AUTHORIZED SIGNATURE
THE PEOPLES BANK
LEBANON-NORENE-MT. JULIET, TENN
⑈002247⑈ ⑆064105827⑆ ⑈802 188 3⑈
⑈0000100000⑈

COMMERCE UNION BANK
NASHVILLE, TENN.
87-2

COMMERCE UNION BANK
NASHVILLE, TENN.
PAY ANY BANK


TOSHIBA
AMERICA, INC.
11/25/87
$500.00
AUTHORIZED SIGNATURE
AUTHORIZED SIGNATURE
⑈00000 50000⑈

OCO# 9103

HAND DELIVERED

RECEIVED
FEDERAL ELECTION COMMISSION
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A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

88 APR 19 PM 3:59

April 19, 1988

88 APR 20 PM 3:42

RECEIVED
FEDERAL ELECTION COMMISSION

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

RE: MUR 2575 - Robert H. Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

This letter serves to supplement the response filed on March 7, 1988 for Robert Traeger in the above-referenced Matter Under Review. This supplemental response in no way changes the substance of the answers given by Mr. Traeger to the Commission's interrogatories.*/

Bob Traeger has devoted ten successful years to the corporate affairs of Toshiba America, Inc. ("TAI"). He was hired to establish a color television production plant in the United States, and he did, from ground-breaking to completion. He was responsible for site selection, plant design, plant construction and staffing. Today, the Toshiba plant built by Traeger is by far the largest employer in the region, and its construction in the area had, and continues to have, a significant impact on the economics of the region.

Traeger understood the importance to TAI of strong community relations generally, and Congressional relations in particular. TAI was a new and commanding presence in the state. It was also foreign-owned, one of several much remarked manufacturing facilities established by Japan in the state of Tennessee; and it was, therefore, noteworthy in its

*/ In response to Interrogatory No. 4, Mr. Traeger identified Hiroshi Ikeda as the Chief Executive Officer of Toshiba America, Inc. Mr. Ikeda's correct title is Executive Vice President of the Manufacturing Division of the Consumer Products Group of Toshiba America, Inc.

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own right and as part of a larger continuing story of foreign investment in the United States. Traeger, the highest ranking American at TAI in Tennessee, attempted to guide the company in developing relations with its American host. This would require, Traeger believed, some plan for making appropriate contributions to candidates for election or reelection to public office.

The trouble, of course, started here; but Traeger, following what he thought to be conventional practice, could not have known it. For sometime Traeger, through his own personal initiative and his own money, made up TAI's entire political contribution plan. When Traeger was solicited for or learned of a political fundraising event, he contributed from his own pocket. The amount he contributed ranged from $25.00 to $1,000.00. This approach worked adequately for a time; but it placed too great a burden on Traeger, and it was suitable only for dollar-limited and sporadic efforts, as limited as Traeger's own resources.

From time to time Traeger proposed, unsuccessfully, that TAI establish a PAC. He advanced also a suggestion, inspired by conversation with businessmen outside TAI, that his salary be increased in recognition of his direct personal financial responsibility for making political contributions. Other executives in other companies, so he understood, were compensated in some way for personal charitable and political contributions. This was a practice that he unquestioningly took to be commonplace, and as such, neither improper nor illegal. TAI also rejected this suggestion.

When Traeger perceived new and heavier demands on Toshiba, he made another run at management, in the person of Mr. Ikeda. This time Traeger suggested a variation of his compensation proposal: not an across-the-board annual increase in his salary, but "bonuses" paid to cover specific contributions previously made by Traeger. On this occasion, Ikeda relented. Whether he did so because of a concern shared with Traeger over the company's delicate political position, or more because he was inclined to yield to Traeger's judgment on a matter better understood by the American, is not known to Traeger. It is sure that Traeger neither imagined nor stated to Ikeda when he renewed the proposal that it was in any way illegal.

Traeger did know then and before that the FECA prohibited corporate contributions, direct giving from general treasury funds to candidates. He did not believe that the law

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prohibited compensation to executives for personal contributions made in the company's interest and within the general scope of their corporate responsibilities. This was the lore that Traeger picked up in discussion with other businessmen; and apart from comfort he took in the apparent prevelance of this practice, it made some measure of sense to him. He, not the company, was making the contributions; he alone was selecting the candidates, the occasion, the amount. (He consulted with other American representatives of the company in Washington, but the decision in the end was his.) The company thus covered his costs by paying him a bonus; its role was passive, and the result of its action was not much different, as Traeger saw it, than a minimal salary increase to avoid penalizing Traeger for doing what he thought was right for the company.

Bob Traeger was wrong, but this mistake is understandable only if viewed from an experienced executive's, not a lawyer's, perspective. Traeger took any program of political contributions to be part of his job; his main purpose was to get this job -- identifying candidates and making contributions -- done. The cost, and the question of how it was paid, was incidental to Traeger's mind; the money required was minimal, the amount of contributions involved in this matter totaling no more than $3,700.00. The task called for getting to know public officials and candidates and providing contributions to the right ones, in the right amounts, at the right time. Traeger had done this work for TAI before the company had begun to reimburse his costs. The nature of the work, that it was Traeger's work and in this sense involved Traeger's "contributions," did not seem to him to change simply because its costs were borne by the company.

Mr. Traeger is fully prepared to accept fairly assessed responsibility for his mistake. Accordingly, he respectfully requests pre-probable cause conciliation.

Respectfully submitted,

Robert F. Bauer
Counsel for
Robert H. Traeger

2951B

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COC #9240

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1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
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TELECOPIER:
(202) 393-5760

DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000

ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800

ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000

300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000

333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

16 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 NISHI SHIMBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-595-1550

May 5, 1988

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

Attn: Judybeth Greene, Esq.

Re: MUR 2525
Toshiba America, Inc.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 MAY -9 PM 4:16

Dear Mr. Noble:

This is the supplement to the March 8, 1988 response of Toshiba America, Inc. ("TAI"). In our previous response, TAI delineated several steps it took to rectify any possible illegality concerning the contributions which are the subject of this matter. In addition, several steps were taken to ensure that such activity does not recur. As part of those steps, TAI sought to determine that the activity in question was an isolated occurrence. At the time TAI filed its response to the Commission's interrogatories, it appeared that there were no other instances of reimbursed contributions. Since that time, however, TAI has learned that in 1985 there was one other isolated occurrence involving a reimbursed contribution.

On August 25, 1985, Mr. Paul Wexler, Vice President, General Manager, Telecommunication Systems Division of TAI, in Irvine, California, made a $1,000 contribution to the Republican Senatorial Inner Circle. Upon Mr. Wexler's request, TAI reimbursed him, although neither the corporation nor Mr. Wexler had any inkling at that time that the reimbursement was in any way illegal.

In March 1988, Mr. Wexler learned at a staff meeting about an inquiry into possible impermissible contributions by a TAI employee. At that staff meeting,

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Mr. Wexler recognized for the first time that the contribution he made in 1985 may have been impermissible. Consequently, Mr. Wexler notified TAI attorneys about his contribution reimbursement. Moreover, as soon as Mr. Wexler learned that there was a possible problem with the contribution, he promptly reimbursed the corporation. TAI made no other reimbursements to Mr. Wexler, and to the extent TAI can determine, other than the Traeger contributions, no other reimbursement was ever made to any other employee. TAI also informed the recipient of the contribution. We have attached copies of the contribution check and the check used to reimburse the corporation.

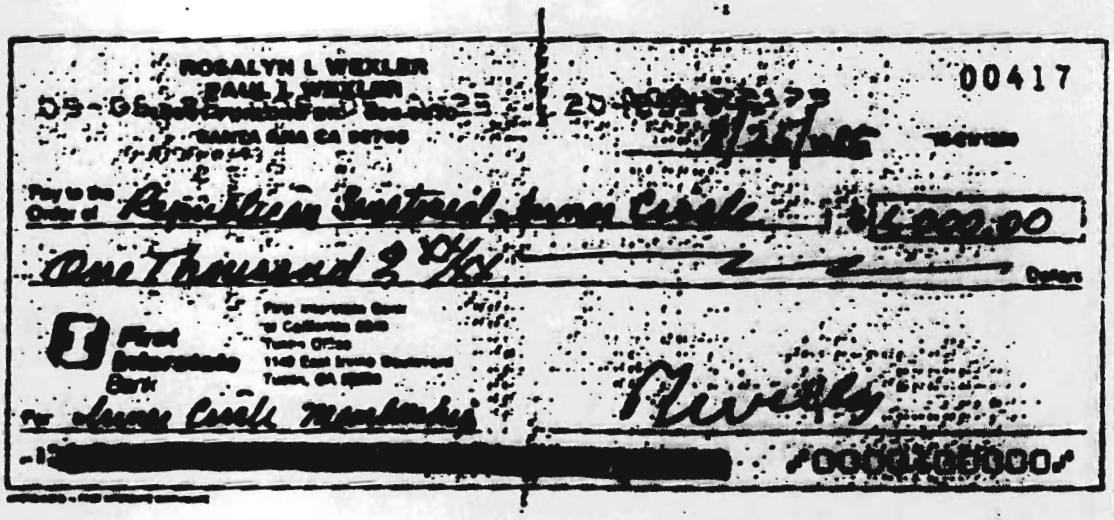
Although this contribution was made almost three years ago, and has no connection, whatsoever, with the matter under investigation, TAI provides this information as part of its continuing efforts to cooperate with the Federal Election Commission and demonstrate that it has taken and continues to take every conceivable step to rectify any impropriety that may have occurred. If you would like any further information with regard to this contribution, please let me know.

Very truly yours,

Kenneth A. Gross

Attachments

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ROSALYN L WEXLER
PAUL J WEXLER
SANTA ANA CA 92705

00417

Pay to the Order of Republican Sentinel Arena Circle $5,000.00

One Thousand 2 10/100 Dollars

First Interstate Bank
First Interstate Bank of California
Town Office
1140 East Irvine Boulevard
Tustin, CA 92680

For Arena Circle Membership

Rivelly

⑆[redacted]⑆ 0000[redacted]000⑈

9204090035006

ROSALYN L. WEXLER
PAUL L. WEXLER
10831 FURLONG DR. [redacted]
SANTA ANA, CA [redacted]

1416

4/7/ 1988

16-21/1220

Pay to the Order of TOSHIBA AMERICA, INC. - IEBS | $ 1000.00

ONE THOUSAND & NO/100 Dollars

First Interstate Bank

First Interstate Bank of California [redacted]
P.O. Box [redacted]
Tustin, CA [redacted]

For ACCOUNT ADJUSTMENT

[redacted]

9204090350 7

BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION COMMISSION RECEIVED
88 JUN 20 PM 2:35

In the Matter of)
) MUR 2575
Robert Traeger)
Betty Traeger)
Tsunehiro Miyashita)
Paul Wexler)
Toshiba-America, Inc.)

SENSITIVE
EXECUTIVE SESSION
JUN 28 1988

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law. The information referred by the Assistant U.S. Attorney indicated that Robert Traeger, the Vice President/General Manager of Toshiba-America, had made contributions to several candidates for Federal offices and had received reimbursement from the company. The referral specified that Traeger had been reimbursed for $600 in tickets to a fundraiser for Congressman Bart Gordon and $1,000 in tickets to a fundraiser for Senator Albert Gore, Jr., for his presidential campaign. The FBI special agent who had initially informed the Assistant U.S. Attorney about this matter, added that Traeger had also been reimbursed for $1,000 in fundraiser tickets for Congessman Bart Gordon's re-election campaign and that Hiroshi Ikeda, the Executive Vice President for the Toshiba-America manufacturing plant in Tennessee, had authorized the corporation to make these reimbursements.

On January 25, 1988, the Commission found reason to believe that Toshiba-America, Inc., violated 2 U.S.C. §§ 441b(a) and 441f. At that time the Commission also found reason to believe

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that both Robert Traeger and Hiroshi Ikeda violated 2 U.S.C. §§ 441b(a) and 441f.

All three respondents requested extensions of time to respond to the Commission's findings and interrogatories. These requests were granted and the Commission received Robert Traeger's response on March 7, 1988, Toshiba-America's response on March 11, 1988, and Hiroshi Ikeda's response on March 14, 1988.

On April 20, 1988, Robert Traeger submitted a request for pre-probable cause conciliation.

II. ANALYSIS

A. FACTUAL DEVELOPMENT

1. Robert Traeger's Response

In response to the Commission's interrogatories, Robert Traeger stated that he and his wife made contributions to the campaigns of James Sasser, Bart Gordon, Albert Gore, Bob Clement and Terry Holcomb for which Robert Traeger was reimbursed by Toshiba-America. The following chart represents the contributions which Robert Traeger made to Federal candidates and the bonus checks he received as reimbursement from Toshiba-America. The contributions with asterisks indicate contributions made by Robert Traeger's wife, Betty, which were also reimbursed by the corporation:

Candidate	Contributions	Date of Contribution	Reimbursement Bonus Net	Date of Bonus
Albert Gore	$1,000	6/11/87	$1,626.01 (1,000 net)	6/11/87
*James Sasser	$1,000	5/15/87	$1,839.92 (1,000 net)	5/15/87

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Candidate	Contributions	Date of Contribution	Reimbursement Bonus Net	Date of Bonus
Bart Gordon	$600	7/16/87	$975.61 (600 net)	7/16/87
Bart Gordon	$250	11/16/87		
Bob Clement	$100	11/16/87	$880.40	11/23/87
*Albert Gore	$250	11/19/87	(600 net)	
*Terry Holcomb	$500	11/25/87	604.41 (500 net)	11/25/87

The bonuses listed represent the gross amounts paid to Mr. Traeger, which, "when adjusted for tax withholding,... resulted in a net reimbursement to Mr. Traeger in the full amount of the contributions made by Mr. Traeger and his wife." (Attachment 1 at 53-54). Mr. Traeger claimed that he received no additional compensation from Toshiba-America for making the above contributions.

Mr. Traeger claimed that he was not approached by any official at Toshiba-America to make the above contributions; rather, he personally initiated the "plan for reimbursement for political contributions... and [h]is knowledge of the plan comes from his having initiated it." (Attachment 1 at 55). He claims to have "no personal knowledge of other officers, directors or employees who may have been reimbursed by Toshiba-America, Inc. for making contributions to candidates or their political committees." (Attachment 1 at 55-56)

Mr. Traeger stated that he is the Vice President and General Manager of the Manufacturing Division of Toshiba-America, Inc. He identified the individual who authorized the corporation's reimbursement of his political contributions as Hiroshi Ikeda, a Japanese citizen who is the Executive Vice President of the

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Manufacturing Division of the Consumer Products Group of Toshiba-America. (Attachment 1 at 54 and 75).[1/]

In answer to interrogatories, Traeger claimed that he did not inform any of the recipients of his contributions that Toshiba-America had reimbursed him for his contributions. He also stated upon "information and belief" that Toshiba-America, in the two weeks before his response, had contacted "some, if not all" of the candidates to whom Traeger made reimbursed contributions to inform the candidates that Toshiba-America had reimbursed Traeger. (Attachment 1 at 56).

2. Toshiba-America's Response

Toshiba-America, Inc. confirmed that it reimbursed Robert Traeger for contributions to the campaigns of the above listed candidates. It further stated that it made payments to Robert Traeger in the net amounts listed above in the form of salary increases. The corporation claimed that it made payments to Mr. Traeger, at his request, when he or his wife made contributions to candidates in the form of personal checks from their joint account. It confirmed that Hiroshi Ikeda authorized the corporation to issue reimbursement payments. (Attachment 1 at 10-11)

The company stated that Hiroshi Ikeda, Executive Vice President of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc., agreed to the reimbursement plan

1/ In his initial answer to the Commission's interrogatories, Traeger identified Ikeda as the Chief Executive Officer of Toshiba America. (Attachment 1 at 54).

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proposed by Robert Traeger and initialized three authorization printouts for the checks dated May 15, 1987, June 11, 1987 and July 16, 1987. Toshiba-America identified Norm Nelson, Comptroller of the Finance Department of the Manufacturing Division of the Consumer Products Group, as the individual who obtained Ikeda's initials on these printouts. It also identified Tsunehiro Miyashita, Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Group, as another Toshiba officer who was aware that Traeger was being reimbursed by the corporation for political contributions. Miyashita signed the reimbursement checks made out to Traeger, thereby consenting to the corporate reimbursement of the Traegers' contributions. (Attachment 1 at 13).

Finally, in its March 8, 1988 response, Toshiba-America stated that it did not reimburse any employee, officer or director (other than Robert Traeger), for making contributions to federal, state or local candidates for public office. (Attachment 1 at 14). The corporation also stated that it had no input in directing the Traegers' contributions and that Toshiba-International, Inc. did not make any of the reimbursement payments. (Attachment 1 at 9 and 13).

In a supplemental response filed on May 9, 1988, Toshiba-America identified another instance in which it reimbursed a contribution. (Attachment 1 at 75-76). It stated that on August 25, 1985, Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-

9204090351 2

America in Irvine, California, made a $1,000 contribution to the Republican Senatorial Inner Circle. At his request, Paul Wexler was reimbursed by Toshiba-America. Upon discovering the illegality of the corporate reimbursement at a staff meeting in March 1988, Mr. Wexler reimbursed the corporation. At that time Toshiba-America informed the recipient of the contribution.2/ (Attachment 1 at 75).

3. Hiroshi Ikeda's Response

Hiroshi Ikeda's response confirms that he authorized repayment of the Traegers' contributions as outlined above. (Attachment 1 at 35). However, he states that

> "I did not request or suggest that Mr. Traeger make any contributions to any candidate,...[rather], Mr. Traeger requested on his own initiative, that he be permitted to make reimbursable contributions to several candidates. I am not familiar with American politics, nor, more specifically, with any of the particular candidates to whom contributions were made. As a result, I defer to Mr. Traeger who is active in community affairs on these matters. When he asked whether he could make reimbursable contributions to candidates, and explained that this is acceptable practice in the United States, I approved of his suggestions."

2/ Toshiba-America also stated that it has recently notified the recipient committees mentioned in the reason to believe notice that they may have received improper contributions and that it would facilitate refunds. It also asserted that the corporation has prepared a memorandum to inform corporate executives about election law prohibitions and limitations and has adopted a policy of prohibiting corporate contributions for federal and state elections. (Attachment 1 at 56).

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(Attachment 1 at 34-35). See also Attachment 1 at 37. Hiroshi Ikeda is a Japanese citizen not admitted for permanent residence in the United States; he is in the United States on a Visa issued on July 10, 1986. (Attachment 1 at 36).

Ikeda states that Norman Nelson asked him to initial the company printouts which reflected the company's reimbursement of the Traegers' campaign contributions in May, June, and July, 1986. He was not asked to initial the printout which reflected the November reimbursement checks. (Attachment 1 at 35).

Mr. Ikeda claims that he does not know of any other contribution reimbursement payment by Toshiba-America to other officers, directors or employees. (Attachment 1 at 38).

4. SUMMARY

In sum, the responses to the Commission's interrogatories clearly show that under the authorization of Hiroshi Ikeda and the approval of Tsunehiro Miyashita, (both Japanese nationals and company officers), Toshiba-America reimbursed Robert Traeger, a company officer, for political contributions made by Robert Traeger and his wife, Betty. These responses, however, are not clear on the details regarding how the reimubursement scheme came about, who may have been involved, and whether these actions were taken in knowing contravention of the Act.

Additionally, the information recently submitted by Toshiba-America clearly indicates that the company also reimbursed Paul Wexler, a company officer, for a contribution he made to a political committee in 1985.

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B. ISSUE DEVELOPMENT

1. Section 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officers who participate in any arrangement designed to reimburse individuals for their campaign contributions with corporate funds incur personal liability under the Act.

Toshiba has admittedly reimbursed Robert Traeger for contributions made by Traeger and his wife to various candidates for federal office. Specifically, Toshiba-America reimbursed

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Robert Traeger for his contributions to the following candidates for federal office:

Albert Gore	$1,000
Bart Gordon	$ 850 ($600 + $250)
Bob Clements	$ 100

Toshiba-America, Inc. also reimbursed Robert Traeger for the following contributions made by his wife, Betty R. Traeger:

James Sasser	$1,000
Albert Gore	$ 250
Terry Holcomb	$ 500

Robert Traeger, the Vice President and General Manager of the Manufacuring Division of the Consumer Products Group of Toshiba-America, admittedly proposed that Toshiba-America, Inc. reimburse him for contributions made by himself and his wife to candidates for Federal office. He also submitted reimbursement requests to the company as campaign contributions were made. Therefore, it appears that Robert R. Traeger, an officer of Toshiba-America, violated 2 U.S.C. § 441b(a). See also 11 C.F.R. § 114.2(d).

Information supplied by Toshiba-America indicated that another Toshiba executive, Tsunehiro Miyashita, consented to the corporation's reimbursement of the Traegers' political contributions. Mr. Miyashita, the Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Group of Toshiba-America, signed the reimbursement checks made out to Robert Traeger. (Attachment 1 at 13). Accordingly, this Office recommends that the Commission find reason to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a) by consenting to these impermissible corporate contributions.

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Toshiba has also admittedly reimbursed Paul Wexler, a Toshiba-America executive, for his $1,000 contribution to the Republican Senatorial Inner Circle, a program of the National Republican Senatorial Commitee, at Mr. Wexler's request. Thus, it appears Mr. Wexler, as an officer of Toshiba, consented to this corporate contribution. Accordingly, this Office recommends that the Commission find reason to believe that Paul Wexler and Toshiba-America violated 2 U.S.C. § 441b(a).

2. Section 441f Contributions in the Name of Another.

Section 441f establishes individual liability for knowingly permitting one's name to be used to effectuate a contribution by another "person." The term "person" includes corporations, such as Toshiba-America, as well as individuals. 2 U.S.C. § 431. Robert Traeger has allowed his name to be so used by making contributions in his own name to the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee, and Clement for Congress, and receiving reimbursement from Toshiba-America. Accordingly, it appears that Roger Traeger has violated 2 U.S.C. § 441f.

Similarly, it appears that Mrs. Betty R. Traeger permitted her name to be used to make contributions to the Albert Gore, Jr. for President Committee, Inc., the Friends of Jim Sasser and the Friends of Terry Holcomb, which were reimbursed by Toshiba-America. Although it was Mr. Traeger who was reimbursed for his wife's contributions, it is reasonable to assume that she knew he

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was receiving reimbursement for the contributions made in her name. Therefore, this Office recommends that the Commission find reason to believe that Mrs. Betty Traeger also violated 2 U.S.C. § 441f.

Tsunehiro Miyashita also incurred liability under Section 441f. See MUR 1611 and the treatment of Hiroshi Ikeda in the First General Counsel's Report in this matter. By signing the company's reimbursement checks to Robert Traeger, Tsunehiro Miyashita assisted Toshiba-America in making contributions in the Traegers' names. Therefore, this Office also recommends that the Commission find reason to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441f.

It also appears that the earlier transaction between Toshiba-America and Paul Wexler involved a violation of Section 441f. By reimbursing Paul Wexler for a contribution made in his name to the Republican Senatorial Inner Circle, Toshiba-America effectively made a contribution in the name of another. Paul Wexler, by allowing his name to be used in this manner, also incurred liability under this Section. Therefore, this Office recommends that the Commission find reason to believe that Toshiba-America and Paul Wexler violated 2 U.S.C. § 441f.

3. Unresolved Issues

Although the responses reveal a plan by which Robert Traeger, a corporate officer in Tennessee, was reimbursed by Toshiba-America, the responses do not provide a clear picture of how the plan was initiated and administered or how far it reached. When asked in an interrogatory about the

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reimbursement plan, Robert Traeger simply replied that he "initiated the plan" and his "knowledge of the plan comes from his having intitiated it." (Attachment 1 at 55). He provided no further details nor did he explain why he thought it was appropriate for the corporation to reimburse him. This information is necessary to resolve the issue of whether Robert Traeger's actions constitute knowing and willful violations of the Act.

It has been our experience in this type of case that depositions are most helpful in resolving these issues. Accordingly, this Office recommends that the Commission deny Robert Traeger's request for pre-probable cause conciliation at this time in order to complete the investigation in this matter. This Office also recommends that the Commission approve the proposed subpoena for the deposition of Robert Traeger.

Tsunehiro Miyashita, as the corporate officer who signed the reimbursement checks made out to Robert Traeger, may have signed checks to reimburse other individuals for political contributions. Moreover, he may possess more information about the administration of the reimbursement plan. Accordingly, this Office recommends that the Commission approve the proposed subpoena for the deposition of Tsunehiro Miyashita.

IV. RECOMMENDATIONS

1. Decline at this time to enter into conciliation with Robert Traeger prior to a finding of probable cause to believe.

2. Find reason to believe that Betty Traeger violated 2 U.S.C. § 441f.

3. Find reason to believe that Tsunehiro Miyashita violated 2 U.S.C. §§ 441b(a) and 441f.

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4. Find reason to believe that Paul Wexler violated 2 U.S.C. §§ 441b(a) and 441f.

5. Find reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f with respect to its reimbursement payment to Paul Wexler.3/

6. Approve the attached subpoena to Robert Traeger.

7. Approve the attached subpoena to Tsunehiro Miyashita.

8. Approve the attached letters and Factual and Legal Analyses.

6/20/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Responses to Interrogatories
2. Request for Conciliation
3. Factual and Legal Analyses and Letters
4. Subpoenas (2)

Staff person: Judybeth Greene

3/ The Commission previously found reason to believe that Toshiba-America, Inc. violated these sections with regard to its reimbursement of Robert and Betty Traegers' political contributions.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN

DATE: JUNE 22, 1988

SUBJECT: OBJECTIONS TO MUR 2575 - General Counsel's Report Signed June 20, 1988

The above-captioned document was circulated to the Commission on Tuesday, June 21, 1988 at 11:00 A.M.

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

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

This matter will be placed on the Executive Session agenda for June 28, 1988.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger	)	
Betty Traeger	)	
Tsunehiro Miyashita	)	
Paul Wexler	)	MUR 2575
Toshiba-America, Inc.	)	
Hiroshi Ikeda	)	
Norm Nelson	)	

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of June 28, 1988, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2575:

1. Decline at this time to enter into conciliation with Robert Traeger prior to a finding of probable cause to believe.

2. Find reason to believe that Betty Traeger violated 2 U.S.C. § 441f.

3. Find reason to believe that Tsunehiro Miyashita violated 2 U.S.C. §§ 441b(a) and 441f.

4. Find reason to believe that Paul Wexler violated 2 U.S.C. § 441b(a) and 441f.

(continued)

5. Find reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f with respect to its reimbursement payment to Paul Wexler.

6. Find reason to believe that Norm Nelson violated 2 U.S.C. §§ 441b(a) and 441f.

7. Find reason to believe that Hiroshi Ikeda violated 2 U.S.C. §§ 441b(a) and 441f.

8. Approve the subpoena to Robert Traeger as recommended in the General Counsel's report dated June 20, 1988.

9. Approve the subpoena to Tsunehiro Miyashita as recommended in the General Counsel's report dated June 20, 1988.

10. Direct the Office of General Counsel to send appropriate subpoenas to Norm Nelson and Hiroshi Ikeda pursuant to the meeting discussion.

11. Direct the Office of General Counsel to send the appropriate letters and Factual and Legal Analyses pursuant to the actions noted above and the meeting discussion.

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

Attest:

6/28/88
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

July 13, 1988

Robert F. Bauer and Judith Corley
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger

Dear Mr. Bauer and Ms. Corley:

On January 28, 1988, your client was notified that the Federal Election Commission had found reason to believe that your client, Robert H. Traeger, violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. On April 20, 1988, you submitted a request to enter into conciliation negotiations prior to a finding of probable cause to believe.

The Commission has reviewed your request and determined to decline at this time to enter into conciliation prior to a finding of probable cause to believe because additional information is necessary regarding the reimbursement of your political contributions by Toshiba-America, Inc. At such time when the investigation in this matter has been completed, the Commission will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring your client, Robert H. Traeger, to appear and give sworn testimony on July 27, 1988, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage at the rate of 21 cents per mile. Your client will be given a check for the witness fee and mileage at the time of the deposition.

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Within two days of your receipt of this notification, please confirm the scheduled appearance with Judybeth Greene, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Subpoena

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

SUBPOENA

TO: Mr. Robert Traeger
c/o Robert Bauer and Judith Corley
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to Toshiba-America's reimbursement of your political contributions and other related matters. Notice is hereby given that the deposition is to be taken on July 27, 1988, in Room 651 at 801 Broadway, Nashville, Tennessee, beginning at 1:00 p.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 22nd day of July, 1988.

Thomas J. Josefiak
Chairman
Federal Election
Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

Mrs. Betty R. Traeger
3635 Knollwood Road
Nashville, Tennessee

RE: MUR 2575
Betty Traeger

Dear Mrs. Traeger:

On June 28, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANLAYSIS

RESPONDENT: Betty Traeger MUR: 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tenenssee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of Federal election law.

II. ANALYSIS

The information referred to the Commission reveals that Robert H. Traeger, an officer of the Toshiba-America corporation ("Toshiba"), and his wife, Betty Traeger, made contributions to political committees in their own names or permitted their names to be used to make contributions for which Mr. Traeger received reimbursement from Toshiba. Hence, violations of 2 U.S.C. § 441f appear to be involved.

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" includes corporations such as Toshiba. This section further states that:

> "No person shall...knowingly permit his name to be used to effect such a contribution..."

Mrs. Betty Traeger permitted her name to be used to make contributions from her joint account with Robert H. Traeger to the following committees, in the following amounts:

Albert Gore, Jr. for President Committee, Inc.	6/18/87	$500
	11/25/87	$250
Friends for Terry Holcomb	11/30/87	$500
Friends of Jim Sasser	5/18/87	$1,000

Mrs. Traeger's husband, Robert H. Traeger, was reimbursed by Toshiba for the full amount of the above contributions made in Mrs. Traeger's name. Thus, there is reason to believe that Mrs. Betty Traeger violated 2 U.S.C. § 441f by permitting her name to be used to make contributions for which reimbursement was received from Toshiba.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Tsunehiro Miyashita
Vice President/Assistant Treasurer
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee
37087

RE: MUR 2575
Tsunehiro Miyashita

Dear Mr. Miyashita:

On June 28, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

Pursuant to its investigation in this matter, the Commission has issued the attached subpoena requiring you to appear and give sworn testimony on July 27, 1988, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage at the rate of 21 cents per mile. You will be given a check for the witness fee at the time of the deposition.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be represented by counsel, please advise us of the name and address of your attorney prior to the date of the depostion.

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In the absence of any additional information which demonstrates that no further action should be taken against you, 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 pursued. 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, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act.

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 investigation to be made public.

Within two days of your receipt of this notification, please confirm the scheduled appearance with Judybeth Greene, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosures
Subpoena
Factual and Legal Analysis
Procedures
Designation of Counsel Form

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2575
)

SUBPOENA

TO: Mr. Tsunehiro Miyashita
Vice President/Assistant Treasurer
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee 37087

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to Toshiba-America's reimbursement of Robert Traeger's political contributions and other related matters. Notice is hereby given that the deposition is to be taken on July 27, 1988, in Room 651 at 801 Broadway, Nashville, Tennessee, beginning at 9:30 a.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 12th day of July, 1988.

Thomas J. Josefiak
Chairman
Federal Election
Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Tsunehiro Miyashita MUR 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information referred to the Commission reveals that Robert Traeger, an officer of the Toshiba-America corporation, has made contributions to federal candidates and political committees for which he has received reimbursement from the Toshiba-America corporation. Hiroshi Ikeda, the Executive Vice President for the Toshiba Tennessee manufacturing company reportedly authorized the corporation to make these reimbursements and Tsunehiro Miyashita, the Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Group of Toshiba-America, consented to these reimbursements by signing the company's reimbursement checks. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Contributions by Corporations

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms

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"contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is clearly prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse individuals for their campaign contributions with corporate funds may incur personal liability under the Act.

Toshiba-America, Inc. has allegedly reimbursed Robert Traeger for his contributions to various candidates for federal office. Specifically, it is alleged that Toshiba-America, Inc. reimbursed Robert Traeger for buying $1,000 in fundraiser tickets for Albert Gore's presidential campaign, $1,000 in fundraiser tickets for Senator Sasser's campaign and $600 in fundraiser tickets for Congressman Bart Gordon's campaign. The

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reimbursement by the corporation for these contributions was reportedly signed by Tsunehiro Miyashita, the Vice President and Assistant Treasurer of the Manufacturing division of the Consumer Products Group of Toshiba-America.

Tsunehiro Miyashita's involvement in this transaction constitutes an apparent violation of 2 U.S.C. § 441b as he consented to a prohibited contribution under that section by signing the company's reimbursement checks to Robert Traeger. See 11 C.F.R. § 114.2(d).

2. **Section 441f Contributions in Name of Another**

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" includes corporations such as Toshiba. The facts set forth in this report with respect to Toshiba's transactions reflect a scheme by which Toshiba made corporate contributions to federal candidates and political committees under Robert Traeger's name.

The Commission has interpreted section 441f to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By authorizing the reimbursement of Robert Traeger's political contributions with corporate funds through his signature of the corporate reimbursment checks, Tsunehiro Miyashita assisted Toshiba in making contributions in

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the name of another. Accordingly, there is reason to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

Mr. Paul Wexler
Vice President/General Manager
Telecommunications Systems Division
Toshiba-America, Inc.
3727 West Olympic
Los Angeles, California 90019

RE: MUR 2575
Paul Wexler

Dear Mr. Wexler:

On June 28, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Thomas J. Josefiak
Chairman

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Paul Wexler
Vice President/General Manager
Telecommunications System Division
Toshiba-America, Inc.
3727 West Olympic
Los Angeles, California 90019

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, 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.

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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.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory 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.

Unless otherwise indicated, the discovery requests shall refer to the time period from January 1, 1985 to the present.

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.

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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.

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INTERROGATORIES AND REQUESTS FOR DOCUMENTS

TO: Paul Wexler

1. State whether you made political contributions in 1985, 1986 or 1987 to the Republican Senatorial Inner Circle and any other political committee, party or candidate for federal office. If so, please indicate the amount and date of each contribution to these committees.

2. State whether Toshiba-America, Inc. reimbursed you for any of the contributions identified in your response to Question 1. Please list the date, amount and form (i.e. bonus, cash, check, advance, salary increase, etc.) of all such corporate reimbursement payments.

3. State whether any director or officer of Toshiba-America, Inc. or Toshiba International directed you to contribute to the Committees identified in your response to Question 1. If so, please identify these individuals, including their nationalities and positions in the company and the content of the conversation with those individuals regarding your contributions.

4. Identify the individual(s) who authorized Toshiba-America, Inc. to reimburse you for your contributions. Please include the positions and nationalities of these individuals.

5. Explain how you arranged to receive reimbursement from Toshiba-America, Inc. for your political contributions.

6. State whether Toshiba-America, Inc. had a system in place for reimbursing directors, officers or employees for political contributions prior to the time that you arranged for Toshiba-America, Inc. to reimburse you for your contribution. If so, please explain how that system operated.

7. State whether Toshiba-America, Inc. compensated you financially or otherwise, for giving contributions to political committees beyond the amount of direct reimbursements.

8. State whether other Toshiba-America, Inc. officers, directors or employees were reimbursed by Toshiba-America, Inc. for making contributions to political committees.

9. State whether you informed any of the recipients of your contributions that Toshiba-America, Inc. had reimbursed you or planned to reimburse you for your contributions.

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10. State whether any of the political committees or candidates to whom you gave contributions knew from any other source that Toshiba-America had reimbursed you or planned to reimburse you for your contributions.

11. State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

12. State whether Toshiba International was involved in any way, either directly or indirectly, in providing reimbursement for your contributions to political committees. Please explain.

13. State whether Toshiba International was involved in any way, either directly or indirectly, in directing you to make contributions to particular candidates or political committees. Please explain.

14. Please provide photocopies of both sides of every check received as reimbursement for a campaign contribution and every check written as a direct campaign contribution for which reimbursement was paid or promised by Toshiba-America, Inc. or any Toshiba America representative.

15. Please provide photocopies of any documents relating to the initiation, development and execution of Toshiba-America's reimbursement of campaign contributions.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Paul Wexler MUR 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information submitted to the Commission by Toshiba-America, Inc. reveals that Paul Wexler, an officer of the Toshiba-America corporation, ("Toshiba"), has made contributions to a political committee for which he requested and received reimbursement from Toshiba. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with Federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a Federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision

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is written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "...any officer...of any corporation...to consent to any contribution or expenditure by the corporation...prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officers who consent to an arrangement designed to reimburse individuals for their campaign contributions with corporate funds may incur personal liability under the Act.

Toshiba has admittedly reimbursed Paul Wexler, at his request, for his $1,000 contribution to the Republican Senatorial Inner Circle in August 1985. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee registered with the Commission. Thus, Toshiba's reimbursement for Paul Wexler's political contribution constitutes an apparent violation of 2 U.S.C. § 441b on the part of the corporation.

Paul Wexler is the Vice President/General Manager of the Telecommunication Systems Division of Toshiba-America, Inc. in Irvine, California. By requesting that Toshiba-America, Inc. reimburse him for this contribution to the Republican Senatorial Inner Circle, Paul Wexler used his position as an officer at Toshiba to cause the corporation to make a prohibited

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contribution. Accordingly, there is reason to believe Paul Wexler's involvement in this transaction also constitutes an apparent violation of 2 U.S.C. § 441b as he is a corporate officer who consented to a prohibited contribution under that section by requesting and receiving reimbursements for his campaign contributions. See 11 C.F.R. § 114.2(d).

B. Section 441f Contributions in Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person...." The term "person" includes corporations such as Toshiba. This section also establishes individual liability for permitting one's name to be used to effectuate a contribution by another:

> "No person shall knowingly permit his name to be used to effect such a contribution..."

Paul Wexler, by making contributions in his own name and receiving reimbursement from the corporation, has run afoul of Section 441f's prohibitions. Accordingly, there is reason to believe that Paul Wexler violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

Kenneth A. Gross, Esquire
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.

Dear Mr. Gross:

On June 28, 1988, the Federal Election Commission found that there is reason to believe Toshiba America, Inc., violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 Toshiba-America, Inc. 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against Toshiba America, Inc. 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Thomas J. Josefiak
Chairman

Enclosures
Factual and Legal Analysis
Procedures
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Interrogatories and Request for Documents

9204090349

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Toshiba-America, Inc.
c/o Kenneth A. Gross, Esquire
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

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, 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.

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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.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory 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.

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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.

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INTERROGATORIES AND REQUEST FOR DOCUMENTS

TO: Toshiba-America, Inc.

1. Identify all officers, directors and employees of Toshiba-America, Inc. who were involved in authorizing the reimbursement by Toshiba-America, Inc. of Paul Wexler's political contribution to the Republican Senatorial Inner Circle. Please identify the positions of these individuals in the company, their nationalities and explain their roles in authorizing the political contribution reimbursements.

2. Identify all officers, directors and employees of Toshiba-America, Inc. who were involved in directing Paul Wexler to make contributions to particular candidates or political committees. Please identify the positions of these individuals in the company, their nationalities and explain their roles in directing Mr. Wexler's political contributions.

3. State whether any officers or directors of Toshiba-America, Inc. or Toshiba International were aware that Paul Wexler was receiving reimbursement from Toshiba-America, Inc. for political contribution. Please indentify these individuals and the titles of their positions with Toshiba-America, Inc.

4. Please submit photocopies of both sides of all checks issued by Toshiba-America, Inc. to Paul Wexler as reimbursment for his contribution to the Republican Senatorial Inner Circle.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Toshiba-America, Inc. MUR: 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information submitted by Toshiba-America, Inc. to the Commission reveals that Paul Wexler, an officer of the Toshiba-America corporation ("Toshiba"), has made contributions to a federal political committee, for which he has received reimbursement from Toshiba. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment...or gift of money...to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision

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was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Toshiba has admittedly reimbursed Paul Wexler for his $1,000 contribution to the Republican Senatorial Inner Circle in August of 1985. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee registered with the Commission. Accordingly, there is reason to believe Toshiba-America, Inc. violated 2 U.S.C. § 441b by reimbursing Paul Wexler for this contribution.

B. **Section 441f Contributions in Name of Another**

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). The facts set forth in this Analysis with respect to Toshiba's transactions reflect a violation of Section 441f by Toshiba in its participation in a plan which funnelled corporate contributions to a federal political committee through a corporate officer. Accordingly, there is reason to believe that Toshiba-America, Inc. violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Norman Nelson
Comptroller
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee
37087

RE: MUR 2575
Norman Nelson

Dear Mr. Nelson:

On June 28, 1988, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

Pursuant to its investigation in this matter, the Commission has issued the attached subpoena requiring you to appear and give sworn testimony on July 26, 1988, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage at the rate of 21 cents per mile. You will be given a check for the witness fee at the time of the deposition.

You may consult with an attorney and have an attorney present with you at the deposition. If you intend to be represented by counsel, please advise us of the name and address of your attorney prior to the date of the depostion.

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In the absence of any additional information which demonstrates that no further action should be taken against you, 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 pursued. 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, requests for pre-probable cause conciliation will not be entertained after briefs on probable cause have been mailed to the respondent. For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act.

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 investigation to be made public.

Within two days of your receipt of this notification, please confirm the scheduled appearance with Judybeth Greene, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575

SUBPOENA

TO: Mr. Norman Nelson
Comptroller
Toshiba-America, Inc.
1420 Toshiba Drive
Lebanon, Tennessee 37087

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to Toshiba-America's reimbursement of Robert Traeger's political contributions and other related matters. Notice is hereby given that the deposition is to be taken on July 26, 1988, in Room 651 at 801 Broadway, Nashville, Tennessee, beginning at 9:30 a.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 12th day of July, 1988.

Thomas J. Josefiak
Chairman
Federal Election
Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Norman Nelson MUR: 2575

I. BACKGROUND

This matter was generated as a result of a referral by an Assistant U.S. Attorney for the Middle District of Tennessee concerning campaign contribution reimbursements by Toshiba-America, Inc. in violation of federal election law.

II. ANALYSIS

The information referred to the Commission revealed that Robert Traeger, an officer of the Toshiba-America corporation, has made contributions to federal candidates and political committees for which he has received reimbursement from the Toshiba-America corporation. Norman Nelson, the Comptroller of the Toshiba Tennessee manufacturing plant, reportedly assisted the corporation in making these reimbursement payments. Hence, violations of 2 U.S.C. §§ 441b(a) and 441f appear to be involved.

A. Section 441b(a) Contributions by Corporations

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money to any ... campaign committee ... in connection with any ... (federal) election." 2 U.S.C. §441b(b)(2). When a corporation uses its general treasury funds to reimburse its

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employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is clearly prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse individuals for their campaign contributions with corporate funds may incur personal liability under the Act.

Toshiba-America has reportedly reimbursed Robert Traeger for contributions made by himself and his wife, Betty, to various candidates for federal office. Specifically, it is reported that Toshiba-America, Inc. reimbursed Robert Traeger for his personal contributions to the Albert Gore, Jr. for President Committee, Inc. ($1,000), the Congressman Bart Gordon Committee ($850), Clement for Congress ($100) and for Betty Traeger's contributions to the Albert Gore, Jr. for President Committee, Inc. ($250), Friends of Jim Sasser ($1,000), and Friends for Terry Holcomb ($500). By obtaining Hiroshi Ikeda's initials on company check printouts for three reimbursement payments and personally arranging for the payment of two additional reimbursement checks to Traeger in November, 1987 without obtaining Ikeda's signature, Norman Nelson, in his capacity as Comptroller, appears to have

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consented to these prohibited contributions. This analysis is further supported by the fact that it appears that Norman Nelson kept records of the campaign committees which received contributions from Robert and Betty Traeger which Toshiba-America reimbursed. Therefore, there is reason to believe that Norman Nelson violated 2 U.S.C. § 441b(a). 11 C.F.R. § 114.2(d).

2. Section 441f Contributions in Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person ..." The term "person" includes corporations such as Toshiba-America. The facts set forth in this analysis with respect to Toshiba's transactions reflect a scheme by which Toshiba-America made corporate contributions to federal candidates and political committees under Robert and Betty Traegers' names.

The Commission has interpreted Section 441f to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By knowingly facilitating the reimbursement of the Traegers' political contributions with corporate funds, Norman Nelson assisted Toshiba-America in making contributions in the name of another. Therefore, there is reason to believe that Norman Nelson violated 2 U.S.C. § 441f.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 13, 1988

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran and Ms. Laham:

On January 28, 1988, your client, Hiroshi Ikeda, was notified that the Federal Election Commission had found reason to believe your client violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena requiring Hiroshi Ikeda to appear and give sworn testimony on July 26, 1988, which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended.

Pursuant to 11 C.F.R. § 111.14, a witness summoned by the Commission shall be paid $30.00 plus mileage at the rate of 21 cents per mile. Your client will be given a check for the witness fee and mileage at the time of the deposition.

Within two days of your receipt of this notification, please confirm the scheduled appearance with Judybeth Greene, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Subpoena

9204090356 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of) MUR 2575)

SUBPOENA

TO: Mr. Hiroshi Ikeda
c/o Jan Baran and Carol Laham
Wiley, Rein and Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to Toshiba-America's reimbursement of Robert Traeger's political contributions and other related matters. Notice is hereby given that the deposition is to be taken on July 26, 1988, in Room 651 at 801 Broadway, Nashville, Tennessee, beginning at 1:30 p.m. and continuing each day thereafter as necessary.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand at Washington, D.C., this 12th day of July, 1988.

Thomas J. Josefiak
Chairman
Federal Election
Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

9204090356 2

6004 5361

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 JUL 19 AM 10:55

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7130

TELECOPIER
(202) 429-7049
TELEX 248348 WYRN UR

July 18, 1988

Ms. Judybeth Greene
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

RE: MUR 2575 (Hiroshi Ikeda)

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 JUL 19 PM 1:50

Dear Ms. Greene:

This letter will confirm that the deposition of Hiroshi Ikeda in MUR 2575 previously scheduled for July 26, 1988 has been rescheduled by agreement with you to August 4, 1988 at 9:30 a.m. and will be held in the Office of the General Counsel at 999 E Street, N.W., Washington, D.C.

Thank you for your assistance in this matter.

Sincerely,

Jan W. Baran

JWB/slg
cc: Hiroshi Ikeda

9204090035563

MCC#9864

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GEN. COUNSEL
88 JUL 20 AM 10:34

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKABLAW-WASH
TELECOPIER:
(202) 393-5760
DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000
ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700
15 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 HIBIYA-SHINBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-508-3660

July 20, 1988

BY HAND

Judybeth Greene, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 Toshiba America, T. Miyashita, Norm Nelson

Dear Judybeth:

This letter will confirm our conversations of July 18, 1988, concerning the depositions of T. Miyashita and Norm Nelson. We agreed, subject to providing an interpreter for Mr. Miyashita, to hold the depositions on July 28 and July 29, 1988. T. Miyashita will be deposed on July 28, 1988, at 2:00 p.m. and Mr. Nelson will be deposed on July 29, 1988, at 10:00 a.m. Both depositions will be held at the U.S. District Court in Nashville, Tennessee. You will inform me of the room number where the deposition will take place.

In preparing the responses, I would like to have the opportunity to review the deposition transcripts. Thus, I request an extension of time of fifteen days to respond to the reason to believe findings against Toshiba America, Inc. (with regard to the Wexler contribution), T. Miyashita, and Norm Nelson. According to my calculation, the responses will be due on August 16, 1988.

Enclosed are the designation of counsel forms for Messrs. Miyashita and Nelson.

Sincerely,

Kenneth A. Gross

Enclosures

9204090356 4

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Ken Gross

ADDRESS: Skadden, Arps, Slate, Meagher Flom
1440 New York Ave NW
Washington, D.C. 20005

TELEPHONE: 202-371-7000

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.

7/18/88
Date

Norman M Nelson
Signature

RESPONDENT'S NAME: Norman M Nelson c/o Toshiba America Inc.

ADDRESS: 1420 Toshiba Drive
Lebanon, TN 37087

HOME PHONE: 615 824-6746

BUSINESS PHONE: 615 444-8501

9204090035565

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: KEN GROSS

ADDRESS: SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVE NW
WASHINGTON, D.C. 20005

TELEPHONE: 202-371-7000

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.

7/12/88
Date

Signature

RESPONDENT'S NAME: TSUNEHIRO MIYASHITA

ADDRESS: TOSHIBA AMERICA, INC.
1420 TOSHIBA DRIVE
LEBANON, TN 37087

HOME PHONE: 615-449-3354

BUSINESS PHONE: 615-444-8501

9204090356 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 21, 1988

Kenneth A. Gross, Esquire
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C.
20005-2107

RE: MUR 2575
Toshiba-America, Inc.,
Tsunehiro Miyashita,
Norman Nelson

Dear Mr. Gross:

This is in response to your letter dated July 20, 1988, requesting an extension of 15 days until August 16, 1988 to respond to the Commission's findings in this matter with regard to Toshiba-America, Inc., Tsunehiro Miyashita and Norman Nelson, and to respond to the interrogatories addressed to Toshiba-America, Inc. 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 August 16, 1988.

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

Sincerely,

Lawrence M. Noble
General Counsel

9204090035 67

MCC#9913

PERKINS COIE

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

July 25, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 JUL 25 PM 4:24

HAND DELIVERY

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

Re: MUR 2575 - Betty Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

This is in response to your letter to the above-referenced Respondent finding reason to believe that she has violated the Federal Election Campaign Act.

Mrs. Traeger received your letter on July 20, and executed the enclosed Designation of Counsel the next day. A response is, therefore, due by August 4, 1988. We received a copy of the materials only today and request an extension of time of ten days within which to prepare a response. It does not appear possible to research with Mrs. Traeger the issues raised by the Commission, prepare a response for her review, and finalize the response within the time remaining before the original response date.

With the extension, Mrs. Traeger's response would be filed with the Commission by Monday, August 15. If you have any questions or need additional information, please do not hesitate to contact one of the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondent

cc: Betty Traeger

0545r

Telex: 44-0277 Pcso Ui • Facsimile (Gp I, II, III): (202) 223-2088
Other Offices: Anchorage, Alaska • Bellevue, Washington • Portland, Oregon • Seattle, Washington

9204090035568

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Robert F. Bauer
Judith L. Corley

ADDRESS: Perkins Coie
1110 Vermont Ave., N.W., #1200
Washington, D.C. 20005

TELEPHONE: (202) 887-9030

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.

7/21/88
Date

Mrs Betty R Traeger
Signature

RESPONDENT'S NAME: Betty R. Traeger

ADDRESS: 3635 Knollwood Road
Nashville, TN 37215

HOME PHONE:

BUSINESS PHONE:

9204090035569

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1988

Robert F. Bauer, Esquire
Judith L. Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W. #1200
Washington, D.C. 20005

RE: MUR 2575
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

This is in response to your letter dated July 25, 1988, requesting an extension of ten days until August 15, 1988 to respond to the Commission's reason to believe findings in the above mentioned 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 August 15, 1988.

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

Sincerely,

Lawrence M. Noble
General Counsel

9204090357 0

MCA# 135

PERKINS COIE

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1110 Vermont Avenue, N.W. • Washington, D.C. 20005 • (202) 887-9030

August 15, 1988

88 AUG 15 PM 4:11
RECEIVED
FEDERAL ELECTION COMMISSION

Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 2575 - Betty Traeger

Attn: Judybeth Greene

Dear Mr. Noble:

Respondent Betty Traeger herewith replies through counsel to the Federal Election Commission's finding of reason to believe a violation had occurred in the above-referenced matter under review. The Commission found reason to believe that Mrs. Traeger had violated the Federal Election Campaign Act of 1971, as amended, by permitting her name to be used to make contributions for which reimbursement was received from Toshiba-America Corporation. Mrs. Traeger's husband, Robert H. Traeger, is an officer of this corporation.

As an officer of the largest employer in the region, Mr. Traeger felt it was very important to develop good relations with government officials in the area, including by means of making political contributions. Mrs. Traeger was involved with her husband in his efforts in achieving these good relations. In the Traeger family, Mrs. Traeger has traditionally maintained the books and records for the family. It is not uncommon that she would sign checks for family disbursements. In her role as "keeper of the accounts," Mrs. Traeger had made political contributions to candidates before the contributions in question in this Matter Under Review.

In the case of the contributions in question in this Matter Under Review, Mr. Traeger gave the bonus checks received from Toshiba to Mrs. Traeger for deposit in their joint bank account. They discussed the making of political contributions as a result of these bonus checks, and Mrs. Traeger or her husband would execute the appropriate contribution check.

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As has been noted in the materials prepared for Mr. Traeger in this matter, he understood at the time the bonus plan was proposed and implemented that such bonus payments were lawful. The contributions made as a result of these bonus payments were, thus, made with the understanding that no violation of any law had occurred. There was no reason for Mrs. Traeger to believe otherwise. Only when notified by the Federal Election Commission of the reason to believe finding against her husband did Mrs. Traeger, along with Mr. Traeger, find that a violation had been involved in the bonus payments.

It is now clear to Mrs. Traeger that the arrangement undertaken by her husband was not in compliance with the federal law. Her mistake was understandable and reflects no effort on her part to circumvent the requirements of the campaign laws. The amount in question, furthermore, is minimal.*/

The Commission should, therefore, take no further action against Mrs. Traeger in this matter and should dismiss the findings against her.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondent

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*/ In the Commission's reason to believe finding, the Commission cites four contributions made by Betty Traeger. The records maintained by Mrs. Traeger, however, reflect that only three of the contributions were made over her signature:

5/15/87	Friends of Jim Sasser	$1,000.00
11/19/87	Albert Gore for President	$ 250.00
11/27/87	Friends of Terry Holcomb	$ 500.00

There is no $500.00 contribution to Al Gore's presidential campaign made on June 18, 1987, by Mrs. Traeger as noted in the Commission's brief.

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Toshiba-America, Inc.)
Robert Traeger)
Betty Traeger)
Tsunehiro Miyashita)
Paul Wexler)
Hiroshi Ikeda)
Norman Nelson)

RECEIVED
FEDERAL ELECTION COMMISSION
88 AUG 19 PM 3:22

COMPREHENSIVE INVESTIGATIVE REPORT # 1

On January 25, 1988, the Commission found reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f by funneling corporate funds to several political committees through its reimbursement of a corporate officer's political contributions. The Commission found reason to believe that Robert Traeger, a corporate officer, had violated 2 U.S.C. §§ 441b(a) and 441f by accepting reimbursement for his political contributions. At that time the Commission also found reason to believe that Hiroshi Ikeda, the corporate officer who authorized the reimbursement of Traeger's political contributions, had violated 2 U.S.C. §§ 441b(a) and 441f.

On the basis of information submitted by aforementioned respondents, the Commission, on June 28, 1988, found reason to believe that Norman Nelson and Tsunehiro Miyashita, corporate officers of Toshiba-America, violated 2 U.S.C. §§ 441b(a) and 441f in connection with the reimbursement of the Traegers' political contributions. The Commission also found reason to believe that Betty Traeger violated 2 U.S.C. § 441f by permitting

9204090357 3

her name to be used to effect contributions from Toshiba-America. Additionally, the Commission found reason to believe that Toshiba-America violated 2 U.S.C. §§ 441b(a) and 441f by reimbursing Paul Wexler, a corporate officer in California, for a political contribution to the Republican Senatorial Inner Circle. The Commission also found reason to believe that Paul Wexler violated 2 U.S.C. §§ 441b(a) and 441f.

In order to further the investigation in this matter, the Commission, on June 28, 1988, authorized this Office to depose Robert Traeger, Tsunehiro Miyashita, Hiroshi Ikeda and Norman Nelson. Tsunehiro Miyashita was deposed in Nashville, Tennessee on July 28, 1988 with the assistance of a Japanese translator. Norman Nelson was deposed in Nashville on the following day. The depositions of Robert Traeger and Hiroshi Ikeda took place in the Office of the General Counsel on August 3 and 4, 1988, respectively. None of the transcripts have yet been received.

This Office has granted extensions of time to respond to the Commission's reason to believe findings to Betty Traeger, Tsunehiro Miyashita, Norman Nelson and Toshiba-America. No response has been received to date from Paul Wexler. Betty Traeger's response is due on August 15, 1988 and the responses of Miyashita, Nelson and Toshiba-America are due on August 16, 1988.

9204090357 4

Once all of the responses and transcripts are received, this Office will review and analyze them and further report to the Commission.

Date 8/18/82

Lawrence M. Noble
General Counsel

Staff person: Judybeth Greene

9204090357 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS
SECRETARY OF THE COMMISSION

MWE

DATE: AUGUST 23, 1988

SUBJECT: MUR 2575
Comprehensive Investigative Report #1
Signed August 18, 1988

The above-captioned report was received in the Secretariat at 3:22 P.M. on Friday, August 19, 1988, and circulated to the Commission on a 24-hour no-objection basis at 11:00 A.M. on Monday, August 22, 1988.

There were no objections to the report.

9204090357 6

GCC#20
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FEDERAL ELECTION COMMISSION
MAIL ROOM
88 AUG 22 AM 9:49

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKAPEL AW WASH
TELECOPIER:
(202) 393-5760
DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000
ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700
16 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 NISHI SHINBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-595-3880

August 16, 1988

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

CONFIDENTIAL

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Toshiba America, Inc.

Dear Mr. Noble:

On June 28, 1988, the Federal Election Commission ("FEC" or "Commission") made an additional reason to believe finding against Toshiba America, Inc. ("TAI") for possible violations of 2 U.S.C. §§ 441b and 441f. This finding was internally generated based on information voluntarily supplied to the Commission by TAI. This additional finding relates to an isolated $1,000 contribution made by Paul Wexler to the Republican Senatorial Inner Circle. On the same date as the reason to believe finding, the Commission issued interrogatories. TAI's responses to those interrogatories are attached hereto.

Mr. Paul Wexler, Vice President, General Manager, Telecommunications Systems Division of TAI, learned at a staff meeting at his office in Irvine, California, that there was an inquiry into possible impermissible political contributions made by a TAI employee on the East Coast. Prior to that meeting, Mr. Wexler did not have the slightest inkling that corporations could not make political contributions. In fact, no TAI employee who was aware of the reimbursement believed it was impermissible in any way. If there was any inkling that such a payment might have been illegal, corporate legal counsel would have been consulted.

This was a one-time involvement for Mr. Wexler. Mr. Wexler was not involved in government relations on a de facto basis or otherwise. He was interested in par-

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OFFICE OF GENERAL COUNSEL
88 AUG 22 PM 4:48

9204090035 77

ticipating this one particular time because of pending trade legislation concerning his substantive area, telecommunications. Moreover, even this one-time involvement was apparently not very important to him or the corporation. As it turned out, he never participated in any of the Republican Senatorial Inner Circle functions and never obtained any information from the group. Mr. Nishioka, another TAI employee interested in the telecommunications issue, never even asked for the information although he was aware that Mr. Wexler joined an organization which might have been a useful resource.

According to Mr. Nishioka, the Director of the Legal Department (non-lawyer), neither he nor Mr. Ishiguro realized that the reimbursement was for a political contribution. They believed the payment was a membership fee for an industry trade association that had useful information on proposed trade legislation.

There are several factors that should be taken into account in mitigation of this violation:

1. Mr. Wexler voluntarily came forward as soon as he learned that corporate reimbursements for political contributions might not be permissible.

2. TAI immediately informed the FEC of this matter.

3. Mr. Wexler made immediate and full restitution of the $1,000 contribution.

4. The respondents have cooperated in every way in facilitating the investigation into this matter.

5. This contribution had nothing to do with the Traeger reimbursements and predated them by almost two years.

6. The contribution was a one-time isolated occurrence in California and Mr. Wexler never even participated in the political function which motivated the contribu-

9204090357 8

tion. TAI received no benefit whatsoever from the contribution.

In view of the mitigating factors, including the small amount involved and the fact that the contribution was made three years ago, we strongly urge the Commission to take no further action on this matter. Please let me know if we can be of any further help.

Sincerely,

Kenneth A. Gross

Attachment

9204090035 79

Interrogatory No. 1. Identify all officers, directors and employees of Toshiba America, Inc. who were involved in authorizing the reimbursement by Toshiba America, Inc. of Paul Wexler's political contribution to the Republican Senatorial Inner Circle. Please identify the positions of these individuals in the company, their nationalities and explain their roles in authorizing the political contribution reimbursements.

Kazuo Ishiguro, was the Executive Vice President of Toshiba America, Inc. ("TAI") in Irvine, California at the time that Mr. Wexler made the contribution to the Republican Senatorial Inner Circle. Mr. Ishiguro, as Mr. Wexler's supervisor, approved the reimbursement for the payment to the Republican Senatorial Inner Circle. Presently, Mr. Ishiguro works for Toshiba in Japan.

Mr. Ishiguro, Dennis Eversole, Vice President of Finance, and Paul Wexler signed the expense reimbursement voucher for the Republican Senatorial Inner Circle contribution. On information and belief Mr. Eversole signs hundreds of vouchers a week and has no recollection of this transaction which occurred three years ago. Mr. Eversole still works for TAI in Irvine, California.

Mr. Ishiguro is an officer of TAI. Mr. Wexler and Mr. Eversole are not officers or directors of TAI. Mr. Ishiguro is Japanese. Mr. Wexler and Mr. Eversole are American.

9204090358O

Interrogatory No. 2. Identify all officers, directors and employees of Toshiba America, Inc. who were involved in directing Paul Wexler to make contributions to particular candidates or political committees. Please identify the positions of these individuals in the company, their nationalities and explain their roles in directing Mr. Wexler's political contributions.

None

Interrogatory No. 3. State whether any officers or directors of Toshiba America, Inc. or Toshiba International were aware that Paul Wexler was receiving reimbursement from Toshiba America, Inc. for political contribution. Please identify these individuals and the titles of their positions with Toshiba America, Inc.

On information and belief no officer or director of either TAI or Toshiba International was aware that Mr. Wexler received a reimbursement for a political contribution. However, the following TAI employees were aware that Paul Wexler received an expense reimbursement for the Republican Senatorial Inner Circle. (On information and belief these individuals were aware that the Republican Senatorial Inner Circle received a payment but did not know the payment was for a political contribution.)

a) Kazuo Ishiguro - Executive Vice President.

b) Yasuo Nishioka - Director of Legal Services (non-lawyer). Mr. Nishioka is not an officer or director of TAI.

9204090358 1

c) Dennis Eversole - Vice President of Finance. As stated in response to Question 1, Dennis Eversole is not an officer or director of TAI. Also, he has no recollection of the reimbursement but signed the expense report.

Interrogatory No. 4. Please submit photocopies of both sides of all checks issued by Toshiba America, Inc. to Paul Wexler as reimbursement for his contribution to the Republican Senatorial Inner Circle.

Copy of check, expense report and check stub are attached. (The check was signed by signature machine.) A copy of the endorsed check is not available.

Attachment

9204090358 2

	100485	E/R	100.00		100.00
	092885	E/R	561.71		561.71
	082485	E/R	74.17		74.17
	082585	E/R	48.06		48.06
		E/R	1,000.00		1,000.00
		TOTALS	1,323.94		1,323.94

DETACH BEFORE DEPOSITING

TOSHIBA

TOSHIBA AMERICA, INC.

70-0039-0
1222

CHECK NO. 822394

CALIFORNIA FIRST BANK
ORANGE COUNTY AIRPORT
2021 Michelson, Irvine, Calif. 92715

DATE 10/11/85 CHECK NO. 822394 AMOUNT OF CHECK

$**1,323.94

PAY TO THE ORDER OF

WEXLER'S PAGE
TELECOM
TUSTIN

COPY-NOT-NEGOTIABLE

VENDOR COPY

AUTHORIZED SIGNATURE

TOSHIBA

TOSHIBA AMERICA, INC. [illegible]

EXPENSE REPORT

DIVISION NAME CORP

VOUCHER NUMBER

EMPLOYEE NAME (PRINT) (LAST NAME FIRST)	VENDOR NO.	WEEK ENDING	DEPT. NO.	TOTAL EXPENSES
WEXLER, PAUL				[redacted]

TYPE OF EXPENDITURE	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTALS	CURRENCY CONVERSION RATE	ACCT. NO.
DATE	8/25									
CITY/STATE FROM:										
CITY/STATE TO:										
PERSONAL MEALS/PER DIEM										6215
CAR RENTAL/LIMO/TAXI										6230
GAS										
MILEAGE x MILEAGE RATE *										
PARKING/TOLLS										
AUTO REPAIRS										
MISC. AUTO										
TOTAL AUTO EXP.										6250/6253
LODGING										6210
PLANE/RAIL										6200
ENTERTAINMENT 1-5 *										6260
ENTERTAINMENT 6-9 *										6261
POSTAGE										6530
TELEPHONE										6330
SERVICE SUPPLIES						ENTERED				5870
MISCELLANEOUS (EXPLAIN)	1,000 — ✓					OCT 9 1985		[redacted]		
TOTAL EXPENSES						COPP A/P		1,000 —		TOTAL EXPENSES

MILEAGE DETAIL			
DATE	FROM	TO	MILEAGE

Nature or Purpose of Travel:

SEE ATTACHED

BEG. MILEAGE _____

END. MILEAGE _____

- ☐ DEALER TRAINING 5860
- ☐ KOOKEI 1340
- ☐ SEMINARS 6180
- ☐ RELOCATION 6160
- ☐ TRADE SHOW 2423 _____
- ☐ OTHER _____

	—	LESS ADVANCE (VOUCHER REQUIRED)
1,000	—	AMOUNT DUE OR (REFUNDABLE)

DATE	NAME, TITLE, AND COMPANY OF PERSONS	PLACE & TYPE OF ENTERTAINMENT	PURPOSE OF ENTERTAINMENT	NO. IN GROUP	PURP. CODE *	AMOUNT
			SEE Exhibit			
			OCT 09 1985			
			A/P			

* PURPOSE CODES: 1. PROSPECTIVE CUSTOMER 2. CURRENT CUSTOMER 3. SUPPLIER 4. PROFESSIONAL ADVISOR 5. CONVENTION 6. COMPANY BUSINESS MEETING 7. EMPLOYEES WELFARE 8. PROSPECTIVE EMPLOYEE 9. OTHER (EXPLAIN)

HC VERIFIED

ACCOUNTS PAYABLE AUDIT	INITIAL	DATE
CROSS FOOTED		
RECEIPTS VERIFIED	JB	10-9-85
PROPER AUTHORIZATION		

MAIL CHECK TO: ADDRESS _____ CITY _____ STATE _____ ZIP _____

I CERTIFY THAT ALL EXPENSES ON THIS REPORT WERE INCURRED BY ME IN THE PERFORMANCE OF COMPANY DUTIES

EMPLOYEE SIGNATURE: P Wexler DATE: 10/2/85

MISCELLANEOUS EXPENSES		
DATE	DESCRIPTION	AMOUNT
	REPUBLICAN SENATORIAL	
	INNER CIRCLE	
		$1,000 ✓

SUPERVISOR'S APPROVAL: [signature] DATE: 10/8/85 — DIVISION APPROVAL: D. Beck DATE: 10/2/85 — DIVISION APPROVAL — DATE — ACCOUNTING APPROVAL — DATE

KEY PUNCH COPY

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FEDERAL ELECTION COMMISSION
88 AUG 22 AM 9:49

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MINATO-KU, TOKYO 105, JAPAN
011-81-3-595-1380

August 16, 1988

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

CONFIDENTIAL

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Tsunehiro Miyashita

Dear Mr. Noble:

On June 28, 1988, the Federal Election Commission ("FEC" or "Commission") found reason to believe that Tsunehiro Miyashita violated 2 U.S.C. §§ 441b and 441f. This firm represents Tsunehiro Miyashita, individually, and submits this letter on his behalf in response to the reason to believe finding. Prior to providing this opportunity to respond to the reason to believe finding, the Commission subpoenaed Mr. Miyashita for deposition. That deposition took place on July 28, 1988, in Nashville, Tennessee.

In that this is an internally generated matter, the reason to believe notice was the first notice Mr. Miyashita received of this action. As is clear from the response, Mr. Miyashita's involvement in the alleged wrongful transactions did not constitute, as a matter of law, a violation of 2 U.S.C. §§ 441b or 441f.

I. FACTUAL BACKGROUND

Mr. Miyashita is the Vice President and Assistant Treasurer of TAI, Manufacturing Division, in Lebanon, Tennessee. He directly reports to Hiroshi Ikeda, Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of TAI. As indicated in TAI's earlier response, Hiroshi Ikeda approved Robert Traeger's requests for reimbursement of political contributions. After Mr. Ikeda made

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the decision to reimburse Mr. Traeger, he spoke with Mr. Miyashita concerning the implementation of the decision. On the first occasion Mr. Ikeda and Mr. Miyashita discussed the reimbursements, Mr. Miyashita asked Mr. Ikeda what the checks were for and whether the payment to Mr. Traeger should be drawn from the payroll account or the expense account. A day or two later Mr. Ikeda instructed Mr. Miyashita to draw the checks against the payroll account. As to the purpose of the checks, Mr. Ikeda stated that he had approved payments to Mr. Traeger to reimburse him for donations. Mr. Miyashita did not participate in the decision to make these reimbursements. Mr. Miyashita, however, set in motion the administrative process of issuing the checks to Mr. Traeger and ultimately signed them as he signs all executive payroll checks. Although Mr. Miyashita's recollection is not clear, he believes that Mr. Ikeda talked with him about the reimbursements before the first two reimbursements were made. After that, he believes that Mr. Traeger went directly to Mr. Nelson with the reimbursement requests. Mr. Miyashita's recollection comports with Mr. Nelson's.

In response to extensive questioning by FEC counsel, it became apparent that Mr. Miyashita's understanding of the U.S. political process is scant and the only concern that he had with regard to these payments related to his responsibilities as the Assistant Treasurer -- i.e., properly accounting for the expenditures as an administrative matter. He did not know that corporations were prohibited from making contributions to federal candidates and did not even have a clear understanding that the purpose of the payments was for political contributions to federal candidates. Mr. Miyashita had no interest in these payments beyond his ministerial functions. This conclusion is buttressed by various factors relating to his background and environment.

Mr. Miyashita is a Japanese national who does not have a command of the English language. His formal education does not go beyond high school and his on-the-job training has been technical; i.e., relating to accounting and financial matters. Mr. Miyashita is not interested or involved in U.S. politics. He primarily associates with Japanese people and he lives in housing in Tennessee provided by TAI for Japanese TAI employees.

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II. APPLICATION OF THE LAW

The FEC found reason to believe that Mr. Miyashita violated 2 U.S.C. §§ 441b and 441f by signing the reimbursement checks issued to Mr. Traeger. The Commission reasoned that the mere signing of the reimbursement checks constituted "consent" subjecting Mr. Miyashita to personal liability for said violations.

A. Contributions in the Name of Another.

Although consent is not an element of a violation of 2 U.S.C. § 441f, the Commission's analysis states that "[t]he Commission has interpreted section 441f to apply to individuals . . . who assist in the making of [contributions in the name of another]." The Federal Election Campaign Act ("FECA") and the Commission's regulations are clear that a violation of section 441f occurs when an individual 1) permits his or her name to be used to effect a contribution in the name of another, 2) makes a contribution in the name of another, or 3) accepts a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. §§ 110.4(b)(1)(i), (ii), and (iii). Thus, as a matter of law, Mr. Miyashita could not have violated section 441f by merely signing reimbursement checks even if he had a vague awareness of the fact that the funds were to be used for political purposes. The discussions that Mr. Miyashita had with Mr. Ikeda when he received instructions to effect the approved payments to Mr. Traeger in no way change his level of culpability.

A review of prior MURs reveals that the Commission has never pursued an individual for a violation of section 441f when he was merely carrying out his official duties within the scope of his authority, particularly when the individual did not expressly violate the terms of section 110.4 by providing funds or allowing his name to be used. In fact, in some instances, high level officers of a corporation were not pursued even though they actively participated in the violation by providing funds or allowing their names to be used. See MUR 1094.

In MUR 1094, the Commission took no further action against an individual who made a contribution to a Presidential candidate and was subsequently reimbursed.

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Although Mr. MacLeod, the respondent in that MUR, was a high ranking officer in the corporation (trade association), the Commission did not pursue him because he relied on the assurances of his superior that there was nothing wrong with participating in the transactions that resulted in a violation of section 441f. The Commission did not pursue three other individuals named in that MUR who permitted their names to be used to effect a contribution in the name of another. The Commission dismissed an action case against a fifth individual who arranged for the reimbursements and played an active role in effecting the illegal transaction. See MUR 1094 (Donald MacLeod, Betty Jean MacLeod, Mary Ann Thomas, Mitchell Jay Addison, Robert Pyle).

In all other cases involving section 441f violations, the individuals pursued, conceived of, or played an active role in effecting the scheme, provided funds for contributions, or allowed their names to be used. See, e.g., FEC v. Rodriquez, No. 86-687-CIV-T-10 (M.D. Fla. May 5, 1987); MUR 1861 (Board of Trade Clearing Corp.); MUR 1713 (First National Bank of Mt. Clemens); MUR 1445 (Agency Holding Corp.); MUR 1436 (Richmond for Congress); MUR 1181 (Jualita Rivera de Vincenti); MUR 1094 (Nicholson); MUR 256 (Shapp for President cases).

B. Consenting to Corporate Contributions.

Unlike section 441f, section 441b includes an express provision which provides potential liability for corporate officers who consent to making corporate contributions. Consent requires a knowing acquiescence or, as Black's Law Dictionary states, "[c]onsent is an act of reason, accompanied with deliberation, the mind weighing as in balance the good or evil on each side." While the Commission's regulations do not define consent, it is not the Commission's practice to pursue a corporate officer for participating in a corporate contribution without some additional factor indicating culpability beyond merely effecting the contribution, by signing a check or preparing an expense voucher.

It is almost inconceivable that the Commission would pursue various officers in an accounting department of a corporation if a few thousand dollars of corporate

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contributions were unwittingly contributed to a federal candidate. At worst, the Commission might pursue the corporation itself and the officer primarily responsible for the contribution.

It is clear from the facts in this matter that Mr. Miyashita had no elevated knowledge or culpability that should trigger such extraordinary action by the Commission. Mr. Miyashita's involvement could not have constituted legal consent in any sense of the word and thereby could not have resulted in a violation of section 441b.

Not only would the pursuit of Mr. Miyashita represent an unprecedented action but it would violate all notions of fairness. It is clear that Mr. Miyashita had no inkling that his actions in any way violated the law, nor could he have reasonably known his actions were illegal in view of his background. While Mr. Miyashita was not politically active in Japan, it should be noted that corporations are permitted under Japanese law to contribute to candidates and such contributions are a common method of funding campaigns in Japan.

For all these reasons, the Commission should have never found reason to believe against Mr. Miyashita without first giving him an opportunity to respond. Now that the reason to believe finding has been made, the appropriate action would be a finding of no probable cause. However, an immediate finding of taking no further action would end this action against him sooner, and for that reason he urges such a result.

Sincerely,

Kenneth A. Gross

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MINATO-KU, TOKYO 105, JAPAN
011-81-3-595-1080

August 16, 1988

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

CONFIDENTIAL

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Norman M. Nelson

Dear Mr. Noble:

On June 28, 1988, the Federal Election Commission ("FEC" or "Commission") found reason to believe that Norman M. Nelson violated 2 U.S.C. §§ 441b and 441f. This firm represents Norman M. Nelson, individually, and submits this letter on his behalf in response to the reason to believe finding. Prior to providing this opportunity to respond to the reason to believe finding, the Commission subpoenaed Mr. Nelson for deposition. That deposition took place on July 29, 1988, in Nashville, Tennessee.

In that this is an internally generated matter, the reason to believe notice was the first notice Mr. Nelson received of this action. As is clear from this response, Mr. Nelson's involvement in the alleged wrongful transactions did not constitute, as a matter of law, a violation of 2 U.S.C. §§ 441b and 441f.

I. FACTUAL BACKGROUND

Norman M. Nelson is the Controller of TAI, Manufacturing Division, in Lebanon, Tennessee. He directly reports to Tsunehiro Miyashita, Assistant Treasurer and Vice President of TAI, Manufacturing Division. Hirosha Ikeda, Executive Vice President and General Manager of TAI, Manufacturing Division, approved Robert Traeger's requests for reimbursement of political contributions. Robert Traeger, Vice President and General

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Manager, is the highest ranking American at the Lebanon facility. After Mr. Ikeda initially made the decision to reimburse Mr. Traeger, he spoke with Mr. Miyashita concerning the implementation of the decision. See Miyashita's response to reason to believe finding in this matter.

Consequently, Mr. Miyashita orally instructed Mr. Nelson to prepare a $1,000 bonus check for issuance to Robert Traeger. When Mr. Nelson inquired into the purpose of the payment, Mr. Miyashita informed him that it was a bonus. At that time, Mr. Nelson did not know the reimbursement to Mr. Traeger was in fact for a political contribution. In that there was no documentation in support of this request, Mr. Nelson sought Mr. Miyashita's assurance that Mr. Ikeda approved the request. Mr. Miyashita responded by stating that Mr. Ikeda approved the request but that he, Mr. Miyashita, did not have written confirmation of such approval. Thus, Mr. Nelson requested that Mr. Miyashita obtain Mr. Ikeda's signature on the payroll register. After Mr. Miyashita obtained Mr. Ikeda's initials on the payroll register, Mr. Nelson directed his assistant to prepare the appropriate check for Mr. Traeger. The check was then brought to Mr. Miyashita for his signature.

Mr. Nelson sought a similar audit trail the next time he received a request to prepare a bonus check to Mr. Traeger. Some time between the first and second requests for reimbursement Mr. Traeger informed Mr. Nelson that the bonus checks were in fact reimbursements for payments Mr. Traeger had made to certain political committees. Mr. Traeger provided copies to Mr. Nelson of the checks he wrote to the political committees so Mr. Nelson would have further documentation with regard to these transactions. Eventually Mr. Nelson obtained copies of the following checks from Mr. Traeger:*

1. Friends of Jim Sasser for $1,000, dated

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* TAI previously provided the FEC with copies of the checks.

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May 15, 1987, signed by Betty Traeger;

2. Congressman Bart Gordon for $600, dated July 16, 1987, signed by Robert Traeger;

3. Congressman Bart Gordon for $250, dated November 16, 1987, signed by Robert Traeger;

4. Clement for Congress for $100, dated November 16, 1987, signed by Robert Traeger;

5. Albert Gore for President for $250, dated November 19, 1987, signed by Betty Traeger.

In addition, Mr. Traeger gave Mr. Nelson a copy of a letter from the Gore campaign which reattributed half of Robert Traeger's contribution to his wife (TAI previously provided the FEC with a copy of this letter).

Mr. Nelson believes that after the first two reimbursements, Mr. Traeger came to Mr. Nelson directly requesting further reimbursements. In each instance, however, Mr. Nelson obtained the written approval of Mr. Ikeda or the assurance of his supervisor, Mr. Miyashita, that Mr. Ikeda had approved the payments. In addition, Mr. Nelson had the payroll register supporting his audit trail and Mr. Miyashita's signature on the reimbursement checks.

Mr. Nelson had no inkling that corporate contributions were illegal or that the reimbursements were impermissible. Mr. Nelson further sought Mr. Traeger's assurance that the payments were proper, not in a legal sense, but with regard to whether such a payment should be made since this was the first time Mr. Nelson ever reimbursed an employee for a political contribution. Mr. Nelson sought this further assurance from Mr. Traeger because the payments were going to him and it was easier to discuss the matter directly with Mr. Traeger rather than Mr. Miyashita because of the language difference between Mr. Miyashita and Mr. Nelson. Mr. Traeger assured Mr. Nelson of the propriety of the reimbursements.

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Thus, Mr. Nelson, as the Controller of the corporation, merely carried out his duties in a responsible manner. He established an audit trail, obtained approval from his superiors, and assured himself of the propriety of the reimbursement from the highest ranking American at the plant, Mr. Traeger. Mr. Nelson had no reason to inquire beyond that point. In his almost six years at TAI, he never refused to issue a check that had been approved by his superiors. It is not clear what Mr. Nelson's authority is with regard to refusing payments, but he testified that he would refuse to authorize a check only if he knew the payment was patently illegal. That clearly was not the case.

II. APPLICATION OF THE LAW

The FEC found reason to believe that Mr. Nelson violated 2 U.S.C. §§ 441b and 441f by obtaining Hiroshi Ikeda's initials on company printouts for three reimbursements and personally arranging for the payment of two additional reimbursement checks, and by facilitating the reimbursement of political contributions in the name of another. As is clear from the facts and as a matter of law, Mr. Nelson committed no violations of the Federal Election Campaign Act ("FECA").

A. Contributions in the Name of Another.

The Commission's Legal and Factual Analysis states that "[t]he Commission has interpreted section 441f to apply to individuals . . . who assist in the making of [contributions in the name of another]." The FECA and the Commission's regulations are clear that a violation of section 441f occurs when an individual 1) permits his or her name to be used to effect a contribution in the name of another, 2) makes a contribution in the name of another, or 3) accepts a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. §§ 110.4(b)(1)(i), (ii), and (iii). Thus, as a matter of law, Mr. Nelson could not have violated section 441f by facilitating the reimbursement of political contributions since he did not allow his name to be used nor did he make or accept a contribution. Mr. Nelson merely carried out his administrative duties with full authorization of

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his superiors and had no reason to suspect that the payments were in any way improper.

A review of prior MURs reveals that the Commission has never pursued an individual for a violation of section 441f when he was merely carrying out his official duties within the scope of his authority, particularly when the individual did not expressly violate the terms of section 110.4 by providing his own funds or allowing his name to be used. In fact, in some instances, high level officers of a corporation were not pursued even though they actively participated in the violation by providing funds or allowing their names to be used. See MUR 1094.

In MUR 1094, the Commission took no further action against an individual who made a contribution to a presidential candidate and was subsequently reimbursed. Although Mr. MacLeod, the respondent in that MUR, was a high ranking officer in the corporation (trade association), the Commission did not pursue him because he relied on the assurances of his superior that there was nothing wrong with participating in the transactions that resulted in a violation of section 441f. The Commission did not pursue three other individuals named in that MUR who permitted their names to be used to effect a contribution in the name of another. The Commission dismissed an action case against a fifth individual who arranged for the reimbursements and played an active role in effecting the illegal transaction. See MUR 1094 (Donald MacLeod, Betty Jean MacLeod, Mary Ann Thomas, Mitchell Jay Addison, Robert Pyle).

In all other cases involving section 441f violations, the individuals pursued conceived of or played an active role in effecting the scheme, provided funds for contributions, or allowed their names to be used. See, e.g., FEC v. Rodriguez, No. 86-687-CIV-T-10 (M.D. Fla. May 5, 1987); MUR 1861 (Board of Trade Clearing Corp.); MUR 1713 (First National Bank of Mt. Clemens); MUR 1614 (Blue Quail Energy, Inc.); MUR 1445 (Agency Holding Corp.); MUR 1436 (Richmond for Congress); MUR 1181 (Jualita Rivera de Vincenti); MUR 1094 (Nicholson); MUR 256 (Shapp for President cases).

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B. Corporation Contributions

Mr. Nelson is not an officer or a director of TAI. Thus, as a matter of law he cannot be held liable for a violation of 2 U.S.C. § 441b. Section 441b is clear on its face that an individual may be held liable for a violation under this section only if he is an officer or a director of a corporation and consents to the making of a contribution or expenditure by the corporation. See 2 U.S.C. § 441b(a); 11 C.F.R. § 114.2(d).

Not only would the pursuit of Mr. Nelson represent an unprecedented action but it would violate all notions of fairness. It is clear that Mr. Nelson had no inkling that his actions in any way violated the law. In fact, he exercised extraordinary diligence and caution in accounting for the payments and ensuring their propriety. For all these reasons, the Commission should have never found reason to believe against Mr. Nelson without first giving him an opportunity to respond. Now that the reason to believe finding has been made, the appropriate action would be a finding of no probable cause. However, an immediate finding of taking no further action would end this action against him sooner, and for that reason he urges such a result.

Sincerely,

Kenneth A. Gross

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MUR #323

JASPER & JASPER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8446

September 6, 1988

OUR FILE NUMBER: 8803-01

BY FEDERAL EXPRESS

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
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Washington, D.C. 20463

RECEIVED
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88 SEP -8 PM 3:37

ATTN: Judybeth Greene, Attorney

Re: **MUR 2575 - Paul Wexler**

Dear Mr. Noble:

We represent Mr. Paul Wexler in connection with the above inquiry. I enclose a Statement of Designation of Counsel executed by Mr. Wexler.

By letter dated August 12, 1988, Mr. Wexler was informed of the finding of the Commission that there was reason to believe that he violated 2 U.S.C. Sections 441b and 441f.

Mr. Wexler wishes to demonstrate that no action should be taken against him and directs your attention to the narrative in response to Interrogatory No. 5. In addition, if after review of the enclosed responses to interrogatories and request for production of documents of the Commission, the Office of the General Counsel intends to recommend to the Commission that it find probable cause, then Mr. Wexler and I respectfully request the opportunity to meet with you and Ms. Greene in Washington before such a recommendation is made to the Commission. We believe that the Office of the General Counsel will conclude that there was no violation by Mr. Wexler of 2 U.S.C. Section 441b(a), because, contrary to the Commission's "Factual and Legal Analysis," Mr. Wexler is not and has never been an officer of Toshiba-America, Inc. He has been an officer of a division only. In addition, there was no violation of 2 U.S.C. Section 441f, because the isolated $1,000 payment in 1985 involved here was not intended by Mr. Wexler to be a contribution in the name of another, but, as the enclosed contemporaneous documents show, was intended to be a membership by Mr. Wexler with the open sponsorship of Toshiba. There is not a scintilla of evidence of

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duplicity or of intentional non-disclosure of Toshiba's sponsorship of Mr. Wexler.

Under the Singer Doctrine, there should be no action taken against Mr. Wexler, because he completely voluntarily initiated the inquiry of him by contacting several house and outside counsel for Toshiba when he learned of some other recent inquiry by the Federal Election Commission into Toshiba-America, Inc. This was despite the fact that no one had attempted to interview him, no one had announced an intention to interview him, and no one had indicated directly or indirectly that he was under suspicion or investigation of any type. Moreover, Mr. Wexler, at his own initiative, suggested that he make a reimbursement to the corporation of $1,000 and promptly did so within a few weeks after learning that his payment might be deemed questionable. Under the Singer Doctrine of the United States Department of Justice, persons who voluntarily disclose wrongdoing by them, without having previously been the subject of investigation, are ordinarily not subjected to prosecution. Under any standard, moreover, the event in question is three years old and, given the Commission's scarce resources, de minimus. Thus, no action should be taken against Mr. Wexler.

Finally, should the Office of the General Counsel still wish to proceed further with this matter, Mr. Wexler is amenable to entering into pre-probable cause conciliation discussions.

Please feel free to let me know, directly or through Ms. Greene, if we may be of any further assistance in responding to your inquiry concerning Mr. Wexler. Thank you for your cooperation.

Very truly yours,

JASPER & JASPER

Stuart Jasper

Stuart P. Jasper

SPJ/mm

Enclosures

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Stuart P. Jasper
JASPER & JASPER

ADDRESS: 1201 Dove Street, 6th Floor
Newport Beach, CA 92660

TELEPHONE: (714) 476-8446

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.

8/23/88
Date

Paul Wexler
Signature

RESPONDENT'S NAME: PAUL L. WEXLER

ADDRESS: 10931 Furlong Drive
Santa Ana, CA 92705

HOME PHONE:

BUSINESS PHONE: (714) 583-3390

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BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF	)	MUR 2575
	)	
	)	RESPONSES OF PAUL WEXLER TO
	)	INTERROGATORIES AND REQUEST
	)	FOR PRODUCTION OF DOCUMENTS

Paul Wexler voluntarily responds as follows to the Federal Election Commission's Interrogatories and Request for Production of Documents. Stuart P. Jasper of Jasper & Jasper assisted in drafting the interrogatory responses.

No documents which are the subject of the interrogatories or document request implicate the attorney-client privilege. The only such documents are documents involving Mr. Jasper's representation of Mr. Wexler beginning in April 1988.

All interrogatories using the term "contributions" are responded to as if the operative word were "payments."

1. State whether you made political contributions in 1985, 1986 or 1987 to the Republican Senatorial Inner Circle and any other political committee, party or candidate for federal office. If so, please indicate the amount and date of each contribution to these committees.

RESPONSE: I made a payment to the listed group but did not understand it to be or intend it to be a political contribution. The payment was in the amount of $1,000 and was made on August 25, 1985. As shown below in the documents submitted in response to Item No. 15, I intended and understood

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that I was becoming a member of the Republican Senatorial Inner Circle," but did not regard it as a political contribution.

2. State whether Toshiba-America, Inc. reimbursed you for any of the contributions identified in your response to Question 1. Please list the date, amount and form (i.e. bonus, cash, check, advance, salary increase, etc.) of all such corporate reimbursement payments.

RESPONSE: I was reimbursed for my payment; $1,000; October 11, 1985; check in response to expense report dated October 3, 1985.

3. State whether any director or officer of Toshiba-America, Inc. or Toshiba International directed you to contribute to the Committees identified in your response to Question 1. If so, please identify these individuals, including their nationalities and positions in the company and the content of the conversation with those individuals regarding your contributions.

RESPONSE: No.

4. Identify the individual(s) who authorized Toshiba-America, Inc. to reimburse you for your contributions. Please include the positions and nationalities of these individuals.

RESPONSE: (a) On information and belief, Mr. Kazuo Ishiguro, Executive Vice-President of Toshiba-America, Inc., (b) On information and belief, Mr. Yasuo Nishioka, whom I understood to be the head of the legal department; (c) On

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information and belief, the controller of the company at the time, whom I believe was Mr. Dennis Eversole, who on information and belief signed my expense report. Messrs. Ishiguro and Nishioka are Japanese and Mr. Eversole, American.

5. Explain how you arranged to receive reimbursement from Toshiba-America, Inc. for your political contributions.

RESPONSE: There were no "political contributions." There was the single payment identified in response to No. 1 above. A narrative of what occurred is as follows, as evidenced by the documents submitted in response to No. 15.

Sometime in the summer of 1985, I received a written solicitation from the Republican Senatorial Inner Circle. (I did not keep the solicitation.) The solicitation said that I could become a member for $1,000. At the time, I was interested in the trade issue as it affected my division of Toshiba-America, Inc. ("TAI"). I would have made the payment in order to become a member of the Republican Senatorial Inner Circle, whether or not the Company agreed to have me join the Inner Circle, but decided to seek to have the Company sponsor my membership.

I had a brief conversation with the gentleman to whom I reported, Kazuo Ishiguro, which I confirmed in a brief handwritten memorandum dated August 18, 1985. (True and correct copies of all documents referred to are attached hereto.) The memorandum states:

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"Mr. Ishiguro

As noted in the attachment, I have the opportunity to get some exposure to key U.S. senatorial and cabinet personnel by becoming a member of the 'Republican Senatorial Inner Circle.' Since the trade issue is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the 'Inner Circle' for at least the next year. As such, I would like your approval to have TSD sponsor my membership in participation in the 'Inner Circle.' Your review and concurrence of this request would be appreciated.

Thanks, P. Wexler

8/18/85." (emphasis supplied)

Two days later, on August 20, 1985, I received a note from Mr. Ishiguro which stated as follows:

"Mr. P. Wexler

Okay to participate. Annual dues will be charged to Legal Dept. (Mr. Nishioka) and give him a copy of insider reports.

8/20 /s/."

Five days later, on August 25, 1985, I sent a check on my personal account for $1,000 to the Republican

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Senatorial Inner Circle with the memo line, "Inner Circle membership."

I do not know whether or not I sent the check in an envelope on the stationery of Toshiba, but would have thought nothing of having done so and would expect that I would have sent it through my secretary in such an envelope.

My job did not involve me in politics (and still does not). I was involved in general management of my division, which makes primarily key telephone and PBX equipment, and had nothing to do with lobbyists, lobbying, politics, public information, governmental relations, or the like. This was my one and only venture into membership in a politically affiliated organization, and it raised no question in my mind as to legality. I am not saying merely that I did not know that the payment might be alleged to be illegal. I did not know that, for sure. But more than that, I did not have any inkling or suspicion of any type that the payment even raised a legal issue. Thus, I did not seek out legal counsel at my Company. The involvement of legal counsel, as it turned out, was merely a coincidence.

When my superior, Mr. Ishiguro, wrote back that the expense would be charged to the Legal Department, and that I was to give him a copy of 'insider reports,' I took no specific comfort from the fact that the matter had obviously been approved by the head of our Legal Department, because I had never realized that the Legal Department would be or should even have been

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consulted. Nonetheless, the advice from my superior Mr. Ishiguro that the matter was to be charged to the Legal Department certainly raised no issue of propriety or legality in my mind.

Accordingly, on October 3, 1985 I made out an expense report, my usual way of getting reimbursed for expenses, for the $1,000 and explicitly stated in capital letters hand printed, "Republican Senatorial Inner Circle - $1,000." On the same day, my administrative assistant, Sally Ronie, sent the note of approval from Mr. Ishiguro and my expense report to our controller, Mr. Dennis Eversole, with a note stating: "Per the attached note from Mr. Ishiguro, $1,000 annual dues is to charged to the Legal Dept. Sally for Paul Wexler."

A week later, on October 11, 1985 I received a check for $1,323.94, including reimbursement for other expenses and the reimbursement of $1,000 for the payment to the Republican Senatorial Inner Circle. The $323.94 was for expenses completely unrelated to the Republican Senatorial Committee, and I received no bonus or any other payment for making the payment.

In March 1988, I was at a staff meeting at TAI in Irvine when I learned that there had been an issue concerning political contributions or payments by TAI on the East Coast. No one questioned me about my own payment. On my own, I told my associates about my own payment, and they suggested that I contact house counsel, John Anderson of Wayne, New Jersey. Another representative of our Company contacted me and told me

9204090360 4

that Kenneth Gross, of Skadden, Arps, outside counsel for the Company would be contacting me. Mr. Gross did not contact me orally but contacted me by letter. I then retained independent counsel to represent me in connection with this matter and, upon initial investigation of the matter, immediately offered and, by check dated April 7, 1988, made reimbursement of that amount to Toshiba-America, Inc.

I made the reimbursement at my own initiative, without being requested to do so by Toshiba. On information and belief, Mr. Gross has informed the Republican Senatorial Inner Circle of my reimbursement by Toshiba, but inexplicably, the Republican Senatorial Inner Circle has failed to reimburse me. Thus, I have incurred the expense on my own of $1,000.

I never went to any events of the Republican Senatorial Inner Circle, and to my knowledge, no one else from the Company ever did either.

The payment in 1985 was a once in a lifetime thing which has never been repeated and never will be, now that I understand the issues. The actions of Messrs. Ishiguro, Nishioka, Eversole and me were entirely innocent, even if naive as to federal election law. I take full responsibility for initiating the suggestion to join the Inner Circle. These men are not at all to blame. .

6. State whether Toshiba-America, Inc. had a system in place for reimbursing directors, officers or employees for political contributions prior to the time that you arranged for

9204090360 5

Toshiba-America, Inc. to reimburse you for your contribution. If so, please explain how that system operated.

RESPONSE: No.

7. State whether Toshiba-America, Inc. compensated you financially or otherwise, for giving contributions to political committees beyond the amount of direct reimbursements.

RESPONSE: No.

8. State whether other Toshiba-America, Inc. officers, directors or employees were reimbursed by Toshiba-America, Inc. for making contributions to political committees.

RESPONSE: Not to my knowledge and I have no opportunity for finding out.

9. State whether you informed any of the recipients of your contributions that Toshiba-America, Inc. had reimbursed you or planned to reimburse you for your contributions.

RESPONSE: No, until 1988, as stated above.

10. State whether any of the political committees or candidates to whom you gave contributions knew from any other source that Toshiba-America had reimbursed you or planned to reimburse you for your contributions.

RESPONSE: No, not to my knowledge without the possible exception of Toshiba envelope of enclosure.

11. State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

9204090360606

RESPONSE: I am Vice-President / General Manager, Telecommunication Systems Division of Toshiba-America, Inc. I have general management responsibilities for the division, including sales, marketing, distribution, product planning, research and development, and manufacturing. I am not an officer of the Company and never have been.

12. State whether Toshiba International was involved in any way, either directly or indirectly, in providing reimbursement for your contributions to political committees. Please explain.

RESPONSE: Not to my knowledge.

13. State whether Toshiba International was involved in any way, either directly or indirectly, in directing you to make contributions to particular candidates or political committees. Please explain.

RESPONSE: Not to my knowledge.

14. Please provide photocopies of both sides of every check received as reimbursement for a campaign contribution and every check written as a direct campaign contribution for which reimbursement was paid or promised by Toshiba-America, Inc. or any Toshiba America representative.

RESPONSE: I enclose the check which you appear to be seeking. I made a payment, as noted above, but not the contribution alleged.

15. Please provide photocopies of any documents relating to the initiation, development and execution of

9204090360 7

Toshiba-America's reimbursement of campaign contributions.

RESPONSE: With respect to this request, I enclose all of the following documents identified in response to No. 5 above.

A. Copy of Check No. 00417 dated August 25, 1986 from Wexler payable to Republican Senatorial Inner Circle in the amount of $1,000 for membership.

B. Handwritten memo dated August 18, 1985 from Wexler to Mr. Ishiguro.

C. Handwritten memo dated August 20 from Kazuo Ishiguro to Wexler.

D. Interoffice memo dated October 3, 1985 from Sally Ronie of Paul Wexler's office to Dennis Eversole.

E. Expense report signed October 3, 1985.

F. Copy of Remittance Advice, Toshiba America, Inc. Check No. 822394 to Paul Wexler dated October 11, 1985.

G. Copy of Check No. 1416 dated April 7, 1988 from Wexler payable to Toshiba America, Inc. - IEBS in the amount of $1,000 for account adjustment.

DATED: September 6, 1988.

JASPER & JASPER

By: Stuart Jasper
Stuart P. Jasper
Attorneys for Paul Wexler

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9204090360 9

ROSALYN L WEXLER
PAUL L WEXLER
[redacted]
SANTA ANA CA 92705

00417

8/25/1986

Pay to the Order of Republican Sentinel Lunch Circle $ 1,000.00

One Thousand & XX/XX Dollars

First Interstate Bank
of California
Tustin Office
1140 East Irvine Boulevard
Tustin, CA 92680

For Lunch Circle Membership

[redacted]

⑈0000100000⑈

EXHIBIT "A"

PAUL WEXLER

Mr. Eldridge

As noted in the attachment, I have the opportunity to get some exposure to key U.S. senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle."

Since the trade issue is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership and participation in the "Inner Circle."

Your review and concurrence of this request would be appreciated.

Thanks,

PWexler

8/18/85

AUG 18 1985 RECEIVED

TOSHIBA TELECOM

9204090361 0

EXHIBIT "B"

From the desk of...
KAZUO ISHIGURO

Mr Pinkerton

OK to participate

Annual due will be charged to Legal Dept (Mr Nishioka) and give him a copy of insider reports.

3/20

TOSHIBA AMERICA, INC.

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EXHIBIT "C"

From the desk of . . .

SALLY RONIE

October 3, 1985

Dennis Eversole:

Per the attached note from Mr. Ishiguro, $1,000 annual dues is to be charged to the Legal Dept.

Sally

for Paul Wexler

attach.

9204090361 2

TOSHIBA

EXHIBIT "D"

TOSHIBA AMERICA, INC. REMITTANCE ADVICE

MEXLER, PAUL
VENDOR NO. 103487 DATE 10/11/85 CHECK NO. 822394

INVOICE NO	DESCRIPTION	GROSS AMOUNT	DEDUCTION	NET AMOUNT
		360.00-		360.00
100485	E/R	561.71		561.71
092885	E/R	74.17		74.17
082485	E/R	48.06		48.06
082585	E/R	1,000.00		1,000.00
	TOSHIBA			
	TOTALS	1,323.94		1,323.94

DETACH BEFORE DEPOSITING

EXHIBIT "F"

ROSALYN L. WEXLER
PAUL L. WEXLER
10931 FURLONG DR. 838-0330
SANTA ANA, CA 92705

1416

4/7/ 1988

16-21/1220

Pay to the Order of TOSHIBA AMERICA, INC. - IEBS $ 1000.00

ONE THOUSAND & XX/XX Dollars

First Interstate Bank

First Interstate Bank of California 0240
1140 Irvine Boulevard
P.O. Box 000
Tustin, CA 92680

For ACCOUNT ADJUSTMENT

[redacted] 1416

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EXHIBIT "G"

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
88 SEP 20 AM 10:54

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
88 SEP 21 AM 11:40

OGC 447

WILEY, REIN & FIELDING

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

JAN W. BARAN
(202) 429-7330

TELECOPIER
(202) 429-7049
TELEX 248348 WYRN UR

September 19, 1988

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

Attn: Judybeth Greene

RE: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Noble:

Enclosed please find a signed transcript of Hiroshi Ikeda's August 4, 1988 Deposition. As was stated at the time of the deposition, English is not Mr. Ikeda's native language. Further, Mr. Ikeda speaks with a strong accent which apparently caused the court reporter to misunderstand and mistranscribe some of Mr. Ikeda's testimony. Mr. Ikeda carefully reviewed this transcript and has made numerous handwritten changes which he believes will improve the clarity and accuracy of his testimony. This signed transcript should be treated as the official transcript of this deposition.

I look forward to the rapid resolution of this matter.

Sincerely,

Jan W. Baran

JWB/slg
Enclosure
cc: Mr. Hiroshi Ikeda

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OGC*435

PERKINS COIE

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

September 22, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF
88 SEP 22 PM 3:35

Judybeth Greene
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C 20463

Re: MUR 2575 - Robert H. Traeger

Dear Judybeth

As promised, enclosed is a copy of the political contributions policy of Toshiba America, Inc., which was discussed in the deposition of Robert Traeger on August 3, 1988.

If you have any questions or need additional information, please contact me.

Very truly yours,

Judith L. Corley

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TOSHIBA

TOSHIBA AMERICA, INC.
375 PARK AVENUE, NEW YORK, N.Y. 10152
PHONE: (212) 308-2040

MEMORANDUM

TO: ALL EXECUTIVES OF TOSHIBA AMERICA, INC.

FROM: N. Ishizaka
Chairman & Chief Executive Officer

DATE: March 9, 1988

RE: Political Contributions

It is the policy of Toshiba America, Inc. not to make any corporate contributions to candidates for either federal, state or local office.

Pursuant to the Federal Election Campaign Act of 1971, contributions or expenditures by corporations in connection with any election to federal political office or with any primary election, convention or caucus for such federal political office are illegal. Similarly, a corporation is prohibited from using bonuses or other methods of reimbursing employees for their contributions. Many states have similar prohibitions. Thus, contributions made by you or your families will not be reimbursed by Toshiba America, Inc. in any manner, under any circumstances.

Furthermore, while most individuals are free to make political contributions, foreign nationals may not make contributions in connection with any election - federal, state or local. This prohibition, however, does not apply to foreign citizens who are legally admitted for permanent residence in the United States (those who have "green cards").

Your strict compliance with these restrictions is requested.

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MUR 2575

RECEIVED
FEDERAL ELECTION COMMISSION
88 SEP 28 AM 8:57

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKARSLAW-WASH
TELECOPIER:
(202) 393-5760

DIRECT DIAL
(202) 371-

919 THIRD AVENUE
NEW YORK, NEW YORK 10022
(212) 735-3000

ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800

ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000

300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000

333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700

18 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 NISHI SHINBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-595-3650

September 26, 1988

Judybeth Greene, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Toshiba America, Inc.

Dear Judybeth:

Per our discussion, enclosed is a copy of a draft of the memorandum distributed to Toshiba America (TAI) employees concerning political contributions. I have been informed that this memorandum was distributed without changes, although I do not have a copy of the memorandum actually distributed. The memorandum was prepared and distributed after the Commission informed TAI that it had found reason to believe in this matter.

Let me know if you have any further questions.

Sincerely,

Kenneth A. Gross

Enclosure

RECEIVED
FEDERAL ELECTION COMMISSION
88 SEP 29 PM 4:06

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[TOSHIBA AMERICA LETTERHEAD]

Re: Political Contributions

TO ALL EXECUTIVES OF TOSHIBA AMERICA, INC.:

It is the policy of Toshiba America, Inc. not to make any corporate contributions to candidates for either federal, state or local office.

Pursuant to the Federal Election Campaign Act of 1971, contributions or expenditures by corporations in connection with any election to federal political office or with any primary election, convention or caucus for such federal political office are illegal. Similarly, a corporation is prohibited from using bonuses or other methods of reimbursing employees for their contributions. Many states have similar prohibitions. Thus, contributions made by you or your families will not be reimbursed by Toshiba America, Inc. in any manner, under any circumstances.

Furthermore, while most individuals are free to make political contributions, foreign nationals may not make contributions in connection with any election - federal, state or local. This prohibition, however, does not apply to foreign citizens who are legally admitted for permanent residence in the United States (those who have "green cards").

Your compliance with these restrictions is appreciated.

Very truly yours,

Nobuo Ishizaka

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MUR 2571

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

88 SEP 29 AM 9:06

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKARSLAW-WASH
TELECOPIER:
(202) 393-5760
DIRECT DIAL
(202) 371-

NEW YORK, NEW YORK 10022
(212) 735-3000
ONE BEACON STREET
BOSTON, MASSACHUSETTS 02108
(617) 573-4800
ONE RODNEY SQUARE
WILMINGTON, DELAWARE 19801
(302) 651-3000
300 SOUTH GRAND AVENUE
LOS ANGELES, CALIFORNIA 90071
(213) 687-5000
333 WEST WACKER DRIVE
CHICAGO, ILLINOIS 60606
(312) 407-0700
40 FLOOR, HIBIYA CENTRAL BUILDING
1-2-9 NISHI SHIMBASHI,
MINATO-KU, TOKYO 105, JAPAN
011-81-3-986-3650

September 27, 1988

Ace-Federal Reporters, Inc.
444 North Capitol Street
Washington, D.C. 20001

Re: Depositions of Tsunehiro Miyashita (July 28, 1988) and Norman Nelson (July 29, 1988)

Dear Sir or Madam:

Enclosed are the original signed transcripts of the depositions of Tsunehiro Miyashita and Norman Nelson. You will note that several changes were made on the transcripts themselves. The changes on Mr. Miyashita's transcript are also noted on the enclosed erratum. Mr. Nelson's changes are so numerous that I have left them as initialed notations on the transcript without attempting to prepare a separate erratum. Since many of the changes are very minor, you may want to prepare an erratum without including every change.

Let me know if you have any questions.

Sincerely,

Kenneth A. Gross

Enclosures

cc: Judybeth Greene, Esq.
(with enclosures)

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RECEIVED
FEDERAL ELECTION COMMISSION
88 SEP 29 PM 4:14

MUR 2575

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 6, 1988

Department of State
Division of Corporations
162 Washington Avenue
Albany, New York 12231

To whom it may concern:

The Office of General Counsel requests that you provide a certified copy of the Articles of Incorporation of Toshiba-America, Inc. We have enclosed a check for $10.00 to the New York State Department of State in payment for this service.

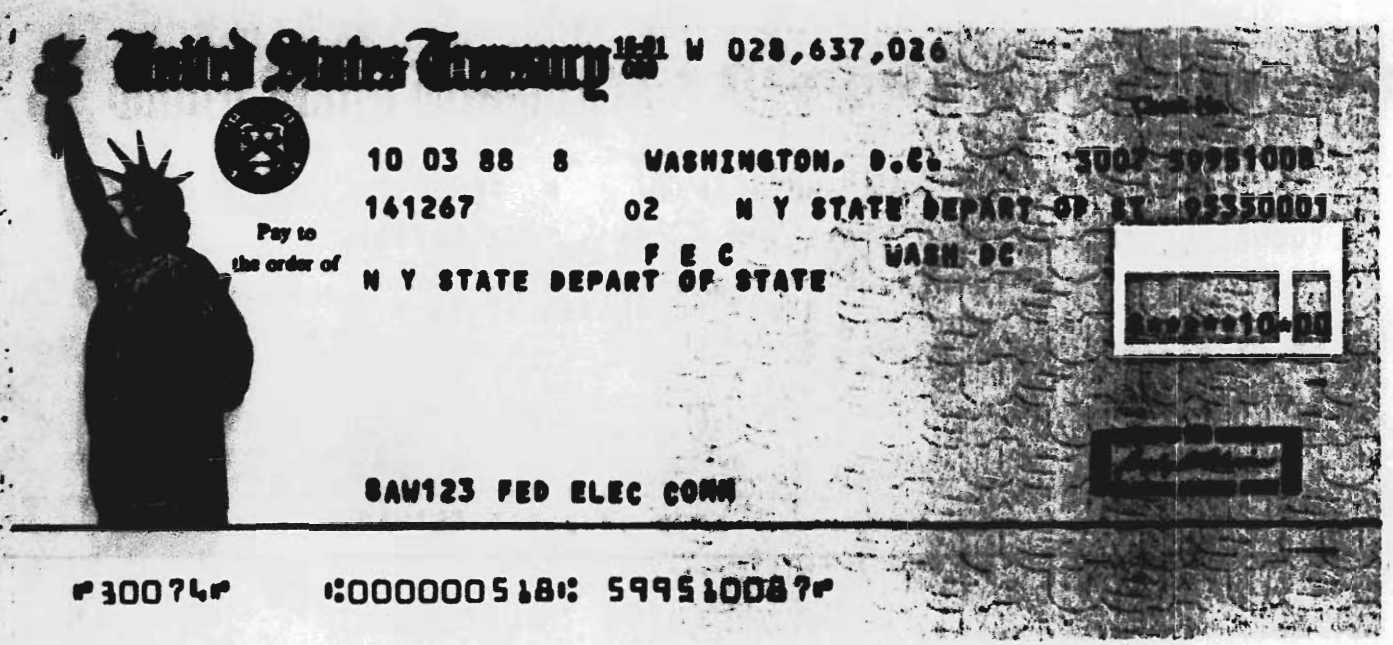
If you have any questions, please contact Judybeth Greene, an attorney in this Office, at (202) 376-8200. Thank you for your cooperation and assistance.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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CERTIFICATE OF INCORPORATION

OF

TOSHIBA AMERICA, INC.

UNDER SECTION 402 OF THE
BUSINESS CORPORATION LAW

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED APR 30 1965
TAX $ 10.00
FILING FEE $ 50.00

Albert McKenzie & Hightower
[illegible] Avenue
New York, New York 10017

106G#716

CERTIFICATE OF INCORPORATION

of

TOSHIBA AMERICA, INC.

Under Section 402 of the Business Corporation Law

The undersigned, being a natural person of at least 21 years of age and acting as the incorporator of the corporation hereby being formed under the Business Corporation Law, certifies that:

FIRST: The name of the corporation is

TOSHIBA AMERICA, INC.

SECOND: The corporation is formed for the following purposes:

(1) To purchase, sell, or otherwise deal in general merchandise and generally to do all acts necessary or incidental to the operation of an import and export business;

(2) To purchase, sell and generally to trade and deal in and with goods, wares, products and merchandise of every kind, nature and description; and to engage and participate in any mercantile, manufacturing or trading business of any kind or character whatsoever; in each case to such extent as a corporation organized under the Business Corporation Law of the State of New York may now or hereafter lawfully do;

(3) To acquire by purchase, exchange or otherwise, all or any part of, or any interest in, the properties, assets, business and goodwill of any one or more corporations, associations, partnerships, firms, syndicates, or individuals, engaged in any business which this corporation is authorized to carry on; to pay for the same in cash, property or its own or other securities; to hold, operate, reorganize, liquidate, mortgage, pledge, sell, exchange or in any manner dispose of the whole or any part thereof; and, in connection therewith, to assume or guarantee performance of any liabilities, obligations or contracts of corporations, associations, partnerships, firms, syndicates or individuals, and to conduct in any lawful manner the whole or any part of any business thus acquired;

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(4) To purchase, lease or otherwise acquire and to hold, own, maintain, manage, improve, rent, sell or otherwise dispose of real and personal property of all kinds and in particular lands, buildings, shares of stock, mortgages, bonds, debentures and other securities, merchandise, book debts and claims and any interest in real or personal property;

(5) To adopt, apply for, obtain, register, purchase, lease or otherwise acquire and to maintain, protect, hold, use, own, exercise, develop, manufacture under, operate and introduce, and to sell and grant licenses or other rights in respect of, assign or otherwise dispose of, turn to account, or in any manner deal with and contract with reference to, any trademarks, trade names, patents, patent rights, concessions, franchises, designs, copyrights and distinctive marks and rights analogous thereto, and inventions, devices, improvements, processes, recipes, formulae and the like, including such thereof as may be covered by, used in connection with, or secured or received under, Letters Patent of the United States of America or elsewhere or otherwise, and any licenses in respect thereof and any or all rights connected therewith or appertaining thereto;

(6) To borrow money for its corporate purposes, and to make, accept, endorse, execute and to issue promissory notes, bills of exchange, bonds, debentures or other obligations from time to time, for the purchase of property, or for any purpose relating to the business of the company, and, if deemed proper, to secure the payment of any such obligations by mortgage, pledge, deed of trust or otherwise;

(7) To lend its uninvested funds from time to time to such extent, on such terms and on such security, if any, as the Board of Directors of the corporation may determine;

(8) To sell, improve, manage, develop, lease, mortgage, dispose of or otherwise turn to account or deal with, all or any part of the property of the company;

(9) To conduct its business in all or any of its branches, so far as permitted by law, in the State of New York and in other states of the United States of America, and in the territories and the District of Columbia, and in any or all dependencies, colonies or possessions of the United States of America, and in foreign countries; and for and in connection with such business, to hold, possess, purchase, lease, mortgage and convey real and personal property and to maintain offices and agencies either within or without the State of New York;

920409-03625

(10) To carry out all or any part of the foregoing objects as principal, factor, agent, broker, contractor or otherwise, either alone or in conjunction with any persons, firms, associations, corporations or others in any part of the world; and in carrying on its business and for the purpose of attaining or furthering any of its objects, to make and perform contracts of any kind and description, and to do anything and everything necessary, suitable, convenient or proper for the accomplishment of any of the purposes or the attainment of any one or more of the objects herein enumerated or incidental to the powers herein specified, or which shall at any time appear conducive to or expedient for the accomplishment of any of the purposes or the attainment of any of the objects hereinbefore enumerated.

Nothing herein contained shall be deemed to limit or exclude any power, right or privilege given to the corporation by law, or shall be construed to give the corporation any right, power or privilege not permitted by the laws of the State of New York to corporations organized under the Business Corporation Law of the State of New York.

The foregoing clauses in this Article shall be construed as stating both purposes and powers. It is the intention that the purposes and powers specified in said clauses shall be in no wise limited or restricted by reference to or inference from the terms of any other clause of this or any other Article in this certificate, but that the purposes and powers specified in each of the clauses of this Article shall be regarded as independent and cumulative purposes and powers.

THIRD: The office of the corporation is to be located in the City of New York, County of New York, State of New York.

FOURTH: (a) The aggregate number of shares which the corporation shall have authority to issue is 200, all of which are without par value, and all of which are of the same class.

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(b) The corporation may issue and may sell its authorized shares without par value whether now or hereafter authorized, from time to time, for such consideration as shall be the fair market value of such shares, and in the absence of fraud in the transaction, the judgment of the Board of Directors as to such value shall be conclusive, or in the absence of fraud in the transaction, for such consideration as from time to time may be fixed by the Board of Directors, or for such consideration as shall be consented to or approved by the holders of a majority of the shares entitled to vote at a meeting called in the manner prescribed by the by-laws, provided the call for such meeting shall contain notice of such purpose, and any and all shares so issued shall be fully paid and non-assessable, and the holder of such shares shall not be liable to the corporation or to its creditors in respect thereto.

FIFTH: The Secretary of State is designated as the agent of the corporation upon whom process against the corporation may be served. The post office address within or without the State of New York to which the Secretary of State shall mail a copy of any process against the corporation served upon him is:

c/o Jiro Murase, Esq.
Suite 2320
270 Park Avenue
New York, N.Y. 10017

SIXTH: The duration of the corporation is to be perpetual.

SEVENTH: Except as may otherwise be specifically provided in this certificate of incorporation, no provision of

920409036 27

this certificate of incorporation is intended by the corporation to be construed as limiting, prohibiting, denying or abrogating any of the general or specific powers or rights conferred under the Business Corporation Law upon the corporation, upon its shareholders, bondholders, and security holders, and upon its directors, officers, and other corporate personnel, including, in particular, the power of the corporation to furnish indemnification to directors and officers in the capacities defined and prescribed by the Business Corporation Law and the defined and prescribed rights of said persons to indemnification as the same are conferred by the Business Corporation Law.

Jiro Mufase
270 Park Avenue
Room 2320
New York, New York

Dated: New York, N.Y.
March 26, 1965

'92040903628

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

On the date hereinafter set forth, before me came Jiro Murase, to me known to be the individual who is described in, and who signed the foregoing certificate of incorporation, and he acknowledged to me that he signed the same.

Dated: New York, N.Y.
March 26, 1965

JEROME P. CATOZZI, JR.
Notary Public, State of New York
No. 31-5882723
Qualified in Kings County
Commission Expires March 30, 1966

9204090036 29

State of New York
Department of State } ss:

070975

I hereby certify that I have compared the annexed copy with the original document filed by the Department of State and that the same is a correct transcript of said original.

Witness my hand and seal of the Department of State on OCT 17 1988

Secretary of State

380507 004 (12 87)

9204090336 30



88 OCT 21 PM 1:14

NYS DEPARTMENT OF STATE

MISC FILING RECEIPT COPY

Mun 2575

CORPORATION NAME
TOSHIBA AMERICA, INC.

DATE FILED	DURATION & COUNTY CODE	FILM NUMBER	CASH NUMBER
10/19/88			267359

NUMBER AND KIND OF SHARES	LOCATION OF PRINCIPAL OFFICE

D4090363 1

ADDRESS FOR PROCESS	REGISTERED AGENT

FEES AND/OR TAX PAID AS FOLLOWS:
00010.00

AMOUNT OF CHECK $_____ AMOUNT OF MONEY ORDER $_____ AMOUNT OF CASH $_____

_____ DOLLAR FEE TO COUNTY

$ FILING
$ TAX
$ CERTIFIED COPY
$ CERTIFICATE
010.00 MISCELLANEOUS
0000010.00
TOTAL PAYMENT $

REFUND OF $

TO FOLLOW

FILER NAME AND ADDRESS

FEDERAL ELECTION COMMISSON

ATTN: LOIS LERNER
WASHINGTON DC 20463

GAIL S SHAFFER - SECRETARY OF STATE

380804-003 (8/84)

FEDERAL ELECTION COMMISSION
RECEIVED
SECRETARIAT
88 NOV 23 AM 11:36

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2575
Paul Wexler	)	
Kazuo Ishiguro	)	
Dennis Eversole	)	
Yasuo Nishioka	)	

SENSITIVE
EXECUTIVE SESSION
DEC 08 1988

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On January 25, 1988, the Commission found reason to believe that Toshiba-America, Inc. and two of its officers in Tennessee violated 2 U.S.C. §§ 441f and 441b(a) with regard to Toshiba-America's reimbursement of an officer's political contributions in 1987. On the basis of information received in the course of the Commission's investigation, the Commission on June 28, 1988, found reason to believe that two other officers at Toshiba-America's Tennessee plant violated 2 U.S.C. §§ 441f and 441b(a) and found reason to believe that an officer's wife violated 2 U.S.C. § 441f by receiving corporate reimbursement for her political contributions. At that time, the Commission also found reason to believe that Paul Wexler, an officer at a Toshiba-America plant in California violated 2 U.S.C. §§ 441f and 441b(a) by arranging for and receiving reimbursement from Toshiba-America for his $1,000 contribution to the Republican Senatorial Inner Circle in 1985. The Commission also found reason to believe that Toshiba-America violated 2 U.S.C. §§ 441f and 441b(a) in connection with the Wexler reimbursement.

As detailed in C.I.R. #1 which was circulated to the Commission on August 18, 1988, this Office took the depositions of four officers from the Toshiba-America Tennessee plant in late

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July and early August 1988. The signed transcripts were received in September and October.

On September 8, 1988, this Office received a request from Paul Wexler to enter into pre-probable cause conciliation negotiations. See Attachment 1.

II. ANALYSIS

A. FACTUAL DEVELOPMENT

This Office has received the responses of all respondents in this matter. The responses of Toshiba-America and Paul Wexler indicate that other Toshiba-America officers at the company's Irvine, California plant authorized and consented to the company's reimbursement of Wexler's contribution to the Republican Senatorial Inner Circle, a program of the National Republican Senatorial Committee.

According to Wexler, he received a written solicitation from the Republican Senatorial Inner Circle in the summer of 1985, inviting him to "become a member" for $1,000. Wexler discussed this solicitation with his boss Kazuo Ishiguro, the Executive Vice President of Toshiba-America, Inc. at Irvine, California. Wexler apparently forwarded the solicitation with a confirmatory note to Ishiguro, requesting that the company "sponsor his membership." In the note, Wexler emphasized that membership in the Republican Senatorial Inner Circle would provide an "opportunity to get some exposure to key U.S. senatorial and cabinet personnel," and that he felt that it would be a good idea to get involved in the Inner Circle since "the trade issue is and will probably remain a crucial item for my division." Two days

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later, on August 20, 1988, Kazuo Ishiguro authorized the corporation's reimbursement of $1,000 in "annual dues" to the Republican Senatorial Inner Circle and directed the payment to be charged to the company's Legal Department. He also noted that Yasuo Nishioka, the Director of Legal Services (a Japanese national and non-lawyer), should be given a copy of "insider reports." Thus assured of reimbursement, Wexler endorsed a personal check to the Republican Senatorial Inner Circle for $1,000 on August 25, 1988 with a notation that the check was for "Inner Circle membership."

Wexler submitted an expense report on October 3, 1985 in which he included a specific request for reimbursement for the Republican Senatorial Inner Circle contribution. Wexler's administrative assistant forwarded this report with Ishiguro's note of approval to the Vice President of Finance, Dennis Eversole, with a note stating that the $1,000 dues were to be charged to the Legal Department. The expense report was signed by Dennis Eversole on October 7, 1985 and signed by Ishiguro on October 8, 1985. The expense report clearly indicated that the company was reimbursing Wexler for $1,000 in miscellaneous expenses to the "REPUBLICAN SENATORIAL INNER CIRCLE." In his response, Wexler indicated that Nishioka also authorized the reimbursement of this payment although he did not explain Nishioka's role in the authorization process.[1] Wexler received a reimbursement check on October 11, 1985.

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1. Although Toshiba-America did not explain Nishioka's role in the authorization process, it did state that he authorized the payment.

Wexler claims that he first learned that receiving reimbursement for this contribution may have been illegal when he attended a staff meeting this past spring at which the Commission's investigation into activities at the Toshiba-America Tennessee plant was discussed. He further claims that he thought his check was the membership fee for the Republican Senatorial Inner Circle and was not a political contribution. Toshiba-America asserts that Ishiguro, Nishioka and Eversole also believed that Wexler's payment to the Republican Senatorial Inner Circle was a membership fee rather than a political contribution.

On April 7, 1988, Wexler wrote a check for $1,000 to Toshiba-America to repay the money which it paid to him as reimbursement for his contribution. Wexler claims counsel for Toshiba-America recently alerted the Republican Senatorial Inner Circle to the fact that Wexler's contribution was reimbursed by Toshiba-America.

B. LEGAL ANALYSIS

1. Section 441b(a) Corporate Contributions

Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from directly or indirectly making contributions to political committees. This section also holds corporate officers individually liable for consenting to any such expenditure by a corporation.

Kazuo Ishiguro, as the Executive Vice President at Toshiba-America in California, was a corporate officer of Toshiba-America in 1985. As indicated above, he authorized the corporation to reimburse Wexler for his contribution to the Republican

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Senatorial Inner Circle. The handwritten note from Wexler indicates that Ishiguro probably had the opportunity to review the solicitation from the Republican Senatorial Inner Circle before consenting to the reimbursement as it appears that the solicitation was attached to Wexler's request for reimbursement. Therefore, it appears that Ishiguro consented to the corporate reimbursement of Wexler's political contribution. Accordingly, this Office recommends that the Commission find reason to believe that Kazuo Ishiguro violated 2 U.S.C. § 441b(a).

Dennis Eversole, as the Vice President of Finance at Toshiba-America, Inc. in Irvine, California, also appears to have been a corporate officer of Toshiba-America in 1985. Although Toshiba-America asserts that Wexler is not an officer of Toshiba-America, it has not explained the basis for this claim.[2] By signing an expense report to authorize Toshiba-America to reimburse Wexler for his contribution to the Republican Senatorial Inner Circle, Dennis Eversole appears to have consented to this impermissible use of corporate funds. Accordingly, this Office recommends that the Commission find reason to believe that Dennis Eversole violated 2 U.S.C § 441b(a).

Paul Wexler's response also indicates that Yasuo Nishioka,

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2. Paul Wexler also claims that he is not an officer of Toshiba-America. His attorney, in a letter dated September 8, 1988, indicated that Wexler is only an officer of a division of Toshiba-America and therefore not subject to the prohibitions of 2 U.S.C. § 441b. A claim that an individual is only an officer of a division of a company, however, is a distinction without a difference where it is clear that an individual is a corporate agent in a position of authority and has the capacity to consent to a corporate payment.

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Director of the Legal Department had a role in authorising the reimbursement and directing the payment to be charged to his department. This statement is supported by Ishiguro's note on August 20, 1985, stating that the "dues" would be charged to the Legal Department. Toshiba-America asserts that Nishioka is also not an officer of Toshiba-America, yet offers no explanation for this claim. As it appears that Yasuo Nishioka, in his position as Director of the Legal Department consented for this impermissible corporate reimbursement to be charged to his department, this Office recommends that the Commission find reason to believe that Yasuo Nishioka violated 2 U.S.C. § 441b(a).

2. Section 441f Contributions in the Name of Another

Section 441f of the Act provides:

> No person shall make contributions in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another.

The Commission has interpreted this provision to cover situations where an individual who neither made a contribution in his own name nor permitted his name to be used to effect a contribution in the name of another actively assisted others in the making of such contributions. See MUR 1611, and the treatment of Tsunehiro Miyashita, Norman Nelson and Hiroshi Ikeda in previous General Counsel's reports in this matter. By authorizing the reimbursement of Paul Wexler's political contribution with corporate funds, Kazuo Ishiguro appears to have assisted Toshiba in making contributions in the name of another.

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Similarly, the actions of Dennis Eversole and Yasuo Nishioka appear to have assisted Toshiba-America in making such contributions. Accordingly, this Office recommends that the Commission find reason to believe that Kazuo Ishiguro, Dennis Eversole and Yasuo Nishioka violated 2 U.S.C. § 441f.

3. Other Matters

The one document identified in the responses which could cast doubt on Wexler's claim that he thought the $1,000 payment was a membership fee rather than a political contribution is the solicitation which Wexler received from the National Republican Senatorial Committee ("NRSC") in August 1985. It appears from the handwritten note submitted by Wexler that the solicitation was attached to his request to Ishiguro for reimbursement. In a phone conversation with an attorney from this Office, Wexler's attorney confirmed that the solicitation was probably attached to that note. While Wexler has retained a copy of the handwritten note, he no longer has the attachment to the note.

This Office believes that the solicitation received by Wexler in August 1985 is pertinent to his claim to have believed his contribution to be a membership fee. As this document cannot be obtained from Wexler, this Office recommends asking the National Republican Senatorial Committee - Contributions to provide a copy of this document as a non-respondent witness.

As this Office is recommending that the Commission find

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reason to believe that Kazuo Ishiguro[3], Dennis Eversole and Yasuo Nishioka violated 2 U.S.C. §§ 441b(a) and 441f in connection with Toshiba-America's reimbursement of Wexler's political contribution and is recommending that the Commission continue its investigation into Mr. Wexler's contribution by asking the NRSC to provide a copy of the solicitation which it sent to Wexler, this Office feels that it would be inappropriate to enter into conciliation with Wexler until the investigation is complete. Therefore, this Office recommends that the Commission decline to enter into pre-probable cause conciliation with Paul Wexler at this time.

III. RECOMMENDATIONS

1. Decline at this time to enter into conciliation with Paul Wexler prior to a finding of probable cause to believe.

2. Find reason to believe that Kazuo Ishiguro violated 2 U.S.C. § 441b(a) and 441f.

3. Find reason to believe that Dennis Eversole violated 2 U.S.C. §§ 441b(a) and 441f.

4. Find reason to believe that Yasuo Nishioka violated 2 U.S.C. §§ 441b(a) and 441f.

5. Send the attached letter and request for documents to the National Republican Senatorial Committee - Contributions as a non-respondent witness.

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3. This Office notes that according to Toshiba-America's counsel, Ishiguro is no longer in the United States. He is presently in Japan working for Toshiba Corporation, the parent corporation of Toshiba-America. Although sending the reason to believe notification to Kazuo Ishiguro, c/o Toshiba-America, Inc. in Irvine, California will satisfy the notification requirements of the Act, see 2 U.S.C. § 437g(a)(2), this Office will also send a copy of the notification to Mr. Ishiguro at the Toshiba Corporation in Tokyo.

6. Approve the attached letters and Factual and Legal Analysis.

11/22/88
Date

Lawrence M. Noble
General Counsel

Attachments
1. Request for Conciliation
2. Response from Toshiba-America
3. Proposed Letters and Factual and Legal Analyses

Staff Assigned: Judybeth Greene

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/CANDACE M. JONES
COMMISSION SECRETARY

DATE: NOVEMBER 28, 1988

SUBJECT: OBJECTION to MUR 2575 - General Counsel's Report signed November 22, 1988.

The above-captioned document was circulated to the Commission on Wednesday, November 23, 1988 at 4:00 P.M. .

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 Tuesday, December 6, 1988 .

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Paul Wexler	)	
Kazuo Ishiguro	)	MUR 2575
Dennis Eversole	)	
Yasuo Nishioka	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of January 10, 1989, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2575:

1. Decline at this time to enter into conciliation with Paul Wexler prior to a finding of probable cause to believe.

2. Find reason to believe that Kazuo Ishiguro violated 2 U.S.C. § 441b(a) and § 441f.

3. Find reason to believe that Dennis Eversole violated 2 U.S.C. §§ 441b(a) and 441f.

4. Find reason to believe that Yasuo Nishioka violated 2 U.S.C. §§ 441b(a) and 441f.

(continued)

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5. Direct the Office of General Counsel to revise the letter and request for documents to the National Republican Senatorial Committee - Contributions, as discussed at the meeting.

6. Approve the other letters and the Factual and Legal Analysis attached to the General Counsel's report dated November 22, 1988.

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

Attest:

Jan. 13, 1989
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

Stuart P. Jasper, Esquire
Jasper & Jasper
1201 Dove Street, Sixth Floor
Newport Beach, California 92660

RE: MUR 2575
Paul Wexler

Dear Mr. Jasper:

On August 12, 1988, your client, Paul Wexler, was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. §§ 441b and 441f. On September 8, 1988, you submitted a request to enter into conciliation negotiations prior to a finding of probable cause to believe.

The Commission has considered your request and determined, because of the need to complete the investigation, to decline at this time to enter into conciliation prior to a finding of probable cause to believe.

At such time when the investigation in this matter has been completed, the Commission will reconsider your request to enter into conciliation prior to a finding of probable cause to believe.

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

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

Mr. Kazuo Ishiguro
c/o Toshiba-America, Inc.
9740 Irvine Boulevard
Irvine, California 92718

RE: MUR 2575
Kazuo Ishiguro

Dear Mr. Ishiguro:

On January 10, 1989, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kazuo Ishiguro MUR: 2575

I. BACKGROUND

Information referred to the Commission in the normal course of carrying out its supervisory responsibilities reveals that Paul Wexler, the Vice President/General Manager of the Telecommunications Systems Division of Toshiba-America, Inc. made a $1,000 contribution to the Republican Senatorial Inner Circle for which he received reimbursement from Toshiba-America, Inc. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee. Kazuo Ishiguro, as the Executive Vice President of Toshiba-America, Inc., reportedly authorized the corporation to make this reimbursement. After a discussion with Wexler about the proposed reimbursement of the above contribution, Mr. Ishiguro, in his position as a corporate officer and Wexler's supervisor, wrote a note authorizing the contribution reimbursement to be charged to Toshiba-America's Legal Department and signed an expense report authorizing the corporation to reimburse Wexler for his $1,000 payment to the Republican Senatorial Inner Circle.

II. ANALYSIS

A. Section 441b(a) Corporate Contributions

Section 441b(a) of the Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits corporations from making contributions or expenditures in connection with federal

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elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2) (emphasis added). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse an individual for his or her political contributions with corporate funds may incur personal liability under the Act.

As indicated above, it appears that Kazuo Ishiguro, in his capacity as an officer of Toshiba-America, Inc., authorized the corporation to reimburse Paul Wexler for his contribution to the Republican Senatorial Inner Circle. Therefore, there is reason to believe Kazuo Ishiguro violated 2 U.S.C § 441b(a) by consenting to a prohibited corporate contribution.

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B. Section 441f Contributions in the Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" incudes corporations such as Toshiba-America, Inc. The facts set forth in this analysis indicate that Toshiba-America may have violated this provision by making a contribution to a federal committee under Paul Wexler's name.

The Commission has interpreted this section to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By authorizing the corporate reimbursement of Paul Wexler's political contribution, Kazuo Ishiguro assisted Toshiba-America in making a contribution in the name of another. Accordingly, there is also reason to believe that Kazuo Ishiguro violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

Mr. Dennis Eversole
Vice President of Finance
Toshiba-America, Inc.
9740 Irvine Boulevard
Irvine, California 92718

RE: MUR 2575
Dennis Eversole

Dear Mr. Eversole:

On January 10, 1989, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Danny L. McDonald
Chairman

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Dennis Eversole MUR: 2575

I. BACKGROUND

Information referred to the Commission in the normal course of carrying out its supervisory responsibilities reveals that Paul Wexler, the Vice President/General Manager of the Telecommunications Systems Division of Toshiba-America, Inc. made a $1,000 contribution to the Republican Senatorial Inner Circle for which he received reimbursement from Toshiba-America, Inc. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee. Dennis Eversole, as the Vice President of Finance of Toshiba-America, Inc., reportedly authorized the corporation to make this reimbursement. On October 7, 1985, Dennis Eversole, in his capacity as Vice President of Finance, signed an expense report authorizing the corporation to reimburse Wexler for $1,000 in "miscellaneous expenses" to the "REPUBLICAN SENATORIAL INNER CIRCLE."

II. ANALYSIS

A. Section 441b(a) Corporate Contributions

Section 441b(a) of the Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit

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corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2) (emphasis added). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse an individual for his or her political contributions with corporate funds may incur personal liability under the Act.

As indicated above, it appears that Dennis Eversole, in his capacity as an officer of Toshiba-America, Inc., authorized the corporation to reimburse Paul Wexler for his contribution to the Republican Senatorial Inner Circle. Therefore, there is reason to believe Dennis Eversole violated 2 U.S.C § 441b(a) by consenting to a prohibited corporate contribution.

B. Section 441f Contributions in the Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The

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term "person" incudes corporations such as Toshiba-America, Inc. The facts set forth in this analysis indicate that Toshiba-America may have violated this provision by making a contribution to a federal committee under Paul Wexler's name.

The Commission has interpreted this section to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By authorizing the corporate reimbursement of Paul Wexler's political contribution, Dennis Eversole assisted Toshiba-America in making a contribution in the name of another. Accordingly, there is also reason to believe that Dennis Eversole violated 2 U.S.C. § 441f.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

Mr. Yasuo Nishioka
Director of Legal Services
Toshiba-America, Inc.
9740 Irvine Boulevard
Irvine, California 92718

RE: MUR 2575
Yasuo Nishioka

Dear Mr. Nishioka:

On January 10, 1989, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

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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.

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.

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 investigation to be made public.

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

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Yasuo Nishioka **MUR:** 2575

I. BACKGROUND

Information referred to the Commission in the normal course of carrying out its supervisory responsibilities reveals that Paul Wexler, the Vice President/General Manager of the Telecommunications Systems Division of Toshiba-America, Inc. made a $1,000 contribution to the Republican Senatorial Inner Circle for which he received reimbursement from Toshiba-America, Inc. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee. Yasuo Nishioka, as the Director of the Legal Department of Toshiba-America, Inc., reportedly authorized the corporation to make this reimbursement and charge it to the Legal Department.

II. ANALYSIS

A. Section 441b(a) Corporate Contributions

Section 441b(a) of the Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "<u>any</u> <u>direct or indirect payment</u> ... or gift of money ... to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2) (emphasis added). When a

corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse an individual for his or her political contributions with corporate funds may incur personal liability under the Act.

As indicated above, it appears that Yasuo Nishioka, in his capacity as an officer of Toshiba-America, Inc., authorized the corporation to reimburse Paul Wexler for his contribution to the Republican Senatorial Inner Circle. Therefore, there is reason to believe Yasuo Nishioka violated 2 U.S.C § 441b(a) by consenting to a prohibited corporate contribution.

B. Section 441f Contributions in the Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" incudes corporations such as Toshiba-America, Inc. The facts set forth in this analysis indicate that Toshiba-America may have violated this provision by making a contribution to a federal committee under Paul Wexler's name.

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The Commission has interpreted this section to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By authorizing the reimbursement of Paul Wexler's contribution to be charged to Toshiba-America's Legal Department, Yasuo Nishioka assisted Toshiba-America in making a contribution in the name of another. Accordingly, there is also reason to believe that Yasuo Nishioka violated 2 U.S.C. § 441f.

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9204090036 59

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frederick W. Bassinger
Treasurer
National Republican Senatorial
Committee - Contributions
440 I Street, N.W. Suite 600
Washington, D.C. 20001

RE: MUR 2575

Dear Mr. Bassinger:

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 requests that you provide copies of all solicitations for the Republican Senatorial Inner Circle which you sent to Paul Wexler in Irvine, California, between July and September 1985. Should you no longer have this information, the Commission requests that you provide representative samples of all solicitations for contributions to the Republican Senatorial Inner Circle which were distributed or mailed to California addresses between July and September 1985. Where a solicitation has been sent to more than one person, the Commission requests only one copy of a sample solicitation. The Commission has issued the above request for documents 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 response to this request. However, you are requested to submit the information with 15 days of your receipt of this letter.

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

Sincerely,

Lawrence M. Noble
General Counsel

9204090366O

DOC #1835

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 FEB 14 AM 8:52

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
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WILMINGTON

February 10, 1989

Lawrence M. Noble, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20005

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Dennis Eversole, Kazuo Ishiguro and Yasuo Nishioka

Dear Mr. Noble:

Enclosed are Designation of Counsel forms for Dennis Eversole, Kazuo Ishiguro and Yasuo Nishioka. On January 31, 1989, Yasuo Nishioka and Dennis Eversole received the reason to believe notices in this matter. Mr. Ishiguro received his notice on February 3, 1989. Mr. Ishiguro is located in Tokyo, Japan, and is no longer working in Irvine, California. Rather than having different response times for the individuals, we request an additional fifteen days from the earliest due date which would make the responses due on March 2, 1989. This additional time is necessary to provide adequate responses to the reason to believe notices, taking into account that one of the respondents is residing in Tokyo.

Thank you for your consideration in this matter.

Very truly yours,

Kenneth A. Gross

Enclosures

9204090036 61

89 FEB 14 PM 12:07

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Kenneth Gross Esq

ADDRESS: Skadden, Arps, Slate, Meagher + Flom
1440 New York Ave. N.W.
Washington, D.C. 20005

TELEPHONE: (202)371-7007

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.

2/3/89
Date

Dennis Eversole
Signature

RESPONDENT'S NAME: Dennis Eversole

ADDRESS: 123 So. Helberta
Redono Beach, CA
90277

HOME PHONE: 213 374-0470

BUSINESS PHONE: 714 583-3411

9204090366 2

TOSHIBA

TOSHIBA CORPORATION PRINCIPAL OFFICE
INTERNATIONAL OPERATIONS-
INFORMATION & COMMUNICATION SYSTEMS
1-1, SHIBAURA 1-CHOME, MINATO-KU, TOKYO, 105 JAPAN
FACSIMILE:3-456-1257,4231 TELEX:J33237

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Kenneth Gross, Esq.

ADDRESS: Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

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.

2-3-89
Date

Signature

RESPONDENT'S NAME: Kazuo Ishiguro

ADDRESS: Toshiba Corporation - IOIC
1-1, Shibaura 1-chome
Minato-ku, Tokyo 105 Japan

HOME PHONE: (03)442-3370

BUSINESS PHONE: (03)457-3185

9204090363

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2575

NAME OF COUNSEL: Kenneth Gross, Esq.

ADDRESS: Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

TELEPHONE: (202)371-7000

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.

2/3/89
Date

Signature

RESPONDENT'S NAME: Yasuo Nishioka

ADDRESS: Toshiba America, Inc.
9740 Irvine Blvd.
Irvine, CA 92715

HOME PHONE: (714)786-9258

BUSINESS PHONE: (714)583-3515

9204090036664

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 16, 1989

Kenneth A. Gross, Esquire
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Dennis Eversole
Kazuo Ishiguro
Yasuo Nishioka

Dear Mr. Gross:

This is in response to your letter dated February 10, 1989, which we received on February 14, 1989, requesting an extension of 15 days to respond to the Commission's reason to believe findings in the above-captioned 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 March 2, 1989.

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

Sincerely,

Lawrence M. Noble
General Counsel

9204090036 65

OGC 2070
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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 MAR -6 AM 11:42

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March 2, 1989

MAR -6 PM 2:50

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

Re: MUR 2575 Toshiba America, Inc.

Dear Ms. Greene:

Per our conversation, enclosed is a certified statement signed by Takao Hayashida, Vice President and Secretary of Toshiba America, Inc. ("TAI") listing the names of the officers of TAI during the time period relating to the transactions in question. Also attached is a copy of the portion of TAI's By-laws relating to "officers."

Let me know if you need anything else.

Sincerely,

Kenneth A. Gross

Enclosure

9204090036666

TOSHIBA
TOSHIBA AMERICA, INC.
375 PARK AVENUE, NEW YORK, N.Y. 10152
PHONE: (212) 308-2040

TO WHOM IT MAY CONCERN:

It is certified that the attached is the list of officers as elected by the Board of Directors in accordance with the BY-LAWS of Toshiba America, Inc., during specified terms; and the copy of BY-LAWS in regard to the definition of Officers of Toshiba America, Inc.

TAKAO HAYASHIDA
Vice President & Secretary

9204090367

1). Name of Officers of Toshiba America, Inc. during 6 months which covers the time period from August, 1985 to January, 1986:

OFFICE	NAME
Chief Executive Officer	Nobuo Ishizaka
Sector President	Ryoji Suzuki
Sector President	Kazuo Ishiguro
Sector President	Takahisa Ohira
Secretary	Kiyoaki Shimagami
Treasurer	Kiyoaki Shimagami
Assistant Secretary	Takashi Ishida
Assistant Treasurer	Takashi Ishida
Assistant Secretary	Masahiro Matsuo
Assistant Treasurer	Masahiro Matsuo
Assistant Secretary	Tsunehiro Miyashita
Assistant Treasurer	Tsunehiro Miyashita

2). Name of Officers of Toshiba America, Inc. for June and July, 1987:

OFFICE	NAME
Chief Executive Officer	Nobuo Ishizaka
Sector President	Kenichiro Hiyama
Sector President	Kazuo Ishiguro
Sector President	Takahisa Ohira
Secretary	Takao Hayashida
Treasurer	Shunsuke Eguchi
Assistant Secretary	Takashi Kamihara
Assistant Treasurer	Takashi Kamihara
Assistant Secretary	Nobuteru Baba
Assistant Treasurer	Nobuteru Baba
Assistant Secretary	Masahiro Matsuo
Assistant Treasurer	Masahiro Matsuo
Assistant Secretary	Tsunehiro Miyashita
Assistant Treasurer	Tsunehiro Miyashita

9204090366 8

OFFICERS

Section 17. OFFICERS. The officers of the Corporation shall include a Chief Executive Officer, a Treasurer, and a Secretary, and such other officers as the board of directors may determine. Except as otherwise limited by law, one person may hold two or more corporate offices.

Section 18. ELECTION OF OFFICERS. All officers of the Corporation shall be elected annually by the board of directors at its annual meeting held after the meeting of shareholders. An officer's term of office shall run from the time of his election until the next annual meeting of the board of directors and until his successor has been duly elected and installed. For purposes of this article the words "term of office" shall mean the period of time for which a person is elected to serve as an officer.

Section 19. REMOVAL OR RESIGNATION OF OFFICERS. An officer is not required to serve a complete term. Any officer may resign at any time. Any officer may be removed at any time either with or without cause by the vote of a majority of the board of directors.

Section 20. VACANCIES. The board of directors may create a new office at any time. All vacancies in any office whether resulting from newly created offices, death, resignation or any other cause shall be filled promptly by the board of directors either at a regular meeting or at a special meeting called for that purpose.

Section 21. THE CHIEF EXECUTIVE OFFICER. The Chief Executive Officer shall preside at all meetings of the shareholders and at those meetings of the board of directors at which the Chairman of the Board is not present. He shall perform all the duties incident to his office and, generally, he shall supervise and control the business of the Corporation.

Section 22. THE TREASURER. The Treasurer shall have the custody of all funds, securities, evidences of indebtedness, and other personal property of the Corporation and, where appropriate, shall deposit the same in such bank or trust company as shall be designated by the board of directors or the Chief Executive Officer. He shall perform all the duties incident to the office of Treasurer of the Corporation.

Section 23. THE SECRETARY. The Secretary shall keep the minutes of all proceedings of the meetings of the board of directors and of the shareholders; he shall maintain and have charge of the certificate book and such other corporate books and papers as the board may direct, and he shall perform all other duties incident to the office of Secretary.

Section 24. OTHER OFFICERS. Other officers shall have such duties and powers as may be assigned to them by the board of directors.

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06C 2096

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89 MAR -8 AM 11:07

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WASHINGTON, D.C. 20005-2107
(202) 371-7000

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March 2, 1989

89 MAR -8 PM 3:46

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

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Dennis Eversole

Dear Mr. Noble:

On January 10, 1989, the Federal Election Commission ("FEC" or "Commission") found reason to believe that Dennis Eversole, Vice President of Finance, Sector Controller, of Toshiba America, Inc. - Industrial Electronics Business Sector ("TAI-IEBS") violated 2 U.S.C. §§ 441b and 441f. These internally generated findings are based on information voluntarily provided to the FEC. Mr. Eversole's attached affidavit demonstrates that his role in the $1,000 reimbursement to Paul Wexler did not constitute a violation of the Federal Election Campaign Act ("FECA") and that the Commission should find no probable cause to believe he violated the law.

Mr. Eversole signs all expense vouchers for payments to the high ranking employees of TAI-IEBS. The typical expense voucher involves reimbursement for travel expenses. Generally, Mr. Eversole signs travel expense vouchers before they go to the president for final approval. In this case, Mr. Eversole's signature on the expense voucher was merely a ministerial act in that his superior, Kazuo Ishiguro, had already approved the payment of what was thought to be membership dues to a trade association. Mr. Eversole signs hundreds of expense vouchers a year and he does not remember signing the voucher in this transaction three and one-half years ago.

Mr. Eversole is not an officer in TAI-IEBS and did not consent to making a political contribution.

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Thus, as a matter of law, he did not violate 2 U.S.C. § 441b. His role in the reimbursement to Mr. Wexler was pro forma and did not amount to a knowing approval of a political contribution. Moreover, the reimbursement had already been approved before it reached his desk. Therefore, as a matter of law, Mr. Eversole did not violate 2 U.S.C. § 441f.

For all these reasons, the Commission should find no probable cause to believe that Mr. Eversole violated the FECA. If you need any additional information, please let me know.

Sincerely,

Kenneth A. Gross

Enclosure

9204090036 71

BEFORE THE
FEDERAL ELECTION COMMISSION

In Re DENNIS EVERSOLE MUR 2575

Dennis Eversole, being duly sworn, deposes and says as follows:

1) I am the Vice President of Finance, Sector Controller, of Toshiba America, Inc., Industrial Electronics Business Sector ("TAI-IEBS"). I have been in this position since September 1984. (In 1985, at the time of the transaction in question, my title was Sector Controller but my responsibilities were the same as my present responsibilities.)

2) As Vice President of Finance, Sector Controller of TAI-IEBS, I am responsible for signing all expense reports of Management Committee Members ("MCM"). The MCM consists of the highest ranking employees of TAI-IEBS (approximately ten individuals).

3) I do not recall authorizing a reimbursement of $1,000 to Mr. Wexler and I had no involvement in this matter other than signing the expense report as the TAI-IEBS Controller.

4) As best as I can reconstruct the events through review of the attached documents, Mr. Wexler obtained Kazuo Ishiguro's (the President of TAI-IEBS) approval for a $1,000 reimbursement before I received the expense vouchers for approval.

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5) Since Mr. Wexler had already obtained Mr. Ishiguro's approval, I merely signed the expense report as a procedural matter. For most other reimbursements, such as travel payments, I approve the expense report before it is forwarded to the President.

6) Although I do not recall approving the reimbursement, after reviewing the available documentation, especially the notes between Mr. Ishiguro and Mr. Wexler, it is my impression that I assumed that the expense was for membership in an organization that would provide the Telecommunications system Division of TAI-IEBS with information concerning trade issues. I had no idea that the payment was a political contribution.

7) I am not an officer of Toshiba America, Inc.

OFFICIAL SEAL
CATHERINE BIAGIOTTI
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My Comm. Expires Nov. 29, 1991

Dennis Eversole

Dennis Eversole

Sworn to and subscribed before me
this 28th day of February 1989.

Catherine Biagiotti

9204090036 73

06C 2041

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FEDERAL ELECTION COMMISSION
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89 MAR -6 AM 11:02

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March 2, 1989

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

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Kazuo Ishiguro

89 MAR -6 PM 2:55

Dear Mr. Noble:

On January 10, 1989, the Federal Election Commission ("FEC" or "Commission") found reason to believe that Kazuo Ishiguro, formerly President of Toshiba America, Inc., Industrial Electronics Business Section ("TAI-IEBS"), violated 2 U.S.C. §§ 441b and 441f. These internally generated findings are based on information TAI-IEBS voluntarily provided to the FEC. Mr. Ishiguro's attached affidavit explains his limited role in the transaction involving the alleged improper $1,000 contribution made by Mr. Paul Wexler, Vice President and General Manager of TAI-IEBS, Telecommunications Systems Division (Attachment I). The statements in Mr. Ishiguro's affidavit demonstrate that the FEC should find no probable cause that he violated the Federal Election Campaign Act ("FECA").

Mr. Wexler decided, on his own, that it would be in his best interest to join the Republican Senatorial Inner Circle ("RSIC") because it offered information that might have been useful to him in his position at Toshiba America. On information and belief, it was Mr. Wexler's intention to join the RSIC even if TAI had not agreed to reimburse him for the membership fees. Mr. Wexler met with Mr. Ishiguro to see if TAI would pay his membership fee to this organization. After writing a personal check to RSIC, Mr. Wexler submitted an expense voucher for reimbursement a month and a half later.

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Mr. Wexler merely requested that TAI sponsor his membership in the "Inner Circle." See handwritten note attached to Kazuo Ishiguro's affidavit. There is nothing in the handwritten note that should have put Mr. Ishiguro on notice that it was, in fact, a request for a contribution to a political committee. Moreover, Mr. Ishiguro has never been involved in political affairs in this country, nor has he ever been asked to approve a contribution or an expenditure to a political committee. It is difficult to imagine a scenario involving less culpability on his part. No one involved in this matter, including Mr. Wexler, whose idea it was to join RSIC, had any inkling that a political contribution was involved. For these compelling reasons, the Commission should not take any action against an unwitting participant involved in a one-time $1,000 transaction more than three and one-half years ago, which was voluntarily brought forward to the Commission.

Moreover, as a matter of law, Mr. Ishiguro did not consent to the making of a political contribution or the making of a contribution in the name of another because he did not know, and reasonably could have not known, that he was authorizing a contribution. See FEC v. Re-election of Hollenbeck to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986) (in that case the treasurer of the recipient committee knew he was accepting a political contribution but, since the contribution "would appear to be legal to any reasonable treasurer" because there was nothing on the face of the contribution to indicate illegality, the court found that the recipient did not violate the FECA). It is far-fetched to impose liability in this case when an individual who has never dealt with a political matter, is asked to approve the making of a payment that turned out to be a contribution to a non-authorized political committee. In no case involving a Section 441f violation has the Commission ever pursued an individual unless he knowingly carried out a scheme to make a contribution in the name of another or used personal funds in effecting a contribution in the name of another.

For all these reasons, to find Mr. Ishiguro in violation of the FECA, the Commission would be stretching the law into uncharted territory and it would be patently

9204090367 5

unfair under the compelling mitigating circumstances in this matter. Thus, the Commission should find no probable cause to believe that Kazuo Ishiguro violated the law. If you need any additional information, please let me know.

Very truly yours,

Kenneth A. Gross

Attachments

9204090367 6

BEFORE THE
FEDERAL ELECTION COMMISSION

In Re KAZUO ISHIGURO MUR 2575

Kazuo Ishiguro, being duly sworn, deposes and says as follows with the aid of the documents attached to this affidavit which refreshed my recollections:

1) I am the General Manager, International Operations-Information and Communication Systems of Toshiba Corporation. I have held this position since July 1988.

2) From June 1985 to July 1988, I was the President of the Industrial Electronics Business Sector of Toshiba America, Inc. ("TAI-IEBS").

3) I was an officer of TAI from June 1985 to July 1988.

4) In August 1985, Paul Wexler, Vice-President, General Manager, Telecommunications Systems Division of TAI-IEBS, asked me if I would approve a payment to Mr. Wexler for annual dues so he could become a member of an association in Washington, D.C. I do not recall the name of the association but Mr. Wexler informed me that the organization could provide information

9204090036 77

concerning the telecommunications industry. At that time, TAI was interested in gathering information regarding possible restrictions on imports of certain telecommunications equipment.

5) On August 20, 1985, I received from Mr. Wexler a handwritten note dated August 18, 1985. In the note, Mr. Wexler requested that TAI sponsor his membership in the Republican Senatorial Inner Circle.

6) I believed the Republican Senatorial Inner Circle was an association that had access to substantive information concerning trade issues that might be useful to TAI-IEBS. I had no idea it was a political committee of any sort.

7) On August 20, 1985, I sent a handwritten reply to Mr. Wexler stating that it was "OK to participate" in the association and further instructed Mr. Wexler to charge the annual dues to the legal department and to give copies of "insider reports" to Mr. Nishioka, the head of TAI-IEBS's legal department. At that time, TAI-IEBS's legal department was located in Tustin, California. It is presently located in Irvine, California.

8) TAI-IEBS's legal department was seeking information concerning possible telecommunications import restrictions. Thus, I instructed Mr. Wexler to charge

9204090036 78

the fees for joining the association to TAI-IEBS's legal department.

9) The reference to "insider reports" in my handwritten note concerned the information Mr. Wexler anticipated receiving from the organization he proposed joining. To my knowledge, TAI-IEBS never received any information from the organization.

10) After approving the $1,000 payment to Mr. Wexler on August 20, 1985, I have no recollection of any other involvement concerning this matter. Although I do not recall signing the expense voucher authorizing the $1,000 payment to Mr. Wexler, my signature appears in the lower left hand corner of the voucher dated "10/8/85."

Kazuo Ishiguro

Sworn to and subscribed before me
this 28 day of Feb 1989.

9204090036 79

9204090380

PAUL WEXLER

Mr. Lathiyeu

As noted in the attachment, I have the opportunity to get some exposure to key U.S. senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle."

Since the trade torive is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership and participation in the "Inner Circle."

Your review and concurrence of this request would be appreciated.

Thanks,

Paul

8/18/85



TOSHIBA TELECOM

From the desk of...
KAZUO ISHIGURO

Mr Pinkerton

OK to participate

Annual due will be charged to Legal Dept (Mr Nishioka) and give him a copy of insider reports.

3/20

TOSHIBA AMERICA, INC.

9204090036811

From the desk of . . .

SALLY RONIE

October 3, 1985

Dennis Eversole:

Per the attached note from Mr. Ishiguro, $1,000 annual dues is to be charged to the Legal Dept.

Sally

for Paul Wexler

attach.

9204090368 2

TOSHIBA

TOSHIBA

TOSHIBA AMERICA, INC.

EXPENSE REPORT

DIVISION NAME CDT

VOUCHER NUMBER

EMPLOYEE NAME (PRINT) (LAST NAME FIRST)	VENDOR NO.	WEEK ENDING	DEPT. NO.	TOTAL EXPENSES
WEIXLER, PAUL				

TYPE OF EXPENDITURE	SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	TOTALS	CURRENCY CONVERSION RATE	ACCT. NO.
DATE	8/25									
CITY/STATE FROM:										
CITY/STATE TO:										
PERSONAL MEALS/PER DIEM										6215
CAR RENTAL/LIMO/TAXI										6230
GAS										
MILEAGE x MILEAGE RATE *										
PARKING/TOLLS										
AUTO REPAIRS										
MISC. AUTO										
TOTAL AUTO EXP.										6250/6253
LODGING										6210
PLANE/RAIL										6200
ENTERTAINMENT 1-5 *										6260
ENTERTAINMENT 6-9 *										6261
POSTAGE										6530
TELEPHONE										6330
SERVICE SUPPLIES										5870
MISCELLANEOUS (REGISTRATION)	1,000 - ✓									
TOTAL EXPENSES										TOTAL EXPENSES

OCT 9 1995

MILEAGE DETAIL			
DATE	FROM	TO	MILEAGE

Nature or Purpose of Travel:

SEE ATTACHED

BEG. MILEAGE

END. MILEAGE

- ☐ DEALER TRAINING 5000
- ☐ KOOKIE 1340
- ☐ SEMINARS 6130
- ☐ RELOCATION 6160
- ☐ TRADE SHOW 2423
- ☐ OTHER

	-	LESS ADVANCE (VOUCHER REQUIRED)
1,000	-	AMOUNT DUE OR (REFUNDABLE)

DATE	NAME, TITLE, AND COMPANY OF PERSONS	PLACE & TYPE OF ENTERTAINMENT	PURPOSE OF ENTERTAINMENT	NO. IN GROUP	FLEX CODE *	AMOUNT
			OCT 9 1995			
			A/P			

* PURPOSE
1. EXISTING CUSTOMER
2. PROSPECTIVE CUSTOMER
3. SUPPLIER
4. PROFESSIONAL ADVISOR
5. CONVENTION
6. COMPANY BUSINESS MEETING
7. EMPLOYEES WELFARE
8. PROSPECTIVE EMPLOYEE
9. OTHER (EXPLAIN)

HQ VERIFIED

MISCELLANEOUS EXPENSES		
DATE	DESCRIPTION	AMOUNT
	REPUBLICAN SENATORIAL	
	INNER CIRCLE	
		$1,000

ACCOUNTS PAYABLE AUDIT	INITIAL	DATE
CROSS FOOTED		
RECEIPTS VERIFIED		10-95
PROPER AUTHORIZATION		

MAIL CHECK TO:

ADDRESS

CITY STATE ZIP

I CERTIFY THAT ALL EXPENSES ON THIS REPORT WERE INCURRED BY ME IN THE PERFORMANCE OF COMPANY DUTIES

EMPLOYEE SIGNATURE

DATE 10/3/95

Richard L. Beck 10/3/95

PAGE PAGE PAGE PAGE

DOC 2045
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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 MAR -6 AM 11:16

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TOKYO
WILMINGTON

March 2, 1989

89 MAR -6 PM 2:54

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

Attn: Judybeth Greene, Esq.

Re: MUR 2575 - Yasuo Nishioka

Dear Mr. Noble:

On January 10, 1989, the Federal Election Commission ("FEC" or "Commission") found reason to believe that Yasuo Nishioka, Legal Director of Toshiba America, Inc. - Industrial Electronics Business Sector ("TAI-IEBS") violated 2 U.S.C. §§ 441b and 441f. These internally generated findings are based on information TAI-IEBS voluntarily provided to the FEC. Mr. Nishioka's attached affidavit demonstrates that Mr. Nishioka had no role in making or approving the alleged improper contribution by Paul Wexler. Thus, the Commission should find no probable cause that he violated the Federal Election Campaign Act ("FECA").

Mr. Nishioka's involvement in the alleged contribution made by Paul Wexler was limited to a brief conversation with Mr. Ishiguro. In that conversation, Mr. Ishiguro informed Mr. Nishioka that Paul Wexler asked for approval to join a trade association that could provide information on trade issues. Mr. Nishioka does not believe that Mr. Ishiguro told him the name of the organization. Mr. Nishioka's department was the appropriate depository for such information, since the legal department was compiling information on trade issues. Thus, Mr. Ishiguro charged the $1,000 payment to the Republican Senatorial Inner Circle to Mr. Nishioka's department. Mr. Nishioka is not a lawyer and does not give legal advice; he merely manages the administrative aspects of the legal department.

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Mr. Wexler sent the reimbursement voucher directly the accounting department after Mr. Ishiguro approved the payment. Also, Mr. Nishioka never received any information from Mr. Wexler and did not further inquire about the matter. Simply put, Mr. Nishioka did not consent to or approve the making of a corporate contribution and he did not assist in the making of a contribution in the name of another. Moreover, he is not an officer of TAI, therefore, as a matter of law, he cannot violate section 441b.

For all these reasons, the Commission should find no probable cause to believe that Yasuo Nishioka violated any provision of the FECA. If you need any additional information, please let me know.

Sincerely,

Kenneth A. Gross

Attachment

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BEFORE THE
FEDERAL ELECTION COMMISSION

In Re YASUO NISHIOKA MUR 2575

Yasuo Nishioka, being duly sworn, deposes and says, to the best of my recollection, as follows:

1) I am the Legal Director of Toshiba America, Inc. - Industrial Electronics Business Sector ("TAI-IEBS"), Irvine, California. I have been in this position since November 4, 1984. (In 1986 my title was changed from Legal Manager to Legal Director but my duties remained the same.)

2) As Legal Director of TAI-IEBS, I manage TAI's legal department in Irvine, California, but I do not give legal advice concerning the laws of the United States.

3) As best as I can recall, in 1985, as Legal Manager of TAI-IEBS, I tried to obtain information concerning possible restrictions on imports of certain telecommunications equipment.

4) In or about August 1985, Mr. Ishiguro, President of TAI-IEBS, told me that Mr. Wexler, Vice President and General Manager of Telecommunications

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Systems Division of TAI-IEBS, had access to information concerning possible import restrictions on Japanese goods.

5) As best as I can recall, Mr. Wexler wanted to join an association in Washington, D.C. that could provide information concerning possible trade restrictions.

6) As best as I can recall, Mr. Ishiguro did not tell me the name of the organization, but I believed it was a trade association.

7) I asked Mr. Ishiguro to tell Mr. Wexler that any information that Mr. Wexler received from the association should be given to the Legal Department and that the Legal Department would pay the necessary expenses.

8) After the August 1985 conversation with Mr. Ishiguro, I had no further dealings with this matter until some time later when I discovered that $1,000 was charged to the Legal Department as a membership fee to the organization. Upon further inquiry with the accounting department I learned that the charge originated from the Telecommunications Systems Division.

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9) I did not know that the charge was a contribution to a political organization. As stated, I believed the $1,000 expense was a membership fee to a trade association.

10) I have no records relating to this transaction or any other recollection concerning this matter.

11) I am not and have never been an officer of Toshiba America, Inc.

OFFICIAL SEAL
CATHERINE BIAGIOTTI
NOTARY PUBLIC - CALIFORNIA
ORANGE COUNTY
My Comm. Expires Mar. 29, 1991

Yasuo Nishioka

Sworn to and subscribed before me
this 24th day of February 1989.

Catherine Biagiotti

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 MAR 24 AM 8:56

National Republican Senatorial Committee

SENATOR DON NICKLES
CHAIRMAN

DOYCE BOESCH
EXECUTIVE DIRECTOR

March 22, 1989

Mr. Lawrence M. Noble, General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Noble,

This letter is in response to your request for information from the National Republican Senatorial Committee - Contributions, dated January 24, 1989, (see Attachment A). This information is related to MUR 2575.

In order to comply with your request we have provided herein copies of all Republican Senatorial Inner Circle solicitations distributed or mailed between July and September 1985, (see Attachment B).

Please feel free to contact me at 675-4291 if you have any questions.

Respectfully,

James L. Hagen

James L. Hagen, Treasurer
National Republican Senatorial
Committee - Contributions
FEC Identification #C00091009

89 MAR 24 AM 11:54

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PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.

ATTACHMENT A

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frederick W. Bassinger
Treasurer
National Republican Senatorial
Committee - Contributions
440 I Street, N.W. Suite 600
Washington, D.C. 20001

RE: MUR 2575

Dear Mr. Bassinger:

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 requests that you provide copies of all solicitations for the Republican Senatorial Inner Circle which you sent to Paul Wexler in Irvine, California, between July and September 1985. Should you no longer have this information, the Commission requests that you provide representative samples of all solicitations for contributions to the Republican Senatorial Inner Circle which were distributed or mailed to California addresses between July and September 1985. Where a solicitation has been sent to more than one person, the Commission requests only one copy of a sample solicitation. The Commission has issued the above request for documents 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.

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You may consult with an attorney and have an attorney assist you in the preparation of your response to this request. However, you are requested to submit the information with 15 days of your receipt of this letter.

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

Sincerely,

Lawrence M. Noble
General Counsel

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ATTACHMENT B

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Bob Dole
Washington, D.C.

August 9, 1985

Winston L. Mascarenhas
2001 Holcombe #2701
Houston, TX 77030

Dear Winston:

I'm delighted to be able to inform you that at the last membership meeting of the Republican Senatorial Inner Circle, I personally placed your name in nomination.

And you are one of a select group accepted for membership.

The Inner Circle is a prestigious group of dedicated Americans who are deeply concerned about our country's future.

I know you'll enjoy meeting your fellow members at Inner Circle functions in Washington, as well as around the country.

Your formal invitation will be mailed to you in a few days. I urge you to respond as soon as possible.

President and Mrs. Reagan will be hosting the Inner Circle members at a special event to be held September 23rd during the Fall Briefing. It will be held in Washington, D.C., at the Shoreham Hotel.

In addition, you'll have an opportunity to meet key Republicans, including United States Senators, Cabinet members, and White House officials.

My wife, Elizabeth, and I will also be there to thank the Inner Circle members. We look forward to seeing you at that time, and to welcome you to the Inner Circle.

Sincerely,

Bob Dole

Authorized and paid for by National Republican Senatorial Committee.

Republican Senatorial Inner Circle

4090036695

Mr. John Sample
123 Main Street
Forest, VA 24551

306P

The following information is needed for Secret Service clearance to Presidential and Vice Presidential events.

	Member	Spouse
Social Security Number:		
Date of Birth:		
Place of Birth:		

REPUBLICAN SENATORIAL INNER CIRCLE
440 First Street, NW. Suite 600 Washington, DC 20001

Republican Senatorial Inner Circle
Nomination Acceptance

I hereby accept my nomination for membership in the Republican Senatorial Inner Circle. Enclosed please find my personal check in the amount of:

- ☐ $1,000 for my 1986 Inner Circle membership.
- ☐ $2,000 for 1986 Inner Circle membership for my spouse and me.
- ☐ I am interested in attending the next Inner Circle Washington event. Please send me more information, and add my name to the priority reservation list.

Please make checks payable to: Republican Senatorial Inner Circle.

_____
(Signature)

Please make any necessary corrections to your name and address on the reverse side, and complete the following information so that we may compile your Inner Circle Membership Profile.

Occupation/Company _____

Business Address _____

Business Phone _____ Home Phone _____

Spouse's Name (if joining) _____

Spouse's Occupation/Company _____

Business Phone _____ Home Phone _____

(Over, please)

INSIDE THE INNER CIRCLE

Inside the Inner Circle mailing sept. 13, 1985

A Publication of The National Republican Senatorial Inner Circle *September 1985* *Volume I, Issue I*

President To Highlight Fall Briefing



President Reagan will be joining Inner Circle members on September 23 at the Fall Briefing. The President is scheduled to speak at the International Dinner that evening. He will address the tremendous challenge ahead in 1986 to maintain our Senate Majority and express his appreciation to Inner Circle members for their support.

Senator John Heinz, Chairman of the National Republican Senatorial Committee, will present President Reagan with a special Inner Circle award.

With the 1986 elections fast approaching, Inner Circle members are becoming more aware of the great need to preserve our Republican Majority in the U.S. Senate. With this in mind, "Building The Republican Majority" will be the theme of the 1985 Inner Circle Fall briefing which is planned for September 22-24, at the Shoreham Hotel in Washington, D.C.

The Briefing will begin Sunday afternoon with an orientation session at which Tom Griscom, Executive Director of the NRSC and Rodney Smith, Treasurer and Executive Finance Director of the NRSC will welcome our Inner Circle members to the Capital. New members will be recognized by state and a preview of the activities will be given. James Wholey, counsel for the NRSC, is scheduled to present an overview of the Federal Election Commission's guidelines for contributions. Registration will take place from 12 noon until 8 p.m. Sunday and will continue Monday, September 23, from 8:00 a.m. to 12 noon.

Outstanding Republican women will be honored at a cocktail reception Sunday evening for their contributions in strengthening the Republican Majority. This "Salute to Republican Women will bring female Ambassadors, Congresswomen, Senators and other women in all areas of government together to be recognized for their valuable contributions. Tours of the Washington area will be available after the reception for interested members.

A Newsmakers Breakfast will be first on the agenda Monday morning. Inner Circle members will hear nationally recognized journalists who follow and analyze political developments speak on the upcoming 1986 Senate elections.

Senate challengers and incumbents as well as White House officials are scheduled to present "Political Outlook '86" at the morning session.

The luncheon theme will be a "Salute to Senate Republican Leaders." Bob Dole, present Senate Majority Leader, Howard H. Baker, former Senate Majority Leader and Hugh Scott who served as Minority Leader from 1969-1977 are scheduled to speak. Each will receive a special award from the Inner Circle, presented by Senator John Heinz.

Four briefings, concentrating on Taxation, Budget & Economy, Defense, and International Affairs, will be offered in the afternoon at two different time periods, allowing Inner Circle members to attend two briefings. Authorities on these areas of national interest will speak at these briefings.

The evenings' festivities will begin with an International Reception for members and invited dignitaries.

President Reagan will join us prior to the International Dinner. At this time Sen. John Heinz will present the President with a special Inner Circle Award. The President will then address the members.

Many V.I.P.s, including Senators, Congressmen, government officials and foreign embassy representatives will also join the Inner Circle members during the dinner.

After-dinner dancing will be led by Senator and Mrs. Heinz in the adjoining ballroom which will complete the evening.

Regional breakfasts Tuesday morning will allow Inner Circle members to become better acquainted with other members from their area of the country. These breakfasts will be hosted by Senators' Administrative Assistants and your Inner Circle Regional Directors. Featured at the regional breakfasts will be nationally known pollsters Charlie Black, Arthur J. Finkelstein, Lance Tarrance, Bob Teeter and Dick Wirthlin. They will present a state-by-state run-down of the 1986 Senate races. Optional Washington tours are being arranged for Inner Circle members who are interested in seeing some of the many historic sites in the area. Tours will be available to Mt. Vernon, Capitol Hill, Georgetown and Old Town Alexandria, as well as other famous spots in the metropolitan area.

Spring Briefing A Success

The 1985 Spring Briefing brought Inner Circle members from across the country together in the nation's capital. The theme of the event, which took place March 31 and April 1 at the J.W. Marriott Hotel on Pennsylvania Avenue, was "Meet the Class of '86."

The Inner Circle members were welcomed to Washington at a "Meet the New Chairman" reception Sunday night. Senator John Heinz, who was elected by his Republican Senate colleagues to chair the National Republican Senatorial Committee for the 1985-1986 election cycle, was introduced. The reception was followed by the optional and ever popular "Washington-by-Night" tour.

Freshman Senator Mitch McConnell of Kentucky spoke at the opening session Monday morning. He discussed his dynamic victory in November and acknowledged the important role the Inner Circle played in helping him win his seat in the Senate. Remarks were given by White House Chief of Staff Donald Regan and by Senate Majority Leader Bob Dole. Senator Alan Simpson, Assistant Senate Majority Leader and Arthur Finkelstein, President of A.J.F. & Associates political consulting firm, also spoke.

Several Senators in "The Class of '86" stopped by the cocktail reception and regional luncheons on Monday. They included "Class of '86" incumbents Mark Andrews (ND), Jeremiah Denton (AL), Slade Gorton (WA), Mack Mattingly (GA) and Arlen Spector (PA).

Secretary of the Treasury James Baker held a forum on Finance and Taxation which took place that afternoon. He was followed by Senate Finance Committee Chairman Senator Bob Packwood (Oregon) and Senator Bob Kasten (Wisconsin) co-author of the Kemp-Kasten Tax Bill.

Secretary of State George Schultz started off the other afternoon forum on Defense, Armed Service and Foreign Affairs. Inner Circle members also had the opportunity to hear other top decision makers such as Senator Jeremiah Denton (Alabama), Special Advisor for Arms Reduction Negotiations to the President, Ambassador Paul Nitze and Secretary of the Navy John Lehman, Jr. speak on important issues.

The highlight of the Spring Briefing was the President of the Senate Gala Reception which Vice-President and Mrs. George Bush hosted. The Vice President spoke to the members lauding them for their support of President Reagan and the Republican Senate. Following the reception, Inner Circle members were escorted to the U.S. Capitol, private home of their hosts, the Embassy Row Hotel, Four Seasons Hotel, the Hay-Adams, Georgetown Club and the Watergate Hotel as well as many other sites in the Washington area to attend small dinners.

These intimate dinners were hosted by Republican Senators, members of the President's Cabinet and White House officials. Dinner hosts included White House Press Secretary James S. Brady, Secretary of Health and Human Services Margaret Heckler, Senator Strom Thurmond, Senator Jesse Helms, Assistant to the President for Political Affairs Edward J. Rollins, Senator Richard Lugar, Senate Majority Leader Bob Dole and his wife Secretary of Transportation Elizabeth Dole. The small dinners, which completed the event, gave the Inner Circle members who attended a chance to get to know these government leaders on a more personal level.

Republican Senatorial Inner Circle

John Heinz — *Chairman*

Thomas C. Griscom — *Executive Director*

Rodney A. Smith — *Treasurer and Executive Finance Director*

Alice D. Parvin — *Inner Circle Director*

Laurel Adams
Royal R. Roth — *Editors*

Toll-free number:
(800) 624-2369
(800) 624-2370

Paid for and authorized by the National Republican Senatorial Committee
440 First St., N.W.
Suite 600
Washington, D.C. 20001

A Message From The Chairman



Welcome to the premiere issue of "Inside the Inner Circle!" I hope you will take a few moments to look through this exciting new publication!

On the ensuing pages you will find detailed highlights and photographic memories of the 1985 Spring Briefing held on March 31 and April 1 here in Washington. This event was highlighted by a Gala Reception hosted by Vice President and Mrs. Bush and followed by small dinners hosted by Senators, White House officials and Cabinet members in elegant settings around the nation's capitol.

We have also provided an informative and enlightening section about your fellow Inner Circle members, which we plan to make a regular feature of "Inside the Inner Circle."

Another feature which I'm sure you will enjoy is the article on the Inner Circle Regional Directors. This article gives you background information on my special assistants in the Inner Circle.

Just a brief reminder; President Reagan will be joining us on the evening of September 23 during the Inner Circle Fall Briefing to personally thank the Inner Circle members for their faithful endeavors and continued support of the Republican Majority in the United States Senate.

My wife, Teresa, and I look forward to welcoming you to the Inner Circle Fall Briefing in just a few short weeks.

If you have not received your Fall Briefing invitation, please call your respective Regional Director at (800) 624-2369 or 624-2370 and they will forward one to you immediately.

I'm looking forward to working closely with all of you as the crucial 1986 Senate elections draw near.

John Heinz

Regional Member Update From Around The Country

Region I

William Martin Buzanoski, Esquire of New Britain, CT, and his wife, the former **Pamela Lynn Ellery**, found the 1984 Inner Circle Fall Briefing quite rewarding. The couple was introduced to each other at the home of Vice-President and Mrs. George Bush at last year's Fall Briefing by another Inner Circle member, **Leroy Rasmussen**, of Healdsburg, CA. The couple was married on May 23, 1985, in Palm Springs, CA with Leroy attending as Best Man.

Hicks B. Waldron, Chairman and CEO of Avon Products in New York City, received the 1985 Horatio Alger Award during a banquet at New York's Waldorf Astoria Hotel this past spring from Dr. Norman Vincent Peale. Ronald Reagan and Bob Hope are among previous winners.

Beverly Margolis, of Utica, NY, is president of Beverly Distributing Corporation, a rapidly expanding cooking-supply company. One can get a basic kitchen package including dishes, pans, utensils, even a pasta maker. Sales have skyrocketed since the company's conception in 1981 . . . **Rita DiMartino**, of New York City, has served as District Manager for Corporate Relations at AT&T since 1979. Since 1982, by Presidential appointment, Rita has served as the U.S. Representative to the UNICEF Executive Board with the U.S. Department of State . . . **Stephen J. Conway**, of Brooklyn, NY has recently accepted the position of President and Chief Operating Officer at Ivan F. Boesky Corporation . . . **Melvin L. Hirsch**, of New York City, is Chairman of the Board, President and CEO of Transportation SBIC, Inc. This company is a Minority Enterprise Small Business Investment Company which was particularly active in financing the purchase of a radio franchise and a vehicle for minority persons in New York. This new aspect of the transportation industry, now available to minority groups, has a very promising future . . . **Walter Rast**, of Stamford, CT, has been CEO and President of Keyes Fibre Company since 1982; he also has a Presidential appointment to the Connecticut Export Council.



Rita DiMartino — Region I

Mr. and Mrs. William Martin Buzanoski — Region I



Region II

B.F. "Chip" Backlind, who is President of the Bartonville Bank in Peoria, IL, is currently serving as President of the Independent Bankers Association of America, a trade association based in Washington, D.C., with 7500 member banks throughout the nation.

July 4, 1985 was proclaimed Harold E. Fuller Day in the state of Wisconsin by the Governor. Harold was honored for his many years of devoted work to the National Railroad Museum. He is credited for being instrumental in acquiring historic locomotives for the museum and making it one of the finest of its kind in the world.



Hicks B. Waldron — Region I

Gerret Van S. Copeland, of Wilmington, DE, has been appointed by Governor Michael N. Castle to serve as Chairman of the Delaware State Finance Committee . . . **Rita Baker**, of Boothwyn, PA, has served as a committeewoman in her township, Upper Chichester, in Delaware County, for 10 years and has worked on committees for the election of all GOP candidates at different levels of government . . . **Carl Meglan**, of Columbus, OH, has been elected and installed as Vice-President of the 76,000 member National Society of Professional Engineers at their annual meeting in Buffalo, N.Y. . . . **Lorraine Schultz**, of Birmingham, MI, is a charter member of the Republican Leadership Committee of Oakland County. She is currently a Regional Director of the Fashion Group, Inc. of Detroit, MI . . . **C. R. Petticrew**, of Indianapolis, IN, was recently honored by having conferred upon him an Honorary Doctorate degree from the Christian Theological Seminary in Indianapolis for distinguished service . . . **Ike Bitton**, of Margengo, IL, was elected President of the Friends of Portugal at the Portuguese Cultural Center in Chicago . . . **Richard W. Pogue**, of Cleveland, OH, will now serve as Chairman of the Cleveland Foundation's distribution committee; this governing body of the Foundation sets policy and allocates grants . . . **Harry Charles Niegoff**, of Cincinnati, OH, recently served as co-chairman for a dinner in July with Vice-President George Bush at which funds were raised for Ohio Republican campaigns.



Beverly Margolis — Region I

Region III

H. Stanley Krusen, of North Palm Beach, FL, was a great catalyst to the creation of what is today, the National Young Republican Organization. He joined the Young Republican Club of Oranges and Maplewood in New Jersey back in 1928, and then led a group who campaigned to persuade the New Jersey State Committee to sponsor the Young Republicans of New Jersey.

George R. Wackenhut, of Coral Gables, FL, is Chairman and President of the nation's only major, publicly-held, independent security company. After serving for three-and-a-half years as an F.B.I. Special Agent, George and three associates founded a company which has developed into one of the world's largest international security and investigative organizations, with operations on four continents. This company helped provide security in Washington at activities during President Reagan's Inauguration in January of 1981.

(Continued on page 6)

Memories From Spring Briefing 1985

1) Texas Inner Circle member Susan Hagerty attended the special small dinner hosted by "Class of '86" members Sens. Mark Andrews and Paul Laxalt.

2) "Class of '86" member Sen. Alfonse D'Amato of New York shares a happy moment with New York Inner Circle members Kendrick and Elizabeth Harper.

3) Errol and Marissa Coughlan of California were treated to a special private tour of the capitol after their small dinner with Sen. Strom Thurmond and Sen. and Mrs. Pete Wilson.

4) Kansas Inner Circle members Bradford and Mary Jean Wells enjoyed an entertaining evening with White House Press Secretary and Mrs. James Brady.

5) The exclusive Georgetown Club was the setting for Texas Inner Circle members Shirley Peebles and William Allen's small dinner with hosts Sec. of Agriculture and Mrs. John Block.

6) Richard and Amanda Blackburst of New Mexico were the guests of "Class of '86" member Sen. Paula Hawkins at one of Washington's most renowned restaurants. Mr. K's.

7) Health and Human Services Secretary Margaret Heckler greets Sallyann Walsh of Connecticut at her small dinner at the stately Hay-Adams.

8) Georgia Inner Circle members Jo Anne and Eliott Barrow were the guests of "Class of '86" member Sen. Mack Mattingly and his wife at their small dinner at the historic Mayflower Hotel.


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9) Senate Majority Leader Bob Dole enjoys a relaxing moment after his small dinner with Inner Circle members: (l. to r.) Lothar Budike of Pennsylvania, Brian Kidney of Washington, D.C., Elliot and Martha Baines of Florida and William Vickrey of Kansas.

10) White House Chief of Staff Donald Regan shares some insight to the challenges of the second Reagan administration at the morning session.

11) Ambassador Paul Nitze gave an in-depth talk about the on going arms talks in Geneva at the afternoon forum on Defense, Armed Services and Foreign Affairs while NRSC Chairman John Heinz looks on.

12) Freshman Senator Mitch McConnell of Kentucky personally thanked Inner Circle members for their generous support during his tough Senate race last fall.

13) Senate Majority Leader Bob Dole gave the members an update on current business taking place in Congress and spoke of the need for continued Inner Circle support of the Republican Senate Majority.

14) Treasury Secretary James Baker gave the Inner Circle membership an analysis on President Reagan's new tax proposals at the afternoon forum on Finance and Taxation.

15) "Class of '86" member, Sen. Slade Gorton of Washington joined Inner Circle members at one of five regional luncheons.

16) Inner Circle member Secretary of State George Schultz started off the afternoon forum on Defense, Armed Services & Foreign Affairs after being welcomed by NRSC Chairman John Heinz.


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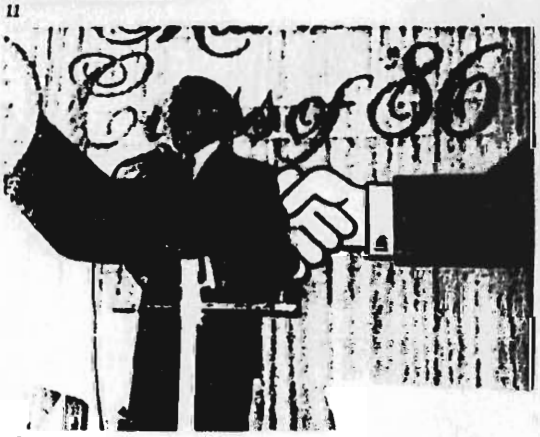
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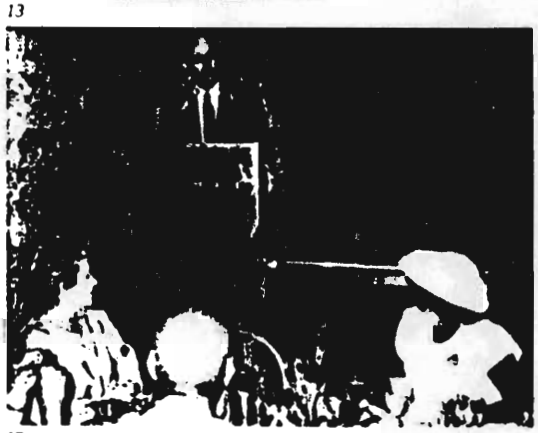


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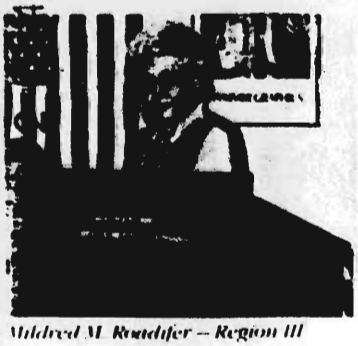

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(Continued from page 3)

Mildred M. Roadifer, of Tampa, FL, attended the fourth annual meeting of the United States Congressional Advisory Board at which she took part in two-way discussions with Secretary of Defense Caspar Weinberger and members of Congress . . . **Frederick Deane, Jr.,** of Richmond, VA, serves as Chairman of the Board and Chief Executive Officer of the Bank of Virginia Company. He is also a director of CSX Corporation and Marriott Corporation . . . **Folke Becker, M.D.,** of Birmingham, AL, received two certificates for Meritorious Service by the American Medical Association (AMA) as a volunteer physician during the Vietnam War. He spent 120 days on three tours serving in this capacity; this is AMA's highest recognition for Humanitarian service . . . **Dr. Mario Stone** of Miami Beach, FL, has been elected Secretary of the American Academy of Neurological and Orthopedic Surgeons . . . **Lou Whitten** of Orlando, FL, was granted life membership in the Orlando Women's Republican Club for her work with the club. Lou has contributed substantially to the vitality and growth of Central Florida Republican activities.



Mildred M. Roadifer — Region III

Region IV

Ralph B. "Bucky" Haver, of Phoenix, AZ, serves as President of Haver Construction Company. A recent accomplishment for Bucky's firm was the construction of the Supai Indian School in the Grand Canyon. This project received nationwide attention because all the men, materials, and equipment were taken in with a large helicopter. Haver Construction has also successfully completed the construction of the largest solar cooled facility in Arizona.

Ben Fixman, of St. Louis, MO, was the 1983 recipient of the *St. Louis Globe-Democrat* Human-



Bill Grant — Region IV

ities Award. Ben, who is President, Chairman of the Board and Chief Executive Officer for Diversified Industries, Inc., was described as a compassionate philanthropist, a vigorous industrialist and a concerned patriot.

Richard N. Thompson, of Lincoln, NE, is currently Chairman and Chief Executive Officer of the SpanTel Corporation which is developing a national paging-messaging network utilizing FM radio stations as subcarrier affiliates. This will allow the firm to reach over 90% of the U.S. population within the next three years . . . **Jim Click, Jr.,** of Tucson, AZ, is one of only 21 car dealers in the entire nation to be selected as a 1985 *Time* Magazine Quality Award finalist for dealers who exhibit "exceptional performance in their dealerships combined with distinguished community service" . . . **Dr. Melvin C. Kasten,** of Cape Girardeau, MO, will be serving as Councilor for the 10th district to the Missouri State Medical Association for 1983-1985. Melvin's wife, Mary, is a state representative in the Missouri legislature . . . **William Downing Grant,** of Shawnee Mission, KA, is Chairman and Chief Executive Officer of Business Men's Assurance Company of America and has recently been named Chairman for the Life and Health Insurance Medical Research Fund . . . **Leo Eisenberg,** of Kansas City, MO, has been in the real estate business since 1938. His company, the Leo Eisenberg Co., is a full-service commercial firm specializing in brokerage, management, development, joint ventures, investments and insurance . . . **Stanley W. Ozark, of Minneapolis, MN,** is a retired U.S. Administrative Law Judge who now works as a tax and investment consultant to several of *Fortune*'s top fifty corporations . . . **G.W. Anderson,** of Salt Lake City, UT, has been engaged in oil and gas exploration for more than 36 years. He recently returned from a three week scientific exchange visit to China with a small group of professional oil men who toured Chinese oil and gas fields.

Region V

Vasa Cubaleski, of Los Angeles, is considered a master yogurt maker. Vasa's company, Continental Culture Specialists, which is located in Glendale, is an established leader in the cultured foods industry. Vasa originally created his best-selling yogurt recipe for King Peter II of Yugoslovia, who then asked Vasa to provide all the cultured foods for the royal family. Vasa emigrated to the U.S. in 1959.

Perry Boswell, of Bradley, CA, has one of the largest private collections of exotic animals in California and the largest privately owned yak herd in the country. Licensed by the California State Department of Fish and Game and by the federal government, Perry raises, breeds, and sells animals on his 500 acres. He is also an ecologist and a successful land developer.

Charles R. Whitlock, of Granada Hills, CA, has created an extremely successful wind energy company, Airtricity, with two partners. The company sells power to Southern California Edison and sells windmills to investors . . . **William C. Hayes,** of Woodland Hills, CA, is President and only stockholder of the Encino based Windsor Financial Company which builds and operates convenience shopping centers. Windsor has grown into the second largest such development company since its creation in 1971 . . . **Si Frumkin,** of Studio City, CA, is a founder of the Southern California Council for Soviet Jews . . . **James L. Brock,** of Oxnard, CA, who is a Fellow on the President's Round Table at California Polytechnic University, San Luis Obispo, has funded a trust to further the study of agricultural journalism at the university . . . **Reverend Jack C. Graves** of San Diego, CA, is a leader in the establishment of a study center with Christian, Jewish, Islamic, Hindu, and Buddhist chapels at the United States International University . . . **Joseph R. Bolker,** of Los Angeles, who serves as President of Brighton International Development Corp., recently received a resolution from Mayor Tom Bradley for originating and forming the Corporate Fund for Housing. The fund provides a creative mechanism for increasing the supply of affordable housing for modest income families.

Region VI

Sumner G. Whittier, of Ellicott City, MD, resided in Massachusetts where he served as a State Senator. He was twice the Lt. Governor under Governor Christian Herter and was once the Republican nominee for Governor. Sumner headed the Veterans' Administration in the Eisenhower Administration and served as Director of the Supplemental Security Income program in the Nixon Administration. Sumner has been a delegate to GOP conventions since 1952.

James S. Gray, of Chevy Chase, MD, has been decorated with the Treasury Department Gold Life Saving Medal, 5 Distinguished Flying Crosses, 5 Air Medals, 2 Presidential Unit Citations along with several other outstanding awards. He was the youngest licensed airplane pilot when he received his license at age 16, and was active in the Navy during World War II. He became one of the two carrier based navy fighter pilots to achieve "Ace" in WWII.

Stanley J. Dudrick, of Houston, TX, was recently honored by the American Society for Parenteral and Enteral Nutrition in the naming of its most prestigious award

...e Stanley J. Dudrick Award. The award will be granted to an outstanding young investigator for past research accomplishments and future research potential in specialized nutrition support . . . Jacqueline Lefferts, Esquire, of Middleton, NJ is a practicing attorney and is involved in the 1985 Governor's Ball . . . Barry B. Wright, of Washington, D.C. who serves as President and Chairman of Temporaries, Inc. was the recipient of the 1985 Distinguished Alumni Award from Gettysburg College in Pennsylvania. In 1983, Barry received the Washingtonian of the Year award from the *Washingtonian Magazine* . . . Dr. Robert Hunter, of Abilene, TX, has recently been named to the Board of Directors of the Texas Business Hall of Fame Foundation . . . John Fontano, Jr., of Houston, TX, will be serving on the Board of Directors of the Houston Business Committee for Educational Excellence . . . Alice W. Lorillard, of ...r Hills, NJ, has been instrumental in starting an organization called "The Grace Commission Action Committee of Somerset and Hunterdon Counties," which will concentrate on how government waste spending can be reduced and controlled . . . W.H. Higginbotham, of Dallas, TX, said he is "not a newcomer to politics;" he made his first political speech in 1925 . . . Irene ...ford, of Washington, D.C., and her son Mark, were recent guests at the White House state dinner for President Li of China.



At the President of the Senate Gala, Vice President George Bush thanks Inner Circle members for their support of President Reagan and the Republican Senate.

Meet Your Inner Circle Regional Directors

Susan Ballard

Susan Ballard from Lexington, Kentucky is the Regional Director for Region I, which includes Connecticut, New York, New Hampshire, Vermont, Rhode Island, Maine and Massachusetts. She attended The University of Kentucky and graduated from Midway College in Kentucky with a degree in communications.

Susan worked with the Jim Bunning for Governor campaign in Kentucky and also with the Republican Party of Kentucky state headquarters for two years. After serving as events coordinator for the successful Mitch McConnell for Senate campaign in 1984, Susan moved to the nation's capital, and joined the staff of the Inner Circle in January of 1985.

Susan, who has been involved in Republican party activities and campaigns for 12 years, has been elected National Committeewoman for Kentucky Young Republicans for two terms and was recently elected Director of Region 3 for the Young Republican National Federation. She received the Kentucky Young Republican Woman of the Year award in 1984.

Bill Sells

Bill Sells is the newest addition to the Inner Circle staff, having joined the staff as Regional Director for Region II, in July of this year. Region II consists of Pennsylvania, Delaware, Ohio, Michigan, Indiana, Illinois, Iowa and Wisconsin.

Bill is from Philadelphia and attended Syracuse University where he graduated with a B.S. in Political Science in May of 1983.

While still at Syracuse, Bill served as an intern for Congressman George Wortley of New York. After graduation he worked for the Reagan-Bush '84 campaign. During this time he was the Director for Voter Registration in Delaware where they exceeded their goal of new voter registrations by almost 10,000.

After the campaign Bill worked for the 50th Presidential Inaugural Committee here in Washington, D.C. and most recently was with the staff of Senator Gordon Humphrey of New Hampshire.

Mary Craig Warren

Our Southeastern Regional Director was born and reared in the deep south — Baton Rouge, Louisiana. Mary Craig Warren represents Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia and West Virginia. Region III also includes Puerto Rico and the Virgin Islands.

Mary received a Bachelor of Arts degree in political science with an emphasis on American Government from Louisiana State University. During college, she enjoyed a variety of travel experiences including a Rotary Exchange Program in England and a summer session in Paris. She also served an internship with Congressman W. Henson Moore, (R-LA), who is a Senate challenger in 1986.

Leaving her position as Assistant to the Executive Director of the Republican party of Louisiana, Mary moved to Washington D.C. and joined the staff of the 1984 President's Dinner, where her political fundraising career began. Mary has been with the Inner Circle since June of 1984.

Gwenn Heller

Born in Summit, New Jersey, Gwenn Heller represents Region IV of the Inner Circle. This region consists of Alaska, Arizona, Colorado, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

Gwenn graduated from Franklin and Marshall College in Lancaster, Pa. with a Bachelor of Arts degree in Government and French. While in college, Gwenn served as Director of Gifts and Grants for a radio station in Lancaster, Pa. After graduation, Gwenn traveled across the United States and visited 16 of the 18 states she now represents.

After moving to Washington in September of 1984, Gwenn worked as a staff assistant handling constituent relations in the office of Senator John Heinz. She then joined the Inner Circle staff as Regional Director this past April.

Tori Thomas

A native of Dallas, Texas, Tori Thomas is the Regional Director for Region V which includes California, Guam and Hawaii. Tori holds a bachelor's degree in English from Vanderbilt University in Nashville, Tennessee.

While at Vanderbilt, Tori was a member of the Honor Council, Kappa Alpha Theta Fraternity, Young Republicans and was active in student government. After graduation, Tori returned to Dallas where she and a partner created On the Town, a convention planning-entertainment arrangements service. She also worked as Director of School Recruiting at The Hockaday School in Texas before moving to Washington, D.C.

Her experience in the nation's capital includes an internship with former Congressman James M. Collins, (R-TX), a staff position with the Congressional Steel Caucus and her present position with the Inner Circle.

(Continued on page 8)

Continued from page 7

Lizabeth Lefferts

The Regional Director for Region VI is Lizabeth Lefferts. The District of Columbia, New Jersey, Maryland and Texas are included in this region.

Lizabeth was born in Houston, Texas and spent her years prior to college in both Houston and Rumson, New Jersey. She graduated from the Fashion Institute of Technology in New York City with a degree in Fashion Buying and Merchandising. She then worked for a manufacturer of accessories in New York City as a sales representative and designer.

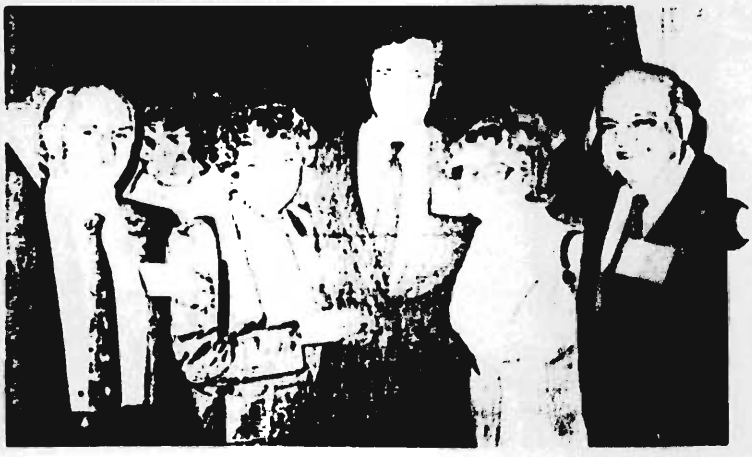
Lizabeth worked as the South Jersey Director on the 1984 Reagan-Bush Campaign in New Jersey before moving to Washington, D.C. to join the marketing department of the 1985 Presidential Inaugural Committee as a marketing assistant. She has been with the Inner Circle since February of 1985.



Sen. and Mrs. John Heinz greet Inner Circle members Vasa and Mila Cubaleski of California and Dr. Stefan Semchyshyn of New Jersey during the President of the Senate Gala reception at the Spring Briefing



Vice President George Bush is enthusiastically welcomed to the President of the Senate Gala by Inner Circle members.



Sen. John Heinz is greeted at the "Meet the New Chairman Reception" by Inner Circle members, William Mayo of Pennsylvania, Jeannie Kinzie of Colorado, June Kuczynski of Michigan and Joe Azzolina of New Jersey.

Inner Circle Nomination Form

If you have a friend or business associate who you would like to see nominated to become an Inner Circle member, please send us their name, and phone number on the form below:

Mail to:
National Republican Senatorial
Inner Circle
440 First St., N.W.
Suite 600
Washington, D.C. 20001

Name _____

Address _____

_____

_____

City _____ State _____ Zip _____

Area Code/Phone Number ( ) _____

Nominated by: _____

SENATORIAL INNER CIRC
440 FIRST STREET, NW
WASHINGTON, DC 20001 13PM

Western Union Mailgram

1-190101U256002 09/13/85 ICS WA10614 NSWA
00007 HLTN VA 09/13/85

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
DEBBIE DENTZER
440 FIRST STREET NW
WASHINGTON DC 20001

DEAR DEBBIE,

HAVE JUST RECEIVED MY CONFIRMATION COPY OF THE MAILGRAM FROM WESTERN UNION SENT TO YOU YESTERDAY AND REALIZED IMMEDIATELY THERE WAS A SERIOUS STAFF ERROR.

THE MAILGRAM ASKED YOU TO SEND IN YOUR 1985 MEMBERSHIP DUES TO THE REPUBLICAN SENATORIAL INNER CIRCLE, WHEN I KNOW FULL WELL THAT YOU ARE A FULLY PAID MEMBER FOR 1985.

PLEASE ACCEPT MY SINCERE APOLOGY FOR THIS ERROR AND MY GRATITUDE FOR YOUR CONTINUED GENEROUS SUPPORT.

MY INTENTION IN SENDING THE MAILGRAM WAS TO INSURE YOU THAT YOUR RESERVATION FOR THE SEPTEMBER 22-24 FALL BRIEFING WAS STILL OPEN. WE WILL HOLD THE RESERVATION UNTIL SEPTEMBER 20TH AND I SINCERELY HOPE YOU WILL BE WITH US.

PLEASE CALL MY SPECIAL ASSISTANT AT 800-826-2370
OR 202-347-8282 AND CONFIRM YOUR RESERVATION FOR
THE FALL BRIEFING.

AGAIN, MY APOLOGIES FOR THIS ERROR. I LOOK FORWARD TO SEEING YOU SEPTEMBER 22-24.

SINCERELY,

JOHN HEINZ
CHAIRMAN
REPUBLICAN SENATORIAL INNER CIRCLE

21:08 EST

MGMCOMP

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

2040903706

MAILGRAM
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Western Union

Western Union Mailgram

THIS MAILGRAM MESSAGE WAS TRANSMITTED ELECTRONICALLY BY WESTERN UNION TO A POST OFFICE NEAR YOU FOR DELIVERY

SENATORIAL INNER CIRCLE
440 FIRST STREET, NW
WASHINGTON, DC 20001 1PM

Western Union Mailgram

1-080101U259006 09/16/85 ICS WA16014 WSHA
00016 MLTN VA 09/16/85

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
DEBBIE DENTZER
440 FIRST STREET NW
WASHINGTON DC 20001

MS. DENTZER

I AM VERY CONCERNED THAT YOU HAVE NOT MADE YOUR RESERVATION TO BE WITH US AT THE INNER CIRCLE FALL BRIEFING HERE IN WASHINGTON, SEPTEMBER 22-24.

PRESIDENT REAGAN HAS CONFIRMED THAT HE WILL BE WITH US ON THE EVENING OF SEPTEMBER 23RD. IT WILL BE ONE OF HIS FIRST PUBLIC APPEARANCES SINCE RETURNING FROM CALIFORNIA.

AND I KNOW YOU'LL WANT TO BE WITH US WHEN I PRESENT HIM WITH A SPECIAL AWARD ON BEHALF OF THE ENTIRE INNER CIRCLE.

PLEASE CALL MY SPECIAL ASSISTANT AT 800-424-2370
OR 202-347-0282 AND CONFIRM YOUR RESERVATION
FOR THE FALL BRIEFING.

WE ARE HOLDING YOUR RESERVATION OPEN BUT WE MUST HEAR FROM YOU NO LATER THAN SEPTEMBER 20TH.

MANY OTHER SPECIAL GUESTS WILL ALSO ATTEND THIS EVENT, INCLUDING WHITE HOUSE CHIEF OF STAFF DON REGAN, SENIOR PRESIDENTIAL POLITICAL ADVISOR ED ROLLINS, SENATE MAJORITY LEADER BOB DOLE AND FORMER REPUBLICAN SENATE LEADERS HOWARD BAKER AND HUGH SCOTT.

ALSO, COMEDIAN RICH LITTLE WILL BE ONE OF THE HIGHLIGHTS ON MONDAY EVENING, SEPTEMBER 23RD, FOLLOWING THE DINNER.

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

9204096 37707

Western Union Mailgram

IF OUR LETTERS HAVE CROSSED IN THE MAIL AND YOU HAVE ALREADY REGISTERED, PLEASE ACCEPT MY APOLOGIES.

THANK YOU FOR YOUR CONTINUED SUPPORT AND I LOOK FORWARD TO SEEING YOU IN WASHINGTON SOON.

SINCERELY,

JOHN HEINZ
CHAIRMAN
REPUBLICAN SENATORIAL INNER CIRCLE

20:16 EST

MGMCOMP

C20409037708

Republican Senatorial Inner Circle

Bob Dole
Majority Leader

John Heinz
Chairman

September 17, 1985

Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

Dear James and Pat:

I've enclosed your 1985 Republican Senatorial Inner Circle Membership Card.

And I want to thank you for your continued support of one of America's finest political and social organizations.

Also enclosed is a verification reply card for you. If your name or address is incorrect on my files, please let me know. Or if your name is misspelled on your Membership Card, just complete the verification form and I'll send you a new card right away.

Let me take a moment to tell you that your commitment to the Republican Party and its ideals is unique, and greatly appreciated.

Inner Circle members are concerned Americans, like yourself, who believe in America's greatness. And who want to help secure the future of America by maintaining our Republican Senate majority.

Because that's really what your membership is all about. Without a Republican majority in the U.S. Senate in 1986, I'm concerned that President Reagan won't have the leadership behind him that he desperately needs. His policies for continued growth and prosperity in America will face major roadblocks through the end of his term.

That's why your participation in the Republican Senatorial Inner Circle is crucial in the next 15 months.

In fact, there has never been a more important time for you to renew your membership in the Inner Circle.

As you know, of the 34 Senate seats up for re-election next year, 22 are Republicans. Sixteen of these 22 Republicans are "freshmen" Senators, serving their first term. Historically, first term incumbents are far more likely to be defeated.

440 First Street, N.W., Suite 600, Washington, D.C. 20001 • 202/224-2351

Paid for and authorized by the National Republican Senatorial Committee

9204096370 9

Not since 1926, or 60 years ago, has the Republican Party been required to defend more Senate incumbents.

And I know first-hand that the Democrats are prepared to fight to the very end to regain the Majority.

Along with my other Republican colleagues in the U.S. Senate, I couldn't be more pleased that you have made a commitment to make sure the Democrats aren't successful in their majority battle.

The fact that you recently renewed your membership in the Inner Circle means you will be personally involved in one of the most crucial campaigns in history. What's more, you'll have the opportunity on several occasions to meet many of Washington's key Republican officials on a one-to-one basis.

In fact, the Inner Circle Fall Briefing is only a few weeks away. You should have received your invitation to join us in Washington, D.C. on September 22-24 at the Shoreham Hotel for this annual event.

You're probably aware that President Reagan will be on hand for a special International Reception on September 23. I honestly believe this will be the highlight of the Fall Briefing.

So please, if you haven't already done so, send in your registration form to the Inner Circle office right away. And tell your Regional Director that you'll be joining me along with various White House officials, Cabinet Secretaries, and United States Senators at the Inner Circle Fall Briefing.

Hope to see you there. Thanks again for your continued support of the Republican Senatorial Inner Circle.

Sincerely,

John Heinz
Chairman

P.S. If you ever have any questions regarding your membership benefits as an Inner Circle member, please call our toll-free number, 1-800-624-2369. And ask for Gwenn Heller, your Regional Director. Thank you.

9204090371Q

VERIFICATION
REPLY FORM

TO: Senator John Heinz
Chairman
Republican Senatorial Inner Circle

FROM: Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

_____ My name is listed incorrectly on my Membership Card and on your records. Please make a note of the changes I've made above, and send me a new Membership Card.

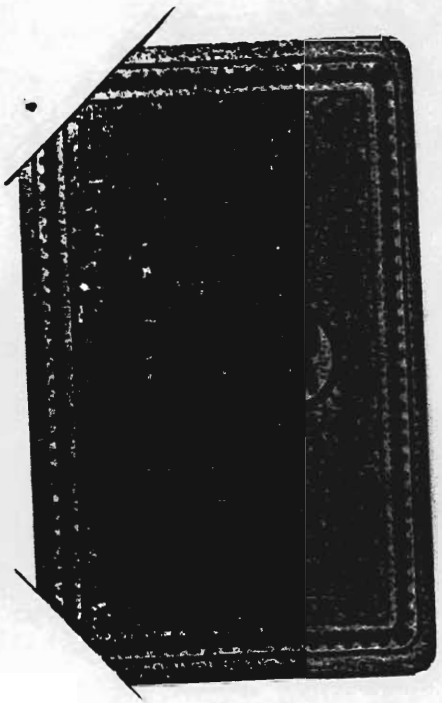
_____ My address is incorrect. I've corrected it above for you.

Please complete this form only if your name or address appears incorrectly. Enclosed is a postage-paid envelope for your convenience. Thank you.

Republican Senatorial Inner Circle
440 First Street, N.W.
Suite 600
Washington, D.C. 20001

Paid for and authorized by the National Republican Senatorial Committee

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Senator John Heinz

Republican Senatorial Inner Circle
440 First Street, N.W., Suite 600
Washington, D.C. 20001

Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

06C 2373

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 APR -5 AM 9:00

JASPER & JASPER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8446

March 22, 1989

OUR FILE NUMBER: 8803-01

89 APR -5 PM 12:07

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Judybeth Greene, Attorney

Re: MUR 2575 - Paul Wexler

Dear Ms. Greene:

I apologize for not returning your telephone call of March 20, 1989. I was in Oregon on the 20th and in meetings and at the dentist's on March 21. I will be out of town on Thursday, March 23 in deposition but will be back in my office Monday, March 27 and Tuesday, March 28. Let's touch base then.

I hope you understand.

Very truly yours,

JASPER & JASPER

Stuart P. Jasper

SPJ/mm

9204090371 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 24, 1989

Mr. Kazuo Ishiguro
c/o Toshiba-America, Inc.
9740 Irvine Boulevard
Irvine, California 92718

RE: MUR 2575
Kazuo Ishiguro

Dear Mr. Ishiguro:

On January 10, 1989, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 you. 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 to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against you, 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 pursued. 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.

9204090371 4

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.

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.

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 investigation to be made public.

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

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9204090371 5

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kazuo Ishiguro MUR: 2575

I. BACKGROUND

Information referred to the Commission in the normal course of carrying out its supervisory responsibilities reveals that Paul Wexler, the Vice President/General Manager of the Telecommunications Systems Division of Toshiba-America, Inc. made a $1,000 contribution to the Republican Senatorial Inner Circle for which he received reimbursement from Toshiba-America, Inc. The Republican Senatorial Inner Circle is a program of the National Republican Senatorial Committee, a political committee. Kazuo Ishiguro, as the Executive Vice President of Toshiba-America, Inc., reportedly authorized the corporation to make this reimbursement. After a discussion with Wexler about the proposed reimbursement of the above contribution, Mr. Ishiguro, in his position as a corporate officer and Wexler's supervisor, wrote a note authorizing the contribution reimbursement to be charged to Toshiba-America's Legal Department and signed an expense report authorizing the corporation to reimburse Wexler for his $1,000 payment to the Republican Senatorial Inner Circle.

II. ANALYSIS

A. Section 441b(a) Corporate Contributions

Section 441b(a) of the Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits corporations from making contributions or expenditures in connection with federal

9204090371 6

elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization in connection with" a federal election. 2 U.S.C. § 441b(b)(2) (emphasis added). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contribution is prohibited by the Act. Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to an arrangement designed to reimburse an individual for his or her political contributions with corporate funds may incur personal liability under the Act.

As indicated above, it appears that Kazuo Ishiguro, in his capacity as an officer of Toshiba-America, Inc., authorized the corporation to reimburse Paul Wexler for his contribution to the Republican Senatorial Inner Circle. Therefore, there is reason to believe Kazuo Ishiguro violated 2 U.S.C § 441b(a) by consenting to a prohibited corporate contribution.

9204090371 7

B. Section 441f Contributions in the Name of Another

Pursuant to 2 U.S.C. § 441f, it is unlawful for any person "to make a contribution in the name of another person..." The term "person" incudes corporations such as Toshiba-America, Inc. The facts set forth in this analysis indicate that Toshiba-America may have violated this provision by making a contribution to a federal committee under Paul Wexler's name.

The Commission has interpreted this section to apply not only to individuals who accept contributions in the name of another and individuals who permit their names to be used in this way, but also to those who assist in the making of such contributions. By authorizing the corporate reimbursement of Paul Wexler's political contribution, Kazuo Ishiguro assisted Toshiba-America in making a contribution in the name of another. Accordingly, there is also reason to believe that Kazuo Ishiguro violated 2 U.S.C. § 441f.

9204090371 8

SENATORIAL INNER CIRCLE
440 FIRST STREET, NW
WASHINGTON, DC 20001 16PM

Western Union Mailgram

1-080101UE59006 09/16/85 ICS WA16616 NSHA
00016 MLTN VA 09/16/85

NATIONAL REPUBLICAN SENATORIAL COMMITTEE
DEBBIE DENTZER
440 FIRST STREET NW
WASHINGTON DC 20001

MS. DENTZER

I AM VERY CONCERNED THAT YOU HAVE NOT MADE YOUR RESERVATION TO BE WITH US AT THE INNER CIRCLE FALL BRIEFING HERE IN WASHINGTON, SEPTEMBER 22-24.

PRESIDENT REAGAN HAS CONFIRMED THAT HE WILL BE WITH US ON THE EVENING OF SEPTEMBER 23RD. IT WILL BE ONE OF HIS FIRST PUBLIC APPEARANCES SINCE RETURNING FROM CALIFORNIA.

AND I KNOW YOU'LL WANT TO BE WITH US WHEN I PRESENT HIM WITH A SPECIAL AWARD ON BEHALF OF THE ENTIRE INNER CIRCLE.

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OR 202-347-0202 AND CONFIRM YOUR RESERVATION
FOR THE FALL BRIEFING.

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ALSO, COMEDIAN RICH LITTLE WILL BE ONE OF THE HIGHLIGHTS ON MONDAY EVENING, SEPTEMBER 23RD, FOLLOWING THE DINNER.

TO REPLY BY MAILGRAM MESSAGE, SEE REVERSE SIDE FOR WESTERN UNION'S TOLL - FREE PHONE NUMBERS

9204090037 19

Western Union Mailgram

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THANK YOU FOR YOUR CONTINUED SUPPORT AND I LOOK FORWARD TO SEEING YOU IN WASHINGTON SOON.

SINCERELY,

JOHN HEINZ
CHAIRMAN
REPUBLICAN SENATORIAL INNER CIRCLE

20:16 EST

MGMCOMP

9204090037 20

Republican Senatorial

Inner Circle

Bob Dole
Majority Leader

John Heinz
Chairman

September 17, 1985

Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

Dear James and Pat:

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And I want to thank you for your continued support of one of America's finest political and social organizations.

Also enclosed is a verification reply card for you. If your name or address is incorrect on my files, please let me know. Or if your name is misspelled on your Membership Card, just complete the verification form and I'll send you a new card right away.

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440 First Street, N.W., Suite 600, Washington, D.C. 20001 • 202/224-2351

Paid for and authorized by the National Republican Senatorial Committee

9204090372 1

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And I know first-hand that the Democrats are prepared to fight to the very end to regain the Majority.

Along with my other Republican colleagues in the U.S. Senate, I couldn't be more pleased that you have made a commitment to make sure the Democrats aren't successful in their majority battle.

The fact that you recently renewed your membership in the Inner Circle means you will be personally involved in one of the most crucial campaigns in history. What's more, you'll have the opportunity on several occasions to meet many of Washington's key Republican officials on a one-to-one basis.

In fact, the Inner Circle Fall Briefing is only a few weeks away. You should have received your invitation to join us in Washington, D.C. on September 22-24 at the Shoreham Hotel for this annual event.

You're probably aware that President Reagan will be on hand for a special International Reception on September 23. I honestly believe this will be the highlight of the Fall Briefing.

So please, if you haven't already done so, send in your registration form to the Inner Circle office right away. And tell your Regional Director that you'll be joining me along with various White House officials, Cabinet Secretaries, and United States Senators at the Inner Circle Fall Briefing.

Hope to see you there. Thanks again for your continued support of the Republican Senatorial Inner Circle.

Sincerely,

John

John Heinz
Chairman

P.S. If you ever have any questions regarding your membership benefits as an Inner Circle member, please call our toll-free number, 1-800-624-2369. And ask for Gwenn Heller, your Regional Director. Thank you.

9204090372 2

VERIFICATION
REPLY FORM

TO: Senator John Heinz
Chairman
Republican Senatorial Inner Circle

FROM: Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

_____ My name is listed incorrectly on my Membership Card and on your records. Please make a note of the changes I've made above, and send me a new Membership Card.

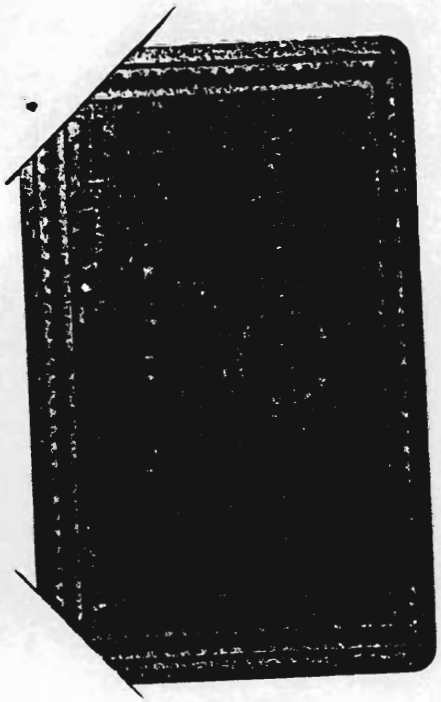
_____ My address is incorrect. I've corrected it above for you.

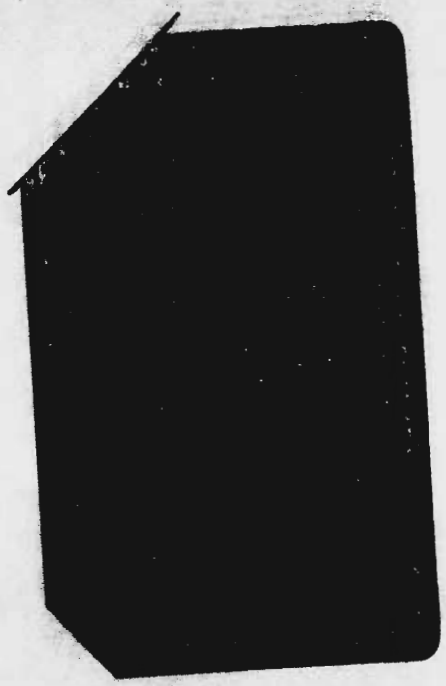
Please complete this form only if your name or address appears incorrectly. Enclosed is a postage-paid envelope for your convenience. Thank you.

Republican Senatorial Inner Circle
440 First Street, N.W.
Suite 600
Washington, D.C. 20001

Paid for and authorized by the National Republican Senatorial Committee

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9 2 0 4 0 9 0 3 7 2 5

Republican Senatorial Inner Circle
440 First Street, N.W., Suite 600
Washington, D.C. 20001

Mr. & Mrs. James Fail
5201 North 24Th Street
Phoenix, Arizona 85016

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OGC 2373

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89 APR -5 AM 9:00

JASPER & JASPER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8446

March 22, 1989

OUR FILE NUMBER: 8803-01

89 APR -5 PM 12:07

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Judybeth Greene, Attorney

Re: MUR 2575 - Paul Wexler

Dear Ms. Greene:

I apologize for not returning your telephone call of March 20, 1989. I was in Oregon on the 20th and in meetings and at the dentist's on March 21. I will be out of town on Thursday, March 23 in deposition but will be back in my office Monday, March 27 and Tuesday, March 28. Let's touch base then.

I hope you understand.

Very truly yours,

JASPER & JASPER

Stuart P. Jasper

SPJ/mm

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89 APR -3 AM 10:42

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CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8446

March 27, 1989

OUR FILE NUMBER: 8803-01

89 APR -3 PM 3:24

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Judybeth Greene, Attorney

Re: MUR 2575 - Paul Wexler

Dear Mr. Noble:

This will confirm my telephone conversation with Judybeth Greene of March 24, 1989.

In 1987, Mr. Wexler paid $500 to "Californians for Pete Wilson." That should have been disclosed in response to interrogatory No. 1. The fault was mine, not my client's. This information was disclosed to me and, in split-second thinking, I erroneously focused on the word "Californians" rather than the words "Pete Wilson." I apologize for the error, for which I take personal responsibility.

As noted, the foregoing payment of $500 was not reimbursed by anyone.

It is possible that my client attended a luncheon for the Republican opponent of Senator Cranston a number of years ago. My client will be checking his records to see when and if he went to the luncheon. If it was within the time period of the interrogatory, he will determine how much he paid, if the amount was reimbursed, and if so, by whom.

My client will be having his accountant do this, and given the time of the year, right before April 15, there may be a slight delay. You can be assured, however, that we will do our utmost to respond as quickly as possible.

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JASPER & JASPER
ATTORNEYS AT LAW

Thank you for your courtesy and cooperation.

Very truly yours,

JASPER & JASPER

Stuart Jasper

Stuart P. Jasper

SPJ/mm

JASPER & JASPER
ATTORNEYS AT LAW

Thank you for your courtesy and cooperation.

Very truly yours,

JASPER & JASPER

Stuart Jasper

Stuart P. Jasper

SPJ/mm

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06C2324

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

TELEX: 904343
SKARSLAW WASH
TELECOPIER:
(202) 393-5760
DIRECT DIAL
(202) 371-

BOSTON
CHICAGO
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March 30, 1989

89 MAR 30 PM 12:25

BY HAND

Judybeth Greene, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Toshiba America, Inc., et al.

Dear Ms. Greene:

Per our recent discussion, enclosed is a print out of a Toshiba America, Inc. expense report dated October 31, 1985. The report shows the payment to Mr. Wexler as a $1,000 payment for "membership and dues." This is the document Mr. Nishioka remembers reviewing with regard to this matter. The reference to "membership and dues" on the expense report reaffirms the testimony of all the individuals in California that it was their understanding that the payment in question was a dues payment to an association.

I wish to thank you and Anne Weissenborn for meeting with me. I hope you find this information helpful and in support of my arguments to take no further action in this matter.

Sincerely,

Kenneth A. Gross

Enclosure

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9204090731

TOSHIBA AMERICA INC.
HEADQUARTERS CORPORATE L800

DATE 11/13/89 TIME 6.16 PAGE 850 AMG834

INCOME STATEMENT
OCTOBER 31, 1989

CURRENT MONTH	CURRENT MONTH BUDGET	PERCENT VARIANCE	DESCRIPTION	YEAR TO DATE	YEAR TO DATE BUDGET	PERCENT VARIANCE
			SALES			
			COST OF GOODS SOLD			
			SELLING EXPENSE			
			GENERAL AND ADMINISTRATIVE EXPENSES			
8,684.66	9,100.00	4.56-	SALARIES	8,684.66	9,100.00	4.56-
1,650.09	1,729.00	4.56-	PAYROLL TAXES (FICA)	1,650.09	1,729.00	4.56-
1,000.00	.00	100.00	MEMBERSHIP AND DUES	1,000.00	.00	100.00
.00	200.00	100.00-	BOOKS AND SUBSCRIPTIONS	.00	200.00	100.00-
.00	1,000.00	100.00-	TRAVEL EXPENSE - AIR FAIR	.00	1,000.00	100.00-
.00	200.00	100.00-	TRAVEL EXPENSE - LODGING	.00	200.00	100.00-
.00	50.00	100.00-	TRAVEL EXPENSES - MEALS	.00	50.00	100.00-
.00	200.00	100.00-	TRAVEL EXPENSE - AUTO RENTAL	.00	200.00	100.00-
.00	50.00	100.00-	CAR ALLOWANCE	.00	50.00	100.00-
209.00	250.00	16.40-	ENTERTAINMENT	209.00	250.00	16.40-
81.00	100.00	19.00-	TELEPHONE AND TELEGRAPH	81.00	100.00	19.00-
21.81	150.00	85.46-	OFFICE SUPPLIES	21.81	150.00	85.46-
.00	30.00	100.00-	EXPRESS DELIVERY	.00	30.00	100.00-
704.63	.00	100.00	NONPRODUCT FREIGHT & DUTY CHARGE	704.63	.00	100.00
.00	10,000.00	100.00-	LEGAL FEES	.00	10,000.00	100.00-
12,351.19DR	23,059.00DR	46.44-	TOTAL GENERAL AND ADMINISTRATION EXP.	12,351.19DR	23,059.00DR	46.44-
			INTEREST			
			MISCELLANEOUS NON OPERATING INCOME / EXPENSE			
			INCOME TAXES			
12,351.19DR	23,059.00DR	46.44-	NET INCOME	12,351.19DR	23,059.00DR	46.44-

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1989

Stuart P. Jasper, Esquire
Jasper & Jasper
Commerce Bank Building
1201 Dove Street, Sixth Floor
Newport Beach, CA 92660

RE: MUR 2575
Paul Wexler

Dear Mr. Jasper:

We recently received your supplemental response to the Commission's interrogatories. In the course of our investigation, we have obtained copies of solicitations and other materials sent to individuals by the National Senatorial Inner Circle between July and September, 1985. Please have your client, Paul Wexler, review the attached materials and state in writing whether he received these communications or a similar solicitation in 1985 and whether he attached any of these materials to his request for reimbursement from Toshiba-America.

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

Sincerely,

Lawrence M. Noble
General Counsel

Attachment

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OGC 2486

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89 APR 17 AM 9:28

JASPER & JASPER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8446

April 11, 1989

OUR FILE NUMBER: 8803-03

APR 17 PM 3:40

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Judybeth Greene, Attorney

Re: MUR 2575 - Paul Wexler

Dear Mr. Noble:

We will respond soon.

Very truly yours,

JASPER & JASPER

Stuart Jasper/mm

Stuart P. Jasper

SPJ/mm

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06C2553

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89 APR 24 AM 10:54

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WASHINGTON, D.C. 20005-2107
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(202) 393-5760
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WILMINGTON

April 20, 1989

89 APR 25 PM 1:28

Judybeth Greene, Esq.
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 Toshiba America

Dear Ms. Greene:

In response to your recent inquiry concerning Toshiba America's ("TAI") corporate officers, enclosed is a copy of a letter from TAI noting that between May and November 1987, TAI's corporate officers were the same as in June and July 1987, except that on August 1, 1987, Masaki Uga replaced Masahiro Matsuo as Assistant Secretary and Assistant Treasurer. For your convenience, I also enclosed a copy of the officer listing previously submitted.

Let me know if you need anything else.

Sincerely,

Kenneth A. Gross

Enclosures

9204090373 4

TOSHIBA

TOSHIBA AMERICA, INC.
375 PARK AVENUE, NEW YORK, NY 10152
FACSIMILE: (212) 838-1179
PHONE: (212) 308-2040

April 19, 1989

Kenneth A. Gross, Esq.
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

Dear Mr. Gross:

You asked that Mr. Hayashida send you information relating to the officers of Toshiba America, Inc. during the months May, 1987 through November, 1987.

Please be advised that the officers are the same as previously communicated except that Mr. Masahiro Matsuo was replaced by Mr. Masaki Uga as of August 1, 1987 with regard to both "Assistant Secretary" and "Assistant Treasurer".

With best regards,

Y. Nishioka

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1). Name of Officers of Toshiba America, Inc. during 6 months which covers the time period from August, 1985 to January, 1986:

OFFICE	NAME
Chief Executive Officer	Nobuo Ishizaka
Sector President	Ryoji Suzuki
Sector President	Kazuo Ishiguro
Sector President	Takahisa Ohira
Secretary	Kiyoaki Shimagami
Treasurer	Kiyoaki Shimagami
Assistant Secretary	Takashi Ishida
Assistant Treasurer	Takashi Ishida
Assistant Secretary	Masahiro Matsuo
Assistant Treasurer	Masahiro Matsuo
Assistant Secretary	Tsunehiro Miyashita
Assistant Treasurer	Tsunehiro Miyashita

2). Name of Officers of Toshiba America, Inc. for June and July, 1987:

OFFICE	NAME
Chief Executive Officer	Nobuo Ishizaka
Sector President	Kenichiro Hiyama
Sector President	Kazuo Ishiguro
Sector President	Takahisa Ohira
Secretary	Takao Hayashida
Treasurer	Shunsuke Eguchi
Assistant Secretary	Takashi Kamihara
Assistant Treasurer	Takashi Kamihara
Assistant Secretary	Nobuteru Baba
Assistant Treasurer	Nobuteru Baba
Assistant Secretary	Masahiro Matsuo
Assistant Treasurer	Masahiro Matsuo
Assistant Secretary	Tsunehiro Miyashita
Assistant Treasurer	Tsunehiro Miyashita

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06C 2678

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89 MAY -8 AM 11:19

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ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8448

OUR FILE NUMBER:

May 5, 1989

89 MAY -8 PM 3:40

BY TELECOPIER

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Judybeth Greene, Attorney

Re: MUR 2575 - Wexler

Dear Ms. Greene:

Toshiba did not reimburse my client Mr. Wexler, for the Zschov luncheon. Mr. Wexler did not recognize the documents you sent him, upon initial review.

Very truly yours,

JASPER & JASPER

Stuart Jasper /mm

Stuart P. Jasper

SPJ/mm

9204090337 37

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger	)	MUR 2575
Betty Traeger	)	
Toshiba-America, Inc.	)	
Norman Nelson	)	
Tsunehiro Miyashita	)	
Paul Wexler	)	
Dennis Eversole	)	
Yasuo Nishioka, et al.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves Toshiba-America's reimbursement of two officers, one in Tennessee and one in California, for their political contributions. The matter was generated as the result of a detailed referral from the U.S. Attorney for the Eastern District of Tennessee based on a tip from the FBI.

On January 25, 1988, the Commission found reason to believe that Robert Traeger (the Tennessee officer who had been reimbursed), Hiroshi Ikeda (the officer who authorized the reimbursement of Traeger's contributions), and Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f and approved questions to the three respondents. On the basis of information received in response to these questions, the Commission, on June 28, 1988, found reason to believe that Tsunehiro Miyashita, Vice President/Assistant Treasurer at the Tennessee plant, and Norman Nelson, Controller at the Tennessee plant, violated 2 U.S.C. §§ 441b(a) and 441f by virtue of the roles they played in arranging for these reimbursements. At that time, the Commission authorized this Office to depose the four above-named individuals. The Commission also found reason to believe that

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Mrs. Betty Traeger violated 2 U.S.C. § 441f by permitting her name to be used to effect contributions from Toshiba-America.

On the basis of information supplied by Toshiba-America in response to the Commission's interrogatories, the Commission, on June 28, 1988, also found reason to believe that Toshiba-America and Paul Wexler, the Vice President/General Manager of the Toshiba-America plant in Irvine, California, violated 2 U.S.C. §§ 441b(a) and 441f with regard to Toshiba-America's 1985 reimbursement of a $1,000 contribution from Wexler to the Republican Senatorial Inner Circle. On January 10, 1989, the Commission made further §§ 441b(a) and 441f findings against Kazuo Ishiguro, Executive Vice President of Toshiba-America at the Irvine plant, Dennis Eversole, Vice President of Finance at the Irvine plant, and Yasuo Nishioka, Director of Legal Services at the Irvine plant, as a result of their roles in Toshiba-America's reimbursement of Paul Wexler for the Inner Circle contribution. These respondents received notification of the Commission's findings on January 31, 1989, and were granted an extension of time to respond to these findings. Their responses were submitted on March 6 and March 8, 1989. (Attachment 1)

Both Wexler and Traeger, the officers who had received reimbursement for their contributions, submitted requests to enter into conciliation prior to a finding of probable cause to believe. Traeger's request was denied on June 28, 1988, because of the need to conduct a further investigation. Wexler's request

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was denied on January 10, 1989, for similar reasons; however, this Office noted that Wexler still denies any culpability for his actions.

II. ANALYSIS

A. Factual Development

1. Toshiba-America's Reimbursement of Robert Traeger's Political Contributions in Lebanon, Tennessee

The following chronology of the circumstances under which Toshiba-America compensated Robert Traeger for several political contributions is based on the depositions of Hiroshi Ikeda, Tsunehiro Miyashita, Norman Nelson and Robert Traeger and information obtained in response to the Commission's reason to believe notifications and interrogatories. This chronology is very detailed as a full understanding of the situation is necessary in order to assist the Commission in its determination as to whether the level of participation of each respondent warrants further action and whether any of the respondents committed knowing and willful violations of the Act.

Robert Traeger is the Vice President and General Manager of the Toshiba-America plant in Lebanon, Tennessee and the highest-ranking American at the plant. He has been associated with Toshiba-America for over ten years and was the person responsible for selecting the plant site and supervising the building of the plant from ground-breaking to completion. Traeger represents the company in the community through his participation in organizations such as the Rotary Club, the Heart of Japan, and the Chamber of Commerce. He also acts as a congressional liaison, contacting Senators and Members of Congress directly

9204090374O

regarding bills and issues relating to Toshiba-America's Lebanon plant.[1]

Traeger made several contributions to Congressmen and Senators prior to the spring of 1987 as part of his effort to develop positive Congressional relations.[2] He claims that he had proposed the idea of a PAC to Ikeda's predecessor, but that this suggestion was rejected. In the fall of 1986 or January 1987, Traeger proposed to Ikeda, the highest ranking officer at the plant, that the company create a PAC, explaining that "the only legal vehicle is through a PAC where a company can make a contribution."[3] This suggestion was also turned down.

In March 1987, Traeger learned that Toshiba Machinery, a company in which the Toshiba Corporation (Toshiba-America's

9204090374 1

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1. Ikeda initially claimed that Traeger represented Toshiba-America in the community but had no role as a congressional liaison for the company. Ikeda asserted that Traeger contacted Congressmen and Senators because he was acquainted with them given his 10-year residence in Nashville and did not contact them on behalf of Toshiba-America. Later, Ikeda contradicted himself by admitting that Traeger told him that he had been asked to contact the Congressmen and Senators to whom he had made political contributions to discuss the Toshiba Machinery issue.

2. These contributions were not reimbursed by Toshiba-America.

3. Ikeda denies that Traeger ever proposed a PAC or told him that corporations were prohibited from making contributions. However, Ikeda's testimony is not given much credence by this Office because of the numerous contradictions in his testimony and statements which were difficult to believe. For example, Ikeda repeatedly claimed that he was uninformed about meetings in Washington called by the head of Toshiba-America to address the Toshiba Machinery issue which had the potential to force the Tennessee Toshiba-America plant, at which he was the highest ranking officer, to close. Ikeda's statement that he spoke to Traeger every day about their job security at the Tennessee plant given the Toshiba Machinery problem makes these claims even more questionable, especially because Traeger attended all of those meetings in Washington. See also footnote 5.

parent company) had a 51% interest, had sold technology to the Soviet Union which made it more difficult for the United States to track Soviet submarines.[4] Legislation was introduced in Congress to severely penalize Toshiba and its affiliates. Thus, Toshiba-America began to hold a series of meetings which Traeger attended in Washington to control the political damage done by the Toshiba Machinery issue.

In response to the harsh political climate, Traeger testified that he approached Hiroshi Ikeda and told him that he felt that he "should be making larger contributions or significant contributions to the people that represented us here in Washington." Traeger then asked Ikeda to approve a block increase in his salary to cover political contributions.[5] Ikeda rejected this proposal, but accepted Traeger's counterproposal for the company to provide him with funds to make a $1,000 contribution to the Friends of Jim Sasser in response to a

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4. A review of the Washington Post Index revealed that the Toshiba Machinery issue became public knowledge by mid-May of 1987. Coincidently, Toshiba-America made its first compensation payment to Traeger on May 16, 1987 - the date of the first Washington Post article.

5. Ikeda denies that Traeger ever asked him for a salary increase or activity fee to cover such contributions. However, Miyashita has testified that Ikeda told him that Traeger made this suggestion.

specific request.[6]

A short time before May 13, 1987, Ikeda approached Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant,[7] and asked him to make out a $1,000 check to Robert Traeger. Ikeda explained that the $1,000 would provide Traeger with funds to contribute to a Congressman or Senator. According to Miyashita, Ikeda identified the intended recipient of the contribution, although Miyashita does not remember the name because he wasn't concerned with details in this area.[8] Miyashita, who had the authority to deny this request, acceded to it after Ikeda explained that other companies do this kind of thing and that in some cases other companies put money in their representatives' payroll so they can make this kind of contribution.[9] Miyashita stated that he expressed concern that Traeger might not use the funds for donations and political purposes if given such a salary increase,

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6. Ikeda stated that Treager approached him with an invitation to a dinner party for a politician and requested that Toshiba-America pay for the ticket. Ikeda stated that he did not initially agree to the request as he felt that $1,000 was a lot of money, especially given the company's financial position at the time; but, he approved it when Traeger approached him a second time stating that he needed to RSVP. He states that Traeger told him for whom the party was to be given, although he does not now remember the name of the individual.

7. The treasurer of Toshiba-America, Inc. is located at the company's New Jersey office.

8. Ikeda claims that he told Miyashita that the payment was for a dinner party for "some politician who Traeger know (sic)", but that he did not tell Miyashita the name of the person since he was not familiar with the politician's name.

9. Ikeda testified that he told Miyashita this payment, according to Traeger's explanation, was legal.

but that Ikeda explained that he had already rejected a previous request from Traeger to increase his salary overall for this purpose and, instead, now wanted to provide Traeger with funds for a specific contribution.[10]

Ikeda and Miyashita discussed whether this payment should be characterized as a payroll bonus or an expense reimbursement but left the question unresolved. Later that day or the next day, Ikeda returned to Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up", i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000.

Miyashita then asked Norman Nelson, the Controller of Toshiba-America at the Tennessee plant, to cut a $1,000 bonus check for Traeger. Nelson claims he asked Miyashita to obtain Ikeda's signature on the payroll register and that, to the best of his recollection, Miyashita brought the payroll register to Ikeda for signature. There is, however, conflicting testimony as to whether it was Nelson or Miyashita who brought the payroll register to Ikeda for signature.[11]

Traeger has testified that he also approached Nelson and told him that Ikeda had approved a bonus check to him in the net amount of $1,000. Traeger claims that Nelson simply said "Okay"

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10. Ikeda denies this.

11. Ikeda claims that Nelson brought the printout to him for signature and Toshiba-America has stated that it was Nelson who obtained Ikeda's signature on the register. Miyashita has not made any statement on the subject.

and prepared the check.[12] He states that Nelson did not request that Traeger provide any documentation although he later learned that Nelson had requested Ikeda's signature on the computer printout of the executive payroll. Traeger is not sure whether he informed Nelson of the specific purpose of these checks at that time, although he later provided Nelson with copies of the contribution checks written on the account he held with his wife.[13]

Traeger received a bonus check for $1,000 from Toshiba-America, Inc. on May 15, 1987, signed by Tsunehiro Miyashita. Traeger gave the check to his wife, Betty, who at his direction, wrote a check to the Friends of Jim Sasser for $1,000 on the same day.

Traeger used this process to obtain four more checks from Toshiba-America which provided the funds for additional political contributions made by him and his wife, Betty. In each instance, Traeger approached Ikeda to obtain approval for compensation for a contribution to a specific individual, i.e. Senator Albert

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12. Nelson claims, however, that it was Miyashita rather than Traeger who told him to cut the first $1,000 check and that Miyashita told him the check was for a bonus which had Ikeda's approval.

Nelson has stated that he was surprised that Toshiba-America was making these payments and that Traeger was involved because the corporation had not made this type of payment in the four and a half years Nelson had been at the plant.

13. Nelson claims that he was informed of the purpose of the checks between the first and the second check. He states that Miyashita eventually informed him that all of the individual "bonus" checks to Traeger were for political contributions.

Gore, Senator Robert Clement, Senator James Sasser, Congressman Terry Holcomb and Bart Gordon. After Traeger obtained Ikeda's approval, he approached Nelson and asked that he cut the checks. Nelson, in turn, consulted with Miyashita to make sure that these requests had Ikeda's approval. Again, there is conflicting testimony as to who approached Ikeda to obtain his signature on the payroll register.

Pursuant to this system, Toshiba-America made the following payments to Robert Traeger for specific contributions (the contributions with asterisks were made by Betty Traeger on Robert and Betty Traeger's joint account)[14]:

Bonus	Date of Bonus	Candidate	Contribution and Date
$1,000	May 15, 1987	James Sasser*	$1,000 May 15, 1987
$1,000	June 11, 1987	Albert Gore	$1,000 June 11, 1987[15]
$600	July 16, 1987	Bart Gordon	$600 July 16, 1987
$600	November 23, 1987	Bart Gordon	$250 November 16, 1987
		Bob Clement	$100 November 16, 1987
		Albert Gore*	$250 November 19, 1987
$500	November 25, 1987	Terry Holcomb*	$500 November 27, 1987
		TOTAL:	$3,700

The Traegers received funds from Toshiba-America before making the above contributions, with the exception of the November contributions to Gore, Gordon and Clement. However, Hiroshi Ikeda apparently promised Robert Traeger that these latter

14. The bonuses listed represent the net amounts received by Robert Traeger after taxes were withheld.

15. The Traegers later submitted a reallocation statement, allocating $500 of the contribution to Robert Traeger and $500 to Betty Traeger. However, Betty Traeger, in her response, denied that she made a $500 contribution to Gore.

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contributions would be reimbursed before the Traegers made them.[16]

When Robert Traeger made contributions in his own name, he would first go to the bank and deposit the bonus check and then write a contribution check. Other times, Robert Traeger would give his wife a bonus check to deposit and ask her to write out a contribution check in response to a solicitation.[17] Robert Traeger claims that his wife knew that corporations were prohibited from making contributions and that she asked him whether it was legal for the corporation to provide bonus checks to cover their contributions. He claims that he told his wife that this arrangement was legal.

Betty Traeger confirmed that her husband gave her bonus checks to deposit in their joint account and then asked her to make contributions with those funds. She denied, however, making a $500 contribution to Gore. It is possible that she may have forgotten that half of a $1,000 contribution by her husband was later reattributed to her. Attached is a copy of the

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16. Robert Traeger claims that he spoke to Ikeda on November 11, 1987, and secured his approval for the reimbursement of his planned contributions to Gore, Gordon and Clement before he and his wife made the November contributions. Ikeda has said that he "might" have approved such reimbursement although he does not remember. He then testified that Traeger "might" have felt that he could authorize such payments himself since Ikeda had approved the previous three or four.

17. As Robert Traeger noted in his deposition, his wife is in charge of the Traeger's household finances. Thus, she balances the books and is usually the one to deposit Robert Traeger's checks in the bank. Betty Traeger confirmed that she is the "keeper of accounts" for the Traeger household.

reattribution statement which Betty Traeger appears to have signed. (Attachment 4)

During the course of its investigation, this Office has obtained copies of the five Toshiba-America checks used to compensate the Traegers' for these contributions. We have also obtained the executive payroll registers for the months in which these payments were made. All of these payments are reflected in handwritten notations on otherwise printed sheets. Ikeda's signature appears on the first three payroll registers, specifically authorizing the payments. The May 15th and June 11th payments were characterized as "bonuses" on the first two payroll registers; no written characterization was made on the third payroll register. Ikeda testified that there was no particular reason for this difference - Nelson just asked for his signature and he signed.[18]

2. Toshiba-America's Reimbursement of Paul Wexler's Political Contribution in Irvine, California

The responses received from Paul Wexler, Kazuo Ishiguro, Dennis Eversole and Yasuo Nishioka indicate that Toshiba-America reimbursed one officer in California for a $1,000 political contribution. (Attachment 1). There is no indication that there were any further reimbursements or that any system was created for the processing of contribution reimbursements as appears to have been the case at the Tennessee plant.

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18. Ikeda was unable to explain why he wrote the term "bonus" on the first two checks when he earlier had testified that the company generally called non-salary payments "appreciation payments" rather than bonuses.

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Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, states that he received a written solicitation from the Republican Senatorial Inner Circle in 1985 which stated that he could become a member for $1,000. He claims that he decided to do so because he was interested in the trade issue as it affected his division at Toshiba-America. Wexler claims that he asked his boss, Kazuo Ishiguro, the President of Toshiba-America, Inc. Industrial Electronics Business Section, to authorize Toshiba-America to "sponsor" his "membership" in the Republican Senatorial Inner Circle and that Ishiguro agreed to this request. Wexler confirmed the conversation in a handwritten note to Ishiguro which read:

Mr. Ishiguro

As noted in the attachment, I have the opportunity to get some exposure to key senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle." Since the trade issue is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership in participation in the "Inner Circle." Your review and concurrence of this request would be appreciated.

Thanks, P. Wexler

8/18/85

Kazuo Nishioka, as the Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, wanted to obtain information in 1985 concerning possible restrictions on the import of certain telecommunications equipment. In his signed and sworn affidavit, Nishioka states that Ishiguro approached him in August 1985 and told him that Wexler would have access to

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information regarding possible import restrictions on Japanese goods if he joined an association in Washington. Nishioka asked Ishiguro to have Wexler pass on any information he received from the association and stated that the Legal Department would pay the necessary expenses. Nishioka claims he was not told the name of the organization which Wexler wanted to join; he states that he believed the organization was a trade association and not a political committee.

On August 20, 1985, Ishiguro sent Wexler a note authorizing him to receive reimbursement for a $1,000 payment to the Republican Senatorial Inner Circle and noting that annual dues would "be charged to [the] Legal Dept. (Mr. Nishioka)." With these assurances of reimbursement, on August 25, 1985, Wexler sent a personal check for $1,000 to the Republican Senatorial Inner Circle with the memo line "Inner Circle Membership."

On October 3, 1985, Wexler submitted an expense report to Toshiba-America for the $1,000 payment which explicitly stated that the payment was made to the "REPUBLICAN SENATORIAL INNER CIRCLE." His administrative assistant forwarded the report to Dennis Eversole, Sector Controller of Toshiba-America, Inc. Industrial Electronics Business Sector, with the note from Ishiguro and instructions to charge the $1,000 "annual dues" to the Legal Department.

Eversole signed the expense report on October 7, 1985, but claims that he has no recollection of this matter and that he had no other involvement in this matter other than signing the expense report as Controller. Ishiguro signed the expense report

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on the following day. Although he admits that his signature appears on the report, Ishiguro says that he does not remember signing it.

Wexler received a check for $1,323 on October 11, 1985. He states that this check included reimbursement for the $1,000 payment to the Republican Senatorial Inner Circle as well as reimbursement for other expenses.

Although no Inner Circle information on the trade issue was ever forwarded to Nishioka, his department was charged with $1,000 in "membership and dues" on the November Monthly Responsibility Report. (Attachment 6) The report contained no further explanation of the charge. Nishioka claims that when he first saw this report he did not remember what the charge was for as he had had no further dealings with the matter after his conversation in August with Ishiguro.

Wexler repaid Toshiba-America for this $1,000 reimbursement on April 7, 1988.

B. LEGAL ANALYSIS

1. **Relevant Legal Provisions**

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its

9204090375 1

general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Act.

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). Section 441f further states that "[n]o person shall .. knowingly permit his name to be used to effect such a contribution." The Commission has interpreted Section 441f to also apply to those who actively assist in the making of contributions in the name of another. See MURs 1611 See generally, FEC v. Rodriquez, No. 86-684 (MD Fla. May 5, 1987).

2. The Tennessee Reimbursements

a. Robert Traeger

Robert Traeger's earlier request to enter into conciliation

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negotiations with the Commission prior to a finding of probable cause to believe was rejected by the Commission in order to further investigate this matter. Now that the investigation is complete, the Office of the General Counsel recommends that the Commission enter into conciliation negotiations with Robert Traeger.

Robert Traeger, the Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, admittedly proposed that Toshiba-America compensate him for contributions made by himself and his wife to candidates for Federal office and took several steps to insure that such compensation payments were made. Traeger initially claimed, in response to the Commission's reason to believe notification, that he knew that direct corporate contributions were prohibited by the Act but did not know that corporate compensation for personal contributions was similarly prohibited. However, at his deposition, Traeger admitted that he knew it was illegal for corporations to make both "direct and indirect contributions" to political committees.[19] Therefore, it appears that Robert E. Traeger knowingly and willfully violated 2 U.S.C. § 441b(a). See also 11 C.F.R. § 114.2(d). Accordingly, the

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19. Traeger claimed that although he knew that it was illegal for corporations to make "direct or indirect" contributions to political committees, he felt the corporation's provision of funds for him to make political contributions was legal. He also felt that it was appropriate that the corporation provide the funds for such contributions as he believed that the making of such contributions would enable him to call on Tennessee representatives on behalf of Toshiba-America whenever it was necessary.

Office of the General Counsel has included an admission of a knowing and willful violation of Section 441b(a) in the proposed pre-probable cause conciliation agreement with Robert Traeger. As it appears that Robert Traeger also knowingly and willfully violated 2 U.S.C. § 441f by making contributions in his own name in order to obscure the impermissible corporate contributions, this Office has included an admission of a knowing and willful violation of 2 U.S.C. § 441f in the proposed conciliation agreement.

b. Norman Nelson and Tsunehiro Miyashita

It appears that Norman Nelson, as the Controller who prepared the corporate checks at issue in this matter, consented to Toshiba-America's provision of funds to the Traegers for political contributions in violation of 2 U.S.C. § 441b(a). By preparing these checks with the knowledge that they were issued to provide Robert Traeger and his wife with funds for specific political contributions, Nelson also appears to have violated 2 U.S.C. § 441f by assisting the making of contributions in the name of another.

Similarly, the information obtained in the course of this investigation indicates that Tsunehiro Miyashita violated both 2 U.S.C. § 441b(a) and 441f by signing the five "bonus" checks, in his capacity as the Vice President/Assistant Treasurer of the Manufacturing Division of Toshiba-America in Lebanon, Tennessee, with the knowledge that the funds would be used to make political contributions in the Traeger's names.

While this Office intends to proceed to the briefing stage

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with regard to Section 441b(a) violations by these corporate officers, this Office recommends that the Commission take no further action against Norman Nelson and Tsunehiro Miyashita with regard to the Section 441f violations. Given that Nelson and Miyashita appear to be liable for their activities under the clear statutory language of Section 441b(a) as corporate officers, that the involvement of both of these individuals in the reimbursement process was limited to performing their corporate functions, that both Nelson and Miyashita were told by their superiors and individuals who were clearly more culpable in this matter (i.e., Traeger and Ikeda) to issue the checks, and that the contributions totaled $3,700, this Office feels that this approach would be a proper exercise of prosecutorial discretion.

c. Betty Traeger, Hiroshi Ikeda and Toshiba-America

Neither Betty Traeger, Hiroshi Ikeda nor Toshiba-America has requested to enter into conciliation prior to a finding of probable cause to believe. The facts discussed in Section II A indicate that 1) Betty Traeger made contributions in her own name with funds specifically provided by Toshiba-America for that purpose; 2) Toshiba-America, Inc. provided the Traegers with funds for or compensated them for several political contributions in 1987; and 3) Hiroshi Ikeda authorized these corporate payments and was actively and directly involved in implementing the plan to provide the Traegers with corporate funds for making specific political contributions. Therefore, the Office of the General Counsel intends to proceed to the next stage of the enforcement

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process, i.e., the preparation of briefs, with regard to these respondents.

Unlike its approach with Nelson and Miyashita, this Office did not recommend that the Commission take no further action against Hiroshi Ikeda with respect to the reason to believe finding that he had violated Section 441f by actively assisting the making of contributions in the name of another because Ikeda was more actively involved in this scheme by authorizing each contribution compensation payment and by arranging for others to prepare and sign the checks.

3. <u>The California Reimbursement</u>

a. Paul Wexler

Paul Wexler's request to enter into pre-probable cause conciliation negotiations was rejected by the Commission in order to complete the investigation in this matter. The Office of the General Counsel now recommends that the Commission enter into such negotiations now that the circumstances of his contributions to the Republican Senatorial Inner Circle are more clear.

It appears that Wexler not only permitted his name to be used to effect a contribution in the name of another but also initiated this payment from Toshiba-America through his actions as Vice President and General Manager of the Telecommunications Systems Division on Toshiba-America. Therefore, it appears that he has violated both Section 441f and Section 441b(a). Accordingly, this Office has included admissions of both violations in the proposed conciliation agreement. Unlike the conciliation agreement which this Office has proposed for Robert

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Traeger, the proposed conciliation agreement for Paul Wexler contains no provision regarding a knowing and willful violation of the Act because there is no evidence that Wexler knew that corporations were prohibited from making direct and indirect contributions to political committees.

We note that although Wexler has requested to enter into pre-probable cause conciliation negotiations, he claims that he is not an officer of Toshiba-America and therefore is not subject to Section 441b. As the term "officer" as used in the Act includes individuals such as Wexler who have corporate titles and have decision making authority over the managerial decisions of the corporation or any section or division of the corporation, this Office will recommend proceeding to briefs if this contention is not resolved in conciliation negotiations.

b. Dennis Eversole

In 1985, Dennis Eversole was the Sector Controller of Toshiba-America Inc., Industrial Electronics Business Section. In this position, he was responsible for signing all expense reports of the ten Management Committee Members. These individuals were the highest ranking employees of that section of Toshiba-America. As the expense report submitted by Wexler to Eversole for the $1,000 reimbursement clearly stated that the payment being reimbursed was made to the "REPUBLICAN SENATORIAL INNER CIRCLE," there is no question that Eversole should have known the purpose of the reimbursement and who received the payment. He claims, however, that he signs hundreds of expense reports each year and does not remember signing this expense

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report three and one half years ago.

Eversole's claim that he does not remember signing the expense report and that his review of the documents in this matter indicate that Wexler had already obtained the approval of Ishiguro, Eversole's supervisor, for the payment before he signed the expense report, does not absolve him of liability for approving this corporate reimbursement in his position as an officer of the corporation. Therefore, this Office plans to proceed to the briefing stage with regard to the Commission's reason to believe finding that Eversole violated 2 U.S.C. § 441b(a).

Although it appears that Eversole, by signing the expense report, also assisted in making a contribution in the name of another, this Office recommends that the Commission take no further action against Eversole with respect to 2 U.S.C. § 441f. As was the case with Nelson and Miyashita, this Office believes that it is a proper exercise of prosecutorial discretion given that Eversole is clearly liable for his actions in his capacity as an officer pursuant to 2 U.S.C. § 441b, that the reimbursement appears to have been a one-time event and that the reimbursement had the specific approval of Eversole's supervisor. Therefore, this Office recommends that the Commission take no further action against Dennis Eversole with regard to Section 441f.

c. Yasuo Nishioka

It appears that Yasuo Nishioka, as Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, was not greatly involved in the reimbursement of Wexler's

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contribution to the Republican Senatorial Inner Circle. While it is clear that he agreed with Ishiguro that the payment of Wexler's membership dues to an organization should be charged to his department, it is not clear whether Nishioka was ever told the name of the organization. Nishioka states that "[a]s best as I can recall, Mr. Ishiguro did not tell me the name of the organization, but I believed it was a trade association." Under these circumstances, this Office feels that it is more appropriate to brief this matter as it pertains to Nishioka than to recommend no further action.[20] Unlike Wexler, Nelson and Miyashita, there is no evidence that Nishioka was put on notice that the funds had been paid to a political organization or candidate.

d. Kazuo Ishiguro

Kazuo Ishiguro did not request to enter into conciliation prior to a finding of probable cause to believe. As discussed in Section II A, it appears that Ishiguro, as President of Toshiba-America, Telecommunications Systems Division, authorized Toshiba-America to reimburse Paul Wexler for his contribution to the National Republican Inner Circle and that he arranged with Nishioka for the payment to be charged to the Legal Department. Therefore, this Office intends to proceed to the next stage of the enforcement process with regard to Kazuo Ishiguro, in addition to Betty Traeger, Hiroshi Ikeda and Toshiba-America.

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20. Nishioka also argues that he is not an officer within the meaning of the Act. However, given his low level of involement in the reimbursement of the contribution at issue in this matter, it is not necessary to address that issue here.

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Because Ishiguro, as the officer who first approved the reimbursement and arranged for the issuance of the corporate check, appears to have been more involved in the reimbursement of Wexler's contribution to the Republican Senatorial Inner Circle than Eversole, this Office does not recommend that the Commission take no further action against Ishiguro with regard to Section 441f.

III. **DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY**

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IV. **RECOMMENDATIONS**

1. Enter into conciliation with Robert Traeger prior to a finding of probable cause to believe.

2. Enter into conciliation with Paul Wexler prior to a finding of probable cause to believe.

3. Take no further action against Tsunehiro Miyashita with regard to 2 U.S.C. § 441f.

4. Take no further action against Norman Nelson with regard to 2 U.S.C. § 441f.

5. Take no further action against Dennis Eversole with regard to 2 U.S.C. § 441f.

6. Approve the attached proposed conciliation agreements and letters.

5/4/89
Date

Lawrence M. Noble
General Counsel

Attachments
1. Responses and Information Obtained
2. Requests for conciliation
3. Proposed Conciliation Agreements (2) and letters
4. Betty Traeger's reattribution statement
5. List of Toshiba-America Officers and Relevant By-laws
6. November 1985 Monthly Responsibility Report of Legal Department of Toshiba-America in California

Staff assigned: Judybeth Greene

9204090037761

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger	)	
Betty Traeger	)	MUR 2575
Toshiba-America, Inc.	)	
Norman Nelson	)	
Tsunehiro Miyashita	)	
Paul Wexler	)	
Dennis Eversole	)	
Yasuo Nishioka, et al.	)	

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of May 9, 1989, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2575:

1. Enter into conciliation with Robert Traeger prior to a finding of probable cause to believe.

2. Enter into conciliation with Paul Wexler prior to a finding of probable cause to believe.

3. Take no further action against Tsunehiro Miyashita with regard to 2 U.S.C. § 441f.

4. Take no further action against Norman Nelson with regard to 2 U.S.C. § 441f.

(continued)

5. Take no further action against Dennis Eversole with regard to 2 U.S.C. § 441f.

6. Approve the proposed conciliation agreements and letters attached to the General Counsel's report dated May 4, 1989.

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

Attest:

5-10-89
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

May 16, 1989

Robert Bauer and Judith Corley
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger

Dear Mr. Bauer and Ms. Corley:

On January 25, 1988, the Federal Election Commission found reason to believe that Robert Traeger violated 2 U.S.C. §§ 441b(a) and 441f. At your request, on May 9, 1989, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your client agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1989

Stuart R. Jasper, Esquire
Jasper & Jasper
Commerce Bank Building
1201 Dove Street, Sixth Floor
Newport Beach, CA 92660

RE: MUR 2575
Paul Wexler

Dear Mr. Jasper:

On June 28, 1988, the Federal Election Commission found reason to believe that Paul Wexler violated 2 U.S.C. §§ 441b(a) and 441f. At your request, on May 9, 1989, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your client agrees with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1989

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Tsunehiro Miyashita

Dear Mr. Gross:

On July 13, 1988, your client, Tsunehiro Miyashita, was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. §§ 441f and 441b(a). On August 22, 1988, you submitted a response on behalf of your client to the Commission's reason to believe findings in this matter.

After considering the circumstances of the matter, the Commission determined on May 9, 1989, to take no further action against Tsunehiro Miyashita with regard to 2 U.S.C. § 441f. The Office of the General Counsel will forward a brief to you shortly with its recommendation regarding the Commission's reason to believe finding that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

The Commission reminds you that actively assisting the making of contributions in the name of another appears to be a violation of 2 U.S.C. § 441f. Your client should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

Lawrence M. Noble
General Counsel

9204090037766

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1989

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Norman Nelson

Dear Mr. Gross:

On July 13, 1988, your client, Norman Nelson, was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. §§ 441f and 441b(a). On August 22, 1988, you submitted a response on behalf of your client to the Commission's reason to believe findings in this matter.

After considering the circumstances of the matter, the Commission determined on May 9, 1989, to take no further action against Norman Nelson with regard to 2 U.S.C. § 441f. The Office of the General Counsel will forward a brief to you shortly with its recommendation regarding the Commission's reason to believe finding that Norman Nelson violated 2 U.S.C. § 441b(a).

The Commission reminds you that actively assisting the making of contributions in the name of another appears to be a violation of 2 U.S.C. § 441f. Your client should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 16, 1989

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Dennis Eversole

Dear Mr. Gross:

On January 24, 1989, your client, Dennis Eversole, was notified that the Federal Election Commission found reason to believe that he violated 2 U.S.C. §§ 441f and 441b(a). On March 8, 1989, you submitted a response on behalf of your client to the Commission's reason to believe findings in this matter.

After considering the circumstances of the matter, the Commission determined on May 9, 1989, to take no further action against Dennis Eversole with regard to 2 U.S.C. § 441f. The Office of the General Counsel will forward a brief to you shortly with its recommendation regarding the Commission's reason to believe finding that Dennis Eversole violated 2 U.S.C. § 441b(a).

The Commission reminds you that actively assisting the making of contributions in the name of another appears to be a violation of 2 U.S.C. § 441f. Your client should take immediate steps to insure that this activity does not occur in the future.

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

Sincerely,

Lawrence M. Noble
General Counsel

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MUR 2575

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 MAY 22 AM 11:28

JASPER & JASPER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

STUART P. JASPER
CATHERINE R. JASPER

COMMERCE BANK BUILDING
1201 DOVE STREET, SIXTH FLOOR
NEWPORT BEACH, CALIFORNIA 92660
(714) 476-8448

OUR FILE NUMBER:

May 19, 1989

Lawrence M. Noble, Esq.
General Counsel
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

ATTN: Michael Marinelli, Esq.

Re: MUR 2575 - Paul Wexler

89 MAY 22 PM 3:47

Dear Mr. Marinelli:

This will acknowledge receipt of the proposed conciliation agreement. I will be getting in touch with you in the near future to go over any questions or proposed modifications. I doubt that it will be necessary to arrange a meeting in person but appreciate the offer.

Very truly yours,

JASPER & JASPER

Stuart Jasper

Stuart P. Jasper

SPJ/mm

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
89 AUG -9 PM 3:42

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Paul Wexler	)	MUR 2575
	)	
Robert Traeger	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter involves Toshiba-America's reimbursement of two officers, one in Tennessee and one in California, for their political contributions. The matter was generated as the result of a detailed referral from the U.S. Attorney for the Eastern District of Tennessee.

On January 25, 1988, the Commission found reason to believe that Robert Traeger, the Vice President/General Manager of the Toshiba-America plant in Lebanon, Tennessee, had violated 2 U.S.C. §§ 441b(a) and 441f with regard to his central role in Toshiba-America's reimbursement of $3,700 in contributions made by Mr. Traeger to various candidates. The Commission, on June 28, 1988, also found reason to believe that Paul Wexler, the Vice President/General Manager of the Toshiba-America plant in Irvine, California, had violated 2 U.S.C. §§ 441b(a) and 441f with regard to Toshiba-America's 1985 reimbursement of a $1,000 contribution made by Mr. Wexler to the Republican Senatorial Inner Circle.

Both Paul Wexler and Robert Traeger submitted requests to enter into conciliation prior to a finding of probable cause to believe. Robert Traeger's request was denied on June 28, 1988, because of the need to conduct a further investigation. Mr.

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Wexler's request was denied on January 10, 1989, for similar reasons. Following an investigation into Toshiba-America's reimbursements of Mr. Traeger and Mr. Wexler, on May 9, 1989, the Commission granted the request of both respondents to enter into pre-probable cause conciliation. Conciliation agreements were mailed to respondents on May 16, 1989.

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II. ANALYSIS

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IV. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with Paul Wexler.

2. Close the file as it pertains to Paul Wexler.

3. Approve the attached letters.

8/9/87
Date

Lawrence H. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2575
Paul Wexler	)	
	)	
Robert Traeger	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on August 11, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2575:

1. Accept the conciliation agreement with Paul Wexler as recommended in the General Counsel's Report dated August 9, 1989.
2. Close the file as it pertains to Paul Wexler.
3. Approve the letter as recommended in the General Counsel's Report dated August 9, 1989.

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

Attest:

8-14-89
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Wednesday, August 9, 1989	3:42 p.m.
Circulated to the Commission:	Thursday, August 10, 1989	11:00 a.m.
Deadline for vote:	Monday, August 14, 1989	11:00 a.m.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 17, 1989

Stuart P. Jasper, Esquire
Jasper & Jasper
Commerce Bank Building
1201 Dove Street, Sixth Floor
Newport Beach, CA 92660

RE: MUR 2575
Paul Wexler

Dear Mr. Jasper:

On August 11, 1989, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. §§ 441b(a) and 441f provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your client. This matter will become a part of the public record within 30 days after it has been 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.

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.

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

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Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Paul Wexler)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Paul Wexler ("Respondent") violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Paul Wexler, is the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, Inc.

2. Toshiba-America, Inc. is a for-profit corporation incorporated in the State of New York.

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3. Respondent, as an officer of a division of Toshiba-America, caused the corporation to reimburse him for a $1,000 contribution to the National Republican Inner Circle, a program of the National Republican Senatorial Committee.

4. The information regarding the contribution was submitted to the Commission by Toshiba-America, Inc. Respondent contends that this information was given by Respondent to Toshiba-America voluntarily with the request that the information be volunteered to the Commission.

5. The National Republican Senatorial Committee is a political committee within the meaning of 2 U.S.C. Sec. 431(4).

6. Pursuant to 2 U.S.C. Section 441b(a) corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined in Section 441b(b)(2) to include any direct or indirect payment distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

7. Pursuant to 2 U.S.C. Section 441f, no person may knowingly permit his name to be used to effect a contribution by another person. The term "person" is defined at Section

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431(11) to include corporations.

V. 1. Respondent, in his capacity as Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, consented to Toshiba-America's reimbursement of his $1,000 contribution to the National Republican Inner Circle, a program of the National Republican Senatorial Committee, in violation of 2 U.S.C. § 441b(a). Respondent contends that this violation was not knowing and willful.

V. 2. Respondent made a contribution in his own name for which he received reimbursement by Toshiba-America, in violation of 2 U.S.C. § 441f. Respondent contends that this violation was not knowing and willful.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of seven hundred and fifty dollars ($750), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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IX. Respondent shall have no more than 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 8/16/89

FOR THE RESPONDENT:

JASPER & JASPER

Stuart P. Jasper
Attorneys for Respondent

Date June 28, 1989

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 17, 1989

Robert Bauer, Esquire and Judith Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger

Dear Mr. Bauer and Ms. Corley:

On May 16, 1989, you were notified that, at your request, the Federal Election Commission determined to enter into negotiations with your client, Robert Traeger, directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. The 30 day period for negotiations has expired and no understanding has been reached regarding the terms of the conciliation agreement. Therfore, this Office considers these negotiations terminated and will proceed to the next stage of the enforcement process.

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

Sincerely,

Lawrence M. Noble
General Counsel

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MUR 2765
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
90 APR 18 AM 10:52

WILEY, REIN & FIELDING

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

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

April 17, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 APR 19 AM 9:08

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

Re: MUR 2765 Hiroshi Ikeda

Dear Mr. Noble:

We have recently received notification from our client, Mr. Hiroshi Ikeda, that he is no longer Executive Vice President and General Manager of Toshiba America in Tennessee, and has returned to Japan to accept another position. We have no indication when Mr. Ikeda will return to the United States, if ever. While Mr. Ikeda has provided a forwarding address, we will have to rely on the postal service to communicate with him.

As you are aware, we have heard nothing from the Commission for the past eighteen months regarding MUR 2765. To the extent that this matter is still pending against Mr. Ikeda, we hope you will take into consideration that any further developments which require a response on behalf of Mr. Ikeda will require extraordinary delays so that we may communicate with our client in Japan.

If I can provide any further information, please feel free to contact me or Carol Laham at (202) 429-7301.

Sincerely,

Jan W. Baran

JWB:rbd
cc: Hiroshi Ikeda

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FEDERAL ELECTION COMMISSION
SECRETARIAT

90 JUL -2 AM 11:41

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575 SENSITIVE
Toshiba-America et al.)

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Toshiba-America, Robert Traeger, Betty Traeger, Hiroshi Ikeda, Tsunehiro Miyashita, Norman Nelson, Kazuo Ishiguro, Dennis Eversole and Yasuo Nishioka, based on the assessment of the information presently available.

6/29/90
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT
90 JUL 27 PM 12:15

July 27, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2575

Attached for the Commission's review are briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission findings of probable cause to believe were mailed on July 27, 1990. Following receipt of the respondents' reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Briefs(8)
2. Letters to respondents(3)

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1990

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.
Tsunehiro Miyashita
Kazuo Ishiguro
Dennis Eversole
Norman Nelson

Dear Mr. Gross:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 25, 1988, the Federal Election Commission found reason to believe that your clients, Toshiba-America, Tsunehiro Miyashita and Norman Nelson, violated 2 U.C.S. §§ 441b(a) and 441f, and instituted an investigation in this matter. On June 28, 1988, based on information supplied by your clients, the Commission found reason to believe that your clients, Kazuo Ishiguro and Dennis Eversole, violated 2 U.S.C. §§ 441b(a) and 441f. On May 9, 1989, the Commission determined to take no further action regarding the violations of 2 U.S.C. § 441f by Tsunehiro Miyashita, Norman Nelson and Dennis Eversole.

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 are briefs 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 briefs 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 briefs and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All 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 conciliation agreements.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Briefs (5)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Toshiba-America, Inc.)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Toshiba-America, Inc. made several payments to one of its officers, Robert Traeger, as compensation for certain political contributions in 1987. Therefore, the Commission, on January 25, 1988, found reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f. On June 28, 1988, on the basis of information received in response to interrogatories, the Commission further found reason to believe that Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f by reimbursing Paul Wexler for his 1985 contribution to the Republican Senatorial Inner Circle. The investigation which ensued revealed further information which supports the Commission's findings and provides ample bases upon which to find probable cause to believe that Toshiba-America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

A. Toshiba-America's Compensation of Robert Traeger's Political Contributions in Lebanon, Tennessee

Robert Traeger is the Vice President and General Manager of the Toshiba-America plant in Lebanon, Tennessee and the highest-ranking American at the plant. His official position is Vice President and General Manager of the Manufacturing Division of

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the Consumer Products Group of Toshiba-America, Inc.

He has been associated with Toshiba-America for over ten years and was the person responsible for selecting the plant site and supervising the building of the plant from ground-breaking to completion. Traeger represents the company in the community through his participation in organizations such as the Rotary Club, the Heart of Japan, and the Chamber of Commerce. He also acts as a congressional liaison, contacting Senators and Members of Congress directly regarding bills and issues relating to Toshiba-America's Lebanon plant. In 1987 Robert Traeger's immediate superior was Hiroshi Ikeda, the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba America, Inc. Mr. Ikeda was the highest ranking Toshiba officer at the plant.

Mr. Traeger made several contributions to United States Representatives and Senators prior to the spring of 1987 as part of his effort to develop positive Congressional relations.[1/] He claims that he had proposed the idea of a political action committee (PAC) to Ikeda's predecessor, but that this suggestion was rejected. In the fall of 1986 or January 1987, Traeger proposed to Ikeda that the company create a PAC, explaining that "the only legal vehicle is through a PAC where a company can make a contribution." This suggestion was also turned down.

In March 1987, Traeger learned that Toshiba Machinery, a company in which the Toshiba Corporation (Toshiba-America's

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1/ These contributions were not reimbursed by Toshiba-America.

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parent company) had a 51% interest, had sold technology to the Soviet Union which made it more difficult for the United States to track Soviet submarines.[2/] Legislation was introduced in Congress to severely penalize Toshiba and its affiliates. Thus, Toshiba-America began to hold a series of meetings which Traeger attended in Washington to control the political damage done by the Toshiba Machinery issue.

Traeger testified that, in response to the harsh political climate, he approached Hiroshi Ikeda and told him that he felt that he, Traeger, "should be making larger contributions or significant contributions to the people that represented us here in Washington." Traeger then asked Ikeda to approve a block increase in his salary to cover political contributions. Ikeda rejected this proposal, but accepted Traeger's counterproposal for the company to provide him with funds to make a $1,000 contribution to the Friends of Jim Sasser in response to a specific request.

A short time before May 13, 1987, Ikeda approached Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant and asked him to make out a $1,000 check to Robert Traeger. Ikeda and Miyashita discussed whether this payment should be characterized as a payroll bonus or an expense reimbursement but left the question unresolved.

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2/ A review of the Washington Post Index revealed that the Toshiba Machinery issue became public knowledge by mid-May of 1987. Coincidentally, Toshiba-America made its first compensation payment to Traeger on May 16, 1987 - the date of the first Washington Post article.

Later that day or the next day, Ikeda returned to Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up," i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000. Miyashita then asked Norman Nelson, the Controller of Toshiba-America at the Tennessee plant, to cut a $1,000 bonus check for Traeger.[3/]

Nelson has testified that this request was unusual because there was no documentation and only one person was receiving a payment; therefore, he asked Miyashita whether the payment was authorized. Miyashita replied that the check had the authorization of Hiroshi Ikeda. Nelson then directed the general accounting supervisor to draw up a $1,000 check to Robert Traeger and obtained Ikeda's signature on the May executive payroll register which reflected the $1,000 net payment to Traeger in a handwritten notation.[4/]

Traeger received a bonus check for $1,000 from Toshiba-America, Inc. on May 15, 1987, signed by Tsunehiro Miyashita. Traeger gave the check to his wife, Betty, who at his direction, wrote a check to the Friends of Jim Sasser for $1,000 on the same day.

Traeger used this process to obtain four more checks from Toshiba-America which provided the funds for additional political

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3/ Traeger has testified that he also approached Nelson and told him that Ikeda had approved a bonus check to him in the net amount of $1,000.

4/ It is unclear who brought the payroll register to Ikeda for his signature; however, it appears that Nelson either brought the register to Ikeda himself, or asked Miyashita or the general accounting supervisor to bring it to Ikeda for signature.

contributions made by him and his wife, Betty. In each instance, Traeger approached Ikeda to obtain approval for compensation for a contribution to a specific individual, i.e., Senator Albert Gore, Senator Robert Clement, Senator James Sasser, Congressman Terry Holcomb and Bart Gordon. After Traeger obtained Ikeda's approval, he asked Nelson to cut the checks. Nelson, in turn, consulted with Miyashita to make sure that these requests had Ikeda's approval.

Pursuant to this system, Toshiba-America made the following payments to Robert Traeger for specific contributions (the contributions with asterisks were made by Betty Traeger on Robert and Betty Traeger's joint account)[5/]:

Bonus	Date of Bonus	Candidate	Contribution and Date
$1,000	May 15, 1987	James Sasser*	$1,000 May 15, 1987
$1,000	June 11, 1987	Albert Gore	$1,000 June 11, 1987
$600	July 16, 1987	Bart Gordon	$ 600 July 16, 1987
$600	November 23, 1987	Bart Gordon	$ 250 November 16, 1987
		Bob Clement	$ 100 November 16, 1987
		Albert Gore*	$ 250 November 19, 1987
$500	November 25, 1987	Terry Holcomb*	$ 500 November 27, 1987
		TOTAL:	$3,700

Again, each of the above checks were signed by Tsunehiro Miyashita, the the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant, and prepared by Norman Nelson, the Controller of the plant. Both of these individuals knew the purpose of these checks and Nelson kept a file of the

5/ The bonuses listed represent the net amounts received by Robert Traeger after taxes were withheld.

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canceled contribution checks written by Traeger and his wife.

The Traegers received funds from Toshiba-America before making the above contributions, with the exception of the November contributions to Gore, Gordon and Clement. Traeger secured Ikeda's approval for the reimbursement of the planned contributions to these latter candidates before he and his wife made the November contributions.

According to Commission records, from February 25, 1988 to June 30, 1988, the candidates above refunded $2,200 of the $3,700 in contributions.

B. Toshiba-America's Reimbursement of Paul Wexler's Political Contribution in Irvine, California

Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, received in 1985 a written solicitation from the Republican Senatorial Inner Circle, a project of the National Republican Senatorial Committee, which stated that he could become a member for $1,000. Wexler claims that he asked his boss, Kazuo Ishiguro, then the President of the Industrial Electronics Business Division of Toshiba-America, Inc., to authorize Toshiba-America to "sponsor" his "membership" in the Republican Senatorial Inner Circle and that Ishiguro agreed to this request. Wexler confirmed the conversation in a handwritten note to Ishiguro which read:

Mr. Ishiguro

> As noted in the attachment, I have the opportunity to get some exposure to key senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle." Since the trade issue is and will probably remain a crucial item for my division, I believe

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it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership in participation in the "Inner Circle." Your review and concurrence of this request would be appreciated.

Thanks, P. Wexler

8/18/85

Kazuo Nishioka, as the Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, wanted to obtain information in 1985 concerning possible restrictions on the importation of certain telecommunications equipment. In his signed and sworn affidavit, Nishioka states that Ishiguro approached him in August 1985 and told him that Wexler would have access to information regarding possible import restrictions on Japanese goods if he joined an association in Washington. Nishioka asked Ishiguro to have Wexler pass on any information he received from the association and stated that the Legal Department would pay the necessary expenses.

On August 20, 1985, Ishiguro sent Wexler a note authorizing him to receive reimbursement for a $1,000 payment to the Republican Senatorial Inner Circle and noting that annual dues would "be charged to [the] Legal Dept. (Mr. Nishioka)." With these assurances of reimbursement, on August 25, 1985, Wexler sent a personal check for $1,000 to the Republican Senatorial Inner Circle with the memo line "Inner Circle Membership."

On October 3, 1985, Wexler submitted an expense report to Toshiba-America for the $1,000 payment which explicitly stated that the payment was made to the "REPUBLICAN SENATORIAL INNER

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CIRCLE." His administrative assistant forwarded the report to Dennis Eversole, Sector Controller of Toshiba-America, Inc. Industrial Electronics Business Sector, with the note from Ishiguro and instructions to charge the $1,000 "annual dues" to the Legal Department.

Eversole signed the expense report on October 7, 1985. Ishiguro signed the expense report on the following day. Wexler received a check for $1,323 on October 11, 1985. He states that this check included reimbursement for the $1,000 payment to the Republican Senatorial Inner Circle as well as reimbursement for other expenses. The $1,000 reimbursement was then charged to the Legal Department as "membership and dues" on the November Monthly Responsibility Report.

On April 7, 1988, Wexler repaid Toshiba-America for this reimbursement.

II. ANALYSIS

A. Statement of Law

1. Section 441b(a): Corporate Contributions

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for

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their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

2. Section 441f: Contributions in the Name of Another

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person ..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11).

3. Knowing and willful violations

The legislative history of the 1976 amendments to the Act discusses knowing and willful violations of the Act. Knowing and willing violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law." H.R. Rep. No. 94-917, 94th Cong. 2d Sess. 3-4 (1976). Congressman Hays, during the House debates on the Conference Report, stated that the phrase "knowing and willing" referred "to actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976)(remarks of Congressman Hays). The knowing and willful standard has also been discussed in Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D.N.J. 1986), where the court noted that the knowing and willful standard requires knowledge that one is violating a law.

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B. Application of Law to Facts

Toshiba has admitted compensating Robert Traeger for contributions made by Traeger and his wife to various candidates for federal office. Specifically, Toshiba-America compensated Robert Traeger for his contributions to the following candidates for federal office:

Albert Gore	$1,000[6/]
Bart Gordon	$850 ($600 + $250)
Bob Clement	$100

Toshiba-America, Inc. also compensated Robert Traeger for the following contributions made by his wife, Betty R. Traeger:

James Sasser	$1,000
Albert Gore	$250
Terry Holcomb	$500

Further, Toshiba-America reimbursed Paul Wexler for his $1,000 contribution to the Republican Senatorial Inner Circle, a program of the National Republican Senatorial Committee.

Toshiba-America claims that the Commission should take no further action against it with respect to the Tennessee contributions, despite the fact that its treasury funds were used to reimburse an officer for his campaign contributions, because these payments were made without the knowledge or approval of the top officers of the corporation. The only way, however, that a corporation can take action is through its agents and employees. A corporation can be held liable for the acts of its officers where the officers engage in prohibited behavior when exercising authorized powers on the corporation's behalf. See Jones v.

6/ Five hundred dollars of this contribution was later reattributed to Betty Traeger.

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Fenton Ford, Inc., 427 F. Supp. 1328, 1336 (D.C.Conn. 1977); see also 18 Am. Jur. 2d § 2136. Toshiba-America does not claim that Hiroshi Ikeda did not have authority to authorize the corporate payments to Robert Traeger, nor does it claim that Tsunehiro Miyashita did not have authority to sign the checks. Therefore, the facts that Ikeda was assertedly "merely the head of the Tennessee plant," and that the "high level officials at corporate headquarters and in the Chief Executive's office" had no knowledge of Ikeda's actions, do not absolve Toshiba-America of liability.

Toshiba-America also argues that no further action should be taken against it with respect to its reimbursement of Paul Wexler for several reasons including that this was a one time reimbursement which took place a number of years ago and was not connected to the Tennessee reimbursements. Toshiba-America also claims that it received no benefit from the contribution to the National Republican Inner Circle. These contentions do not, however, change the basic facts which constitute the violation; the corporation makes no claim that Ishiguro or Eversole exceeded their authority in approving the reimbursement of Wexler's contribution with corporate funds. Moreover, the notion that a violation of 2 U.S.C. § 441b depends upon whether a corporation benefits from its contributions is without foundation in law.

Certain actions taken by Toshiba-America since its receipt of the reason to believe notification, such as its notification of the recipient committees that they may have received improper funds, its preparation and circulation of a memorandum to inform

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its corporate executives about election law prohibitions and limitations, and its adoption of a new policy prohibiting corporate contributions to state elections as well as federal election may be considered mitigating factors; however, the corporation's subsequent activities in no way erase the fact that violations of the Act have occurred. By allowing its corporate treasury funds to be used for contributions to the election campaigns of the above-mentioned candidates and the National Republican Senatorial Committee, Toshiba-America has committed precisely the type of action which the 2 U.S.C. § 441b was intended to prohibit. Toshiba-America's acknowledgment of its compensation of the Traegers and Paul Wexler for their political contributions to the aforementioned candidates and committees also confirms violations of Section 441f.

Mr. Traeger initially claimed, in response to the Commission's reason to believe notification, that he knew that direct corporate contributions were prohibited by the Act but did not know that corporate compensation for personal contributions was similarly prohibited. However, at his deposition, Traeger admitted that he knew it was illegal for corporations to make both "direct and indirect contributions" to political committees.[7/] Further, Mr. Traeger has stated that he suggested

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7/ Traeger claimed that although he knew that it was illegal for corporations to make "direct or indirect" contributions to political committees, he felt the corporation's provision of funds for him to make political contributions was legal. He also stated that he felt it was appropriate that the corporation provide the funds for such contributions as he believed that the making of such contributions would enable him to call on Tennessee representatives on behalf of Toshiba-America whenever

twice to his supervisors, first to Hiroshi Ikeda's predecessor and then to Mr. Ikeda, the formation of a political committee as only legal means by which corporations could make contributions. Therefore, through the actions of its officers it appears that Toshiba-America knowingly and willfully made corporate contributions to federal campaigns. Accordingly, the Office of the General Counsel recommends that the Commission find probable cause to believe that Toshiba-America knowingly and willfully violated 2 U.S.C. § 441b(a). As it appears that Toshiba-America, through the actions of its officers, also knowingly and willfully made contributions in the names of Robert Traeger and Betty Traeger in order to obscure the impermissible corporate contributions, this Office also recommends that the Commission find probable cause to believe that Toshiba-America knowingly and willfully violated 2 U.S.C. § 441f.

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III. GENERAL COUNSEL'S RECOMMENDATIONS

That the Commission find probable cause to believe that Toshiba-America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

7/26/90
Date

Lawrence M. Noble
General Counsel

(Footnote 7 continued from previous page)
it was necessary.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Tsunehiro Miyashita)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through an investigation generated by a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Tsunehiro Miyashita, the Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc. at its plant in Lebanon, Tennessee, consented to Toshiba-America's reimbursement of Robert Traeger, the Vice President and General Manager of the Toshiba-America plant in Lebanon, Tennessee, for specific contributions made by Traeger and Betty Traeger, his wife, to federal candidates in 1987. Therefore, the Commission, on January 25, 1988, found reason to believe that Tsunehiro Miyashita had violated 2 U.S.C. §§ 441b(a) and 441f. Although further investigation revealed that Miyashita had consented to the issuance of corporate checks to provide the Traegers with funds to make specific political contributions and thereby had apparently knowingly assisted the making of contributions in the name of another, the Commission determined on May 9, 1989, to take no further action against Tsunehiro Miyashita with regard to the Section 441f finding as a matter of prosecutorial discretion.[1] The information revealed in

1. It is this Office's understanding that Mr. Miyashita was scheduled to return to Japan in May 1989.

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the course of the investigation provides an ample basis upon which to find probable cause to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

As Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc., in 1987 Tsunehiro Miyashita was responsible for signing all executive payroll checks including bonuses for executives and for providing the second signature for checks over $50,000. He also had the authority to prevent checks from being issued.

A short time before May 13, 1987, Hiroshi Ikeda, at the time the Executive Vice President of the Manufacturing Division of the Consumer Products Group at the Toshiba-America plant in Lebanon, Tennessee, approached Miyashita and asked him to make out a $1,000 check to Robert Traeger. Ikeda explained that the $1,000 would provide Traeger with funds to contribute to a Congressman or Senator. According to Miyashita's testimony at his deposition, Ikeda identified the intended recipient of the contribution as a Congressman or Senator, although Miyashita does not remember the name because he was not concerned with details in this area. Miyashita, who had the authority to deny this request, acceded to it after Ikeda explained that other companies do this kind of thing and that in some cases other companies put money in their representatives' payroll so they can make this kind of contributions. Miyashita has stated that he expressed concern that Traeger might not use the funds for donations and political purposes if given such a salary increase, but that

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Ikeda explained that he had already rejected a previous request from Traeger to increase his salary overall for this purpose and, instead, now wanted to provide Traeger with funds for a specific contribution.

Ikeda and Miyashita discussed whether this payment should be characterized as a payroll bonus or an expense reimbursement but left the question unresolved. Later that day or the next day, Ikeda returned to Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up", i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000.

Miyashita then asked Norman Nelson, the Controller of Toshiba-America at the Tennessee plant, to cut a $1,000 net "bonus" check for Traeger. Miyashita signed the check on May 15, 1987.

As a result of these actions, Robert Traeger received a check from Toshiba-America in the net amount of $1,000 on May 15, 1987. Robert Traeger gave the May 15th check to his wife, Betty, to deposit in their joint account and asked her to write a check in that amount to Senator Sasser's re-election campaign. Betty Traeger wrote a check for $1,000 to Friends of Jim Sasser on May 15, 1987.

Miyashita was asked four more times to approve the preparation of and to sign similar "bonus" checks to the order of Robert Traeger. Miyashita testified that Ikeda approached him with requests to direct the preparation of, and sign, the second and third checks and that Nelson approached him regarding the

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fourth and fifth check requests. Miyashita directed Nelson to prepare four checks in accordance with these requests. After the checks were prepared by Nelson, Miyashita signed the four Toshiba- America "bonus" checks drawn up to the order of Robert Traeger in the following net amounts on the following dates: $1,000 (June 11, 1987), $600 (July 16, 1987); $600 (November 23, 1987) and $500 (November 25, 1987).

Once Robert Traeger received these checks, he and his wife made contributions to the following candidates in the following amounts with the funds from these "bonus" checks: Senator Sasser (May) $1,000; Senator Gore (June) $1,000; Congressman Gordon (July) $600, and Terry Holcomb (November) $500. Traeger and his wife also made contributions to Congressman Gordon ($250), Robert Clement ($100) and Senator Gore ($250) between November 16th and 19th for which they received reimbursement on November 23rd, thus after they had made the contributions. It appears that Robert Traeger was promised reimbursement before he and his wife made these contributions.

Miyashita signed the five "bonus" checks to Traeger with the understanding that these five payments would be used by the Traegers for contributions to Senators or United States Representatives. Miyashita claims that he was probably told to whom each payment would be made although he did not pay much attention as he was not interested in the subject. Miyashita claims that he thought corporations here could make contributions as corporations do in Japan.

According to Commission records, from February 25, 1988 to

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June 30, 1988, the candidates above refunded $2,200 of the total of $3,700 in contributions.

II. ANALYSIS

A. Statement of Law

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Act.

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B. Application of Law to Facts

It appears that Tsunehiro Miyashita knew that the five "bonus" checks were issued to provide Robert Traeger and his wife with funds for specific political contributions. By signing these five checks to Robert Traeger with the knowledge that the funds would be funneled to political committees, Tsunehiro Miyashita consented to these prohibited contributions. His liability for consenting to these payments is not altered by his claim that he was unaware that such payments were illegal, as awareness of the illegality of the action is not an element of the violation.

Therefore, as it appears that Miyashita, in his capacity as an officer of Toshiba-America, Inc., signed corporate checks to provide the Traegers with funds for political contributions, the Office of the General Counsel recommends that the Commission find probable cause to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

That the Commission find probable cause to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

7/6/90
Date

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Kazuo Ishiguro)

GENERAL COUNSEL'S BRIEF

I. STATEMENT THE CASE

This matter involves Toshiba-America's reimbursement of an officer for a political contribution. The matter was generated as the result of a detailed referral from the U.S. Attorney for the Eastern District of Tennessee based on a tip from the FBI.

On the basis of information supplied by Toshiba-America in response to Commission's interrogatories in this matter, the Commission, on January 10, 1989, found reason to believe that Kazuo Ishiguro, now General Manager of International Operations-Information Communications of the Toshiba Corporation, violated 2 U.S.C. §§ 441b(a) and 441f with regard to his role in Toshiba-America's 1985 reimbursement of a $1,000 contribution from Paul Wexler to the Republican Senatorial Inner Circle. The investigation which ensued revealed further information and provides bases upon which to find probable cause to believe that Kazuo Ishiguro violated 2 U.S.C. §§ 441b(a) and 441f.

Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, has stated that he received in 1985 a written solicitation from the Republican Senatorial Inner Circle, a project of the National Republican Senatorial Committee, which stated that he could become a member for $1,000. He claims that he decided to do so

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because he was interested in the trade issue as it affected his division at Toshiba-America. Wexler claims that he asked his boss, Kazuo Ishiguro, then the President of the Industrial Electronics Business Division of Toshiba-America, Inc., to authorize Toshiba-America to "sponsor" his "membership" in the Republican Senatorial Inner Circle and that Ishiguro agreed to this request. Wexler confirmed the conversation in a handwritten note to Ishiguro which read:

> Mr. Ishiguro
>
> As noted in the attachment, I have the opportunity to get some exposure to key senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle." Since the trade issue is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership in participation in the "Inner Circle." Your review and concurrence of this request would be appreciated.
>
> Thanks, P. Wexler
> 8/18/85

Kazuo Nishioka, as the Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, wanted to obtain information in 1985 concerning possible restrictions on the import of certain telecommunications equipment. In his signed and sworn affidavit, Nishioka has stated that Ishiguro approached him in August 1985 and told him that Wexler would have access to information regarding possible import restrictions on Japanese goods if he joined an association in Washington. Nishioka asked Ishiguro to have Wexler pass on any information he received from the association and stated that the Legal Department would pay the necessary expenses. Nishioka claims he was not told the name

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of the organization which Wexler wanted to join; he states that he believed the organization was a trade association and not a political committee.

On August 20, 1985, Ishiguro sent Wexler a note authorizing him to receive reimbursement for a $1,000 payment to the Republican Senatorial Inner Circle and noting that annual dues would "be charged to [the] Legal Dept. (Mr. Nishioka)." With these assurances of reimbursement, on August 25, 1985, Wexler sent a personal check for $1,000 to the Republican Senatorial Inner Circle with the memo line "Inner Circle Membership."

On October 3, 1985, Wexler submitted an expense report to Toshiba-America for the $1,000 payment which explicitly stated that the payment was made to the "REPUBLICAN SENATORIAL INNER CIRCLE." His administrative assistant forwarded the report to Dennis Eversole, Sector Controller of Toshiba-America, Inc. Industrial Electronics Business Division, with the note from Ishiguro and instructions to charge the $1,000 "annual dues" to the Legal Department.

Eversole signed the expense report on October 7, 1985, but claims that he has no recollection of this matter and that he had no other involvement in this matter other than signing the expense report as Controller. Ishiguro signed the expense report on the following day. Although he admits that his signature appears on the report, Ishiguro says that he does not remember signing it.

Wexler received a check for $1,323 on October 11, 1985. He has stated that this check included reimbursement for the $1,000

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payment to the Republican Senatorial Inner Circle as well as reimbursement for other expenses.

Although no Inner Circle information on the trade issue was ever forwarded to Nishioka, his department was charged with $1,000 in "membership and dues" on the November Monthly Responsibility Report. The report contained no further explanation of the charge. Nishioka claims that when he first saw this report he did not remember what the charge was for as he had had no further dealings with the matter after his conversation in August with Ishiguro.

Wexler repaid Toshiba-America for this $1,000 reimbursement on April 7, 1988.

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II. ANALYSIS

A. Statement of Law

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign

contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Federal Election Campaign Act of 1971, as amended ("the Act").

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). Section 441f further states that "[n]o person shall .. knowingly permit his name to be used to effect such a contribution." The Commission has interpreted Section 441f to also apply to those who actively assist in the making of contributions in the name of another. See generally FEC v. Rodriquez, No. 86-684 (MD Fla. May 5, 1987).

B. Application of Law to the Facts

The evidence in hand indicates that Mr. Ishiguro, as President of the Industrial Electronics Business Division of Toshiba-America, Inc., authorized Toshiba-America to reimburse Paul Wexler for his contribution to the National Republican Inner Circle and that he arranged with Nishioka for the payment to be charged to the Legal Department. Therefore, the Office of the General Counsel recommends that the Commission find probable

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cause to believe that Kazuo Ishiguro violated 2 U.S.C. § 441b.

Because Ishiguro, as the officer who first approved the reimbursement and arranged for the issuance of the corporate check, was deeply involved in the reimbursement of Wexler's contribution to the Republican Senatorial Inner Circle, this Office concludes that respondent incurred liability for assisting in the making of a contribution in the name of another. Therefore, the Office of the General Counsel recommends that the Commission find probable cause to believe that Kazuo Ishiguro violated 2 U.S.C § 441f.

IV. **RECOMMENDATIONS**

That the Commission find probable cause to believe that Kazuo Ishiguro violated 2 U.S.C. §§ 441b and 441f.

7/26/94
Date

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Dennis Eversole)

GENERAL COUNSEL'S BRIEF

I. STATEMENT THE CASE

This matter involves Toshiba-America's reimbursement of an officer for a political contribution. The matter was generated as the result of a detailed referral from the U.S. Attorney for the Eastern District of Tennessee based on a tip from the FBI.

On the basis of information supplied by Toshiba-America in response to Commission interrogatories in this matter, the Commission, on January 10, 1989, found reason to believe that Dennis Eversole, Vice President of Finance at the Toshiba-America plant in Irvine, California, violated 2 U.S.C. §§ 441b(a) and 441f with regard to his role in Toshiba-America's 1985 reimbursement of a $1,000 contribution from Paul Wexler to the Republican Senatorial Inner Circle. The investigation which ensued revealed further information and provides ample bases upon which to find probable cause to believe that Dennis Eversole violated 2 U.S.C. § 441b(a). Although that investigation also revealed that Dennis Eversole had consented to the issuance of corporate checks to provide the Traegers with funds to make specific political contributions, and thereby had knowingly assisted the making of a contribution in the name of another, the Commission determined on May 9, 1989, to take no further action against Dennis Eversole with regard to the Section 441f finding

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as a matter of prosecutorial discretion.

In 1985, Dennis Eversole was the Sector Controller of the Industrial Electronics Business Division of Toshiba-America, Inc. In this position, he was responsible for the signing and approval of the expense reports of the ten Management Committee Members.[1] These individuals were the highest ranking employees of that section of Toshiba-America.

Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, has stated that he received in 1985 a written solicitation from the Republican Senatorial Inner Circle, a project of the National Republican Senatorial Committee, which stated that he could become a member for $1,000. He claims that he decided to do so because he was interested in the trade issue as it affected his division at Toshiba-America. Wexler claims that he asked his boss, Kazuo Ishiguro, then the President of the Industrial Electronics Business Division of Toshiba-America, Inc., to authorize Toshiba-America to "sponsor" his "membership" in the Republican Senatorial Inner Circle and that Ishiguro agreed to this request.

On August 20, 1985, Ishiguro sent Wexler a note authorizing him to receive reimbursement for a $1,000 payment to the Republican Senatorial Inner Circle and noting that annual dues would "be charged to [the] Legal Dept. (Mr. Nishioka)." With

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1. In his response to Commission questions, Mr. Eversole stated that the duties as Sector Controller were the same as his current duties as Vice President of Finance.

these assurances of reimbursement, on August 25, 1985, Wexler sent a personal check for $1,000 to the Republican Senatorial Inner Circle with the memo line "Inner Circle Membership."

On October 3, 1985, Wexler submitted an expense report to Toshiba-America for the $1,000 payment which explicitly stated that the payment was made to the "REPUBLICAN SENATORIAL INNER CIRCLE." His administrative assistant forwarded the report to Dennis Eversole with the note from Ishiguro and instructions to charge the $1,000 "annual dues" to the Legal Department.

Mr. Eversole signed the expense report on October 7, 1985, but claims that he has no recollection of this matter and that he had no other involvement in this matter other than signing the expense report as Controller. Ishiguro signed the expense report on the following day.

Wexler received a check for $1,323 on October 11, 1985. He has stated that this check included reimbursement for the $1,000 payment to the Republican Senatorial Inner Circle as well as reimbursement for other expenses.

Although no Inner Circle information on the trade issue was ever forwarded to the Legal Department, that department was charged with $1,000 in "membership and dues" on the November Monthly Responsibility Report. The report contained no further explanation of the charge.

Wexler repaid Toshiba-America for this $1,000 reimbursement on April 7, 1988.

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II. ANALYSIS

A. Statement of Law

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Act.

As the Act itself does not contain a definition of the term "officer", it is necessary to construe the term in a manner consistent with the purpose of the Act. The legislative history

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of Section 441b and its forerunners indicates that Congress intended to stamp out the perceived evils of corporate influence in politics by prohibiting corporate contributions. The imposition of individual liability on officers and directors was clearly intended to deter individuals in corporate decision making positions from consenting to such prohibited contributions.

B. Application of Law to the Facts

Counsel for Dennis Eversole has contended that while Mr. Eversole held the position of Sector Controller of the Industrial Electronics Business Division of Toshiba-America, Inc. in 1985, he was not an officer or director of Toshiba-America. Therefore, counsel has argued that Mr. Eversole cannot be held personally liable under Section 441b(a) because he is not an "officer" within the meaning of the Federal Election Campaign Act of 1971, as amended ("the Act").

As noted above, it is the view of the Office of the General Counsel that Congress intended Section 441b to apply to individuals in high level corporate positions who have the authority to consent to expenditures which result in corporate contributions. Under this reading of the Act, the question of whether an individual is named as an officer in the corporate charter or bylaws does not end the inquiry. Indeed, the Congressional intent behind these prohibitions would not be served if individuals with titles and authority to approve corporate expenditures or make management decisions were beyond the scope of the Act by the mere fact that they are not named in

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the corporate bylaws or charter. If the Act were only to reach those officers who are named in the corporate bylaws and charter, the actual corporate decision makers at individual plants or divisions of a large corporation could escape individual liability for approving and consenting to corporate contributions. Therefore, in a situation where an individual holds a corporate position and has authority to make budgetary or managerial decisions for the corporation or any section or division of the corporation, the individual can incur liability under the Act for consenting to impermissible corporate contributions, notwithstanding the fact that he or she is not named as an officer or director in the corporate charter or bylaws.

The Securities and Exchange Commission has taken a similar approach which has been upheld by the courts. For purposes of Section 16(b) of the Securities and Exchange Commission Act which prohibits insider trading by officers, the term "officer" includes "a corporate employee performing important executive duties of such character that he would be likely, in discharging these duties, to obtain confidential information about the company's affairs that would aid him if he engaged in personal market transactions. It is immaterial how his functions are labeled or how defined in the by-laws, or that he does or does not act under the supervision of some other corporate representative." Colby v. Klune, 178 F.2d 872, 873 (2d Cir. 1949); see also Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Livingston, 566 F.2d 1119 (9th Cir. 1978).

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Dennis Eversole, in his position as Sector Controller of the Industrial Electronics Business Division of Toshiba-America, Inc., had significant financial responsibilities including the responsibilities to determine whether corporate payment requests were proper. Therefore, Mr. Eversole appears to fall within the category of persons to be considered "officers" under the Act.

As the expense report submitted by Paul Wexler to Dennis Eversole for the $1,000 reimbursement clearly stated that the payment being reimbursed was made to the "REPUBLICAN SENATORIAL INNER CIRCLE," there is no question that Dennis Eversole should have known the purpose of the reimbursement and who received the payment. He claims, however, that he signs hundreds of expense reports each year and does not remember signing this expense report three and one half years ago.

Mr. Eversole's claim that he does not remember signing the expense report and that his review of the documents in this matter indicate that Wexler had already obtained the approval of Ishiguro, Mr. Eversole's supervisor, for the payment before he signed the expense report, does not absolve him of liability for approving this corporate reimbursement in his position as an officer of the corporation. By reviewing the report and approving the request which clearly identified the recipient of the contribution, Dennis Eversole consented to the prohibited contribution.

Therefore, the Office of the General Counsel recommends that the Commission find probable cause to believe that Dennis Eversole violated 2 U.S.C. § 441b.

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IV. RECOMMENDATIONS

That the Commission find probable cause to believe that Dennis Eversole violated 2 U.S.C. §§ 441b

Date 7/27/90

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Norman Nelson)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through an investigation generated by a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Norman Nelson, the Controller of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc. consented to Toshiba-America's reimbursement of Robert Traeger for specific contributions made by Traeger and Betty Traeger, his wife, to federal candidates in 1987. Therefore, the Commission, on January 25, 1988, found reason to believe that Norman Nelson had violated 2 U.S.C. §§ 441b(a) and 441f. Although further investigation revealed that Nelson had consented to the issuance of corporate checks to provide the Traegers with funds to make specific political contributions and thereby had apparently knowingly assisted the making of contributions in the name of another, the Commission determined on May 9, 1989, to take no further action against Norman Nelson with regard to the Section 441f finding as a matter of prosecutorial discretion. The information revealed in the course of the investigation provides an ample basis upon which to find probable cause to believe that Norman Nelson violated 2 U.S.C. § 441b(a).

Norman Nelson is the Controller at the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc. in

Lebanon, Tennessee. As Controller at the Lebanon plant in 1987, Nelson was responsible for all general ledger activities at the plant with the authority and responsibility to ask about the purpose of requested checks.

In the spring of 1987, Nelson's supervisor, Tsunehiro Miyashita, the Vice President/Assistant Treasurer of the Manufacturing Division of the Consumer Products Group of Toshiba-America in Lebanon, Tennessee, asked Nelson to issue a "bonus" check to Robert Traeger, the Vice President and General Manager of the Toshiba-America Lebanon plant, in the net amount of $1,000. Nelson has testified that this request was unusual because there was no documentation and only one person was receiving a payment; therefore, he asked Miyashita whether the payment was authorized. Miyashita replied that the check had the authorization of Hiroshi Ikeda, the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America. Nelson then directed the general accounting supervisor to draw up a $1,000 check to Robert Traeger and obtained Ikeda's signature on the May executive payroll register which reflected the $1,000 net payment to Traeger in a handwritten notation.[1]

As a result of these actions, Robert Traeger received a "bonus" check from Toshiba-America in the net amount of $1,000 on May 15, 1987. Robert Traeger gave the May 15th check to his

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1.It is unclear who brought the payroll register to Ikeda for his signature; however, it appears that Nelson either brought the register to Ikeda himself, or asked Miyashita or the general accounting supervisor to bring it to Ikeda for signature.

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wife, Betty, to deposit in their joint account and asked her to write a check in that amount to Senator Sasser's re-election campaign. Betty Traeger wrote a check for $1,000 to Friends of Jim Sasser on May 15, 1987.

Nelson was asked four more times by Miyashita and Traeger to prepare similar "bonus" checks to the order of Robert Traeger. In accordance with these requests, Nelson had four Toshiba -America checks drawn up for issuance to Traeger in the following net amounts on the following dates: $1,000 (June 11,1987); $600 (July 16, 1987); $600 (November 23, 1987) and $500 (November 25, 1987). Nelson has testified that he was informed by Robert Traeger before the second check was issued that these "bonuses" were authorized by Ikeda to provide Traeger and his wife with funds to make contributions to specific candidates for federal office. Traeger also gave Nelson copies of the contribution checks written by him and his wife as proof that they had made contributions with these funds. According to the checks in Nelson's files, contributions were made by the Traegers to the following candidates in the following amounts with the funds from these "bonus" checks: Senator Sasser (May) $1,000; Senator Gore (June) $1,000; Congressman Gordon (July) $600, (November) $250; Robert Clement (November) $100; Senator Gore (November) $250; and Terry Holcomb (November) $500.

According to Commission records, from February 25, 1988 to June 30, 1988, the candidates above refunded $2,200 of the $3,700 in contributions.

Nelson has testified that with respect to the Traeger "bonus"

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checks, "I perhaps could have said no, if I knew exactly what they were for and when I knew exactly what they were for, but my boss [Miyashita] had approved it, his boss [Ikeda], the number one person at Toshiba-America, Inc. Manufacturing Division had approved it and therefore I issued the checks." Nelson went on to state that he would question a request if it were "patently illegal on its face," but he did not question the legality of Traeger's request because he thought it was legal.

II. ANALYSIS

A. Statement of Law

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by

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the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Federal Election Campaign Act of 1971, as amended ("the Act").

As the Act itself does not contain a definition of the term "officer", it is necessary to construe the term in a manner consistent with the purpose of the Act. The legislative history of Section 441b and its forerunners indicate that Congress intended to stamp out the perceived evils of corporate influence in politics by prohibiting corporate contributions. The imposition of individual liability on officers and directors was clearly intended to deter individuals in corporate decision making positions from consenting to such prohibited contributions.

B. Application of Law to the Facts

It appears that Norman Nelson, as the Controller who prepared the corporate checks at issue in this matter, knew that the checks were being issued to provide Robert Traeger and his wife with funds for specific political contributions. It also appears that Nelson consented to Toshiba-America's provision of funds to the Traegers for political contributions in violation of 2 U.S.C. § 441b(a).

Norman Nelson contends that while he holds the position of Controller of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc., he is not an officer or director.

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Therefore, he argues that he cannot be held personally liable under Section 441b(a) because he is not an "officer" within the meaning of the Act. This Office disagrees.

As noted above, it is the view of the Office of the General Counsel that Congress intended Section 441b to apply to individuals in high level corporate positions who have the authority to consent to expenditures which result in corporate contributions. Under this reading of the Act, the question of whether an individual is named as an officer in the corporate charter or bylaws does not end the inquiry. Indeed, the Congressional intent behind these prohibitions would not be served if individuals with titles and authority to approve corporate expenditures, or to make management decisions, were beyond the scope of the Act by the mere fact that they are not named in the corporate bylaws or charter. If the Act were only to reach those officers who were named in the corporate bylaws and charter, the actual corporate decision makers at individual plants or divisions of a large corporation could escape individual liability for approving and consenting to corporate contributions. Therefore, in a situation where an individual holds a corporate position and has authority to make budgetary or managerial decisions for the corporation or any section or division thereof, the individual can incur liability under the Act for consenting to impermissible corporate contributions, notwithstanding the fact that he or she is not named as an officer or director in the corporate charter or bylaws.

The Securities and Exchange Commission has taken a similar

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approach which has been upheld by the courts. For purposes of Section 16(b) of the Securities and Exchange Commission Act which prohibits insider trading by officers, the term "officer" includes "a corporate employee performing important executive duties of such character that he would be likely, in discharging these duties, to obtain confidential information about the company's affairs that would aid him if he engaged in personal market transactions. It is immaterial how his functions are labeled or how defined in the by-laws, or that he does or does not act under the supervision of some other corporate representative." Colby v. Klune, 178 F.2d 872, 873 (2d Cir. 1949); see also Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Livingston, 566 F.2d 1119 (9th Cir. 1978).

Nelson, in his position as Controller of the Manufacturing Division of the Consumer Products Group of Toshiba-America in Lebanon, Tennessee, had significant financial responsibilities including those of determining whether corporate payment requests were proper and of preparing corporate checks for signature by the Assistant Treasurer. Therefore, Nelson appears to fall within the category of persons to be considered "officers" under the Act.

By having the paperwork drawn up and the checks prepared for signature with the knowledge that the funds would be funneled to political committees, Norman Nelson consented to these prohibited contributions. His liability for consenting to these payments is not altered by his claim that he did not personally bring the payroll register to Ikeda. Similarly, his liability is not

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altered by his claim that he was unaware that such payments were illegal, as awareness of the illegality of the action is not an element of the violation.

Therefore, because it appears that Nelson, in his capacity as an officer of Toshiba-America, Inc., prepared corporate checks to provide the Traegers with funds for political contributions, the Office of the General Counsel recommends that the Commission find probable cause to believe that Norman Nelson violated 2 U.S.C. § 441b(a).

III. GENERAL COUNSEL'S RECOMMENDATION

That the Commission find probable cause to believe that Norman Nelson violated 2 U.S.C. § 441b(a).

7/26/90
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1990

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 25, 1988, the Federal Election Commission found reason to believe that your client, Hiroshi Ikeda, violated 2 U.S.C. §§ 441b(a) and 441f, and instituted an investigation in this matter.

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 may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All 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 Michael Marinelli, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Hiroshi Ikeda)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Hiroshi Ikeda, the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc. authorized Toshiba-America to reimburse Robert Traeger for specific contributions made by Traeger and Betty Traeger, his wife, to federal candidates in 1987. Therefore, the Commission, on January 25, 1988, found reason to believe that Hiroshi Ikeda had violated 2 U.S.C. §§ 441b(a) and 441f. The investigation which ensued revealed further information which supports the Commission's findings and provides ample bases upon which to find probable cause to believe that Hiroshi Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

In 1987, Hiroshi Ikeda was the highest ranking officer at Toshiba-America's plant in Lebanon, Tennessee.[1] Robert Traeger, as Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, was

1. According to counsel for respondent, Mr. Ikeda has since returned to Japan.

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the second highest ranking officer at the plant.[2] Traeger represented the company in the community through his participation in a number of organizations and maintained contact with Senators and United States Representatives from the area in order to discuss bills and issues relating to the Lebanon plant.

Traeger made several contributions from his personal funds to United States Representatives and Senators prior to the spring of 1987 as part of his effort to develop positive Congressional relations.[3] Traeger has testified that in the fall of 1986 or January 1987, he proposed to Ikeda that the company create a political action committee ("PAC"), explaining that "the only legal vehicle is through a PAC where a company can make a contribution." According to Traeger, Ikeda turned down the suggestion.[4]

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2. Ikeda initially claimed that Traeger represented Toshiba-America in the community but had no role as a congressional liaison for the company. Ikeda asserted that Traeger contacted Congressmen and Senators because he was acquainted with them given his 10-year residence in Nashville and did not contact them on behalf of Toshiba-America. Later, Ikeda contradicted himself by admitting that Traeger told him that he had been asked to contact the Congressmen and Senators to whom he had made political contributions to discuss the Toshiba Machinery issue.

3. These contributions were not reimbursed by Toshiba-America.

4. Ikeda denies that Traeger ever proposed a PAC or told him that corporations were prohibited from making contributions. However, Ikeda's testimony lacks credibility because of the numerous contradictions in his testimony and statements which were difficult to believe. For example, Ikeda repeatedly claimed that he was uninformed about meetings in Washington called by the head of Toshiba-America to address the Toshiba Machinery issue which had the potential to force the Tennessee Toshiba-America plant, at which he was the highest ranking officer, to close. Ikeda's statement that he spoke to Traeger every day about their job security at the Tennessee plant, given

In March 1987, Traeger learned that Toshiba Machinery, a company in which the Toshiba Corporation (Toshiba-America's parent company) had a 51% interest, had sold technology to the Soviet Union which made it more difficult for the United States to track Soviet submarines.[5] Legislation was introduced in Congress to severely penalize Toshiba and its affiliates. Thus, Toshiba-America began to hold a series of meetings in Washington, which Traeger attended, to control the political damage done by the Toshiba Machinery issue.

Traeger has testified that, in response to the harsh political climate, he approached Hiroshi Ikeda and told him that he felt that he, Traeger, "should be making larger contributions or significant contributions to the people that represented us here in Washington." Traeger claims that he then asked Ikeda to approve a block increase in his salary to cover political contributions.[6] Ikeda rejected this proposal, but accepted Traeger's counterproposal that the company provide him with funds to make a $1,000 contribution to the Friends of Jim Sasser in

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(Footnote 4 continued from previous page)
the Toshiba Machinery problem, makes these claims even more questionable, especially because Traeger attended all of those meetings in Washington. See also footnote 5.

5. A review of the Washington Post Index revealed that the Toshiba Machinery issue became public knowledge by mid-May of 1987. Coincidentally, Toshiba-America made its first compensation payment to Traeger on May 16, 1987 - the date of the first Washington Post article.

6. Ikeda denies that Traeger ever asked him for a salary increase or activity fee to cover such contributions. However, Miyashita has testified that Ikeda told him that Traeger made this suggestion.

response to a specific request.[7]

A short time before May 13, 1987, Ikeda approached Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant, and asked him to make out a $1,000 check to Robert Traeger. Ikeda explained that the $1,000 would provide Traeger with funds to contribute to a Congressman or Senator. At his deposition, Ikeda claimed that he told Miyashita that the payment was for a dinner party for "some politician who Traeger know (sic)," but that he did not tell Miyashita the name of the person since he was not familiar with the politician's name.

According to Miyashita's testimony, however, Ikeda identified the intended recipient of the contribution during this conversation. Further, Miyashita claims that Ikeda explained that he had rejected a prior request from Traeger to increase his salary overall for this purpose and, instead, now wanted to provide Traeger with funds for a specific contribution. Later that day or the next day, Ikeda returned to Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up," i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000.

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7. Ikeda has stated that Traeger approached him with an invitation to a dinner party for a politician and requested that Toshiba-America pay for the ticket. Ikeda asserted that he did not initially agree to the request as he felt that $1,000 was a lot of money, especially given the company's financial position at the time; he approved it when Traeger approached him a second time stating that he needed to R.S.V.P. He has stated that Traeger told him for whom the party was to be given, although he does not now remember the name of the individual.

On May 13, 1987, Ikeda signed an executive payroll register to specifically authorize a "bonus" check in the net amount of $1,000 to Robert Traeger. Traeger received the $1,000 check on May 15, 1987, and gave the check to his wife, Betty, who, at his direction, wrote a check to the Friends of Jim Sasser for $1,000 on the same day.

Ikeda authorized four subsequent "bonus" checks to Robert Traeger to be used to make or to reimburse specific political contributions made by Traeger and his wife. Thus, the following checks were issued by to provide Robert Traeger with funds for these contributions on the following dates[8]:

Bonus	Date of Bonus	Candidate	Contribution and Date
$1,000	May 15, 1987	James Sasser*	$1,000 May 15, 1987
$1,000	June 11, 1987	Albert Gore	$1,000 June 11, 1987[9]
$600	July 16, 1987	Bart Gordon	$600 July 16, 1987
$600	November 23, 1987	Bart Gordon	$250 November 16, 1987
		Bob Clement	$100 November 16, 1987
		Albert Gore*	$250 November 19, 1987
$500	November 25, 1987	Terry Holcomb*	$500 November 27, 1987
		TOTAL:	$3,700

The Traegers received funds from Toshiba-America before making the above contributions, with the exception of the November contributions to Gore, Gordon and Clement. Hiroshi Ikeda promised Robert Traeger that these latter contributions would be

8. The contributions made by Betty Traeger are noted with an asterisk next to the name of the candidate.

9. The Traegers later submitted a reallocation statement, allocating $500 of the contribution to Robert Traeger and $500 to Betty Traeger. However, Betty Traeger, in her response, denied that she made a $500 contribution to Gore.

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reimbursed before the Traegers made them.[10]

As was the case with the first check, Ikeda signed the executive payroll registers for June and July, specifically authorizing the second and third "bonus" checks to Robert Traeger. Although Ikeda's signature does not appear on the November executive payroll register which reflected the fourth and fifth "bonus" checks, his verbal approval of these checks and his written approval of the prior three "bonus" checks appears to have provided sufficient authorization for the issuance of these checks.

According to Commission records, from February 25, 1988 to June 30, 1988, the candidates above refunded $2,200 of the $3,700 in contributions.

II. ANALYSIS

A. Statement of Law

1. 2 U.S.C. § 441f

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or

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10. Robert Traeger claims that he spoke to Ikeda on November 11, 1987, and secured his approval for the reimbursement of his planned contributions to Gore, Gordon and Clement before he and his wife made the November contributions. Ikeda has said that he "might" have approved such reimbursement although he does not remember. He then testified that Traeger "might" have felt that he could authorize such payments himself since Ikeda had approved the previous three or four.

political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for "... any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for their federal campaign contributions with corporate funds may incur personal liability under the Act.

2. 2 U.S.C. § 441f

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person ..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). Section 441f further states that "[n]o person shall ... knowingly permit his name to be used to effect such a contribution." The Commission has interpreted Section 441f to also apply to individuals who knowingly assist in the making of contributions in the name of another where that individual was actively and directly or deeply involved in instigating, implementing or masterminding a plan or scheme to reimburse

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individuals for contributions with corporate funds. See generally, FEC v. Rodriquez, No. 86-687 (M.D.Fla. May 5, 1987).

3. Knowing and willful violations

The legislative history of the 1976 amendments to the Act discusses knowing and willful violations of the Act. Knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law." H.R. Rep. No. 94-917, 94th Cong. 2d Sess. 3-4 (1976). Congressman Hays, during the House debates on the Conference Report, stated that the phrase "knowing and willing" referred "to actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976)(remarks of Congressman Hays). The knowing and willful standard has also been discussed in Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D.N.J. 1986), where the court noted that the knowing and willful standard requires knowledge that one is violating a law.

B. Application of Law to Facts

Hiroshi Ikeda, as Executive Vice President of the Manufacturing Division of the Consumer Products Group of Toshiba-America, specifically authorized each payment by Toshiba-America to compensate the Traegers for their contributions to federal candidates. In each case Ikeda appears to have agreed to authorize the payment before the Traegers made the contributions.

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Ikeda's counsel argues that it would be "grossly unfair" to "characterize Mr. Ikeda's action in this case as either authorization of a corporate contribution or 'consent' to any contribution in violation of Section 441b." Ikeda claims that he did not know such contributions were illegal and that he relied on Robert Traeger's representations that "this type of reimbursement was acceptable practice in the United States." Moreover, counsel for Ikeda argues that as Ikeda, born in Chiba, Japan, "was not familiar with the United States or its customs, especially its political customs, before his arrival in July 1986," his reliance on Traeger's representations about the legality of the corporation's compensation of his political contributions was "eminently understandable."

Counsel for Ikeda argues that Section 441f is inapplicable to Ikeda's actions because he did not personally make a contribution in the name of another nor did he permit his name to be used to effect these contributions. He did, however, authorize a series of corporate payments to provide the Traegers with funds to make contributions in their own names and directed his subordinates to issue such payments.

At his deposition, Ikeda strongly protested any inference that he knew that such payments were illegal, often making a protest before the deposing attorney had finished asking a question. This Office has noted the questionable credibility of Ikeda's assertions. Further, as noted above, according to the testimony provided by Robert Traeger, some time before the creation of the reimbursement scheme that is the subject of this

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matter, Ikeda was offered the alternative of forming a political action committee and told that it was the only legal vehicle through which the corporation could make its contributions. It is the view of this Office that in refusing this option and becoming actively and directly involved in the implementation of the plan to have Toshiba-America make contributions in the Traegers' name, Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. Therefore, Office of the General Counsel recommends that the Commission find probable cause to believe that Hiroshi Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

III. GENERAL COUNSEL'S RECOMMENDATION

That the Commission find probable cause to believe that Hiroshi Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

7/27/90
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 27, 1990

Robert Bauer, Esquire
Judith Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, on January 25, 1988, the Federal Election Commission found reason to believe that your client, Robert Traeger, violated 2 U.C.S. §§ 441b(a) and 441f, and instituted an investigation in this matter. Based on information supplied by your clients, on June 28, 1988, the Commission found reason to believe that your client, Betty Traeger, violated 2 U.S.C. § 441f.

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 are briefs 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 briefs 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 briefs and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All 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 conciliation agreements.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Briefs (2)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Robert Traeger)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Robert Traeger received several payments from Toshiba-America, Inc., the company of which he is an officer, as compensation for certain political contributions in 1987. Therefore, the Commission, on January 25, 1988, found reason to believe that Robert Traeger violated 2 U.S.C. §§ 441b(a) and 441f. The investigation which ensued revealed further information which supports the Commission's findings and provides ample bases upon which to find probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

Robert Traeger is the Vice President and General Manager of the Toshiba-America plant in Lebanon, Tennessee and the highest-ranking American at the plant. His official position is Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc.

Mr. Traeger has been associated with Toshiba-America for over ten years and was the person responsible for selecting the plant site and supervising the building of the plant from ground-breaking to completion. Traeger represents the company in

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the community through his participation in organizations such as the Rotary Club, the Heart of Japan, and the Chamber of Commerce. He also acts as a congressional liaison, contacting Senators and Members of Congress directly regarding bills and issues relating to Toshiba-America's Lebanon plant. In 1987 Robert Traeger's immediate superior was Hiroshi Ikeda, the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba America, Inc. Mr. Ikeda was the highest ranking Toshiba officer at the plant.

Mr. Traeger made several contributions to United States Representatives and Senators prior to the spring of 1987 as part of his effort to develop positive Congressional relations.[1] He claims that he had proposed the idea of a political action committee (PAC) to Ikeda's predecessor, but that this suggestion was rejected. In the fall of 1986 or January 1987, Traeger proposed to Ikeda that the company create a PAC, explaining that "the only legal vehicle is through a PAC where a company can make a contribution." This suggestion was also turned down.

In March 1987, Traeger learned that Toshiba Machinery, a company in which the Toshiba Corporation (Toshiba-America's parent company) had a 51% interest, had sold technology to the Soviet Union which made it more difficult for the United States to track Soviet submarines.[2] Legislation was introduced in

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1. These contributions were not reimbursed by Toshiba-America.

2. A review of the Washington Post Index revealed that the Toshiba Machinery issue became public knowledge by mid-May of 1987. Coincidentally, Toshiba-America made its first compensation payment to Traeger on May 16, 1987 - the date of

Congress to severely penalize Toshiba and its affiliates. Thus, Toshiba-America began to hold a series of meetings which Traeger attended in Washington to control the political damage done by the Toshiba Machinery issue.

Traeger testified that, in response to the harsh political climate, he approached Hiroshi Ikeda and told him that he felt that he, Traeger, "should be making larger contributions or significant contributions to the people that represented us here in Washington." Traeger then asked Ikeda to approve a block increase in his salary to cover political contributions. Ikeda rejected this proposal, but accepted Traeger's counterproposal for the company to provide him with funds to make a $1,000 contribution to the Friends of Jim Sasser in response to a specific request.

A short time before May 13, 1987, Ikeda approached Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant and asked him to make out a $1,000 check to Robert Traeger. Ikeda and Miyashita discussed whether this payment should be characterized as a payroll bonus or an expense reimbursement but left the question unresolved. Later that day or the next day, Ikeda returned to Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up," i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000. Miyashita then asked Norman Nelson, the Controller of Toshiba-America at

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(Footnote 2 continued from previous page)
the first Washington Post article.

the Tennessee plant, to cut a $1,000 bonus check for Traeger. Traeger has testified that he also approached Nelson and told him that Ikeda had approved a bonus check to him in the net amount of $1,000.

Traeger received a bonus check for $1,000 from Toshiba-America, Inc. on May 15, 1987, signed by Tsunehiro Miyashita. Traeger gave the check to his wife, Betty, who at his direction, wrote a check to the Friends of Jim Sasser for $1,000 on the same day.

Traeger used this process to obtain four more checks from Toshiba-America which provided the funds for additional political contributions made by him and his wife, Betty. In each instance, Traeger approached Ikeda to obtain approval for compensation for a contribution to a specific individual, i.e. Senator Albert Gore, Senator Robert Clement, Senator James Sasser, Congressman Terry Holcomb and Bart Gordon. After Traeger obtained Ikeda's approval, he asked Nelson to cut the checks. Nelson, in turn, consulted with Miyashita to make sure that these requests had Ikeda's approval.

Pursuant to this system, Toshiba-America made the following payments to Robert Traeger for specific contributions (the contributions with asterisks were made by Betty Traeger on Robert and Betty Traeger's joint account)[3]:

Bonus	Date of Bonus	Candidate	Contribution and Date
$1,000	May 15, 1987	James Sasser*	$1,000 May 15, 1987

3. The bonuses listed represent the net amounts received by Robert Traeger after taxes were withheld.

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$1,000	June 11, 1987	Albert Gore	$1,000	June 11, 1987[4]
$600	July 16, 1987	Bart Gordon	$600	July 16, 1987
$600	November 23, 1987	Bart Gordon	$250	November 16, 1987
		Bob Clement	$100	November 16, 1987
		Albert Gore*	$250	November 19, 1987
$500	November 25, 1987	Terry Holcomb*	$500	November 27, 1987
		TOTAL:	$3,700	

The Traegers received funds from Toshiba-America before making the above contributions, with the exception of the November contributions to Gore, Gordon and Clement. Hiroshi Ikeda apparently promised Robert Traeger that these latter contributions would be reimbursed before the Traegers made them.

When Robert Traeger made contributions in his own name, he would first go to the bank and deposit the bonus check and then write a contribution check. Other times, Robert Traeger would give his wife a bonus check to deposit and ask her to write out a contribution check in response to a solicitation.[5] Robert Traeger claims that his wife knew that corporations were prohibited from making contributions and that she asked him whether it was legal for the corporation to provide bonus checks to cover their contributions. He claims that he told his wife

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4. The Traegers later submitted a reallocation statement, allocating $500 of the contribution to Robert Traeger and $500 to Betty Traeger. However, Betty Traeger, in her response, denied that she made a $500 contribution to Gore.

5. As Robert Traeger noted in his deposition, his wife is in charge of the Traeger's household finances. Thus, she balances the books and is usually the one to deposit Robert Traeger's checks in the bank. Betty Traeger confirmed that she is the "keeper of accounts" for the Traeger household.

that this arrangement was legal.

According to Commission records, from February 25, 1988 to June 30, 1988, the candidates above refunded $2,200 of the $3,700 in contributions.

II. ANALYSIS

A. Statement of Law

1. 2 U.S.C. 441b(a)

Section 441b(a) prohibits corporations from making contributions or expenditures in connection with federal elections. For purposes of this section, the terms "contribution" and "expenditure" are defined broadly to prohibit corporations from providing "any direct or indirect payment ... or gift of money ... to any candidate, campaign committee, or political party or organization, in connection with" a federal election. 2 U.S.C. § 441b(b)(2). When a corporation uses its general treasury funds to reimburse its officers or employees for their contributions to federal candidates and political committees, it is making the type of "indirect" contribution that this provision was written to prohibit. Thus, any corporate reimbursement of an individual for his or her campaign contributions is clearly prohibited by the Act.

Section 441b(a) also makes it a specific and individual violation of 2 U.S.C. § 441b for ".. any officer ... of any corporation ... to consent to any contribution or expenditure by the corporation ... prohibited by this section." See also 11 C.F.R. § 114.2(d). Thus, any officer who consents to any arrangement designed to compensate or reimburse individuals for

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their federal campaign contributions with corporate funds may incur personal liability under the Act.

As the Act itself does not contain a definition of the term "officer," it is necessary to construe the term in a manner consistent with the purpose of the Act. The legislative history of Section 441b and its forerunners indicates that the Congress intended to stamp out the perceived evils of corporate influence in politics by prohibiting corporate contributions. The imposition of individual liability on officers and directors was clearly intended to deter individuals in corporate decision making positions from consenting to such prohibited contributions.

2. 2 U.S.C. § 441f

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term "person" includes corporations as well as individuals. 2 U.S.C. § 431(11). Section 441f further states that "[n]o person shall .. knowingly permit his name to be used to effect such a contribution." The Commission has interpreted Section 441f to also apply to those who actively assist in the making of contributions in the name of another. See generally FEC v. Rodriquez, No. 86-684 (MD Fla. May 5, 1987).

3. Knowing and willful violations

The legislative history of the 1976 amendments to the Act discusses knowing and willful violations of the Act. Knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a

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knowledge of all the relevant facts and a recognition that the action is prohibited by law." H.R. Rep. No. 94-917, 94th Cong. 2d Sess. 3-4 (1976). Congressman Hays, during the House debates on the Conference Report, stated that the phrase "knowing and willing" referred "to actions taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976)(remarks of Congressman Hays). The knowing and willful standard has also been discussed in Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F.Supp. 985 (D.N.J. 1986), where the court noted that the knowing and willful standard requires knowledge that one is violating a law.

B. Application of Law to Facts

Robert Traeger, the Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, admittedly proposed that Toshiba-America compensate him for contributions made by himself and his wife to candidates for Federal office and took several steps to insure that such compensation payments were made.

Counsel for Mr. Traeger has contended that while Robert Traeger holds the position of Vice President and General Manager of Manufacturing Division of Consumer Products Group of Toshiba-America, Mr. Traeger is not an officer or director of Toshiba-America. Therefore, counsel has argued that Mr. Traeger cannot be held personally liable under Section 441b(a) because he is not an "officer" within the meaning of the Act.

As noted above, it is the view of the Office of the General

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Counsel that Congress intended Section 441b to apply to individuals in high level corporate positions who have the authority to consent to expenditures which result in corporate contributions. Under this reading of the Act, the question of whether an individual is named as an officer in the corporate charter or bylaws does not end the inquiry. Indeed, the Congressional intent behind these prohibitions would not be served if individuals with titles and authority to approve corporate expenditures or make management decisions were beyond the scope of the Act by the mere fact that they are not named in the corporate bylaws or charter. If the Act were only to reach those officers who were so named, the actual corporate decision makers at individual plants or divisions of a large corporation could escape individual liability for approving and consenting to corporate contributions. Therefore, in a situation where an individual holds a corporate position and has authority to make budgetary or managerial decisions for the corporation or any section or division of the corporation, the individual can incur liability under the Act for consenting to impermissible corporate contributions, notwithstanding the fact that he or she is not named as an officer or director in the corporate charter or bylaws.

The Securities and Exchange Commission has taken a similar approach which has been upheld by the courts. For purposes of Section 16(b) of the Securities and Exchange Commission Act which prohibits insider trading by officers, the term "officer" includes "a corporate employee performing important executive

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duties of such character that he would be likely, in discharging these duties, to obtain confidential information about the company's affairs that would aid him if he engaged in personal market transactions. It is immaterial how his functions are labeled or how defined in the by-laws, or that he does or does not act under the supervision of some other corporate representative." Colby v. Klune, 178 F.2d 872, 873 (2d Cir. 1949); see also Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Livingston, 566 F.2d 1119 (9th Cir. 1978).

Respondent stated in a deposition before the Commission that his responsibility at Toshiba-America included the choosing of the site for the present plant in Lebanon, Tennessee. He has further stated that he is responsible for the staffing and running of operations at the plant. Accordingly, in 1987 respondent held a corporate position and had decision making authority in the division of the parent company for which he worked. Therefore, this Office concludes that Mr. Traeger was an officer of Toshiba-America for purposes of the Act and thereby incurred liability for consenting to prohibited corporate contributions.

Mr. Traeger initially claimed, in response to the Commission's reason to believe notification, that he knew that direct corporate contributions were prohibited by the Act but did not know that corporate compensation for personal contributions was similarly prohibited. However, at his deposition, Traeger admitted that he knew it was illegal for corporations to make both "direct and indirect contributions" to political

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committees.[6] Accordingly, the Office of the General Counsel recommends that the Commission find probable cause that Robert E. Traeger knowingly and willfully violated 2 U.S.C.§ 441b(a). As it appears that Robert Traeger knowingly and willfully permitted his own name to be used, as well as assisting Toshiba in using his wife's name to make contributions to federal candidates, in order to obscure the impermissible corporate contributions, this office also recommends that the Commission find probable cause to believe that Robert E. Traeger knowingly and willfully violated 2 U.S.C. § 441f.

III. GENERAL COUNSEL'S RECOMMENDATIONS

That the Commission find probable cause to believe that Robert E. Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

Date 7/20/90

Lawrence M. Noble
General Counsel

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6. Traeger claimed that although he knew that it was illegal for corporations to make "direct or indirect" contributions to political committees, he felt the corporation's provision of funds for him to make political contributions was legal. He also stated that he felt it was appropriate that the corporation provide the funds for such contributions as he believed that the making of such contributions would enable him to call on Tennessee representatives on behalf of Toshiba-America whenever it was necessary.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Betty Traeger)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

Information obtained by the Commission through an investigation generated by a referral from the Assistant U.S. Attorney for the Middle District of Tennessee indicated that Betty Traeger permitted her name to be used to effect contributions by Toshiba-America, Inc. Therefore, the Commission on June 28, 1988, found reason to believe that Betty Traeger violated 2 U.S.C. § 441f. The subsequent investigation revealed further information which supports the Commission's findings and provides ample basis upon which to find probable cause to believe that Betty Traeger violated 2 U.S.C. § 441f.

In 1987 Betty Traeger made four political contributions with funds provided or reimbursed by Toshiba-America, Inc. Specifically, Betty Traeger made a $1,000 contribution to Friends of Jim Sasser on May 15, 1987, a $250 contribution to the Albert Gore, Jr. for President Commitee, Inc. on November 19, 1987 and a $500 contribution to Friends of Terry Holcomb on November 27, 1987. Betty Traeger also agreed that $500 of a June 11, 1987 contribution for $1,000 made by Robert Traeger to the Albert Gore, Jr., for President Committee, Inc. should be reattributed to her. Although Betty Traeger has more recently denied making this latter $500 contribution to the Gore Committee, her

signature appears on the attached reattribution statement.

Betty Traeger's husband, Robert, is the Vice President and General Manager of the Toshiba-America plant in Lebanon, Tennessee. His official position is Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America. In 1987, Robert Traeger gave his wife checks from Toshiba-America which he asked her to deposit in their joint account and asked her to write checks with those funds to the above-named political committees. Betty Traeger received funds from Toshiba-America before making the contributions listed above, with the exception of the November 1987 contributions to the Gore Committee. In this latter instance, Hiroshi Ikeda, the Executive Vice President and General Manager of the Lebanon plant promised her husband that the corporation would reimburse him or his wife for a $250 contribution to Albert Gore's presidential campaign and Betty Traeger made the contribution with the understanding that it would be reimbursed by Toshiba-America. The June 11th contribution to the Gore campaign, which was later partially reattributed to Betty Traeger, was also made with funds provided by Toshiba-America for that specific contribution.

According to Commission records, on April 3, 1988 the Albert Gore for President Committee Inc. refunded the $750 in contributions it received from Betty Traeger.

II. ANALYSIS

Section 441f of Title 2 provides that "[n]o person shall make a contribution in the name of another person..." The term

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"person" includes corporations as well as individuals. 2 U.S.C. § 431(11). Section 441f further states that "[n]o person shall .. knowingly permit his name to be used to effect such a contribution." Betty Traeger admittedly made three contributions to political committees with funds specifically provided for that purpose or later reimbursed by Toshiba-America. Information obtained in the course of this investigation indicates that Betty Traeger made a fourth contribution with Toshiba-America funds by signing a reattribution statement regarding a contribution made by her husband to the Gore campaign.

Betty Traeger's counsel claims that she believed that the contributions made as a result of the bonus checks were legal and urges the Commission to take no further action against Betty Traeger and to dismiss the findings against her. Section 441f is, however, applicable to the actions of individuals regardless of the extent of their knowledge of the Act provided that they knew the facts which rendered their conduct unlawful. Lack of knowledge that certain actions constituted a violation of the law is a defense only with regard to "knowing and willful" violations. See e.g., FEC v. California Medical Association, 502 F. Supp. 196, 203 (N.D. Cal. 1980). Because Betty Traeger knew that she was making contributions with funds provided by Toshiba-America, she knowingly permitted her name to be used to effect a contribution in the name of another. Therefore, the Office of the General Counsel recommends that the Commission find

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probable cause to believe that Betty Traeger violated 2 U.S.C. § 441f.

III. GENERAL COUNSEL'S RECOMMENDATION

That the Commission find probable cause to believe that Betty Traeger violated 2 U.S.C. § 441f.

7/26/90
Date

Lawrence M. Noble
General Counsel

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A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

July 31, 1990

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

Attention: Michael Marinelli

RE: MUR 2575 - Robert Traeger, Betty Traeger

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Dear Mr. Noble:

This is in response to the Commission's letter dated July 27, 1990, notifying the Respondents in the above-referenced Matter Under Review of the General Counsel's recommendation of a finding of probable cause to believe that violations have occurred.

We received the letter on July 30, 1990. The responses are, therefore, due by August 14. Respondents request an additional 20 days to respond. As demonstrated by the fact that the General Counsel's office took over one year to proceed to its probable cause finding, this matter requires careful consideration and we seek the additional time to prepare a response. Further, previously scheduled vacation plans would make it difficult to respond by August 14.

With the extension, the responses would be due Monday, September 4. Since this is a federal holiday, the responses would be submitted on Tuesday, September 5.

If you have any questions, contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 2, 1990

Robert Bauer, Esquire
Judith Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

This is in response to your letter dated July 31, 1990, which we received on July 31, 1990, requesting an extension of 20 days 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 Tuesday, September 4, 1990.

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

Sincerely,

LMNoble (MP)

Lawrence M. Noble
General Counsel

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PERKINS COIE

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

September 5, 1990

Jeff Bowman, Esquire
Executive Asst. to
The Honorable Scott Thomas
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2575 - In the Matter of
Robert and Betty Traeger

Dear Mr. Bowman:

Well aware that the Office of General Counsel will also supply copies of the Respondents' briefs in this case, Counsel to Robert and Betty Traeger has chosen to serve copies personally upon each Commissioner's office, through their respective Executive Assistants. This has been done to highlight the strong resistance on the merits presented on behalf of the Traegers to the pending "probable cause to believe" recommendation of the General Counsel. Also, this is the occasion for submitting additional explanatory comments (though a copy of this letter is being served as well on the General Counsel).

In preparing this brief, Counsel to the Traegers was presented with a dilemma: how at this stage of the proceeding, when the General Counsel is well dug into his position, can the Commission's attention be drawn actively to the issue. Agency rules do not allow, of course, for oral argument which is the traditional vehicle for directly engaging the decisionmaker in resolution of a legal controversy. One-on-one communications with the offices of the Commissioners is prohibited by the rules barring ex parte contacts. And while counsel does not doubt for a minute that the Commissioners will devote their attention to the appropriate resolution of the matter, the absence of a direct engagement with them at some point in this process is unnerving. At all times, should the General Counsel be needed to answer a question or should he wish to add on a moment's notice an additional point in support of his position, he is free and able to do so. He, or any one of his representatives, may simply take a walk or an elevator.

Telex: 44-0277 Pcso Ui • Facsimile (202) 223-2088
Anchorage • Bellevue • Los Angeles • Portland • Seattle

This access of the General Counsel to the Commission, and the absence of such access for the Respondents, tends to reinforce the anxiety of Respondents' counsel that decisions on these cases may suffer from an insular bureaucratic enforcement perspective. Certain corporate officers in positions comparable, if not identical, to Traeger's may be remembered by the Commission for also entering denials to intentional, "knowing and willful" wrong-doing in testimony not deemed credible. This in turn may influence the reception given to similar denials offered by different executives whose cases come later, though presenting different circumstances. Or, at the urging of the General Counsel, the Commission may conclude that it must stake out at this point in the enforcement program a hard-line, bright-line position: on certain facts involving corporate conduit contributions, "knowing and willful" will be found virtually routinely, so that the corporate community is wakened to the impatience of the Commission with encountering, 15 years after the enactment of the FECA, continuing violations of this nature.

None of the foregoing is meant in any way to suggest that these considerations are illegitimate or that the Commission, and for that matter the Office of General Counsel, are not attempting to do their duty as they believe the law requires. But the world may appear different to E Street than it does to the Traegers of the world. Bringing these outside-the-beltway perspectives to bear on the decision in an enforcement matter is crucial to these Respondents, as it is to other Respondents. This is because the decision made by the agency is not in the end a decision of policy appropriately designed to affect all corporations and their officers, but rather a decision on the legal affairs and the good standing and reputation of the individuals involved. In this case, they are Robert and Betty Traeger.

In this case, the General Counsel believes that this corporate executive from Lebanon, Tennessee must have known that the company bonuses paid to him at his request to compensate him for political contributions violated the FECA. But he didn't, and many other businessmen in many other localities also would have failed to pick up the point. No excuse here: he will enter into a conciliation agreement and he will pay a civil penalty and he will suffer whatever consequences result from the public release of the MUR. But knowing and willful misconduct on his part should be found only where, by the Commission's own standards, there is <u>clear and convincing</u> evidence that it occurred. It is not enough to fall

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back on the "he MUST have known" line of argument -- this not evidence, indeed it is made without regard to evidence. It is suspicion, maybe even cynicism, and it has no proper place in the decision.

With these observations, it is requested that the Commission give its most careful attention to the position of the Traegers in this matter. As the brief states, the burden of showing with clear and convincing evidence that Mr. Traeger in particular knowingly and willfully violated the law is the General Counsel's burden. The General Counsel has not met the burden.

Very truly yours,

Robert F. Bauer (SB)

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

RFB:smb

Enclosures

cc: Lawrence Noble, Esq.
General Counsel

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BEFORE THE

FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2575
Betty Traeger	)	

BRIEF OF RESPONDENT

Introduction

The General Counsel has recommended "probable cause to believe" that Betty Traeger violated the FECA, by acting on the instruction of her husband in making contributions in her name with funds supplied by Toshiba-America.

There is no suggestion that Mrs. Traeger knew the law. In fact, her husband has testified at deposition that she asked him about the legality of the corporate bonuses paid to compensate him for the contributions and he assured her that these were lawful. So, with this assurance, she proceeded to do as her husband requested, acting in all respects at his direction. Her contributions were made out to the candidates selected by her husband, and in the amounts and at the times that he specified.

Why, now, should Betty be the subject of a probable cause finding and face the requirement of entering into a conciliation agreement and paying a civil penalty? Her involvement in this

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matter is entirely unwitting. She asked a prudent question -- about the legality of the corporate bonus -- and she received a wrong answer, but it was an answer from her husband, a respect businessman with an untarnished reputation, whose counsel she reasonably chose to rely on. She then did only what she was asked to do and had no reason to question further.

Counsel understands, as now does Mrs. Traeger, that as a general matter, the Commission holds that an individual may be charged with a violation of the statute on the simple grounds that he or she took actions -- though without understanding of their legal implications -- which make up the violation. On this reasoning, nothing more would be required for enforcement purposes than Mrs. Traeger's admission that she agreed to make out the checks in question with knowledge that Toshiba-America supplied the funds by way of bonuses to her husband. This is sufficient; but from the perspective of prosecutorial discretion, is it necessary?

Mrs. Traeger is not a contributor, by history or inclination. The contributions she made which were at issue in this case come to a grand total of $2,250.00. She did not make them with expectation that they would benefit her in any way. Her life as a housewife and volunteer in community civic affairs has been quiet and productive, and any damage to her

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reputation would result from minutes' worth of actions incidental to her life plan and taken solely at the direction of her husband who was equally ignorant of the consequences.

Nor does it appear likely that the Commission can expect any larger and beneficial "message" to the political community from a sanction imposed upon Mrs. Traeger. Would such a message be that housewives in this position should consult counsel separately when making contributions to candidates at the request of their husbands?

The Commission has contended in cases brought in federal court challenging a failure to act on a Complaint, that it has broad prosecutorial discretion. That discretion would be wisely and equitably exercised in this case by declining the Counsel's "probable cause" recommendation in the case of Betty Traeger. Her participation in this case as a Respondent is unrelated to any sound objective of enforcement, and thus highly injurious to her without cause.

Very truly yours,

Robert F. Bauer (SB)

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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BEFORE THE

FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2575
Robert H. Traeger	)	

BRIEF OF RESPONDENTS

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Introduction

This proceeding presents only one question in dispute, whether Robert H. Traeger KNEW that the "bonuses" he received for political contributions violated the FECA. The General Counsel has concluded that he did know. He has recommended, therefore, a find of probable cause to believe that Traeger committed a "knowing and willful" violation.

The General Counsel's conclusion is wrong. The record -- consisting of submissions from counsel, interrogatories and a lengthy deposition -- does not support that conclusion. The brief of the General Counsel, all of eleven pages in length, makes no sustainable case for that conclusion. Still, this is his conclusion; and it has remained unshaken from the "reason-to-believe" stage to the present.

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This all puts Traeger in a strange position -- establishing to the satisfaction of the Commissioners that he did not have the intent imputed to him so summarily by Counsel's office. Questions of intent are admittedly difficult questions to resolve, but the burden of addressing this question lies in the first instance with the Counsel's office and not with Traeger. As Counsel has handled his responsibility here, it has transferred that burden wholly to Mr. Traeger. Now Mr. Traeger must attempt what the Counsel did not: a presentation of the record as it pertains to this question of intent.

Traeger has little choice, as matters stand, but to take up this burden. But, in fairness, Traeger would hope that this effort, at this late moment, will be rewarded by the Commission's FULL ATTENTION. The reputation of a businessman -- so far a good reputation, capping a distinguished career -- should not be let go to the dogs unless and until every effort has been made to determine whether the evidence supports so harsh a result.

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FACTS

The facts of the contributions and how they came to be reimbursed are not complex. By and large Traeger does not question the account of them appearing in the General Counsel's "reason-to-believe" and "probable cause" briefs.

Over the period from June to November of 1987, Toshiba provided "bonuses" to Mr. Traeger to cover contributions he proposed to make to political candidates. The total of such contributions was $3,700; the corresponding amount of the bonuses was slightly higher because these were computed to allow for tax withholding without reducing the "net" to Traeger. In some cases, Traeger would write the check to the candidate, but in others his wife, Betty, would make the contribution in her name, from their joint account and at her husband's direction.

There are additional facts -- matters of who actually cut the checks and upon whose authority and after conversations with whom, but from Traeger's point of view, the only question any one fact usefully illuminates is the question of **INTENT**. Did he know that the actions he proposed to the Company violated the law?

Intent

The General Counsel's brief states the law on intent: knowing and willful violations may be found only where there is "clear and convincing proof that the acts were committed with . . . a recognition that the action is prohibited by law." See General Counsel Brief at pp. 7-8. There are two components to this standard, each discussed below in turn:*/

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*/ There is also "knowledge of the relevant facts" components but Traeger had this and discussion of it is unnecessary.

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1. **STATE OF MIND (what did he know and when did he know it), and**

2. **THE BURDEN OF ESTABLISHING STATE OF MIND (clearing and convincing proof).**

1. There are few reliable, or scientific, methodologies for establishing state of mind -- other than CONFESSION, extracted voluntarily or (as in the case of wiretaps or torture), involuntarily. In the absence of confession, circumstantial evidence may help. But without confession, evidence of a circumstantial nature is only dispositive if ----

2. It rises to the level of "CLEAR AND CONVINCING" proof of state of mind. "Clear and convincing": this is the high standard which even the General Counsel concedes is applicable. Not arguable; not plausible; not conceivable or imaginable: but CLEAR AND CONVINCING. Guidance from the Congress on such a standard is not to be lightly passed over, but rather confronted squarely and with intellectual rigor. Or so one would hope.

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<u>Intent in this Case</u>

Traeger did not confess to willfully violating the law. On the contrary, he has consistently denied any such state of mind. The General Counsel in his brief turns a deaf ear to these denials. This is not all he does, for in two sentences -- ONLY TWO SENTENCES -- devoted to the question of intent in

the entire short eleven page brief (aptly named), he suggests that Traeger admitted a willful violation of the law. This is what Counsel writes in the last of these two sentences:

> -- However, at his deposition, Traeger admitted that he knew it was illegal for corporations to make both direct and indirect contributions to political committees.

General Counsel Brief at p. 11.

Now there are several problems -- fatal problems -- in placing the full weight of the General Counsel probable cause finding on this sentence.

The sentence suggests, implies, hints at and generally sneaks in the notion that Traeger admitted knowledge that his actions violated the law. Read closely -- and related to the page of the deposition on which it relies -- the sentence cannot be read in this way at all. Traeger is acknowledging only his understanding that the law broadly prohibits corporations -- directly and indirectly -- from contributions to the federal candidates and committees. He is NOT concluding that this law, as it applied to the facts of HIS case, prohibited his actions, or that he ever assumed up to the time the FEC knocked on his door that it did. The recognition of a legal principle matters little if it is not understood to control the facts of a particular situation.

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Had Counsel argued the point at greater length, he probably would have suggested that anyone familiar with the "indirect" part of the § 441b standard would have to understand that it applied to the type of bonuses paid to Traeger. This is the classic "everybody knows" variety of argument -- the kind of argument relied upon when none better is at hand. The term "indirect" is hardly a precise term, and its presence in other laws has occasioned more argument among lawyers than anyone cares to remember. "Indirect"'s place in § 441b, moreover, is far from secure, inasmuch as there are large numbers of indirect forms of corporate spending in connection with federal elections which are sanctioned by regulation or advisory opinion (voting guides, voting records, voter registration and get-out-the-vote activities, etc.). How easily "indirect" is misconstrued is apparent from the Commission's own struggles with corporate spending issues such as those presented in the Rexnord line of Opinions. And who would have "known" of the Massachusetts Citizens for Life exception?

Even in the matter of bonuses paid to executives, there is some room for uncertainty -- in general, if not on the facts of this case. Consider a Vice President for Government Relations paid a certain salary for performing services specified in a job description, including actively participating in political

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activities and, particularly, making political contributions deemed useful to the company. If the pay for this executive, including bonuses paid, reflects an expectation that the executive in her discretion will contribute to some candidates, for some good corporate related reason, is there taking place here an "indirect" violation of § 441(b)? Or strike the word "will" in the preceding sentence and substitute the word MAY -- meaning that the executive is under no obligation to do so, but would probably be appreciated for making the effort? Or assume that the executive is not encouraged at all to consider these contributions, but is provided a higher salary under the description because it is known that, owing to her position with the company, she is likely to be a frequent target of solicitations for contributions and may suffer as a result some significant loss of income to this activity.

No, these are not the facts of this case. But the question is only one of degree. The only reason the degree appears aggravated in this case is because Traeger lives and works AS A NON-LAWYER IN LEBANON, TENNESSEE where a sophisticated grasp of the nuances of 'indirect' is not commonplace.

Nowhere does the Counsel note that Traeger repeatedly DENIES any intent to violate the law or any knowledge that he did so. In the excerpts below, separated one from the other by * * *, are portions of the transcript where these denials are made.

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ANSWER: I approached my boss, Mr. Ikeda, I-k-e-d-a -- pronounced "Ekada" -- and told him that I felt it appropriate to make contributions -- I make personal contributions, always have, small amounts relatively speaking, a few big ones -- that I felt that the amount of assistance, meaning an opportunity to have discussions with the representatives, was going to increase due to the political situation, the Toshiba Machinery issue, and that I should be making larger contributions or significant contributions to the people that represented us here in Washington.

And he said, "Is that legal?"

And the answer was, "Yes," through a bonus system. To my knowledge it was.

And he said, "Okay, if that is what we should do. Go ahead." (Traeger Dep. at pp. 10-11)(emphasis added).

* * * * *

QUESTION: Why did you feel it was appropriate for the company to directly reimburse you?

ANSWER: You said, "To directly reimburse me" --

QUESTION: To reimburse you.

ANSWER: Well, in the first place, I felt it was legal; and, two, to make contributions to those representatives here in Washington, and particularly when I wanted to be able to call them on a frequent basis or whenever it was necessary. That's why it's appropriate. (Traeger Dep. at p. 22)(emphasis added).

* * * * *

QUESTION: Did you discuss the idea of having Toshiba pay you for your contributions with Mr. Wides or Ms. Roggensack?

ANSWER: I did not.

QUESTION: Why didn't you bring that up with them?

(continued)

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ANSWER: I didn't think it was important or necessary.

QUESTION: Why didn't you think it was necessary?

ANSWER: Why didn't I think?

QUESTION: Yes.

ANSWER: Because I thought what I was doing was totally legal, or why discuss that with counsel? (Traeger Dep. at p. 85)(emphasis added).

* * * * *

ANSWER: No. She said, "Is this legal?" and I said, "Yes."

"Okay."

QUESTION: When she asked you, "Is this legal?" did it raise any question in your mind that this might be something you would discuss with the attorneys who were the damage control lawyers for problems?

ANSWER: No, it didn't. I wish it had, but I didn't. (Traeger Dep. at p. 95)(emphasis added).

* * * * *

QUESTION: And your understanding was that the compensation the company was paying to you fell into the category of a bonus, not a reimbursement for an expense?

ANSWER: Clearly. That's why I asked for a bonus check, and we called it that from Day One.

QUESTION: And you understood that that was lawful?

ANSWER: Yes. (Traeger Dep. at p. 107)(emphasis added).

* * * * *

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QUESTION: And you operated throughout this whole time under the assumption that the system you had proposed to Mr. Ikeda was perfectly legal?

ANSWER: That is correct. (Traeger Dep. at p. 108) (emphasis added).

* * * * *

These do not constitute the "admission" suggested by the General Counsel. CLEAR AND CONVINCING PROOF cannot be fabricated out of the one-sentence assertion of an admission which is not an admission if read closely, considered fairly and set side-by-side with the flat denials Traeger repeatedly makes.

Without an admission or CONFESSION, the General Counsel's CLEAR AND CONVINCING case must be built on some thing else, such as strong circumstantial evidence of knowledge the law was violated. But no such case is presented in the Counsel's brief. Nonetheless, it is worth considering whether, on this record, it could be made. One might look for the following:

-- The payment of these bonuses by initiative of the company, pressing the action on Traeger, to effect contributions indirectly through him which it could not directly make. Had Traeger allowed himself to be used as a passive conduit for company directed contributions, made with corporate funds, his denial

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of a violation of the law as he understood it would have been less credible.

-- The involvement of other executives as conduits for company-directed contributions made with corporate funds. This, too, would have suggested a broad corporate program for funnelling contributions through individual officers which, had Traeger been aware of it, would fairly arouse reasonable suspicion about his state of mind.

-- Cover-up, as in the falsification of documents within the company and by the hand of Traeger to suggest that the bonuses were paid for some other purposes.

-- Conduct in relation to third parties suggestive of willful state of mind, such as misleading statements to his wife about the purpose or legality of the contributions, or similarity untruthful statements to other company officials such as Norman Nelson (the Comptroller).

None of these facts appear in the record. And Traeger offers an explanation of his statement of mind fully consistent with the facts which DO appear. The Company did not suggest

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these bonuses; Traeger did, because he viewed them as means of supplementing his income to meet a company responsibility -- making contributions, minimal in amount, to candidates as he believed the interests of the company to require. Because --to repeat -- he considered this to be a part of his job, he reasoned that the effort he made, the money it cost him, should be reflected in his compensation. These are relevant portions of the transcript where Traeger explains this point of view:

QUESTION: Was it GE's policy to compensate employees or supervisors for individual contributions?

ANSWER: Only in this way, that the job description of executives in GE clearly states, "Responsible for community affairs and political activities for your geographic operation." And it is clearly understood that at that level appropriate legal contributions will be expected. (Traeger Dep. at p. 104).

* * * * *

ANSWER: In the context of other executives that you see at various fundraisers and so forth, you have to make a contribution to even be there, that they are expected to make such contributions and all. And the salary is such that this is part of what they are supposed to do, part of their job. (Traeger Dep. at p. 73).

* * * * *

ANSWER: The point I make is this, that in an executive compensation, "How much is this guy worth?" -- well, okay, if you look at professional headhunters or whatever, the base salary is X for this particular kind of job or position. And then the benefits or whatever, bonuses, go on top of that. And part of that is, "Okay, you, as the CEO or the representative for our company, are expected to

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represent the company, be involved in any political issues that may impact us, and part of that is you should be making appropriate contributions." (Traeger Dep. at pp. 73-74).

* * * * *

ANSWER: Again, as I was trying to point out, the representative, the top officer of branches, corporations, subsidiaries, that are expected to be active in the local political arena -- and I mean active in the sense of contributions, and knowing who their representatives are so they can make the case for the company -- a part of their compensation is considered to be used for that kind of activity. So when you say, "Is this a different way for the company to give money?" in a sense, if you look at -- okay, you pay your executives so much money and you expect them to be politically active. If you want to say that's a different way to give money beside the PAC, the answer is in the affirmative. So in that context the answer is yes. (Traeger Dep. at pp. 74-75).

* * * * *

ANSWER: You can read contribution lists, and there are a lot of people and executives of other companies who make contributions all the time, and sizable ones, with the concept that they represent their firm, and that in either their bonus or in their day's pay there are enough dollars that they are expected to properly represent their firm by making political contributions.

So on that basis I said, "What I need is to have adequate compensation to do that," and I felt that my salary -- that I hadn't budgeted monies from my own salary to make those contributions, and therefore I requested the company to pay me a bonus so that I'd be in a position to make the contributions. (Traeger Dep. at p. 21).

* * * * *

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The General Counsel has noted a statement by Traeger that he understood PACs to constitute "the only legal vehicle' for corporate participation. This is not taken in the General Counsel's brief in any particular direction. But because it carries some suggestion, yet again, that Traeger must have known that the bonus plan he devised was illegal, this suggestion should be noted and answered. There was to Traeger's mind a contrast BETWEEN A COMPANY CONTRIBUTION MADE AT COMPANY INITIATIVE WITH COMPANY FUNDS (INCLUDING PAC FUNDS IT CONTROLLED), AND CONTRIBUTIONS MADE PERSONALLY BY TRAEGER AT HIS DISCRETION WITHIN THE SCOPE OF HIS PAID CORPORATE DUTIES. Of course, the method by which Traeger was "paid" for this activity did not satisfy legal requirements. Nevertheless, the concept with which he was working is distinguishable from a concept of company PAC activity, however flawed in implementation.

Traeger's concept explains the reason why other executives were NOT drawn into the plan. Theirs was not the charge to make contributions to candidates, and so the responsibility being in no way personal to them, no adjustment in their compensation for service rendered to the company was warranted. This is also made clear by Traeger:

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And because I was the only one at the plant making contact without representatives, it didn't dawn on me to consider, "Hey, they could have three or four more guys involved," because there isn't a need -- at least I didn't feel a need for anybody else to represent the company to the politicians. (Traeger Dep. at p. 110).

AND

QUESTION: When you spoke to Mr. Ikeda for the first time regarding your desire to have the corporation pay you for political contributions, did you suggest that any other individuals be reimbursed or that it be instituted on a plantwide or other basis?

ANSWER: No; no. The reason is fairly fundamental, that is, that I have been the prime contract, if you want to call it that, to the political outside world as far as our plant is concerned. On a very local basis, statewide, Tyree of Industrial Relations gets involved -- like the county and the city and that type of thing. (Traeger Dep. at p. 55).

* * * * *

Traeger made no secret of what he was doing, to his wife, Norm Nelson or anyone else. There does not appear in the record any document marked or altered to reflect some purpose other than political contributions in these bonuses.

And, finally, Traeger's conduct on its face would have been irrational, professionally suicide, if it had been intentionally violative of the law, for as a businessman familiar with the operation of Japanese companies, he understood that drawing the company PURPOSEFULLY into an embarrassing violation of federal law would end his career with

. For him to have taken this risk for $3,700 in utions would have been self-evidently preposterous.

CONCLUSION

e General Counsel has not made out a CLEAR AND CONVINCING knowing and willful intent, and this recommendation be dismissed.

Very truly yours,

Robert F. Bauer (SO)

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

Toshiba. For him to have taken this risk for $3,700 in contributions would have been self-evidently preposterous.

CONCLUSION

The General Counsel has not made out a CLEAR AND CONVINCING case of knowing and willful intent, and this recommendation should be dismissed.

Very truly yours,

Robert F. Bauer (SO)

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

December 3, 1990

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2575

Attached for the Commission's review are supplementary briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and letters notifying the respondents of the General Counsel's intent to recommend to the Commission findings of probable cause to believe were mailed on December 3, 1990. Following receipt of the respondents' reply to this notice, this Office will make a further report to the Commission.

Attachments
1. Briefs(3)
2. Letters to respondents(3)

9204090388 2

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1990

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.

Dear Mr. Gross:

On July 27, 1990, this Office forwarded to you the General Counsel's Brief in MUR 2575 which contained recommendations that the Commission find probable cause to believe that your client, Toshiba-America, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. On October 16, 1990, the Commission granted your request for a twenty day extension of time to respond to the General Counsel's Brief.

Based on subsequent legal research into the legislative history of knowing and willful violations, this Office has prepared a supplemental brief further addressing this issue. This supplemental brief is submitted for your review.

You will be afforded an additional fifteen days following your receipt of this notice to allow you to file with the Secretary of the Commission a brief (ten copies if possible) stating your position on this issue and replying to the supplemental 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 supplemental brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All 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 conciliation agreements.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Toshiba-America, Inc.)

GENERAL COUNSEL'S SUPPLEMENTAL BRIEF

I. STATEMENT OF THE CASE

On July 27, 1990, this Office mailed the General Counsel's Brief to counsel for respondent, Toshiba-America, Inc. The Brief informed respondent that the General Counsel was prepared to recommend that the Commission find probable cause to believe that Toshiba-America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. On October 16, 1990 the Commission granted respondent's request for a twenty day extension of time.

II. ANALYSIS

The July 27, 1990 General Counsel's Brief examined the standard of evidence applied to knowing and willful violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). See the July 27, 1990 General Counsel's Brief (citing FEC v. Dramesi, 640 F. Supp. 985 (D.N.J. 1986)). In that discussion, the Brief referred to the House Report accompanying what later was enacted as the 1976 amendments to the Act. H.R. Rep. No. 94-917, 94th Cong. 2d Sess. (1976). The Brief cited a statement from the House Report that knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law." Id at 3-4. Upon further

consideration, it is apparent that this statement is in error and does not accurately state the legal standard applied to knowing and willful violations of the Act.

The 1976 Amendments to the Act modified the existing statutory enforcement provisions to reflect the standard discussed in the House Report. As amended in 1976, then Section 437g(a)(6)(A) stated:

> If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may included a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Former 2 U.S.C. § 437g(a)(6)(A)(1976)(emphasis added).

In the 1979 Amendments to the Act, however, all reference to a clear and convincing evidence requirement was omitted from the enforcement provisions of the Act. Section 437g(a)(5)(B) now merely states:

> If the Commission believes that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

2 U.S.C. § 437g(a)(5)(B).

In explaining the change, the Committee on House Administration stated that its intent was not to reduce the

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standard for a knowing and willful violation. "Rather, it did not think the 'clear and convincing' element was meaningful." H.R. Rep. No. 96-422, 96th Cong. 1st Sess. 22 (1979). Thus the reference to "clear and convincing proof was deleted as unnecessary." Id. While this amendment to the statute does not change the Office of the General Counsel's analysis or recommendation, this Office believes that Respondent should be afforded an opportunity to discuss this additional legislative history.

III. GENERAL COUNSEL'S RECOMMENDATIONS

That the Commission find probable cause to believe that Toshiba-America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

11/29/90
Date

Lawrence M. Noble
General Counsel

9204090387

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1990

Robert Bauer, Esquire
Judith Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger

Dear Mr. Bauer and Ms. Corley:

On July 27, 1990, this Office forwarded to you the General Counsel's Brief in MUR 2575 which contained recommendations that the Commission find probable cause to believe that your client, Robert Traeger, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. The Respondent's brief replying to the General Counsel's Brief was received on September 5, 1990.

Based on subsequent legal research into the legislative history of knowing and willful violations, this Office has prepared a supplemental brief further addressing this issue. This supplemental brief is submitted for your review.

You will be afforded an additional fifteen days following your receipt of this notice to allow you to file with the with the Secretary of the Commission a brief (ten copies if possible) stating your position on this issue and replying to the supplemental 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 supplemental brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All 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 conciliation agreements.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9204090389

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Robert Traeger)

GENERAL COUNSEL'S SUPPLEMENTAL BRIEF

I. STATEMENT OF THE CASE

On July 27, 1990, this Office mailed the General Counsel's Brief to counsel for respondent, Robert Traeger. The Brief informed respondent that the General Counsel was prepared to recommend that the Commission find probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. After this Office granted respondent's request for a twenty day extension of time, this Office received a responsive brief from respondent's counsel on September 5, 1990.

II. ANALYSIS

The July 27, 1990 General Counsel's Brief examined the standard of evidence applied to knowing and willful violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). See the July 27, 1990 General Counsel's Brief (citing FEC v. Dramesi, 640 F. Supp. 985 (D.N.J. 1986)). In the discussion, the Brief referred to the House Report accompanying what later was enacted as the 1976 amendments to the Act. H.R. Rep. No. 94-917, 94th Cong. 2d Sess. (1976). The Brief cited a statement from the House Report that knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the

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action is prohibited by law." Id at 3-4. Upon further consideration, it is apparent that this statement is in error and does not accurately state the legal standard applied to knowing and willful violations of the Act.

The 1976 Amendments to the Act modified the existing statutory enforcement provisions to reflect the standard discussed in the House Report. As amended in 1976, then Section 437g(a)(6)(A) stated:

> If the Commission believes that there is clear and convincing proof that a knowing and willful violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may included a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Former 2 U.S.C. § 437g(a)(6)(A)(1976)(emphasis added).

In the 1979 Amendments to the Act, however, all reference to a clear and convincing evidence requirement was omitted from the enforcement provisions of the Act. Section 437g(a)(5)(B) now merely states:

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2 U.S.C. § 437g(a)(5)(B).

In explaining the change, the Committee on House

9204090389 1

Administration stated that its intent was not to reduce the standard for a knowing and willful violation. "Rather, it did not think the 'clear and convincing' element was meaningful." H.R. Rep. No. 96-422, 96th Cong. 1st Sess. 22 (1979). Thus the reference to "clear and convincing proof was deleted as unnecessary." Id. While this amendment to the statute does not change the Office of the General Counsel's analysis or recommendation, this Office believes that Respondent should be afforded an opportunity to discuss this additional legislative history.

III. GENERAL COUNSEL'S RECOMMENDATIONS

That the Commission find probable cause to believe that Robert E. Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

11/29/90
Date

Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 3, 1990

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

On July 27, 1990, this Office forwarded to you the General Counsel's Brief in MUR 2575 which contained recommendations that the Commission find probable cause to believe that your client, Hiroshi Ikeda, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. On October 16, 1990, the Commission granted your request for a sixty day extension of time to respond to the General Counsel's Brief.

Based on subsequent legal research into the legislative history of knowing and willful violations, this Office has prepared a supplemental brief further addressing this issue. This supplemental brief is submitted for your review.

You will be afforded an additional fifteen days following your receipt of this notice to allow you to file with the Secretary of the Commission a brief (ten copies if possible) stating your position on this issue and replying to the supplemental 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 supplemental brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

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If you are unable to file a responsive brief within the previously grant sixty day extension, you may submit a written request for an extension of time. All 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 conciliation agreements.

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

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

9204090038 94

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Hiroshi Ikeda)

GENERAL COUNSEL'S SUPPLEMENTAL BRIEF

I. STATEMENT OF THE CASE

On July 27, 1990, this Office mailed the General Counsel's Brief to counsel for respondent, Hiroshi Ikeda. The Brief informed respondent that the General Counsel was prepared to recommend that the Commission find probable cause to believe that Hiroshi Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. On October 16, 1990 the Commission granted respondent's request for a sixty day extension of time.

II. ANALYSIS

The July 27, 1990 General Counsel's Brief examined the standard of evidence applied to knowing and willful violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). See the July 27, 1990 General Counsel's Brief (citing FEC v. Dramesi, 640 F. Supp. 985 (D.N.J. 1986)). In that discussion, the Brief referred to the House Report accompanying what later was enacted as the 1976 amendments to the Act. H.R. Rep. No. 94-917, 94th Cong. 2d Sess. (1976). The Brief cited a statement from the House Report that knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law." Id at 3-4. Upon further

9204090389 5

consideration, it is apparent that this statement is in error and does not accurately state the legal standard applied to knowing and willful violations of the Act.

The 1976 Amendments to the Act modified the existing statutory enforcement provisions to reflect the standard discussed in the House Report. As amended in 1976, then Section 437g(a)(6)(A) stated:

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Former 2 U.S.C. § 437g(a)(6)(A)(1976)(emphasis added).

In the 1979 Amendments to the Act, however, all reference to a clear and convincing evidence requirement was omitted from the enforcement provisions of the Act. Section 437g(a)(5)(B) now merely states:

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2 U.S.C. § 437g(a)(5)(B).

In explaining the change, the Committee on House Administration stated that its intent was not to reduce the

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standard for a knowing and willful violation. "Rather, it did not think the 'clear and convincing' element was meaningful." H.R. Rep. No. 96-422, 96th Cong. 1st Sess. 22 (1979). Thus the reference to "clear and convincing proof was deleted as unnecessary." Id. While this amendment to the statute does not change the Office of the General Counsel's analysis or recommendation, this Office believes that Respondent should be afforded an opportunity to discuss this additional legislative history.

III. GENERAL COUNSEL'S RECOMMENDATIONS

That the Commission find probable cause to believe that Hiroshi Ikeda knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

11/29/90
Date

Lawrence M. Noble
General Counsel

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OGC 9045

SKADDEN, ARPS, SLATE, MEAGHER & FLOM
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2107
(202) 371-7000

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WILMINGTON

December 18, 1990

RECEIVED
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OFFICE OF GENERAL COUNSEL
90 DEC 18 PM 4:33

BY HAND

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463
Attn: Michael Marinelli, Esq.

Re: MUR 2575
Toshiba America, Inc. et al.

Dear Mr. Noble:

On December 10, 1990, we received the supplemental brief concerning Toshiba America, Inc. Thus, our response is due on December 26, 1990. Although the supplemental brief should not significantly alter our response to the original probable cause briefs, the new due date falls at a particularly bad time because of the holidays.

Coordinating with the clients during this time of year is more difficult than usual. As previously requested, I would like to respond at the same time on behalf of all the respondents that I represent. Thus, I request, on behalf of Toshiba America, Inc., T. Miyashita, N. Nelson, D. Eversole, K. Ishiguro, that the period to respond be enlarged to January 7, 1991.

Thank you for your consideration of this request.

Sincerely,

Kenneth A. Gross

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.
et al.

Dear Mr. Gross:

This is in response to your letter dated December 18, 1990, which we received on December 18, 1990, requesting an extension of 13 days 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 Monday, January 7, 1990.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

9204090038 99

PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1110 VERMONT AVENUE, N.W. • WASHINGTON, D.C. 20005 • (202) 887-9030

December 21, 1990

BY FACSIMILE

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

Re: MUR 2575 - Robert H. Traeger

Attention: Michael Marinelli

Dear Mr. Noble:

This will confirm my conversation today with Michael Marinelli of your staff regarding our response to the supplemental brief on the issue of knowing and willful violations of the campaign laws.

We had anticipated filing our response today, but due to holiday schedules, have been unable to finalize the response. We will have similar problems next week, as well.

We ask, therefore, for an extension of time in which to file our response until no later than Monday, January 7, 1991.

If you have any questions or need additional information, please contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondent

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 26, 1990

Judith Corley, Esquire
Perkins Coie
1110 Vermont Avenue, N.W.
Washington, D.C. 20005

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Ms. Corley:

This is in response to your letter dated December 21 1990, which we received on December 21, 1990, requesting an extension of 10 days 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 Monday, January 7, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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RECEIVED
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OFFICE OF GENERAL COUNSEL

WILEY, REIN & FIELDING

1776 K STREET, N.W.
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TREVOR POTTER
(202) 429-7366

December 27, 1990

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

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

Attn: Michael Marinelli

Re: MUR 2575

Dear Mr. Noble:

Pursuant to your letter of October 29, 1990, the response of this office to the General Counsel's Brief recommending that the Commission find probable cause to believe that Mr. Ikeda violated the Federal Election Campaign Act of 1971, as amended, is due January 2, 1991.

Due to the holiday period, and to unexpected personal matters, I respectfully request an extension of an additional week in which to respond in this Matter, until Wednesday, January 9, 1991.

Sincerely yours,

Trevor Potter
on behalf of Jan Witold Baran

cc: Hiroshi Ikeda

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 8, 1991

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

This is in response to your letter dated December 27, 1990, which we received on December 27, 1990, requesting an extension of 7 days 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 Wednesday, January 9, 1991.

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

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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BEFORE THE

FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Robert H. Traeger)

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SUPPLEMENTAL BRIEF

The General Counsel has filed a supplemental brief calling into question the standard for a finding a "knowing and willful" violation of the statute. He offers legislative history from the 1979 Amendments, when the statute was amended to delete any reference to a standard of "clear and convincing proof." While noting the explanation of the House Report that this was not intended to "reduce" the standard, only to eliminate an "element" which was not "meaningful," H. Rept. No. 96-422, at 22, the General Counsel presents this information and invites this reply from Respondents.

The House Report is certainly ambiguous about where the standard stands, once the deletion of the explicit reference to "clear and convincing" was deleted. At a minimum, it is certain that the House Committee did not intend to affect any clear change in the standard; and for this reason it states that it did not intend to "reduce" the standard. So the House Committee assumed that some standard still applied. Some

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standard must apply, in any event, because the House Committee could not intend, nor could the General Counsel be arguing, that the Commission may summarily find a "knowing and willful" violation without supporting evidence of any kind.

The Commission has made clear that for non-knowing and non-willful violations of the statute, only the facts of an illegal contribution need be shown: for example, that a contribution was, in fact, made and that it did, in fact, exceed the lawful limits. A showing of ignorance of the law is not necessary. A "knowing and willful" finding, treated under the statute as an aggravated offense, must mean something more. It requires, by its nature, that some knowledge by the Respondent of the illegality of his or her acts be shown. And if this "fact" -- the fact of state of mind -- must be shown, then the fact must in some sense be established and it can only be established by evidence.

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This is a reading confirmed by the statutory provisions for judicial review of a knowing and willful finding. Section 437(g)(a)(5)(C), authorizes a court to establish civil penalties in cases brought by the Commission to enforce its finding of a "knowing and willful" violation of the statute. This provision specifically states that ". . . if the court determines that the Commission has <u>established</u> that the

person involved in such civil action has committed a knowing and willful violation . . . .," it may impose special penalties. The term "established" also stands for something. The Concise Oxford English Dictionary defines "established" as "placed beyond dispute (fact, that)." A violation has to be "established" by evidence, whether a preponderance of the evidence or clear and convincing evidence, drawn from the record which, in this case, includes sworn testimony.

In conclusion, Traeger does not alter the position previously taken in his Brief in response to the General Counsel's. Traeger's presentation included extensive review of the record and showed how it is barren of any facts or other evidence suggestive of a "knowing and willful" violation of the statute.

Respectfully submitted,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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January 8, 1991

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BY HAND

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463
Attn: Michael Marinelli, Esq.

Re: MUR 2575
Toshiba America, Inc. et al.

Dear Mr. Noble:

Enclosed are four copies of the response to the General Counsel's original and supplemental briefs concerning the above referenced matter. This brief was due on January 7, 1991. As you know, however, the Government closed at 1:00 p.m. on January 7, due to the inclimate weather. Thus, the brief will be filed when the government opens on January 8, 1991. I have filed ten copies of the brief with the Commission's Secretary.

Please stamp the additional copy for our files.

Sincerely,

Kenneth A. Gross

Enclosures

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 2575
Toshiba America, Inc. et al.	)	
	)	

BRIEF OF RESPONDENTS IN RESPONSE TO THE GENERAL COUNSEL'S PROBABLE CAUSE RECOMMENDATIONS

The Parties

Part I of this brief responds to alleged violations against Toshiba America Consumer Products, Inc. ("TAI-CP")*, Tsunehiro Miyashita, and Norman Nelson arising out of actions that occurred in Lebanon, Tennessee. Robert H. Traeger or Hiroshi Ikeda are also respondents in this action and are each represented by other counsel. In that the General Counsel alleges that the actions of

* On April 1, 1989, the Manufacturing Division for Consumer Products of Toshiba America, Inc., the entity that was in existence in 1987, at the time of the alleged violations in Tennessee, became Toshiba America Consumer Products, Inc., an independent operating subsidiary of Toshiba America, Inc., which is now a holding company. All references in this brief to what was the Manufacturing Division for Consumer Products will be made to the reorganized entity Toshiba America Consumer Products, Inc. Toshiba America Consumer Products, Inc. manufactures color televisions, VCRs, audio equipment, and microwave ovens.

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Mr. Traeger and Mr. Ikeda may be imputed to TAI-CP, however, we discuss their actions and how they relate to the potential liability of TAI-CP.

Part II of this brief (beginning at 29) responds to the alleged violations against Toshiba America Information Systems, Inc. ("TAI-IS")*, Kazuo Ishiguro, and Dennis Eversole arising out of actions that occurred in Irvine, California. We also represent Yasuo Nishioka, but no allegations have been lodged against him at the probable cause stage and no further response is made with regard to the reason to believe findings that were against him. Paul Wexler is also a respondent in the California part of this case. Mr. Wexler is represented by other counsel and on information and belief has entered into a conciliation agreement with the FEC.

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* On April 1, 1989, the Industrial Electronics Business Sector of Toshiba America, Inc., the entity that was in existence in 1985, at the time of the alleged violation in California, became Toshiba America Information Systems, Inc., an independent operating subsidiary of Toshiba America, Inc., which is now a holding company. Thus, all references in this brief to what was the Industrial Electronics Business Sector will be made to the reorganized entity Toshiba American Information Systems, Inc. Toshiba America Information Systems, Inc. manufactures laptop PCs, copiers, and telecommunications equipment.

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Part I.

I. TAI-CP -- The Tennessee Case

A. Introduction

The General Counsel alleges that TAI-CP knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f through the actions of its officers. The General Counsel's case against TAI-CP is largely based on the actions of one individual, Robert H. Traeger, the Vice President and General Manager of what is now TAI-CP. Although the basis is unclear, it appears that the General Counsel believes that Hiroshi Ikeda, formerly the Executive Vice President and General Manager of what is now TAI-CP, also knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f and is attempting to impute the alleged knowing and willful conduct of both Mr. Traeger and Mr. Ikeda to TAI-CP. On information and belief, the General Counsel also has alleged knowing and willful violations of 2 U.S.C. §§ 441b(a) and 441f against Mr. Traeger and Mr. Ikeda, individually. In addition, the General Counsel alleges that Tsunehiro Miyashita, formerly the Vice-President and Treasurer of what is now TAI-CP, and Norman Nelson, formerly the Controller of what is now TAI-CP, violated 2 U.S.C. § 441b(a) by consenting to the making of corporate contributions. The General Counsel has not alleged

that Mr. Miyashita and Mr. Nelson knowingly and willfully violated the law.*

In addition to reviewing the available documentary evidence, as counsel for TAI-CP, we have examined the deposition testimony of Mr. Traeger and Mr. Ikeda in order to assess whether their conduct constituted a knowing and willful violation of the FECA and whether their conduct should be imputed to TAI-CP. Based on that assessment, TAI-CP urges the Federal Election Commission ("FEC" or "Commission") to find that 1) neither the behavior of Mr. Traeger nor Mr. Ikeda constitutes knowing and willful violations of the law; and 2) even if Mr. Traeger and Mr. Ikeda violated the law (in a non-willful manner), there are sufficient extenuating circumstances to justify taking no further action against TAI-CP. For the reasons discussed below, the Commission should also dismiss the remaining charges against Tsunehiro Miyashita and Norman Nelson.

B. Facts

Between June and November 1987, Robert and Betty Traeger made seven contributions totaling $3,700 to

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* On May 9, 1989, the Federal Election Commission took no further action against Mr. Miyashita and Mr. Nelson with regard to the reason to believe finding against them pursuant to 2 U.S.C. § 441f.

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federal candidates. In response to Mr. Traeger's request, Mr. Ikeda approved five bonus payments to Mr. Traeger to cover the cost of those contributions. (One of the bonus payments covered three contributions.) After obtaining assurance from Mr. Traeger that bonus payments for political contributions were legal, Mr. Ikeda approved making bonus payments to Mr. Traeger slightly in excess of the amount of the political contributions, so that the net payment, after taxes, equaled the amount of the contributions. Ikeda Deposition at 44.

After Mr. Traeger obtained Mr. Ikeda's approval for bonus payments to cover the amount of the contributions he anticipated making, Mr. Ikeda authorized Mr. Miyashita to direct Mr. Nelson to issue a bonus payment in the amount of $1,000 to Mr. Traeger. Because there was no documentation to support the oral request for a bonus, Mr. Nelson asked Mr. Miyashita to approve the payment in writing. Consequently, Mr. Ikeda signed the payroll register authorizing the payment. See print-outs attached as FEC Exhibit 6 to Traeger's Deposition. Mr. Nelson sought Mr. Ikeda's approval of the first three payments to Mr. Traeger. At some point between the first and third payments, Mr. Traeger informed Mr. Nelson that the payments were to be used for political contributions.

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Nelson Deposition at 109. Although Mr. Nelson did not seek Mr. Ikeda's approval after the first three bonus payments, based on Mr. Ikeda's earlier approvals, Mr. Nelson issued two additional payments to reimburse Mr. Traeger for four additional contributions he and his wife made. Mr. Nelson submitted all the bonus payment checks to his boss, Tsunehiro Miyashita, for signature, and Mr. Miyashita signed the checks.

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C. Application of the Laws

1. Traeger's Conduct Was Not Knowing and Willful

The General Counsel's "evidence" that Mr. Traeger knew his actions were illegal is based on Mr. Traeger's testimony that he knew corporations were prohibited from making political contributions. Mr. Traeger, however, repeatedly denied knowing that his conduct constituted a violation of law. For example, when asked whether he thought it was lawful to receive a salary payment to cover political contributions, he stated that his first inkling that his conduct was illegal was when he received the interrogatories in this case. Traeger Deposition at 107. Even the General Counsel acknowledges that Mr. Traeger testified that although he was aware of the corporate prohibition on political con-

tributions, "he felt the corporation's provision of funds to him to make political contributions was legal." General Counsel's Brief at 12-13, fn. 7. Throughout his deposition, Mr. Traeger consistently and credibly took this same position. Traeger's Deposition at 10-11, 22, 85, 95, and 107-108.

Simply put, the General Counsel believes that Mr. Traeger has lied under oath. To sustain such a grave allegation, the General Counsel needs supporting circumstantial evidence to prove his case. He offers no such evidence of defiance or a knowing, conscious, and deliberate flaunting of the law which is required to sustain a knowing and willful violation of the Federal Election Campaign Act of 1971, as amended ("FECA"). See American Federation of Labor and Congress of Industrial Organizations v. Federal Election Commission, 628 F.2d 97, 101 (D.C. Cir. 1980).

At his deposition, Mr. Traeger was asked whether he had heard that corporations were prohibited from giving contributions both directly and indirectly. In response to that question, which required an understanding of one of the most difficult concepts under the FECA -- the meaning of an indirect contribution -- Mr. Traeger responded affirmatively. Traeger Deposition at 111.

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Based on that response, the General Counsel inexplicably ignores Mr. Traeger's previous 110 pages of testimony and compelling circumstantial evidence, and charges him and TAI-CP with a knowing and willful violation. Ignoring the critical circumstantial evidence that is necessary to discern Mr. Traeger's state of mind is what leads the General Counsel to the erroneous conclusion that Mr. Traeger willfully violated the law. Without such evidence, however, an aggravated violation cannot be sustained against Mr. Traeger and thereby cannot be imputed to TAI-CP.

Mr. Traeger's response regarding the direct or indirect corporate prohibition is consistent with his earlier denials that he did not know his conduct was illegal. He credibly explained why he thought bonus payments were permissible and expense reimbursements were not. Mr. Traeger testified that it was his experience throughout his corporate life, that certain executives are expected to establish and maintain community and government relations. This was true when he worked for General Electric as well as what he thought was his responsibility on behalf of TAI-CP. Traeger Deposition at 104-105. He reasoned that part of an executive's compensation would be expected to be used for contributions to

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candidates and civic organizations. Traeger Deposition at 74-75.

Mr. Traeger is the highest ranking American at the Lebanon, Tennessee plant, and essentially has been responsible for the establishment and operation of the plant from its inception. The Lebanon plant employs hundreds of Americans and plays a significant role in the local economy in the Nashville, Tennessee area. Thus, Mr. Traeger felt it was part of his responsibility to establish local community and political relations. Consistent with this sense of responsibility, Mr. Traeger made several contributions to candidates and joined several local organizations throughout his many years of employment with TAI-CP. Traeger Deposition at 105. He had always paid for those activities from his own funds. That financial burden increased somewhat in 1987, however, and he believed that his salary was insufficient to meet those increased burdens. Thus, he sought additional compensation, through bonus payments, to make political contributions. Traeger Deposition at 29-30.

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In accordance with his understanding of how he thought such political activity could be legally paid for by the corporation, Mr. Traeger sought approval for bonus payments from Mr. Ikeda. This approval was sought in an open and candid manner. No employee of TAI-CP took steps to hide the purpose of the bonus payments. Indeed, there was no reason to do so since everyone involved believed the payments were legal. It defies common sense to suggest that Mr. Traeger would jeopardize his job, embarrass his company (particularly when the company was having public relations problems relating to the activities of Toshiba Machinery), and purposely implicate his wife in a violation of law. There was no cover-up; there was no ulterior motive to conceal the true source of a contribution; and there was no attempt to get around a contribution limit. The candidates to whom he made contributions knew that he was a TAI-CP executive. Mr. Traeger disclosed that fact to the candidates, who were all from Tennessee. The candidates' FEC filings consistently identify Mr. Traeger's name of employer as "Toshiba America, Inc." See, e.g., 1987 Semi-Annual FEC Reports of Senator Gore, Congressman Sasser, and Congressman Gordon.

Virtually every FEC case involving "a contribution made in the name of another" entails a scheme to

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circumvent purposefully a substantive provision of the FECA, as distinguished from this case where the purpose was merely to obtain reimbursement for personal financial reasons. See MUR 256, (Shapp for President) (a scheme to qualify Shapp for public matching funds); MUR 1237, (Stanley Kaplan) (a scheme to enable one individual to make massive contributions to one candidate); MUR 1094, (Nicholson) (a scheme to maximize the matchability of contributions under the public financing provisions); MUR 1445 (Agency Holding Corp, Inc.) (a scheme to disguise the true identity of the contributors and avoid the corporate prohibition). This was simply a case of Mr. Traeger seeking additional compensation -- that he thought he could legally obtain through bonus payments -- to ease a personal financial burden. The evidence simply does not add up to willful misconduct. See Federal Prosecution of Election Offenses, Fifth Edition, U.S. Department of Justice, Public Integrity Section, May 1988 at 73-74. (In discussing a knowing and willful violation, the Department of Justice manual states, in relevant part, that to find a knowing and willful violation there must be a surreptitious means (such as cash, conduits, or false documentation) employed to conceal conduct that itself violates the FECA's substantive requirements. In

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such situations, proof must exist that a defendant was actively aware that he was violating one of the FECA's regulatory prohibitions or duties.)

Despite the evidence to the contrary, the General Counsel, however, seems determined to construct an invidious scenario based on $3,700 in contributions, less than the limit that would be allowed for one PAC contribution. The entire idea of not only getting reimbursed but of making the contributions was Mr. Traeger's idea, and his idea alone. TAI-CP was drawn into his improper conduct because his boss was new to this country, lacked experience in political matters, and misplaced reliance on Mr. Traeger's understanding of the legality of his actions. Thus, TAI-CP should not be held accountable for a knowing and willful violation of law because 1) Mr. Traeger's conduct was not knowing and willful; and 2) even if Mr. Traeger unintentionally violated the law, it would be patently unfair to implicate TAI-CP in a case where it is so clear that the onus of wrongdoing lies with Mr. Traeger, and Mr. Traeger alone.

2. Hiroshi Ikeda's Conduct Was Not Knowing and Willful

On information and belief, Mr. Ikeda has also been charged with a knowing and willful violation of

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2 U.S.C. §§ 441b(a) and 441f. It is not clear whether the General Counsel alleges a knowing and willful violation against Mr. Ikeda based on his conduct, or whether the General Counsel is somehow attempting to impute Mr. Traeger's conduct to Mr. Ikeda.

However, the evidence is clear that Mr. Ikeda had no knowledge of the FECA, and when he was presented with a request for a payment to Mr. Traeger for political purposes, he took every reasonable step to ascertain the legality of the payment. In response to Mr. Ikeda's inquiry concerning the legality of the bonus payment, Mr. Traeger assured Mr. Ikeda that it was legal. Ikeda's Deposition at 44. The General Counsel obliquely suggests that because Mr. Traeger allegedly informed Mr. Ikeda that the formation of a political committee is the only legal means by which corporations could make contributions, Mr. Ikeda should have known that bonus payments for political contributions were illegal. Mr. Ikeda, however, unequivocally denies having had a conversation with Mr. Traeger about a political action committee. Ikeda Deposition at 28-29. In fact, Mr. Ikeda did not know what a political action committee or a PAC was. Ikeda's Deposition at 29. But even if such a conversation did take place, as Mr. Traeger testifies, it is

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inconceivable that a one-time informal conversation regarding a totally unfamiliar topic is sufficient to provide Mr. Ikeda with the requisite knowledge to charge him with a knowing and willful violation.

Thus, to the extent that Mr. Ikeda's conduct is imputed to TAI-CP, there is no basis for finding a knowing and willful violation. Moreover, Mr. Ikeda's actions on behalf of TAI-CP support TAI-CP's contention that the onus for the unintentional violation that Mr. Traeger committed should remain with Mr. Traeger, and, as a matter of fairness, should not implicate the corporation.

D. Burden of Proof for a Knowing and Willful Violation

The General Counsel's analysis in his November 29, 1990 supplemental brief suggests that the burden of proof required for finding a knowing and willful violation of the FECA is no longer clear and convincing proof. A close reading of the FECA's legislative history, however, reveals that the General Counsel's analysis is in error.

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As amended in 1976, former Section 437g-(a)(6)(A) read as follows:

> If the Commission believes that there is clear and convincing proof that a knowing and willful violation of [the Federal Election Campaign] Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (5)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which shall not exceed the greater of (i) $10,000; or (ii) an amount equal to 200 percent of the amount of any contribution or expenditure involved in such violation.

Former 2 U.S.C. § 437g(a)(6)(A) (1976).

This section, while appearing to be clear on its face, was actually redundant in light of the legislative history's definition of a "knowing and willful" violation.

The House Report accompanying what became the 1976 amendments to the Act, H.R. Rep. No. 94-917, 94th Cong. 2d Sess. (1976) made clear that knowing and willful violations are "violations as to which the Commission has clear and convincing proof that the acts were committed with a knowledge of all the relevant facts and a recognition that the action is prohibited by law . . . ." Id. at 3-4. Thus, the knowing and willful standard already included within its definition the clear and convincing standard of proof.

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Because a knowing and willful violation was one in which the Commission had clear and convincing evidence that the actor knew all relevant facts and appreciated the illegality, former section 437g(a)(6)(4)'s requirement that the Commission find a knowing and willful violation by clear and convincing proof made no sense. As written in 1976, the FECA in effect required the Commission to find by clear and convincing proof a violation defined as one in which the Commission had clear and convincing proof that the acts were committed with a knowledge of all relevant facts and a recognition of its unlawfulness. That was redundant and needed amending.

In 1980, Congress removed the redundancy by deleting the clear and convincing language from the text of the statute. Nothing in the Report of the Committee on House Administration accompanying the deletion indicates that Congress intended to alter the incorporation of the clear and convincing proof requirement into the knowing and willful standard. In fact, every indication is that the drafters intended to leave clear and convincing as the standard:

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> The Committee deleted the requirement in the current Act that the Commission make a finding of "clear and convincing proof." The Committee intent is not to reduce the standard for a knowing and willful violation. Rather, it did not think the "clear and convincing proof" element was meaningful.

H.R. Rep. No. 96-422, 96th Cong. 1st Sess. 22 (1979).

The only logical explanation behind the Committee's deletion of the clear and convincing element as not "meaningful," while expressly declaring its intention not to reduce the standard for a knowing and willful violation, is that the Committee understood the clear and convincing standard to be already included within the knowing and willful standard. Because the Committee on House Administration never disavowed the 1976 House Report, which plainly made the clear and convincing burden of proof a component of the knowing and willful standard, and because the Committee expressly intended not to change the knowing and willful standard, it is plain that the Committee intended that the clear and convincing proof standard remain the standard to be applied in deciding whether a knowing and willful violation has occurred. Clear and convincing proof, therefore, is the burden the General Counsel must bear today in showing whether or not Mr. Traeger's and Mr. Ikeda's conduct constituted a knowing and willful violation of the FECA.

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Regardless of which standard is applied, however, it is clear the General Counsel has no affirmative proof capable of meeting any standard to show that Mr. Traeger and Mr. Ikeda knew their specific conduct violated the law.

Thus, based on the testimony of the witnesses, the documents, the circumstances surrounding this case, and the legal standard required to establish a knowing and willful violation of the FECA (regardless of whether the standard includes clear and convincing proof), the General Counsel's recommendation that TAI-CP knowingly and willfully violated the law should not be adopted by the Commission. In fact, it is our hope that before the Commission considers this matter, the General Counsel will reassess his initial recommendation regarding a knowing and willful violation by TAI-CP and delete that recommendation from his probable cause report to the Commission.

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II. Tsunehiro Miyashita

A. Facts

Mr. Miyashita was the Vice President and Assistant Treasurer in Lebanon, Tennessee, of what is now TAI-CP. Mr. Miyashita is a Japanese national who does not have a command of the English language. His formal edu-

cation does not go beyond high school and his on-the-job training has been technical; i.e., relating to accounting and financial matters. Mr. Miyashita is not interested or involved in U.S. politics. When he lived in the U.S., he primarily associated with Japanese people and he lived in housing in Tennessee provided by TAI-CP for its Japanese employees. In May 1989, Mr. Miyashita returned to Japan to take a position with Toshiba Corporation.

Mr. Miyashita reported directly to Hiroshi Ikeda. After Mr. Ikeda made the decision to approve bonus payments to Mr. Traeger, Mr. Ikeda spoke on a couple of occasions with Mr. Miyashita concerning the implementation of the decision. Ikeda Deposition at 42. On the first such occasion, Mr. Miyashita asked Mr. Ikeda what the checks were for and whether the payment to Mr. Traeger should be drawn from the payroll account or the expense account. Miyashita Deposition at 42-43. A day or two later Mr. Ikeda instructed Mr. Miyashita to draw the checks against the payroll account. As to the purpose of the checks, Mr. Ikeda stated that he had approved payments to Mr. Traeger to reimburse him for donations. Mr. Miyashita did not make the decision to make the bonus payments to Mr. Traeger; Mr. Ikeda made that decision. Miyashita Deposition at 46. Mr. Miyashita,

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however, ultimately signed the checks after they went through the routine issuance process. Mr. Miyashita signed the bonus payment to Mr. Traeger because he signed all executive payroll checks. Although Mr. Miyashita's recollection is not clear, he believes that Mr. Ikeda talked with him about the reimbursements before the first two payments to Mr. Traeger were made. After that, he believes that Mr. Traeger went directly to Mr. Nelson with the payment requests. Miyashita Deposition at 64.

In response to extensive questioning by FEC counsel, it became apparent that Mr. Miyashita's understanding of the U.S. political process is scant and the only concern that he had with regard to these payments related to his responsibilities as the assistant treasurer; i.e., properly accounting for the expenditures as an administrative matter. He did not know that corporations were prohibited from making contributions to federal candidates and did not even have a clear understanding that the purpose of the payments was for political contributions to federal candidates. In short, Mr. Miyashita had no interest in these payments beyond his functions related to maintaining proper books and records.

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B. Application of The Law

The General Counsel is recommending probable cause that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a) because, as an officer, he consented to the bonus payments made to Mr. Traeger.

Miyashita is Not an Officer Within the Meaning of 2 U.S.C. 441b(a)

While Mr. Miyashita was technically an officer of Toshiba America, Inc., if the General Counsel consistently applies the test set out in Colby v. Klune, 178 F.2d 872, 873 (2d Cir. 1949), as he recommends against other individuals in this case, he should not pursue Mr. Miyashita. The General Counsel contends than an employer's formal title should not bind the Commission in determining whether he is an officer for purposes of the FECA. Extending this reasoning, we contend that merely because an executive technically holds a title as an officer, that title should not be binding within the meaning of 2 U.S.C. § 441b(a). In fact, that is the holding of Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Livingston, 566 F.2d 1119, 1121 (9th Cir. 1979) the case the General Counsel cites in support of his theory that an employee's title is not dispositive of whether he should be treated as an officer. See also C.R.A. Realty Corp. v. Crotty, 878 F.2d 562, 567 (2nd Cir. 1989).

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We agree with the General Counsel that the purpose of section 441b(a) is to prevent the ill effects of corporate wealth in the political process. To further that goal, personal liability under the corporate prohibition is reasonably extended to those corporate officers who play a role in the decisionmaking process as to political matters. In MUR 2840 (Wally Blice, Jr.) (November 28, 1990), the General Counsel states that the term "officer," for purposes of determining personal liability under the corporate prohibition, includes those individuals with executive authority to approve the prohibited contribution or expenditure. The General Counsel's report goes on to state that the prohibition should apply to individuals in high level positions who have managerial, policymaking, or decisionmaking authority in terms of their ability to take action regarding political contributions and expenditures. MUR 2840, General Counsel's Report at 8-9 (June 8, 1990).

Only executives who were in a high position, played an active role in the decisionmaking process with regard to the applicable regulated activity, and had special access to information relating to that regulated activity should be implicated in violations as officers. See Gold v. Sloan, 486 F.2d 340, 351 (4th Cir. 1973) (The

court found that the title of officer was "merely titular" and was ineffective in clothing an individual with the reality of an officer.) It is clear that Mr. Miyashita's role with regard to the political process was administrative and he had no involvement in political matters. The purposes of section 441b(a) are not furthered by pursuing an employee in Mr. Miyashita's position, regardless of his formal title. Thus, he should not be held accountable as a corporate officer and should not be found in violation of section 441b(a).

III. Norman Nelson

A. Facts

Norman M. Nelson was formerly the Controller in Lebanon, Tennessee, of what is now TAI-CP.* After Mr. Ikeda made the decision to reimburse Mr. Traeger, he spoke with Mr. Miyashita concerning the implementation of the decision. Consequently, Mr. Miyashita orally instructed Mr. Nelson to prepare a $1,000 bonus check for issuance to Robert Traeger. Nelson Deposition at 103. When Mr. Nelson inquired into the purpose of the payment, Mr. Miyashita informed him that it was a bonus payment.

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* After Mr. Miyashita moved back to Japan in May 1989, Mr. Nelson was promoted to Mr. Miyashita's position.

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At that time, Mr. Nelson did not know the bonus payment to Mr. Traeger was for a political contribution. Nelson Deposition at 108. Since there was no documentation in support of this request, Mr. Nelson sought Mr. Miyashita's assurance that Mr. Ikeda had approved the request. Mr. Miyashita responded by stating that Mr. Ikeda approved the request but that he, Mr. Miyashita, did not have written confirmation of such approval. Thus, Mr. Nelson requested that Mr. Miyashita obtain Mr. Ikeda's signature on the payroll register. Nelson Deposition at 104. After Mr. Miyashita obtained Mr. Ikeda's initials on the payroll register, Mr. Nelson directed his assistant to prepare the appropriate check for Mr. Traeger. As was the case with all executive payroll checks, the check was brought to Mr. Miyashita for his signature.

Mr. Nelson sought a similar audit trail the next time Mr. Miyashita asked him to prepare a bonus check to Mr. Traeger. By that time or at least before the third payment was issued, Mr. Traeger informed Mr. Nelson that the bonus checks were to reimburse Mr. Traeger for political contributions. Nelson Deposition at 132. Mr. Traeger provided Mr. Nelson with copies of the checks he wrote to the political committees so Mr.

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Nelson would have further documentation with regard to those transactions.

Mr. Nelson believes that after the first two bonus payments, Mr. Traeger came to him directly requesting further payments. In each instance, however, Mr. Nelson obtained Mr. Ikeda's approval, a payroll register supporting his audit trail, and Mr. Miyashita's signature on the bonus payment checks. Nelson Deposition at 125-126. Mr. Nelson further sought Mr. Traeger's assurance that the payments were proper.

Thus, Mr. Nelson, as the Controller at the Lebanon plant, merely carried out his duties in a responsible manner. He established an audit trail, obtained approval from his superiors, and assured himself of the propriety of the reimbursement from the highest ranking American at the Lebanon plant, Mr. Traeger. Mr. Nelson had no reason to inquire beyond that point. It is not clear what Mr. Nelson's authority was with regard to refusing payments, but he testified that he would refuse to authorize a check only if he knew the payment was patently illegal. Nelson Deposition at 122. That clearly was not the case.

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B. Application of The Law

The General Counsel is recommending probable cause that Mr. Nelson violated 2 U.S.C. § 441b(a) because he consented to making bonus payments to Mr. Traeger.

Nelson is Not An Officer Within the Meaning of Section 441b

Mr. Nelson was not an officer or a director of Toshiba America, Inc. Thus, as a matter of law there is at least a strong presumption that he could not have violated 2 U.S.C. § 441b(a) by consenting to corporate reimbursements to Mr. Traeger. Section 441b(a) is clear on its face that an individual may be held liable for a violation under this section only if he is an officer or a director. Even if an employee's formal designation by the corporation is not binding, as the General Counsel argues, Mr. Nelson does not qualify as an officer.

The General Counsel cites two Securities Exchange Act cases to support the argument that Mr. Nelson should be considered an officer of the corporation, even though the corporation does not so designate him. Colby v. Klune, 178 F.2d 872 (2d Cir. 1949), establishes the concept that the character of an employee's duties will dictate whether he is an "officer" of the corporation, rather than how the employee's functions are labeled or defined in the corporate by-laws. In the other case,

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Merrill Lynch, Pierce, Fenner & Smith, Inc., v. Livingston, 566 F.2d 1119 (9th Cir. 1978), the court found that an "Account Executive" was not an officer of the corporation, even though he had access to information circulated around the office that the general public may not have had. He did not have access to the kind of information that is commonly reserved for company management that would "aid [one] if he engaged in personal market transactions." See Merrill Lynch, Pierce, Fenner & Smith, Inc., v. Livingston, 566 F.2d at 1123, citing Colby v. Klune, 178 F.2d at 873. In Gold v. Sloan, 486 F.2d 340 (4th Cir. 1979), the court found that a vice president did not have access to inside information and therefore should not be considered an officer under the Securities Exchange Act.

There are no court cases defining the term "officers" under the FECA. The legislative history of the FECA does not provide any insight to the meaning of the term officer. The analogy to cases under section 16(b) of the Securities Exchange Act of 1934 is lacking except that in determining liability, it demonstrates the need to look at the role of the employee vis-a-vis the purpose of the law regulating his conduct. In MUR 2840 (Wally Blice, Jr.) (November 28, 1990), the General Coun-

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sel stated that the term "officer," for purposes of determining personal liability under the corporate prohibition, includes those individuals with executive authority to approve the prohibited contribution or expenditure. The General Counsel's report goes on to state that the prohibition should apply to individuals in high-level positions who have managerial, policymaking, or decision-making authority in terms of their ability to take action regarding political contributions and expenditures. MUR 2840, General Counsel's Report at 8-9 (June 8, 1990).

Mr. Nelson played no such role in the management of TAI-CP. He had nothing to do with the decision-making process relating to the making of political contributions. Merely approving, in his controller role, a payment to cover the amount of a political contribution that had been made or was about to be made by a senior corporate officer does not bring him within the sphere of the corporate prohibition. To find liability, it is not sufficient for the General Counsel to find that Mr. Nelson, in some hypothetical sense, might have the authority to reject a pre-approved payment if he thought it was patently illegal. It is almost inconceivable that the Commission would pursue an employee in the accounting department of a corporation for routinely approving a

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payment that had been pre-approved by three of his superiors (Ikeda, Traeger, and Miyashita).

It is clear from the facts in this matter that Mr. Nelson had no elevated knowledge or culpability that should trigger action by the Commission and he was not an officer of TAI-CP on a de jure or a de facto basis. Mr. Nelson was simply too far down the totem pole -- coupled with the fact that he played no role and had no responsibility with regard to the decisionmaking process on making political contributions -- for the Commission to find him in violation of the law.

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Part II.

I. Toshiba America Information Systems, Inc. -- The California Case

A. Facts

In August 1985, Paul Wexler, Vice President and General Manager of Toshiba America, Inc., of what was the Industrial Electronics Business Sector and is now Toshiba America Information Systems, Inc. ("TAI-IS"), received a solicitation to join the Republican Senatorial Inner Circle ("RSIC") for a membership fee of $1,000.
Mr. Wexler met with Kazuo Ishiguro, formerly President of what is now TAI-IS, and requested that TAI-IS sponsor his membership in the "Inner Circle" and reimburse him for

the membership fee. Mr. Ishiguro approved the reimbursement, per Mr. Wexler's request, charging the $1,000 annual dues to the legal department of TAI-IS. Yasuo Nishioka, a non-lawyer, was in charge of the TAI-IS legal department. The dues reimbursement was charged to the legal department because the legal department was accumulating information regarding trade issues and it was Mr. Wexler's impression that membership in the RSIC would provide access to "insider reports" concerning legislation and regulatory developments on the trade issue. After Mr. Wexler obtained Mr. Ishiguro's approval, his secretary wrote a note to Dennis Eversole, formerly the controller to TAI-IS, who processed the paperwork and issued a $1,000 check to Mr. Wexler.

B. Prudential Considerations

The General Counsel does not allege a knowing and willful violation against TAI-IS concerning the contribution made by Paul Wexler. Unfortunately, the General Counsel, consistent with the heavy handedness that has marked the handling of this entire case, has chosen to pursue this matter which TAI-IS brought to the FEC's attention. TAI-IS and its employees have done everything possible to correct this isolated occurrence in California. There is no relationship between the California

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contribution and the Tennessee contributions. The two parts of the company are run as separate entities and have very little interaction. It is hard to imagine a more unwitting, benign violation of the law. Therefore, for the following reasons, TAI-IS urges the Commission to take no further action on this matter:

1. TAI-IS immediately informed the FEC of this matter as soon as it learned that the reimbursement to Mr. Wexler may have been improper.

2. Mr. Wexler made immediate and full restitution of the $1,000 contribution.

3. The respondents have cooperated in every way to facilitate the investigation into this matter.

4. This contribution had nothing to do with the Tennessee bonus payments or the Toshiba Machinery problem and predated those payments by almost two years.

5. The contribution was a one-time isolated occurrence in California and Mr. Wexler never even participated in the political function which motivated the contribution. TAI-IS received no benefit whatsoever as a result of the contribution.

Based on these extenuating factors, the Commission should take no further action against TAI-IS.*

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* The General Counsel's probable cause recommendations against Toshiba America, Inc. did not distinguish between the activity in Tennessee and California. There is no suggestion of a knowing and willful violation occurring in California, but the all encompassing recommendations as to the corporation imply that a knowing and willful recommendation

(Footnote continued)

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II. Kazuo Ishiguro

A. Facts

Kazuo Ishiguro became involved in this matter when Mr. Wexler requested in a handwritten note that TAI-IS sponsor his membership in the "Inner Circle." See handwritten note attached to Mr. Ishiguro's affidavit. (Copy of note submitted to the FEC by Mr. Ishiguro in response to document request.) There is nothing in the handwritten note that should have put Mr. Ishiguro on notice that it was, in fact, a request for a contribution to a political committee. Moreover, Mr. Ishiguro has never been involved in political affairs in this country, nor had he ever been asked to approve a contribution or an expenditure to a political committee. It is difficult to imagine a scenario involving less culpability on his part. No one involved in this matter, including Mr. Wexler, whose idea it was to join RSIC, had any inkling that a political contribution was involved.

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(Footnote * continued from previous page)
pertains to alleged conduct in California and Tennessee. Regardless of what recommendations are made, the General Counsel should separate the California and Tennessee recommendations. This can be done by separating and referencing the appropriate recommendations for the two subsidiaries, TAI-CP and TAI-IS.

B. Application of the Law.

The General Counsel recommends that the Commission find that Mr. Ishiguro violated 2 U.S.C. §§ 441b and 441f.

1. Contributions in the Name of Another

The General Counsel's analysis states that "[t]he Commission has interpreted section 441f to apply to individuals . . . who assist in the making of [contributions in the name of another]." The FECA and the Commission's regulations that were in effect at the time of the alleged violation indicate that a violation of section 441f occurs when an individual 1) permits his or her name to be used to effect a contribution in the name of another, 2) makes a contribution in the name of another, or 3) accepts a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. §§ 110.4(b)(1)(i), (ii), and (iii). The statutory and regulatory provisions in effect at the time of the alleged violation did not reach conduct that involves merely assisting in making a contribution in the name of another. The FEC revised its regulations in 1989, adding a new paragraph (b)(1)(iii) to section 110.4 to specifically prohibit assisting in making a contribution in the name of another. The Explana-

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tion and Justification to these revisions states as follows:

> New paragraph (b)(1)(iii) applies to those who initiate or instigate or have some significant participation in a plan or scheme to make a contribution in the name of another, including those who solicit or act as go-between to third parties whose donations are reimbursed by the individual who performs a purely ministerial act without any knowledge of the scheme, such as someone who routinely reviews or approves all checks on a specific account.

54 Fed Reg 34, 105 (August 17, 1989).

Thus, as a matter of law, Mr. Ishiguro could not have violated section 441f by merely approving the reimbursement to Mr. Wexler, even if he knew the reimbursement was for a payment to an entity called the Republican Senatorial Inner Circle.

A review of prior MURs reveals that the Commission has never pursued an individual for a violation of section 441f when he did not expressly violate the terms of former section 110.4 by providing funds or allowing his name to be used. In fact, in some instances, high level officers of a corporation were not pursued even though they actively participated in the violation by providing funds or allowing their names to be used. See MUR 1094 (Nicholson).

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In MUR 1094, the Commission took no further action against Mr. MacLeod, an individual who made a contribution to a presidential candidate and was subsequently reimbursed. Although Mr. MacLeod was a high ranking officer in the corporation (a trade association), the Commission decided, because he relied on assurances that there was nothing wrong with the transaction that resulted in a violation of section 441f, not to pursue the case. The Commission did not pursue three other individuals named in that MUR who permitted their names to be used to effect a contribution in the name of another. The Commission took no action against a fifth individual who arranged for the reimbursements and played an active role in effecting the illegal transaction. See MUR 1094 (Donald MacLeod, Betty MacLeod, Mary Ann Thomas, Mitchell Jay Addison, Robert Pyle).

In all other cases involving section 441f violations, the individuals pursued, conceived of, or played an active role in effecting the scheme, provided funds for contributions, or allowed their names to be used. See FEC v. Rodriquez, No. 86-687 Civ-T-10(B) (M.D. Fla. May 5, 1987); United States v. Board of Trade Clearing Corp., No. 84 CR 689 (N.D. Ill. Oct. 19, 1984); MUR 2465 (Seminole Tribe of Florida); MUR 2104 (Alamco); MUR 1445

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(Agency Holding Corp.); MUR 1436 (Richmond for Congress); MUR 1181 (Jualita Rivera de Vincenti); MUR 1094 (Nicholson); MUR 256 (Shapp for President).

Moreover, to the extent that the General Counsel is relying on FEC v. Rodriguez, that case is very different from this case involving Mr. Ishiguro. In Rodriguez, the court found that Mr. Rodriguez actively participated in soliciting contributions and was integral to the scheme in carrying out the violation. In this case, Mr. Ishiguro did not solicit a contribution, nor did he actively participate in any scheme; he merely unwittingly approved an isolated reimbursement of what turned out to be a contribution that he was misled to believe was a dues payment to an organization.

2. Ishiguro Did Not Consent to Make a Political Contribution Within the Meaning of Section 441b(a)

Mr. Ishiguro did not consent to the making of a political contribution or the making of a contribution in the name of another because he did not know, and reasonably could have not known, that he was authorizing a contribution. See FEC v. Re-election of Hollenbeck to Congress Committee, No. 85-2239 (D.D.C. June 16, 1986) (in that case the treasurer of the recipient committee knew he was accepting a political contribution but, since

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the contribution "would appear to be legal to any reasonable treasurer" as there was nothing on the face of the contribution to indicate illegality, the court found that the recipient did not violate the FECA). It is farfetched to impose liability in this case when an individual who has never dealt with a political matter, is asked to approve the making of a payment that turned out to be a reimbursement for a contribution to a non-candidate's political committee.

For these reasons, the Commission should find that Mr. Ishiguro did not violate the law.

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III. Dennis Eversole

A. Facts

Dennis Eversole, formerly the section Controller of what is now TAI-IS, signs all expense vouchers for payments to the high ranking employees of TAI-IS. The typical expense voucher involves reimbursement for travel expenses. Generally, Mr. Eversole signs and approves travel expense vouchers before they go to the president for final approval. In this case, however, Mr. Eversole's signature on the expense voucher was merely a ministerial act in that the top officials in Irvine, California, Mr. Ishiguro and Mr. Wexler, had already approved the payment of what was thought to be membership

dues to a trade association. Mr. Eversole signs hundreds of expense vouchers a year and does not remember signing the voucher in this transaction.

B. Application of the Law

The General Counsel has alleged that Dennis Eversole violated 2 U.S.C. § 441b by consenting to a corporate contribution. On May 9, 1989, the Commission took no further action against Mr. Eversole with regard to an alleged violation of 2 U.S.C. § 441f.

1. Eversole Is Not An Officer Within the Meaning of Section 441b(a)

Mr. Eversole was not an officer or a director of Toshiba America, Inc. Also, his functions as Sector Controller do not meet the Colby v. Klune test discussed above. Mr. Eversole's position at TAI-IS paralleled Mr. Nelson's position at TAI-CP. Although Mr. Eversole had broad accounting functions, he was not part of the senior management and did not participate in managerial decisions. He had no role in matters concerning political contributions. His job description as Sector Controller in 1985 had a salary range between a year. Mr. Eversole is not the type of corporate employee that needs to be brought within the scope of section 441b(a) to prevent the types of abuses that the corporate prohibition was intended to prevent.

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Thus, for essentially the same reasons that Mr. Nelson should not be held liable as "an officer" of the corporation, Mr. Eversole should not be held liable.

2. Eversole Did Not Consent to Making A Contribution Within the Meaning of Section 441b(a)

Mr. Eversole's involvement could not have constituted a consent to the making of a corporate contribution as required under 2 U.S.C. § 441b(a). It is well beyond the bounds of effecting the purpose of section 441b(a) to hold a controller, who is responsible for cutting hundreds of checks a year, liable under the FECA when he did not know nor could have reasonably known that he was permitting the issuance of a check for a political contribution.

The General Counsel is attempting to impose a strict liability standard for the consent provision in section 441b(a). The statute does not state that any employee who had any involvement in making a corporate contribution makes an illegal corporate contribution. The employee must have consciously decided to make a contribution before he can be held personally liable under the corporate prohibition. If the consent provision has any meaning at all, Mr. Eversole's role in the

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reimbursement to Mr. Wexler could not have constituted a violation of section 441b(a).

Thus, Mr. Eversole did not violate 2 U.S.C. § 441b(a) because he did not consent to making a political contribution. However, even if the Commission finds that he did consent, he was not an officer of the corporation and should not be treated as an officer based on his functions.

CONCLUSION

Neither justice nor the purposes of the FECA will be served by the Commission proceeding further against respondents in this case. For the reasons stated, the Commission should find no probable cause to believe that the FECA was violated.

Respectfully submitted,

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Yasuo Nishioka

January 7, 1991

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RECEIVED
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91 JAN -9 PM 4:35

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

Re: MUR 2575 (Hiroshi Ikeda)

Dear Madame Secretary:

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

Sincerely,

Jan Witold Baran

Enclosure

cc: Hiroshi Ikeda
Lawrence M. Noble, Esquire (3 copies)

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Hiroshi Ikeda)

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OFFICE OF GENERAL COUNSEL
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RESPONDENT'S BRIEF

The undersigned counsel, on behalf of Hiroshi Ikeda hereby file this Respondent's Brief in response to the General Counsel's Brief of July 27, 1990, and Supplemental Brief of November 29, 1990 in Matter Under Review ("MUR") 2575. The General Counsel's Brief recommends that the Commission find probable cause to believe that Respondent knowingly and willfully violated the Federal Election Campaign Act of 1971, as amended (the "Act"). Respondent urges the Commission to reject this recommendation, and find in lieu thereof no probable cause to believe.

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INTRODUCTION

This Matter involves an individual who was born in Japan and who had been in this country for less than a year when the activity in question took place; whose native tongue is Japanese; who understands English with difficulty; and who then and now has limited understanding of the American system of politics, except to know that an agency of the American

government believes he acted improperly.[1/] He is a businessman whose sole focus of attention was the financial success of the Toshiba America Tennessee plant. This concern is based on pride and twenty-two years with Toshiba.

The facts of the events at issue in this Matter, as told by the individuals involved, follow. However, each Commissioner should read the Depositions taken by the General Counsel's Office in this Matter in full so that each Commissioner can judge the veracity (and perhaps naiveté) of each witness for himself or herself. These depositions evidence the obvious cultural difficulties under which both Mr. Ikeda and Mr. Miyashita were laboring. They underscore the basic premise upon which every individual involved in this Matter was working - that the activity at issue was completely legal. This belief in the legality of the transactions at issue started with Robert Traeger, who suggested that Toshiba America increase his salary through bonuses, as he believed was an acceptable and legal practice in the United States, so that he could afford to participate in what Mr. Ikeda viewed as "dinner parties."[2/]

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[1/] Mr. Ikeda has now returned to Japan. The General Counsel was informed of his return and has decided to proceed against him nonetheless.

[2/] Corporations may make political contributions in Japan. Thus, there is no distinction made in Japan between subscribing to a civic or charitable, or other community dinner or event, and subscribing to a political event.

FACTS

In 1987, Mr. Ikeda was the Executive Vice President and General Manager of the Tennessee Plant of Toshiba America. Deposition of Hiroshi Ikeda before the Federal Election Commission, hereinafter "Ikeda Dep." at 5. His primary responsibility was the supervision of the manufacturing of color television sets. Response to Interrogatories dated March 11, 1988 (hereinafter "Ikeda Ints.") at #8. Mr. Ikeda was approached by Robert Traeger, the Vice President and General Manager for Toshiba America's Manufacturing Division for Consumer Products. Deposition of Robert Traeger before the Federal Election Commission, hereinafter "Traeger Dep." at 6.

Upon Mr. Ikeda's arrival in the country, Mr. Traeger was already employed as General Manager of Toshiba America's Tennessee facility. Ikeda Dep. at 12. Mr. Traeger was active in the community. Traeger Dep. at 8. In the spring of 1987, Mr. Traeger suggested that Mr. Ikeda approve a "block" bonus so that Traeger could purchase tickets to fundraisers. Id. at 12. Mr. Ikeda apparently was uncomfortable with that idea because of the company's financial situation. Id. Instead, Mr. Ikeda suggested that if Mr. Traeger wanted to attend a specific fundraising event they should discuss it at that time. Id. Mr. Traeger subsequently received an invitation to a dinner party which

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he wanted to attend. Id. at 14. Thus, one or two weeks after first approaching Mr. Ikeda, Mr. Traeger again approached Mr. Ikeda, this time with an invitation, and requested that Mr. Ikeda approve a bonus so that he could attend that event. Id. After being assured by Mr. Traeger that this was legal, Mr. Ikeda agreed to the bonus. Id. at 11. Mr. Ikeda had no independent experience with the making of campaign contributions in the United States. See, e.g. Ikeda Dep. at 63. Rather, he was relying on the representations made by Mr. Traeger, and deferred to him on matters of community relations. After persuading Mr. Ikeda to authorize purportedly legal bonus payments to Mr. Traeger, Robert Traeger made contributions to Robert Clement, Congressman Bart Gordon, Senator Albert Gore, Terry Holcomb, and Senator Sasser. Ikeda Ints. at #1.

The following excerpts from Mr. Ikeda's deposition will reflect Mr. Ikeda's memory of facts as well as his understanding of those facts.[1/]

> Q Did Toshiba America compensate Mr. Traeger for payments his wife made for political purposes?
>
> A Let me explain political purposes. When he came to my office, he received an invitation letter for a dinner party for Mr. and Mrs. Traeger. So, he said he want to attend this dinner party because many of his acquaintances may join. That is the first thing he told me. Understand what I mean?

[1/] Note: the text appears as transcribed. The brackets indicate changes made by Mr. Ikeda in reviewing the deposition.

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Q Yes.

A So, let me supplement also my understanding. Such dinner party participants participation in Japan quite normal. So, that's my -- same thing in U.S. That's my first understanding.

Q When you talk about dinner parties, you talk about -- are they dinner parties for people who are -- who hold political offices?

A I don't know [I didn't know]. Because I haven't seen the card itself. That card directly [was] mail[ed] to Mr. Traeger's house. Understand?

Q Directly mailed to his house?

A Yes. His house, his own house.

Q How do you know that it was mailed to his own house?

A He said he received the letter, invitation letter, from some person to his house. I'm [He] told me.

Q Did he say he received the invitation at his office?

A I can't remember. At that time my understanding at his house, Not office.

Q When was the first time that Mr. Traeger spoke to you about having Toshiba America pay him or compensate him for payments he made or was going to make for political purposes?

A I cannot [recall] exactly the time, but after I see that record. I suppose sometime April or end of March last year, 1987. He came to my office and just tell [told] me the card, invitation card and he want [wanted] to participate. That was first discussion. I remember at that time -- we had visits every day. Many problems occur there. So, we touch bases [spoke] and we departed.

Q In this conversation in April or March 1987, did that relate to an invitation by James Sasser?

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A I don't [didn't] know the name exactly. I cannot remember the name from who.

Q But he told you the name?

A Yes, might be.

Q Yes or no?

A Yes, he told me the name. That I cannot [couldn't] remember the name of the person.

Q Did Mr. Traeger propose that the company pay him -- increase his salary to make payments for political purposes?

A Yes. As I told you, first time he propose[d] -- come to my office with a card -- and said, I received this letter so I want to participate with my wife.

My first response was negative, for most people he told it was 1000 [$1000] to go, 500 [$500] each person. Concerning our financial status, P&L status, no money. That situation, we cannot [couldn't] afford to do so.

But one or two weeks later he again appeared to my office --[1/]

Q Let me just interrupt for a second. The first meeting when he asked about increasing his salary --

A No.

Q I want to know when the first meeting was and the second.

[1/] The General Counsel's Brief alleges that Mr. Ikeda denied that Mr. Traeger first asked for an increase in salary. General Counsel's Brief at 3 n.6. However, to the extent that Mr. Ikeda was able to answer the question, this testimony appears consistent with Mr. Traeger's and Mr. Miyashita's testimony that Mr. Traeger asked for a salary increase so that he could afford to make an increased number of personal political contributions, and that Mr. Ikeda refused.

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A That's just informed me at the first meeting just told me. We are [were] so busy at the time so touch bases. He came. I received this letter. I want to participate in this party.

Q Please.

A I can't recall, but one or two weeks later, again he appeared to my office and advise me, please let him allow to participate in the party. Because some -- have to reply, you [I] have to reply yes or no.

Q Okay.

A So, at that time he brought the idea, please pay bonus. Then we can -- then he can afford to attend he advised. That's quite unusual matter for me to pay a bonus such at May time. So, I questioned why.[?] His explanation to me, this is such a way -- well down [done] in the U.S., it is common, no problem paying bonus.

Q Paying bonus for individual payments?

A Yes.

Q Did Mr. Traeger tell you that payments by corporations for political purposes were illegal?

A No, not at all.

Ikeda Dep. 23-27.

Further, the following excerpts will reflect Mr. Traeger's recollection of the events:

Q Did you propose that Toshiba America reimburse you for political contributions?

A Yes.

Q When did you do that?

A Last May, I think, roughly; I can't remember exactly. Last spring -- a year ago spring.

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Q Who did you approach?

A I approached my boss, Mr. Ikeda, I-k-e-d-a -- pronounced "Ekada" -- and told him that I felt it appropriate to make contributions -- I make personal contributions, always have, small amounts relatively speaking, a few big ones -- that I felt that the amount of assistance, meaning an opportunity to have discussions with the representatives, was going to increase due to the political situation, the Toshiba Machinery issue, and that I should be making larger contributions or significant contributions to the people that represented us here in Washington.[2/]

And he said, "Is that legal?"

And the answer was, "Yes," through a bonus system. To my knowledge it was.

And he said, "Okay, [if] that is what we should do. Go ahead."

[2/] The General Counsel's Office superimposes the Toshiba Machinery incident onto the facts of this case. While Mr. Traeger noted that these events occurred in the same time period, there is no evidence to link the making of these contributions with any alleged "scheme" by Toshiba America to make these contributions. In fact, the evidence shows that Mr. Traeger, on his own, thought it would be beneficial to become more involved in giving campaign contributions as he had done in the past, and that there was no initiative by Toshiba America in general or Mr. Ikeda specifically to make these contributions. See Traeger Dep. at 75-76 and 84. Further, Mr. Ikeda did not attend any meetings with regard to the Toshiba machinery issue but rather he was kept abreast of general activities undertaken by Toshiba America through Robert Traeger. Mr. Traeger testified that meetings (which Mr. Ikeda did not attend) took place generally after July, 1987, and Mr. Ikeda, contrary to the assertion of the General Counsel's Brief, explained his understanding of these events to the best of his ability. However, these events were only relevant to Mr. Ikeda in that they had the potential to affect the functioning of the Tennessee plant of Toshiba America for which he was responsible. This event highlights Mr. Ikeda's alienation from the American culture and the events swirling around him.

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Q Had you ever spoken to Mr. Ikeda about your political contributions prior to the spring of 1987?

A Yes, I think I probably mentioned that I had made contributions to XY at some point in time, obviously that I was active in contacting various representatives for, as I say, various legislation being proposed or on the books, or the Federal Trade Commission or whatever it might be -- customs, foreign trade sales issues, that type of thing -- almost since the time we started the plant.

Q Did you ever discuss, prior to spring 1987, with Mr. Ikeda, who should be a recipient of your political contributions?

A No. That was strictly my own decision of who I thought we ought to give to.

Q Did you contact anyone other than Mr. Ikeda about your political contributions prior to that time?

A No.

Q What system of reimbursement did you propose to Ikeda in the spring of 1987?

A That I be paid a bonus, from which then I would have money that I could make a contribution with.

Q When you say "a bonus," do you mean an overall salary increase, or do you mean a reimbursement for a specific contribution?

A Well, I proposed a block originally, and then we discussed that, and he was not sure we should do that. So then he said, "Well, rather than that, if you've got a specific request, why don't we pay you a bonus to cover that specific request." So that's the way we did it.

. . .

Q Did he flat-out reject the idea of an overall bonus?

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A "Flat-out reject" -- I don't know quite what that means, but I proposed it and he said he didn't think he wanted to do that. Then I made a counterproposal, if there's a specific request and a need for that amount of money, and he said okay.

Q Was your counterproposal for a specific fundraising event, or was it for a general course of reimbursement?

A No, where there was a specific request toward a fundraising activity that I felt it appropriate that I make a contribution to, I went to him and said, "This is the activity, and here is the money that I'd like to contribute, so I need a bonus to cover that amount."

Q Did you tell him who the request had come from?

A Yes, sure, a Senator or Congressman or whoever.

Q At this meeting with Mr. Ikeda, who had requested the contribution from you?

. . .

A The first one, I don't remember if that was Sasser or Gore -- I believe one or the other Senators, and subsequent ones. You know, there are fund drives going on all the time. To keep them in order of which one came first and exactly what dates, I can't remember, except that this is a standard procedure. You get a barrage of fundraising requests. They come across your desk all the time.

Q When you get the fundraiser requests, do they come to you at the plant in your capacity as Vice President and General Manager of Toshiba America?

A I can't remember how they are addressed. I think they're usually just by name. Well, they come to the plant so they have an address on them. At least they have my name . They may or may not have my title. I get them at home too.

Q The contributions which you made which were reimbursed by Toshiba America, were those

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contributions in response to requests that you received at the plant?

A I am not sure whether they came to the house or whether they came to the plant.

Q When you approached Mr. Ikeda in the spring of 1987 with the request, did you show him a copy of the invitation or the request from the Congressman or Senator?

A I don't recall whether I showed him or not. I can't remember if I showed him the specific request or not.

Q But you identified the individual who had requested it?

A Yes, I told him what I was going to use the money for.

Q Did you discuss at all whether or not it would be appropriate for Toshiba's interest to make a contribution to that individual?

A That you can't do. The company cannot make a contribution so I never even suggested it -- other than through a PAC. I had proposed several times over the 10 years that the company ought to consider forming a PAC, but it was never accepted, so we never have.

Traeger Dep. at 10-17.[5/]

Mr. Miyashita, the Vice President and Assistant Treasurer for Toshiba America in charge of finances at the Lebanon plant, who apparently speaks no English, also

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[5/] As discussed in more detail below, Mr. Traeger distinguished between a corporation making a contribution and his personally receiving a salary increase in the form of a bonus so that he could afford to attend political events. Mr. Traeger's understanding that he would be making the contributions personally, and not the corporation, is the premise on which he based his request for a bonus.

testified as to his understanding of these events.[1/] His testimony (through an interpreter) confirms that Mr. Ikeda told him that Mr. Traeger first requested an increase in salary which Mr. Ikeda disapproved. Deposition of Tsunehiro Miyashita before the Federal Election Commission, hereinafter "Miyashita Dep." at 50.

> Q. Mr. Miyashita, did you, were you asked to increase Mr. Traeger's salary in general to make these contributions?
>
> A. No, I wasn't asked but, I heard that from Mr. Ikeda.
>
> Mr. Earnshaw: That Traeger had asked that of Ikeda.
>
> BY MS. GREENE:
>
> Q. And, did Mr. Ikeda say that he had denied Mr. Traeger's request to increase the salary overall?
>
> A. Mr. Ikeda denied the whole increase, Mr. Traeger's salary.

Moreover, Mr. Miyashita had no meaningful understanding of the word "contribution" as used in the election law as is evident from the following colloquium:

> Q. And, what were these checks for?

1/ Mr. Miyashita gave his testimony in Japanese. The Commission provided an interpreter who was a Japanese student and who apparently felt uncomfortable because of her lack of experience as a translator. She had been employed only once before as an interpreter and had no familiarity with the legal terms involved. For instance, she asked the Commission attorneys to explain what the term "subpoena" meant, and stated "I think I'm not the appropriate person here, a lot of law and things involved." Miyashita Dep. at 4. The deposition proceeded despite the obvious difficulty in understanding. Mr. Earnshaw apparently represents Mr. Miyashita and was also interpreting during the deposition.

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A. What I can say right now is that these for dinner ticket. First I thought these were for contribution or donation but, someone told me these are for dinner party and then so, at this point, I say these are for dinner party but, before the someone told me these were for dinner party, I thought these were for contribution or donation.

Q. Then, let's take the, who told you that these checks were for dinner parties?

A. Mr. Ikeda.

Q. When did he tell you this?

A. I'm not sure but maybe around the time I got the second check.

Q. Around the time you signed the second check?

A. About the time I signed the second check.

Q. When you signed the second check, was it your understanding that it was for a political contribution?

A. I didn't know it was for a political contribution. I have trouble with the word contribution but, I know that the money will be given but, I don't know how the money would be used or what the benefit of the dinner party to that, the person who is contributing.

Q. I don't understand the answer, did you understand---

A. For me, contribution is understood as political contribution but, at that time, I just simply thought there was money would be given, not in political sense.

. . .

A. . . . at that time, I felt that would benefit Mr. Traeger, only.

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Miyashita Dep. at 61-63.[1/]

SUMMARY

Thus, to summarize Mr. Ikeda's role in this matter, he is a Japanese national who had been sent to this country in order to run the Tennessee plant of Toshiba America. He was not interested in or familiar with American politics, had not been taught anything about American politics or election law, and deferred to Robert Traeger, the Vice President and

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[1/] The General Counsel's Brief attacks Mr. Ikeda's credibility in many respects. However, this report was prepared by an individual not present at the deposition. The Brief fails to take into consideration Mr. Ikeda's understanding of English and the legal concepts being presented to Mr. Ikeda during the deposition. This is a further reason why the Commission should read the depositions in this matter in full, so as to develop a complete understanding of the participants and appreciate the unique circumstances of Mr. Ikeda.

Indeed, because of Mr. Ikeda's limited facility with English, it is clear that the questions were often taken literally, without reference to context. Thus, for instance, when the General Counsel's Brief attacks Mr. Ikeda's credibility based on his response to the question of whether Mr. Traeger ever proposed that Toshiba America start a PAC, his response is quite consistent with the testimony given by Mr. Traeger. In 1987, the year these contributions were made, Mr. Traeger did not propose that Toshiba America start a PAC. Traeger Dep. at 18. In reading Mr. Ikeda's deposition it is easy to discern that Mr. Ikeda was focusing only on 1987 and the specific events surrounding the contributions made by Mr. Traeger. See Ikeda Dep. at 23-29. Moreover, Mr. Ikeda testified that he did not understand what a PAC was. Ikeda Dep. at 29. This too is consistent with the testimony of Mr. Traeger who testified that he proposed the idea of a PAC to Mr. Ikeda in the fall of 1986, not the spring of 1987, and that Mr. Ikeda and his predecessor "had no familiarity with that type of structure, and so I'm just assuming, you know, 'What's that? It sounds strange. Let's not get involved.' That's just an assumption." Traeger Dep. at 17. See also id. at 18.

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July. He again approached Mr. Ikeda in each of these circumstances, and permission was again granted. Two additional bonus checks were issued in November.[2/]

As a result of these events, a total of $3,700 was contributed by Mr. Traeger and his wife to several candidates. This Matter involves those contributions, $2,200 of which have been refunded. See General Counsel's Brief at 6.

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THE LAW

2 U.S.C. § 441f states that:

> No person shall make a contribution in the name of another or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another.

The Act defines the term "person" to include:

> an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority if the Federal Government.

2 U.S.C. § 431(11).

In addition, 2 U.S.C. § 441b states that

> It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a

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2/ While Mr. Ikeda does not recall whether Mr. Traeger approached him for these payments, Ikeda Dep. at 56-58, Mr. Traeger states that he did consult with Mr. Ikeda prior to receiving the payroll checks. Traeger Dep. at 70.

> contribution or expenditure in connection with any election to any political office . . . or any officer or any director of any corporation or any national bank. . . to consent to any contribution or expenditure by the corporation . . . prohibited by this section.

2 U.S.C. § 437g(a)(5)(B) states that:

> If the Commission believes that a knowing and willful violation of this Act . . . has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such a conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

The Act does not define the term "knowing and willful" nor is that term defined by regulation. However, the term knowing and willful should require cognizance on the part of the individual or entity involved that the action taken violates the law. The General Counsel's Brief admits that this is the standard to be applied. General Counsel's Brief at 8, citing Federal Election Commission v. John A. Dramesi for Congress Committee, 640 F. Supp. 985 (D.N.J. 1986). This element of knowing that one is violating the law is sorely lacking as it pertains to Mr. Ikeda.[10/]

[10/] The General Counsel's Brief of July 27, 1990 contained a discussion of the legislative history of the term "knowing and willful." On November 29, 1990, the General Counsel's Office issued a Supplemental Brief stating that its initial discussion had been erroneous. In particular, the General Counsel's Office is now alleging that it does not (continued...)

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DISCUSSION

Section 441f

In recommending probable cause to believe that Mr. Ikeda violated 2 U.S.C. § 441f, the General Counsel's Brief ignores the language of the statute. That section is applicable only to the person who makes a contribution in the name of another or who permits his name to be used to effect such a contribution. Mr. Ikeda was not that individual under any interpretation of the facts of this Matter nor does the General Counsel's Brief suggest that he was such a person. Rather, without citation to the law, or any authority at all, the General Counsel's Brief alleges that "[h]e did, however, authorize a series of corporate payments to provide the Traegers with funds to make contributions in their own names and directed his subordinates to issue such payments" as if this had some relevance. General Counsel's Brief at 9. Even if this were true -- and it is not, as shown below -- this does not constitute a violation of section 441f by Mr. Ikeda since he neither used his name or permitted his name to be

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12/(...continued)
need "clear and convincing" proof of a violation because that language was removed from the Act even though the Committee on House Administration stated that its intent was not to reduce the standard for a knowing and willful violation. See General Counsel's Supplemental Brief.

used to effect a contribution in the name of another.[11/] Thus, since Mr. Ikeda did not violate section 441f on its face, he could not possibly have knowingly and willfully violated section 441f.

Section 441b

While the evidence shows that Mr. Ikeda did not "consent" to the making of contributions in violation of section 441b, the General Counsels' Brief contends that Mr. Ikeda protested too much that he did not know that such payments were illegal. However, every shred of evidence indicates that Mr. Traeger believed these payments were legal, that he advised Mr. Ikeda that they were legal, that Mr. Ikeda believed these payments were legal, and that Mr. Ikeda in turn, informed Mr. Miyashita that they were legal. This is further evidenced by the fact that the names of the politicians involved meant nothing to Mr. Ikeda, even if he was able to repeat who they were at the time. In some cases,

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11/ In its Statement of Law, the General Counsel's Brief cites to an unreported case for the proposition that "[t]he Commission has interpreted Section 441f to apply to individuals who knowingly assist the making of contributions in the name of another where that individual was actively and directly or deeply involved in instigating, implementing or masterminding a plan or scheme to reimburse individuals for contributions with corporate funds." General Counsel's Brief at 7-8. Mr. Ikeda played no such role in this transaction.

Mr. Ikeda still does not know who they are.[12/] To suggest otherwise is simply inaccurate.

In order to make the case that Mr. Ikeda did in fact consent to contributions in violation of section 441b, the General Counsel's Brief distorts Mr. Traeger's testimony that he had explained a PAC was the only legal vehicle through which the corporation could make its contributions. However, Mr. Traeger explained repeatedly to the General Counsel's Office that he believed receiving an increase in salary in the form of a bonus was completely legal. See, e.g., Traeger Dep. at 11, 21-22, and 85. As is apparent from his deposition testimony, never once did the thought cross his mind that Toshiba America was making an illegal corporate contribution when it granted him bonuses to attend political fundraisers because he believed that those contributions would then be coming from him on an individual basis. Rather, in his mind what he proposed was legal:

> "here's a situation that needs to be responded to in my judgment politically and they need contributions. The company cannot make payments. It has to be done on an individual basis. Here's a method to do it, by paying me a bonus, and then with the proceeds of the bonus I can make a payment, and that's legal." And to my knowledge it was.

12/ Interestingly enough, Mr. Miyashita also testified that he had no interest in who the individuals were and that he did not even know whether they were federal, state or local politicians. Miyashita Dep. at 80-82.

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Traeger Dep. at 21-22. Further, in explaining why he never discussed with legal counsel the idea of having Toshiba pay him for his contributions, Mr. Traeger states:

> Because I thought what I was doing was totally legal, so why discuss that with counsel?

Traeger Dep. at 85. Thus, if Mr. Traeger thought that he was getting an increase in salary which would facilitate his ability to make personal contributions, which is legal, certainly Mr. Ikeda, who relied on Mr. Traeger for this information, thought that these payments were legal. Consent implies understanding of the action taken. Here, no such understanding is demonstrable. Quite the opposite, Mr. Ikeda believed he was agreeing to pay a bonus which would benefit Mr. Traeger. He did not have the cultural understanding to realize that there could be other implications attributed to his actions.

Furthermore, in an effort to suggest that Mr. Ikeda was cognizant of the American system of campaign financing, the General Counsel's Brief is written in a manner which suggests that Mr. Traeger proposed the idea of a PAC contemporaneously with the idea that the company pay him a bonus so that he could attend political fundraisers. The Brief suggests that Mr. Ikeda refused to do something legal in favor of doing something illegal, and therefore knowingly and willfully violated the Act. This did not occur.

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First, when directly asked the question "[d]o you know what a PAC or a political action committee is? Do you understand what the term PAC or political action committee means?" Mr. Ikeda responded "No." Ikeda Dep. at 29. Second Mr. Traeger confirmed that Mr. Ikeda did not understand what a PAC was. (Mr. Traeger testified that Mr. Ikeda and his predecessor "had no familiarity with that type of structure, and so I'm just assuming, you know, 'What's that? It sounds strange. Let's not get involved.' That's just an assumption." Traeger Dep. at 17.) Third, Mr. Traeger did not propose that a PAC be created in the spring of 1987, but rather in the fall of 1986. Traeger Dep. at 18. Thus, these two distinct and disjointed events are not probative of Mr. Ikeda having "consented" to making corporate contributions in this matter. Moreover, even if the events had been contemporaneous the fact would still be that Mr. Ikeda refused to so something legal in favor of doing something that was equally legal as he understood it from Mr. Traeger. This is not consent to a contribution prohibited by section 441b and thus cannot possibly be a knowing and willful violation of the law.

In sum, neither Mr. Ikeda, Mr. Traeger or Mr. Miyashita believed that by paying Mr. Traeger a bonus, corporate contributions were being made. Rather, Mr. Traeger believed that an increase in his salary meant that he was making the

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contributions personally and that this was legal in the United States. He told Mr. Ikeda that this was legal and Mr. Ikeda believed him. Mr. Ikeda simply granted a request by Mr. Traeger so as to allow Mr. Traeger to become more involved in community affairs. He neither "authorized" nor "consented" to any contributions in violation of section 441b. He didn't have the ability to do so given his understanding of American politics in general and these transactions in particular. Without this threshold finding, the question of a knowing and willful violation becomes superfluous.

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CONCLUSION

The facts and common sense dictate that what occurred in this case was an unfortunate mistake. The individuals were well intentioned, but acted with ignorance of the law, and, in Mr. Ikeda's case, with a total misunderstanding of the distinction between a "dinner party" and an unlawful American political contribution. This misunderstanding is as genuine as the Commission's own interpreter's discomfort with and confusion about legal terminology including her failure to understand the term "subpoena." A stranger in a strange land naturally relies on the experience and "wisdom" of someone like Robert Traeger regarding local customs. In retrospect, Mr. Ikeda's reliance was misplaced.

A reading of the transcripts shows that Mr. Ikeda acted with Mr. Traeger's express representation that the now questioned payments were legal, and there is nothing in the evidence to suggest that Mr. Ikeda knowingly engaged in anything that was intended to be a subterfuge. Accordingly, the Commission should kind no probable cause to believe that Mr. Ikeda violated the Act.

Respectfully Submitted,

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January 10, 1991

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OFFICE OF GENERAL COUNSEL

BY HAND

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, Northwest
Washington, D.C. 20463
Attn: Michael Marinelli, Esq.

Re: MUR 2575
Toshiba America, Inc. et al.

Dear Mr. Noble:

On January 8, 1991, the day after the responses to the General Counsel's probable cause briefs in the above referenced matter were submitted to the Commission, the Supreme Court rendered an opinion that may be instructive on the issue of knowing and willful conduct. See Cheeks v. United States, No. 89-658, 1991 U.S. Lexis 348 (January 8, 1991) (Copy attached).

In Cheeks v. United States, the Internal Revenue Service charged that Mr. Cheeks willfully violated the law by failing to file tax returns. Although Mr. Cheeks admitted that he did not file his returns, he contended that he did not ove income taxes because of his belief that wages were not income and that he was not a taxpayer within the meaning of the Internal Revenue Code. The Supreme Court ruled that a jury should consider whether that belief was reasonable in determining whether Mr. Cheeks willfully violated the law. Thus, a good faith misunderstanding of the law based on a good-faith belief that one is not violating the law, negates willfulness, whether or not the claimed belief of misunderstanding is objectively reasonable.

In MUR 2575, Robert Traeger contends that he believed that bonus payments for political contributions were legal even though he understood that expense reim-

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bursements for political contributions were not legal. The General Counsel rejects Mr. Traeger's distinction between bonus payments and expense reimbursements as a meaningful distinction and recommends a knowing and willful violation against Toshiba America Consumer Products, Inc. ("TAI-CP") by imputing Mr. Traeger's conduct to TAI-CP. In determining whether Mr. Traeger's conduct was knowing and willful, the Commission must consider Mr. Traeger's good-faith belief that he was not violating the law.

As stated in our January 7, 1991 response, the General Counsel appears to ignore evidence of good-faith belief and applies a standard of conduct based on Mr. Traeger's general knowledge that direct and indirect corporate contributions are illegal. The record supports the conclusion that Mr. Traeger did not understand the full meaning of the corporate prohibition. His contention that he did not understand that his conduct was illegal is credible based on his testimony and circumstantial evidence, as discussed in detail in TAI-CP brief. Thus, Mr. Traeger's contention should be accorded great weight, particularly in view of the complexity of the concept of indirect contributions under the federal campaign finance law.

Cheeks v. United States provides yet another basis for the Commission to reject the General Counsel's recommendation with regard to knowing and willful conduct. In fact, it is our hope that the General Counsel will revise his recommendation to the Commission and not recommend a knowing and willful violation.

Thank you for your consideration of this additional information.

Respectfully submitted,

Kenneth A. Gross

Enclosure

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1ST CASE of Level 1 printed in FULL format.

JOHN L. CHEEK, PETITIONER v. UNITED STATES
CHEEKS V. UNITED STATES

No. 89-658

SUPREME COURT OF THE UNITED STATES

1991 U.S. LEXIS 348

October 3, 1990, Argued
January 8, 1991, Decided

NOTICE: [*1]
The LEXIS pagination of this document is subject to change pending release of the final published version.

PRIOR HISTORY:

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

DISPOSITION: 882 F. 2d 1263, vacated and remanded.

SYLLABUS: Petitioner Cheek was charged with six counts of willfully failing to file a federal income tax return in violation of § 7203 of the Internal Revenue Code (Code) and three counts of willfully attempting to evade his income taxes in violation of § 7201. Although admitting that he had not filed his returns, he testified that he had not acted willfully because he sincerely believed, based on his indoctrination by a group believing that the federal tax system is unconstitutional and his own study, that the tax laws were being unconstitutionally enforced and that his actions were lawful. In instructing the jury, the court stated that an honest but unreasonable belief is not a defense and does not negate willfulness, and that Cheek's beliefs that wages are not income and that he was not a taxpayer within the meaning of the Code were not objectively reasonable. It also instructed the jury that a person's opinion that the tax laws violate his constitutional rights [*2] does not constitute a good-faith misunderstanding of the law. Cheek was convicted, and the Court of Appeals affirmed.

Held:

1. A good-faith misunderstanding of the law or a good-faith belief that one is not violating the law negates willfulness, whether or not the claimed belief or misunderstanding is objectively reasonable. Statutory willfulness, which protects the average citizen from prosecution for innocent mistakes made due to the complexity of the tax laws, United States v. Murdock, 290 U.S. 389, is the voluntary, intentional violation of a known legal duty. United States v. Pomponio, 429 U.S. 10. Thus, if the jury credited Cheek's assertion that he truly believed that the Code did not treat wages as income, the Government would not have carried its burden to prove willfulness, however unreasonable a court might deem such a belief. Characterizing a belief as objectively unreasonable transforms what is normally a factual inquiry into a legal one, thus preventing a jury from considering it. And forbidding a jury to consider evidence that might negate willfulness would raise a serious question under the Sixth

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Amendment's jury trial provision, which this interpretation of the statute [*3] avoids. Of course, in deciding whether to credit Cheek's claim, the jury is free to consider any admissible evidence showing that he had knowledge of his legal duties. Pp. 6-11.

2. It was proper for the trial court to instruct the jury not to consider Cheek's claim that the tax laws are unconstitutional, since a defendant's views about the tax statutes' validity are irrelevant to the issue of willfulness and should not be heard by a jury. Unlike the claims in the Murdock-Pomponio line of cases, claims that Code provisions are unconstitutional do not arise from innocent mistakes caused by the Code's complexity. Rather, they reveal full knowledge of the provisions at issue and a studied conclusion that those provisions are invalid and unenforceable. Congress could not have contemplated that a taxpayer, without risking criminal prosecution, could ignore his duties under the Code and refuse to utilize the mechanisms Congress provided to present his invalidity claims to the courts and to abide by their decisions. Cheek was free to pay the tax, file for a refund, and, if denied, present his claims to the courts. Also, without paying the tax, he could have challenged claims of tax deficiencies [*4] in the Tax Court. Pp. 11-14.

882 F. 2d 1263, vacated and remanded.

JUDGES: White, J., delivered the opinion of the Court, in which Rehnquist, C. J., and Stevens, O'Connor, and Kennedy, JJ., joined. Scalia, J., filed an opinion concurring in the judgment. Blackmun, J., filed a dissenting opinion, in which Marshall, J., joined. Souter, J., took no part in the consideration or decision of the case.

OPINIONBY: WHITE

OPINION: Title 26, § 7201 of the United States Code provides that any person "who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof" shall be guilty of a felony. Under 26 U.S.C. § 7203, "any person required under this title . . . or by regulations made under authority thereof to make a return . . . who willfully fails to . . . make such return" shall be guilty of a misdemeanor. This case turns on the meaning of the word "willfully" as used in §§ 7201 and 7203.

I

Petitioner John L. Cheek has been a pilot for American Airlines since 1973. He filed federal income tax returns through 1979 but thereafter ceased to file returns. n1 He also claimed an increasing number of withholding allowances -- eventually claiming 60 allowances by mid-1980 -- and for [*5] the years 1981 to 1984 indicated on his W-4 forms that he was exempt from federal income taxes. In 1983, petitioner unsuccessfully sought a refund of all tax withheld by his employer in 1982. Petitioner's income during this period at all times far exceeded the minimum necessary to trigger the statutory filing requirement.

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n1 Cheek did file what the Court of Appeals described as a frivolous return in 1982.

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ult of his activities, petitioner was indicted for 10 violations of . He was charged with six counts of willfully failing to file a ome tax return for the years 1980, 1981, and 1983 through 1986, in f 26 U.S.C. § 7203. He was further charged with three counts of ttempting to evade his income taxes for the years 1980, 1981, and olation of 26 U.S.C. § 7201. In those years, American Airlines ubstantially less than the amount of tax petitioner owed because of is allowances and exempt status he claimed on his W-4 forms. n2 The es [*6] with which petitioner was charged are specific intent t require the defendant to have acted willfully.

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use petitioner filed a refund claim for the entire amount withheld by er in 1982, petitioner was also charged under 18 U.S.C. § 287 with one resenting a claim to an agency of the United States knowing the claim e and fraudulent.

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l, the evidence established that between 1982 and 1986, petitioner was n at least four civil cases that challenged various aspects of the come tax system. n3 In all four of those cases, the plaintiffs were by the courts that many of their arguments, including that they were ers within the meaning of the tax laws, that wages are not income, Sixteenth Amendment does not authorize the imposition of an income tax duals, and that the Sixteenth Amendment is unenforceable, were or had been repeatedly rejected by the courts. During this time etitioner also attended at least [*7] two criminal trials of persons ith tax offenses. In addition, there was evidence that in 1980 or 1981 ey had advised Cheek that the courts had rejected as frivolous the t wages are not income. n4

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March 1982, Cheek and another employee of the company sued American to challenge the withholding of federal income taxes. In April 1982, ed the IRS in the United States Tax Court, asserting that he was not a or a person for purposes of the Internal Revenue Code, that his wages income, and making several other related claims. Cheek and four others ed an action against the United States and the CIR in Federal District laiming that withholding taxes from their wages violated the Sixteenth t. Finally, in 1985 Cheek filed claims with the IRS seeking to have the taxes withheld from his wages in 1983 and 1984. When these claims allowed, he brought suit in the District Court claiming that the ing was an unconstitutional taking of his property and that his wages income. In dismissing this action as frivolous, the District Court costs and attorneys fees of $ 1,500 and a sanction under Rule 11 in the f $ 10,000. The Court of Appeals agreed that Cheek's claims were s, reduced the District Court sanction to $ 5,000 and imposed an al sanction of $ 1,500 for bringing a frivolous appeal.

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As a result of his activities, petitioner was indicted for 10 violations of federal law. He was charged with six counts of willfully failing to file a federal income tax return for the years 1980, 1981, and 1983 through 1986, in violation of 26 U.S.C. § 7203. He was further charged with three counts of willfully attempting to evade his income taxes for the years 1980, 1981, and 1983 in violation of 26 U.S.C. § 7201. In those years, American Airlines withheld substantially less than the amount of tax petitioner owed because of the numerous allowances and exempt status he claimed on his W-4 forms. n2 The tax offenses [*6] with which petitioner was charged are specific intent crimes that require the defendant to have acted willfully.

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n2 Because petitioner filed a refund claim for the entire amount withheld by his employer in 1982, petitioner was also charged under 18 U.S.C. § 287 with one count of presenting a claim to an agency of the United States knowing the claim to be false and fraudulent.

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At trial, the evidence established that between 1982 and 1986, petitioner was involved in at least four civil cases that challenged various aspects of the federal income tax system. n3 In all four of those cases, the plaintiffs were informed by the courts that many of their arguments, including that they were not taxpayers within the meaning of the tax laws, that wages are not income, that the Sixteenth Amendment does not authorize the imposition of an income tax on individuals, and that the Sixteenth Amendment is unenforceable, were frivolous or had been repeatedly rejected by the courts. During this time period, petitioner also attended at least [*7] two criminal trials of persons charged with tax offenses. In addition, there was evidence that in 1980 or 1981 an attorney had advised Cheek that the courts had rejected as frivolous the claim that wages are not income. n4

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n3 In March 1982, Cheek and another employee of the company sued American Airlines to challenge the withholding of federal income taxes. In April 1982, Cheek sued the IRS in the United States Tax Court, asserting that he was not a taxpayer or a person for purposes of the Internal Revenue Code, that his wages were not income, and making several other related claims. Cheek and four others also filed an action against the United States and the CIR in Federal District Court, claiming that withholding taxes from their wages violated the Sixteenth Amendment. Finally, in 1985 Cheek filed claims with the IRS seeking to have refunded the taxes withheld from his wages in 1983 and 1984. When these claims were not allowed, he brought suit in the District Court claiming that the withholding was an unconstitutional taking of his property and that his wages were not income. In dismissing this action as frivolous, the District Court imposed costs and attorneys fees of $ 1,500 and a sanction under Rule 11 in the amount of $ 10,000. The Court of Appeals agreed that Cheek's claims were frivolous, reduced the District Court sanction to $ 5,000 and imposed an additional sanction of $ 1,500 for bringing a frivolous appeal.

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n4 The attorney also advised that despite the Fifth Amendment, the filing of a tax return was required and that a person could challenge the constitutionality of the system by suing for a refund after the taxes had been withheld, or by putting himself "at risk of criminal prosecution."

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[*8]

Cheek represented himself at trial and testified in his defense. He admitted that he had not filed personal income tax returns during the years in question. He testified that as early as 1978, he had begun attending seminars sponsored by, and following the advice of, a group that believes, among other things, that the federal tax system is unconstitutional. Some of the speakers at these meetings were lawyers who purported to give professional opinions about the invalidity of the federal income tax laws. Cheek produced a letter from an attorney stating that the Sixteenth Amendment did not authorize a tax on wages and salaries but only on gain or profit. Petitioner's defense was that, based on the indoctrination he received from this group and from his own study, he sincerely believed that the tax laws were being unconstitutionally [*9] enforced and that his actions during the 1980-1986 period were lawful. He therefore argued that he had acted without the willfulness required for conviction of the various offenses with which he was charged.

In the course of its instructions, the trial court advised the jury that to prove "willfulness" the Government must prove the voluntary and intentional violation of a known legal duty, a burden that could not be proved by showing mistake, ignorance, or negligence. The court further advised the jury that an objectively reasonable good-faith misunderstanding of the law would negate willfulness but mere disagreement with the law would not. The court described Cheek's beliefs about the income tax system n5 and instructed the jury that if it found that Cheek "honestly and reasonably believed that he was not required to pay income taxes or to file tax returns," App. 81, a not guilty verdict should be returned.

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n5 "The defendant has testified as to what he states are his interpretations of the United States Constitution, court opinions, common law and other materials he has reviewed. . . . He has also introduced materials which contain references to quotations from the United States Constitution, court opinions, statutes, and other sources.

"He testified he relied on his interpretations and on these materials in concluding that he was not a person required to file income tax returns for the year or years charged, was not required to pay income taxes and that he could claim exempt status on his W-4 forms, and that he could claim refunds of all moneys withheld." App. 75-76.

"Among other things, Mr. Cheek contends that his wages from a private employer, American Airlines, does not constitute income under the Internal Revenue Service laws." Id., at 81.

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[*10]

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After several hours of deliberation, the jury sent a note to the judge that stated in part:

"'We have a basic disagreement between some of us as to if Mr. Cheek honestly & reasonably believed that he was not required to pay income taxes.

. . . . .

"'Page 32 [the relevant jury instruction] discusses good faith misunderstanding & disagreement. Is there any additional clarification you can give us on this point?'" Id., at 85.

The District Judge responded with a supplemental instruction containing the following statements:

"[A] person's opinion that the tax laws violate his constitutional rights does not constitute a good faith misunderstanding of the law. Furthermore, a person's disagreement with the government's tax collection systems and policies does not constitute a good faith misunderstanding of the law." Id., at 86.

At the end of the first day of deliberation, the jury sent out another note saying that it still could not reach a verdict because "we are divided on the issue as to if Mr. Cheek honestly & reasonably believed that he was not required to pay income tax.'" Id., at 87. When the jury resumed its deliberations, the District Judge gave the jury an additional instruction. [*11] This instruction stated in part that "an honest but unreasonable belief is not a defense and does not negate willfulness," id., at 88, and that "advice or research resulting in the conclusion that wages of a privately employed person are not income or that the tax laws are unconstitutional is not objectively reasonable and cannot serve as the basis for a good faith misunderstanding of the law defense." Ibid. The court also instructed the jury that "persistent refusal to acknowledge the law does not constitute a good faith misunderstanding of the law." Ibid. Approximately two hours later, the jury returned a verdict finding petitioner guilty on all counts. n6

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n6 A note signed by all 12 jurors also informed the judge that although the jury found petitioner guilty, several jurors wanted to express their personal opinions of the case and that notes from these individual jurors to the court were "a complaint against the narrow & hard expression under the constraints of the law." Id., at 90. At least two notes from individual jurors expressed the opinion that petitioner sincerely believed in this cause even though his beliefs might have been unreasonable.

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[*12]

Petitioner appealed his convictions, arguing that the District Court erred by instructing the jury that only an objectively reasonable misunderstanding of the law negates the statutory willfulness requirement. The United States Court of Appeals for the Seventh Circuit rejected that contention and affirmed the convictions. 882 F. 2d 1263 (1989). In prior cases, the Seventh Circuit had made clear that good-faith misunderstanding of the law negates willfulness only if the defendant's beliefs are objectively reasonable; in the Seventh Circuit,

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even actual ignorance is not a defense unless the defendant's ignorance was itself objectively reasonable. See, e.g., United States v. Buckner, 830 F. 2d 102 (1987). In its opinion in this case, the court noted that several specified beliefs, including the beliefs that the tax laws are unconstitutional and that wages are not income, would not be objectively reasonable. n7 Because the Seventh Circuit's interpretation of "willfully" as used in these statutes conflicts with the decisions of several other Court of Appeals, see, e. g., United States v. Whiteside, 810 F. 2d 1306, 1310-1311 (CA5 1987); United States v. Phillips, 775 F. 2d 262, [*13] 263-264 (CA10 1985); United States v. Aitken, 755 F. 2d 188, 191-193 (CA1 1985), we granted certiorari, 493 U.S. (1990).

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n7 The opinion stated, 882 F. 2d 1263, 1268-1269, n. 2 (CA7 1989), as follows:

"For the record, we note that the following beliefs, which are stock arguments of the tax protester movement, have not been, nor ever will be, considered 'objectively reasonable' in this circuit:

"(1) the belief that the sixteenth amendment to the constitution was improperly ratified and therefore never came into being;

"(2) the belief that the sixteenth amendment is unconstitutional generally;

"(3) the belief that the income tax violates the takings clause of the fifth amendment;

"(4) the belief that the tax laws are unconstitutional;

"(5) the belief that wages are not income and therefore are not subject to federal income tax laws;

"(6) the belief that filing a tax return violates the privilege against self-incrimination; and

"(7) the belief that Federal Reserve Notes do not constitute cash or income.

"Miller v. United States, 868 F. 2d 236, 239-41 (7th Cir. 1989); Buckner, 830 F. 2d at 102; United States v. Dube, 820 F. 2d 886, 891 (7th Cir. 1987); Coleman v. Comm'r, 791 F. 2d 68, 70-71 (7th Cir. 1986); Moore, 627 F. 2d at 833. We have no doubt that this list will increase with time."

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[*14]

II

The general rule that ignorance of the law or a mistake of law is no defense to criminal prosecution is deeply rooted in the American legal system. See, e. g., United States v. Smith, 5 Wheat. 153, 182 (1820) (Livingston, J., dissenting); Barlow v. United States, 7 Pet. 404, 411 (1833); Reynolds v. United States, 98 U.S. 145, 167 (1879); Shevlin-Carpenter Co. v. Minnesota, 218 U.S. 57, 68 (1910); Lambert v. California, 355 U.S. 225, 228 (1957); Liparota v.

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v. International Minerals and Chemical Co., 402 U.S. 558, 563-565 (1971). Or alternatively, one may say, as we have said until today with respect [*29] to the tax statutes, that "willfully" refers to consciousness of both the act and its illegality. But it seems to me impossible to say that the word refers to consciousness that some legal text exists, without consciousness that that legal text is binding, i. e., with the good-faith belief that it is not a valid law. Perhaps such a test for criminal liability would make sense (though in a field as complicated as federal tax law, I doubt it), but some text other than the mere word "willfully" would have to be employed to describe it -- and that text is not ours to write.

Because today's opinion abandons clear and long-standing precedent to impose criminal liability where taxpayers have had no reason to expect it, because the new contours of criminal liability have no basis in the statutory text, and because I strongly suspect that those new contours make no sense even as a policy matter, I concur only in the judgment of the Court.

DISSENTBY: BLACKMUN

DISSENT: JUSTICE BLACKMUN, with whom JUSTICE MARSHALL joins, dissenting.

It seems to me that we are concerned in this case not with "the complexity of the tax laws," ante, at 7, but with the income tax law in its most elementary and basic aspect: Is a wage [*30] earner a taxpayer and are wages income?

The Court acknowledges that the conclusively established standard for willfulness under the applicable statutes is the "voluntary, intentional violation of a known legal duty." Ante, at 8. See United States v. Bishop, 412 U.S. 346, 360 (1963), and United States v. Pomponio, 429 U.S. 10, 12 (1976). That being so, it is incomprehensible to me how, in this day, more than 70 years after the institution of our present federal income tax system with the passage of the Revenue Act of 1913, 38 Stat. 166, any taxpayer of competent mentality can assert as his defense to charges of statutory willfulness the proposition that the wage he receives for his labor is not income, irrespective of a cult that says otherwise and advises the gullible to resist income tax collections. One might note in passing that this particular taxpayer, after all, was a licensed pilot for one of our major commercial airlines; he presumably was a person of at least minimum intellectual competence.

The District Court's instruction that an objectively reasonable and good faith misunderstanding of the law negates willfulness lends further, rather than less, protection to this defendant, [*31] for it added an additional hurdle for the prosecution to overcome. Petitioner should be grateful for this further protection, rather than be opposed to it.

This Court's opinion today, I fear, will encourage taxpayers to cling to frivolous views of the law in the hope of convincing a jury of their sincerity. If that ensues, I suspect we have gone beyond the limits of common sense.

While I may not agree with every word the Court of Appeals has enunciated in its opinion, I would affirm its judgment in this case. I therefore dissent.

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consistent with this opinion.

It is so ordered.

CONCURBY: SCALIA

CONCUR: JUSTICE SCALIA, concurring in the judgment.

I concur in the judgment of Court because our cases have consistently held that the failure to pay a tax in the good-faith belief that it is not legally owing is not "willful." I do not join the Court's opinion because I do not agree with the test for willfulness that it directs the Court of Appeals to apply on remand.

As the Court acknowledges, our opinions from the 1930s to the 1970s have interpreted the word "willfully" in the criminal tax statutes as requiring the "bad purpose" or "evil motive" of "intentionally violating a known legal duty." See, e. g., United States v. Pomponio, 429 U.S. 10, 12 (1976); United States v. Murdock, 290 U.S. 389, 394-395 (1933). It seems to me that today's opinion squarely reverses that long-established statutory construction when it says that a good-faith erroneous belief in the unconstitutionality of a tax law is no defense. It is quite impossible to say that a statute which one believes unconstitutional [*27] represents a "known legal duty." See Marbury v. Madison, 1 Cranch 137, 177-178 (1803).

Although the facts of the present case involve erroneous reliance upon the Constitution in ignoring the otherwise "known legal duty" imposed by the tax statutes, the Court's new interpretation applies also to erroneous reliance upon a tax statute in ignoring the otherwise "known legal duty" of a regulation, and to erroneous reliance upon a regulation in ignoring the otherwise "known legal duty" of a tax assessment. These situations as well meet the opinion's crucial test of "revealing full knowledge of the provisions at issue and a studied conclusion, however wrong, that those provisions are invalid and unenforceable," ante, at 13. There is, moreover, no rational basis for saying that a "willful" violation is established by full knowledge of a statutory requirement, but is not established by full knowledge of a requirement explicitly imposed by regulation or order. Thus, today's opinion works a revolution in past practice, subjecting to criminal penalties taxpayers who do not comply with Treasury Regulations that are in their view contrary to the Internal Revenue Code, Treasury Rulings that are [*28] in their view contrary to the regulations, and even IRS auditor pronouncements that are in their view contrary to Treasury Rulings. The law already provides considerable incentive for taxpayers to be careful in ignoring any official assertion of tax liability, since it contains civil penalties that apply even in the event of a good-faith mistake, see, e. g., 26 U.S.C. §§ 6651, 6653. To impose in addition criminal penalties for misinterpretation of such a complex body of law is a startling innovation indeed.

I find it impossible to understand how one can derive from the lonesome word "willfully" the proposition that belief in the nonexistence of a textual prohibition excuses liability, but belief in the invalidity (i. e., the legal nonexistence) of a textual prohibition does not. One may say, as the law does in many contexts, that "willfully" refers to consciousness of the act but not to consciousness that the act is unlawful. See, e. g., American Surety Co. of New York v. Sullivan, 7 F.2d 605, 606 (CA2 1925) (L. Hand, J.); cf. United States

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questions put to him. It is thus the case that Murdock's asserted belief was grounded in the Constitution, but it was a claim of privilege not to answer, not a claim that any provision of the tax laws were unconstitutional, and not a claim for which the tax laws provided procedures to entertain and resolve. Cheek's position at trial, in contrast, was that the tax laws were unconstitutional as applied to him.

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[*24]

We do not believe that Congress contemplated that such a taxpayer, without risking criminal prosecution, could ignore the duties imposed upon him by the Internal Revenue Code and refuse to utilize the mechanisms provided by Congress to present his claims of invalidity to the courts and to abide by their decisions. Their is no doubt that Cheek, from year to year, was free to pay the tax that the law purported to require, file for a refund and, if denied, present his claims of invalidity, constitutional or otherwise, to the courts. See 26 U.S.C. § 7422. Also, without paying the tax, he could have challenged claims of tax deficiencies in the Tax Court, 26 U.S.C. § 6213, with the right to appeal to a higher court if unsuccessful. § 7482(a)(1). Cheek took neither course in some years, and when he did was unwilling to accept the outcome. As we see it, he is in no position to claim that his good-faith belief about the validity of the Internal Revenue Code negates willfulness or provides a defense to criminal prosecution under §§ 7201 and 7203. Of course, Cheek was free in this very case to present his claims of invalidity and have them adjudicated, but like defendants in criminal cases in [*25] other contexts, who "willfully" refuse to comply with the duties placed upon them by the law, he must take the risk of being wrong.

We thus hold that in a case like this, a defendant's views about the validity of the tax statutes are irrelevant to the issue of willfulness, need not be heard by the jury, and if they are, an instruction to disregard them would be proper. For this purpose, it makes no difference whether the claims of invalidity are frivolous or have substance. It was therefore not error in this case for the District Judge to instruct the jury not to consider Cheek's claims that the tax laws were unconstitutional. However, it was error for the court to instruct the jury that petitioner's asserted beliefs that wages are not income and that he was not a taxpayer within the meaning of the Internal Revenue Code should not be considered by the jury in determining whether Cheek had acted willfully. n11

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n11 Cheek argues that applying to him the Court of Appeals' standard of objective reasonableness violates his rights under the First, Fifth, and Sixth Amendments of the Constitution. Since we have invalidated the challenged standard on statutory grounds, we need not address these submissions.

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[*26]

IV

For the reasons set forth in the opinion above, the judgment of the Court of Appeals is vacated, and the case is remanded for further proceedings

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would serve to negate willfulness and that we need not address the issue. Brief for Petitioner 13; Reply Brief for Petitioner 5, 11, 12; Tr. of Oral Arg. 6, 13. Cheek testified at trial, however, that "it is my belief that the law is being enforced unconstitutionally." App. 60. He also produced a letter from counsel advising him that "'Finally you make a valid contention . . . that Congress' power to tax comes from Article I, Section 8, Clause 1 of the U.S. Constitution, and not from the Sixteenth Amendment and that the [latter], construed with Article I, Section 2, Clause 3, never authorized a tax on wages and salaries, but only on gain and profit." Id., at 57. We note also that the jury asked for "the portion [of the transcript] wherein Mr. Cheek stated he was attempting to test the constitutionality of the income tax laws," Tr. 1704, and that the trial judge later instructed the jury that an opinion that the tax laws violate a person's constitutional rights does not constitute a good faith misunderstanding of the law. We also note that at oral argument Cheek's counsel observed that "personal belief that a known statute is unconstitutional smacks of knowledge with existing law, but disagreement with it." Tr. of Oral Arg. 5. He also opined that:

"If the person believes as a personal belief that known -- law known to them [sic] is unconstitutional, I submit that that would not be a defense, because what the person is really saying is I know what the law is, for constitutional reasons I have made my own determination that it is invalid. I am not suggesting that that is a defense.

"However, if the person was told by a lawyer or by an accountant erroneously that the statute is unconstitutional, and it's my professional advice to you that you don't have to follow it, then you have got a little different situation. This is not that case." Id., at 6.

Given this posture of the case, we perceive no reason not to address the significance of Cheek's constitutional claims to the issue of willfulness.

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[*23]

Claims that some of the provisions of the tax code are unconstitutional are submissions of a different order. n10 They do not arise from innocent mistakes caused by the complexity of the Internal Revenue Code. Rather, they reveal full knowledge of the provisions at issue and a studied conclusion, however wrong, that those provisions are invalid and unenforceable. Thus in this case, Cheek paid his taxes for years, but after attending various seminars and based on his own study, he concluded that the income tax laws could not constitutionally require him to pay a tax.

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n10 In United States v. Murdock, 290 U.S. 389 (1983), discussed supra, at 7-8, the defendant Murdock was summoned to appear before a revenue agent for examination. Questions were put to him, which he refused to answer for fear of self-incrimination under state law. He was indicted for refusing to give testimony and supply information contrary to the pertinent provisions of the Internal Revenue Code. This Court affirmed the reversal of Murdock's conviction, holding that the trial court erred in refusing to give an instruction directing the jury to consider Murdock's asserted claim of a good-faith, actual belief that because of the Fifth Amendment he was privileged not to answer the

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[*20]

We thus disagree with the Court of Appeals' requirement that a claimed good-faith belief must be objectively reasonable if it is to be considered as possibly negating the Government's evidence purporting to show a defendant's awareness of the legal duty at issue. Knowledge and belief are characteristically questions for the factfinder, in this case the jury. Characterizing a particular belief as not objectively reasonable transforms the inquiry into a legal one and would prevent the jury from considering it. It would of course be proper to exclude evidence having no relevance or probative value with respect to willfulness; but it is not contrary to common sense, let alone impossible, for a defendant to be ignorant of his duty based on an irrational belief that he has no duty, and forbidding the jury to consider evidence that might negate willfulness would raise a serious question under the Sixth Amendment's jury trial provision. Cf. Francis v. Franklin, 471 U.S. 307 (1985); Sandstrom v. Montana, 442 U.S. 510 (1979); Morissette v. United States, 342 U.S. 246 (1952). It is common ground that this Court, where possible, interprets congressional enactments so as to avoid raising serious [*21] constitutional questions. See, e. g., Edward J. DeBartolo Corp. v. Florida Gulf Coast Building and Construction Trades Council, 485 U.S. 568, 575 (1988); Crowell v. Benson, 285 U.S. 22, 62, and n. 30 (1932); Public Citizen v. United States Dept. of Justice, 491 U.S. , (1989) (slip op., at 24-25).

It was therefore error to instruct the jury to disregard evidence of Cheek's understanding that, within the meaning of the tax laws, he was not a person required to file a return or to pay income taxes and that wages are not taxable income, as incredible as such misunderstandings of and beliefs about the law might be. Of course, the more unreasonable the asserted beliefs or misunderstandings are, the more likely the jury will consider them to be nothing more than simple disagreement with known legal duties imposed by the tax laws and will find that the Government has carried its burden of providing knowledge.

B

Cheek asserted in the trial court that he should be acquitted because he believed in good faith that the income tax law is unconstitutional as applied to him and thus could not legally impose any duty upon him of which he should have been aware. n9 Such a submission is unsound, [*22] not because Cheek's constitutional arguments are not objectively reasonable or frivolous, which they surely are, but because the Murdock-Pomponio line of cases does not support such a position. Those cases construed the willfulness requirement in the criminal provisions of the Internal Revenue Code to require proof of knowledge of the law. This was because in "our complex tax system, uncertainty often arises even among taxpayers who earnestly wish to follow the law" and "'it is not the purpose of the law to penalize frank difference of opinion or innocent errors made despite the exercise of reasonable care.'" United States v. Bishop, 412 U.S. 346, 360-361 (1973), (quoting Spies v. United States, 317 U.S. 492, 496 (1943)).

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n9 In his opening and reply briefs and at oral argument, Cheek asserts that this case does not present the issue of whether a claim of unconstitutionality

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United States, 471 U.S. 419, 441 (1985) (WHITE, J., dissenting); O. Holmes, The Common Law 47-48 (1881). Based on the notion that the law is definite and knowable, the common law presumed that every person knew the law. The common-law rule has been applied by the Court in numerous cases construing criminal statutes. See, e. g., United States v. International Minerals & Chemical Corp., 402 U.S. 558 (1971); Hamling v. United States, 418 U.S. 87, 119-124 (1974); Boyce Motor Lines, Inc. v. United States, 342 U.S. 337 (1952).

The proliferation of statutes and regulations has sometimes made it difficult for the average citizen to know and comprehend the extent of the duties and obligations imposed [*15] by the tax laws. Congress has accordingly softened the impact of the common-law presumption by making specific intent to violate the law an element of certain federal criminal tax offenses. Thus, the Court almost 60 years ago interpreted the statutory term "willfully" as used in the federal criminal tax statutes as carving out an exception to the traditional rule. This special treatment of criminal tax offenses is largely due to the complexity of the tax laws. In United States v. Murdock, 290 U.S. 389 (1933), the Court recognized that:

"Congress did not intend that a person, by reason of a bona fide misunderstanding as to his liability for the tax, as to his duty to make a return, or as to the adequacy of the records he maintained, should become a criminal by his mere failure to measure up to the prescribed standard of conduct." Id., at 396.

The Court held that the defendant was entitled to an instruction with respect to whether he acted in good faith based on his actual belief. In Murdock, the Court interpreted the term "willfully" as used in the criminal tax statutes generally to mean "an act done with a bad purpose," id., at 394, or with "an evil motive." Id., at 395.

Subsequent [*16] decisions have refined this proposition. In United States v. Bishop, 412 U.S. 346 (1973), we described the term "willfully" as connoting "a voluntary, intentional violation of a known legal duty," id., at 360, and did so with specific reference to the "bad faith or evil intent" language employed in Murdock. Still later, United States v. Pomponio, 429 U.S. 10 (1976) (per curiam), addressed a situation in which several defendants had been charged with willfully filing false tax returns. The jury was given an instruction on willfulness similar to the standard set forth in Bishop. In addition, it was instructed that "'good motive alone is never a defense where the act done or omitted is a crime.'" Id., at 11. The defendants were convicted but the Court of Appeals reversed, concluding that the latter instruction was improper because the statute required a finding of bad purpose or evil motive. Ibid.

We reversed the Court of Appeals, stating that "the Court of Appeals incorrectly assumed that the reference to an 'evil motive' in United States v. Bishop, supra, and prior cases," ibid., "requires proof of any motive other than an intentional violation of a known legal duty." Id., at 12. As [*17] "the other Courts of Appeals that have considered the question have recognized, willfulness in this context simply means a voluntary, intentional violation of a known legal duty." Ibid. We concluded that after instructing the jury on willfulness, "an additional instruction on good faith was unnecessary." Id., at 13. Taken together, Bishop and Pomponio conclusively establish that the standard for the statutory willfulness requirement is the "voluntary, intentional violation of a known legal duty."

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III

Cheek accepts the Pomponio definition of willfulness, Brief for Petitioner 5, and n. 4, 13, 36; Reply Brief for Petitioner 4, 6-7, 11, 13, but asserts that the District Court's instructions and the Court of Appeals' opinion departed from that definition. In particular, he challenges the ruling that a good-faith misunderstanding of the law or a good-faith belief that one is not violating the law, if it is to negate willfulness, must be objectively reasonable. We agree that the Court of Appeals and the District Court erred in this respect.

A

Willfulness, as construed by our prior decisions in criminal tax cases, requires the Government to prove that the law imposed a duty on the defendant, [*18] that the defendant knew of this duty, and that he voluntarily and intentionally violated that duty. We deal first with the case where the issue is whether the defendant knew of the duty purportedly imposed by the provision of the statute or regulation he is accused of violating, a case in which there is no claim that the provision at issue is invalid. In such a case, if the Government proves actual knowledge of the pertinent legal duty, the prosecution, without more, has satisfied the knowledge component of the willfulness requirement. But carrying this burden requires negating a defendant's claim of ignorance of the law or a claim that because of a misunderstanding of the law, he had a good-faith belief that he was not violating any of the provisions of the tax laws. This is so because one cannot be aware that the law imposes a duty upon him and yet be ignorant of it, misunderstand the law, or believe that the duty does not exist. In the end, the issue is whether, based on all the evidence, the Government has proved that the defendant was aware of the duty at issue, which cannot be true if the jury credits a good-faith misunderstanding and belief submission, whether or not the claimed [*19] belief or misunderstanding is objectively reasonable.

In this case, if Cheek asserted that he truly believed that the Internal Revenue Code did not purport to treat wages as income, and the jury believed him, the Government would not have carried its burden to prove willfulness, however unreasonable a court might deem such a belief. Of course, in deciding whether to credit Cheek's good-faith belief claim, the jury would be free to consider any admissible evidence from any source showing that Cheek was aware of his duty to file a return and to treat wages as income, including evidence showing his awareness of the relevant provisions of the Code or regulations, of court decisions rejecting his interpretation of the tax law, of authoritative rulings of the Internal Revenue Service, or of any contents of the personal income tax return forms and accompanying instructions that made it plain that wages should be returned as income. n8

- - - - - - - - - - - - - - - - - - - -Footnotes- - - - - - - - - - - - - - - - - - - -

n8 Cheek recognizes that a "defendant who knows what the law is and who disagrees with it . . . does not have a bona fide misunderstanding defense" but asserts that "a defendant who has a bona fide misunderstanding of [the law] does not 'know' his legal duty and lacks willfulness." Brief for Petitioner 29, and n. 13. The Reply Brief for Petitioner, at 13, states: "We are in no way suggesting that Cheek or anyone else is immune from criminal prosecution if he knows what the law is, but believes it should be otherwise, and therefore violates it." See also Tr. of Oral Arg. 9, 11, 12, 15, 17.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	SENSITIVE
	)	
Toshiba-America, Inc.	)	
Robert Traeger	)	MUR 2575 EXECUTIVE SESSION
Betty Traeger	)	
Norman Nelson	)	
Tsunehiro Miyashita	)	JUL 30 1991
Kazuo Ishiguro	)	
Dennis Eversole	)	
Hiroshi Ikeda	)	
Yasuo Nishioka	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

A. Procedural Background

This matter involves Toshiba-America's reimbursement of two corporate officers, one in Tennessee and one in California, for political contributions. The matter was generated as the result of a detailed referral from the U.S. Attorney for the Eastern District of Tennessee based on a tip from the FBI.

The Commission found reason to believe that Robert Traeger (the Tennessee officer who had been reimbursed), Hiroshi Ikeda (the officer who authorized the reimbursement of Traeger's contributions), and Toshiba-America, Inc. violated 2 U.S.C. §§ 441b(a) and 441f, and initiated an investigation. On the basis of this investigation, the Commission found reason to believe that Tsunehiro Miyashita, Vice President/Assistant Treasurer at the Tennessee plant, and Norman Nelson, Controller at the Tennessee plant, violated 2 U.S.C. §§ 441b(a) and 441f by virtue of their roles in arranging for these reimbursements. The Commission further found reason to believe that Mrs. Betty Traeger violated 2 U.S.C. § 441f by permitting her name to be

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used to effect contributions from Toshiba-America.

On the basis of information supplied by Toshiba-America in response to the Commission's interrogatories, the Commission also found reason to believe that Toshiba-America violated 2 U.S.C. §§ 441b(a) and 441f with regard to Toshiba-America's 1985 reimbursement of a $1,000 contribution from Paul Wexler, the Vice President/General Manager of the Toshiba-America plant in Irvine, California to the Republican Senatorial Inner Circle. The Commission made further §§ 441b(a) and 441f findings against Kazuo Ishiguro, Executive Vice President of Toshiba-America at the Irvine plant, Dennis Eversole, Vice President of Finance at the Irvine plant, and Yasuo Nishioka, Director of Legal Services at the Irvine plant, for their roles in Toshiba-America's reimbursement of Paul Wexler for the Inner Circle contribution.[1]

Further investigation revealed that Miyashita, Nelson and Eversole had consented to the issuance of corporate checks to provide the funds to make specific political contributions and thereby had apparently knowingly assisted the making of contributions in the name of another. However, the Commission determined on May 9, 1989, to take no further action against these respondents with regard to the section 441f finding as a

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1. The Commission also found reason to believe that Paul Wexler, the Vice President/General Manager of the Toshiba-America, had violated 2 U.S.C. §§ 441b(a) and 441f with regard to the reimbursement. On August 11, 1989, the Commission accepted a conciliation agreement signed by Paul Wexler and closed the file as it pertained to him.

matter of prosecutorial discretion.[2]

On July 27, 1990, this Office mailed General Counsel's Briefs to respondents Toshiba-America, Inc., Robert Traeger, Betty Traeger, Hiroshi Ikeda, Tsunehiro Miyashita, Norman Nelson, Kazuo Ishiguro and Dennis Eversole. The briefs recommend that the Commission find probable cause to believe against all the above respondents for the section 441b violations and probable cause to believe regarding the section 441f violations by Toshiba-America, Mr. and Mrs. Traeger, Mr. Ikeda and Mr. Ishiguro. Furthermore, the briefs to Toshiba-America, Inc., Robert Traeger and Hiroshi Ikeda recommend that the Commission find their violations of the Act were knowing and willful. Following the granting of various discovery requests and the sending of supplementary briefs on December 3, 1990, this Office received responses from all the respondents.[3]

B. Factual Background

1. The Compensation of Robert Traeger's Political Contributions in Lebanon, Tennessee

Mr. Traeger has been associated with Toshiba-America for over ten years. In 1987, Robert Traeger's immediate superior was Hiroshi Ikeda, the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of

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2. It is this Office's understanding that Mr. Miyashita was scheduled to return to Japan in May 1989.

3. Several respondents share counsel in this matter. Mr. and Mrs. Traeger are represented together. Counsel for Toshiba-America also jointly represents Norman Nelson, Tsunehiro Miyashita, Kazuo Ishiguro, and Dennis Eversole. Hiroshi Ikeda has procured separate counsel.

Toshiba-America, Inc. Mr. Ikeda was the highest ranking Toshiba officer at the plant.

Mr. Traeger made several contributions to United States Representatives and Senators prior to the spring of 1987 as part of his effort to develop positive Congressional relations.[4] He claims that he had proposed the idea of a political action committee ("PAC") to Mr. Ikeda's predecessor, but that this suggestion was rejected. In the fall of 1986 or January 1987, Mr. Traeger proposed to Mr. Ikeda that the company create a PAC, explaining that "the only legal vehicle is through a PAC where a company can make a contribution." This suggestion was also turned down.

In March 1987, Mr. Traeger learned that Toshiba Machinery, a company in which the Toshiba Corporation (Toshiba-America's parent company) had a 51% interest, had sold technology to the Soviet Union which made it more difficult for the United States to track Soviet submarines. Legislation was introduced in Congress to severely penalize Toshiba and its affiliates. Thus, Toshiba-America began to hold a series of meetings which Mr. Traeger attended in Washington to control the political damage done by the Toshiba Machinery sale.

Mr. Traeger testified that, in response to the harsh political climate, he approached Hiroshi Ikeda and told him that he felt that he, Traeger, "should be making larger contributions or significant contributions to the people that represented us

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4. These contributions were not reimbursed by Toshiba-America.

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here in Washington." Mr. Traeger then asked Mr. Ikeda to approve a block increase in his salary to cover political contributions. Mr. Ikeda rejected this proposal, but accepted Traeger's counterproposal for the company to provide him with funds to make a $1,000 contribution to the Friends of Jim Sasser in response to a specific request.

On or about May 13, 1987, Mr. Ikeda approached Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant, and asked him to make out a $1,000 check to Robert Traeger. Ikeda and Miyashita discussed whether this payment should be characterized as a payroll bonus or an expense reimbursement but left the question unresolved. Later that day or the next day, Mr. Ikeda returned to Mr. Miyashita's office and asked him to issue a $1,000 check on Traeger's payroll as a bonus and to "gross it up," i.e., to add in all the taxes and make sure the net pay to Traeger equaled $1,000. Mr. Miyashita then asked Norman Nelson, the Controller of Toshiba-America at the Tennessee plant, to cut a $1,000 bonus check for Traeger.[5]

Mr. Nelson has testified that this request was unusual because there was no documentation and only one person was receiving a payment; therefore, he asked Mr. Miyashita whether the payment was authorized. Miyashita replied that the check had the authorization of Hiroshi Ikeda. Mr. Nelson then directed the

5. Traeger has testified that he also approached Nelson and told him that Ikeda had approved a bonus check to him in the net amount of $1,000.

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general accounting supervisor to draw up a $1,000 check to Robert Traeger and obtained Ikeda's signature on the May executive payroll register which reflected the $1,000 net payment to Traeger in a handwritten notation.[6]

Mr. Traeger received a bonus check for $1,000 from Toshiba-America, Inc. on May 15, 1987, signed by Tsunehiro Miyashita. Traeger gave the check to his wife, Betty, who at his direction, wrote a check to the Friends of Jim Sasser for $1,000 on the same day.

Mr. Traeger used this same procedure to obtain four more checks from Toshiba-America which provided the funds for additional political contributions made by him and his wife, Betty. In each instance, Mr. Traeger approached Ikeda to obtain approval for compensation for a contribution to a specific individual. After Traeger obtained Ikeda's approval, he asked Nelson to cut the checks. Nelson, in turn, consulted with Miyashita to make sure that these requests had Ikeda's approval.

In each instance, the bonus checks to Mr. Traeger were signed by Tsunehiro Miyashita, the Vice President/Assistant Treasurer of Toshiba-America at the Lebanon plant, and prepared by Norman Nelson, the Controller of the plant. Both of these individuals knew the purpose of these checks and Nelson kept a file of the canceled contribution checks written by Traeger and his wife.

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6. It is unclear who brought the payroll register to Ikeda for his signature; however, it appears that Nelson either brought the register to Ikeda himself, or asked Miyashita or the general accounting supervisor to bring it to Ikeda for signature.

Using this system, Toshiba-America made payments to Robert Traeger for a total of $3,700 in specific contributions made between May 15, 1987 to November 27, 1987. These contributions were made to the authorized political committees of Senator Albert Gore, Senator Robert Clement, Senator James Sasser, Congressman Terry Holcomb and unsuccessful House candidate Bart Gordon.[7] Of the contributions made, $2,000 was directly contributed to the recipient committees by Robert Traeger. The remaining $1,750 in contributions were made by Betty Traeger on Robert and Betty Traeger's joint bank account.

According to Commission records, from February 25, 1988 to June 30, 1988, the above candidates refunded to Mr. and Mrs. Traeger $2,200 of the $3,700 in contributions.

2. The Reimbursement of Paul Wexler's Political Contribution in Irvine, California

In 1985, Paul Wexler, the Vice President and General Manager of the Telecommunications Systems Division of Toshiba-America, received a written solicitation from the Republican Senatorial Inner Circle, a project of the National Republican Senatorial Committee, which stated that he could become a member for $1,000. Wexler claims that he asked his boss, Kazuo Ishiguro, then the President of the Industrial Electronics Business Division of Toshiba-America, Inc., to authorize Toshiba-America to "sponsor"

7. The Traegers received funds from Toshiba-America before making each contribution, with the exception of the November 1987 contributions to Gore, Gordon and Clement. Traeger secured Ikeda's approval for the reimbursement of the planned contributions to these latter candidates before he and his wife made the November contributions, but was not actually reimbursed until later.

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his "membership" in the Republican Senatorial Inner Circle and that Ishiguro agreed to this request. Mr. Wexler confirmed the conversation in a handwritten note to Ishiguro which read:

> Mr. Ishiguro
>
> As noted in the attachment, I have the opportunity to get some exposure to key senatorial and cabinet personnel by becoming a member of the "Republican Senatorial Inner Circle." Since the trade issue is and will probably remain a crucial item for my division, I believe it would be a good idea to get involved with the "Inner Circle" for at least the next year. As such, I would like your approval to have TSD sponsor my membership in the "Inner Circle." Your review and concurrence of this request would be appreciated.
>
> Thanks, P. Wexler
> 8/18/85

Kazuo Nishioka, as the Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, wanted to obtain information in 1985 concerning possible restrictions on the importation of certain telecommunications equipment. In his signed and sworn affidavit, Mr. Nishioka states that Mr. Ishiguro approached him in August 1985 and told him that Wexler would have access to information regarding possible import restrictions on Japanese goods if he joined an association in Washington. Nishioka asked Ishiguro to have Wexler pass on any information he received from the association and stated that the Legal Department would pay the necessary expenses.

On August 20, 1985, Mr. Ishiguro sent Paul Wexler a note authorizing him to receive reimbursement for a $1,000 payment to the Republican Senatorial Inner Circle and noting that annual

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dues would "be charged to [the] Legal Dept. (Mr. Nishioka)." With these assurances of reimbursement, on August 25, 1985, Wexler sent a personal check for $1,000 to the Republican Senatorial Inner Circle on August 25, 1985 with the memo line entry "Inner Circle Membership."

On October 3, 1985, Mr. Wexler submitted an expense report to Toshiba-America for the $1,000 payment which explicitly stated that the payment was made to the "REPUBLICAN SENATORIAL INNER CIRCLE." His administrative assistant forwarded the report to Dennis Eversole, Sector Controller of Toshiba-America, Inc. Industrial Electronics Business Sector, with the note from Ishiguro and instructions to charge the $1,000 "annual dues" to the Legal Department.

Mr. Eversole signed the expense report on October 7, 1985. Mr. Ishiguro signed the expense report on the following day. Paul Wexler received a check for $1,323 on October 11, 1985. He states that this check included reimbursement for the $1,000 payment to the Republican Senatorial Inner Circle as well as reimbursement for other expenses. The $1,000 reimbursement was then charged to the Legal Department as "membership and dues" on the November Monthly Responsibility Report.

On April 7, 1988, Mr. Wexler repaid Toshiba-America for this reimbursement

II. <u>ANALYSIS</u> (The General Counsel's Briefs are incorporated by reference)

In their responsive briefs, respondents have challenged the applicability of section 441f to the actions of some of the

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individual respondents, argued that certain individuals were not "officers" within the meaning of section 441b, and asserted that they should not be held liable under either statutory provision because they did not know that their actions violated the Act. In additional to the argument that their participation in the reimbursement scheme was not "knowing," respondents also claim that their violations were not "knowing and willful." These arguments are discussed in turn below.

A. Application of Section 441f to respondents assisting in the Section 441f violations of others

Several respondents challenge the applicability of Section 441f to individuals, in this case corporate officers, who, while not making contributions in the name of another, nevertheless assisted in such contributions.

The attorneys for Mr. Ikeda and Mr. Ishiguro argue that, on its face, section 441f applies only to individuals who either make a contribution in the name of another or allow their names to be used to mask the actual contributor. In their view, since Mr. Ikeda and Mr. Ishiguro neither made such a contribution nor allowed their names to be used, they could not have violated section 441f. Both counsel further contend that to the extent the district court's opinion in FEC v. Rodriquez, Civil Action No. 86-684 (MD Fla. May 5, 1987), holds that section 441f extends to individuals who knowingly assist in the making of such contributions, that decision is distinguishable. Counsel for Mr. Ikeda argues that his client was not actively, directly or deeply involved in "instigating, implementing or masterminding"

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the reimbursement scheme. Attachment 3 at 20. Counsel for Mr. Ishiguro argues the same, stating that his client "did not solicit a contribution, nor did he actively participate in any scheme; he merely unwittingly approved an isolated reimbursement of what turned out to be contribution that he was mislead to believe was a dues payment to an organization." Attachment 4 at 37.

Contrary to respondents' assertions, section 441f clearly does extend to individuals like Ikeda and Ishiguro who personally assist or further the violation. Section 441f has already been found by the Commission to apply to corporate officers who, while not allowing their names be used to make the contributions, assisted the corporation in the reimbursement of other employees. For example, the Commission found reason to believe against a corporate president who approved a reimbursement in violation of section 441f. Similarly, in MUR 3056, the Commission found reason to believe that the individual serving as Executive Vice President, Comptroller and Cashier of the corporation violated section 441f when he gave the corporation's financial approval to the reimbursement of the contributions made by others.

Indeed, the Commission incorporated the district court's interpretation of section 441f in Rodriguez into its regulations when 11 C.F.R. § 104.12(b) was revised to state that no person shall make a contribution in the name of another or "[k]nowingly help or assist any person in making a contribution in the name of another." As noted in the Explanation and Justification, the

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revision was based on the Rodriguez opinion. See 54 Fed. Reg. 34,105 (1989).

By virtue of their positions and authority as Mr. Traeger's and Mr. Wexler's superiors within their respective divisions, Mr. Ikeda and Mr. Ishiguro played central roles in approving and implementing the reimbursements to Mr. Traeger and Mr. Wexler, behavior falling squarely within scope of Rodriguez.[8] Thus, respondents' argument is without merit.

B. The definition of "Officer" for purposes of section 441b

In his response, counsel for Mr. Miyashita, Mr. Nelson and Mr. Eversole concedes that Mr. Miyashita "technically" is an officer of Toshiba-America, Inc. under the corporation's by-laws, but argues that none of those three respondents should be considered officers for purposes of section 441b. Counsel bases this argument on an interpretation of a General Counsel's Report in MUR 2840 and several securities law decisions cited in the General Counsel's Briefs here for the opposite proposition, that an individual need not be an officer under the corporate by-laws to be subject to the prohibitions of section 441b. The General Counsel's Report in MUR 2840 argued that individuals, who were all in "high level positions," qualified as officers within the meaning of section 441b due to their "managerial, policymaking or decisionmaking authority in terms of their ability to take action

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8. While Mr. Ishiguro may not have understood that the payments constituted prohibited contributions, this Office has not made knowing and willing recommendation against him. Thus, as discussed infra, it is sufficient that he knew he was authorizing the reimbursement regardless of its legality.

regarding political contributions and expenditures." See General Counsel's Report, MUR 2840 (June 8, 1990) at 8-9.

Applying this standard to Mr. Miyashita, Mr. Eversole and Mr. Nelson, counsel readily admits that all three had broad accounting functions. However, counsel asserts that section 441b does not apply since these individuals were not part of senior corporate management and did not participate in managerial decisions. Further, none played roles in matters concerning political contributions. Attachment 4 at 24, 30 and 39.

This Office believes counsel for Toshiba-America's reliance on MUR 2840 and the securities decisions is misplaced. First, regarding Mr. Miyashita, MUR 2840 involved the application of section 441b to a high level union employee, who was not termed an officer under the union's bylaws but who nonetheless effected a union contribution to a candidate. In this instance, Miyashita clearly is an officer under the corporation's by-laws, and thus the Commission need not look at his corporate responsibilities; the statute unquestionably applies.

Further, the position taken by this Office in MUR 2840 was that section 441b should extend to "individuals with substantial decision making authority over policy, budgetary or managerial decisions for the [corporate] organization" sufficient to consent to the making of prohibited contributions or expenditures. See General Counsel's Report, MUR 2840. As we noted in the brief sent to him, Mr. Miyashita possessed substantial decision making authority over budgetary decisions. Mr. Miyashita, the Vice President and Assistant Treasurer of the

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Manufacturing Division of the Consumer Products Group of Toshiba-America, was responsible for signing all executive payroll checks including bonuses for executives and for providing the second signature for checks over $50,000. He also had the authority to deny requests for funds even if the request came from the factory president. In this case, Miyashita signed the reimbursement checks at issue despite the lack of documentation, thereby exercising a significant degree of authority. Thus, even under counsel's argument that a position as an officer does not automatically incur liability under section 441b, Mr. Miyashita would still be liable for violation of section 441b here.

Since they are not styled officers by Toshiba-America's by-laws, the situations presented by Mr. Nelson and Mr. Eversole are closer to the situation in MUR 2840. This Office believes that both respondents possessed sufficient corporate responsibility to permit liability under section 441b. For example, Mr. Nelson, in his position as Controller, had significant authority. Among his responsibilities, Mr. Nelson had the duty to determine whether corporate payment requests were proper and to prepare corporate checks for signature by the Assistant Treasurer. Similarly, Mr. Eversole as Sector Controller of his division of Toshiba-America had substantial financial responsibilities including the responsibilities to determine whether corporate payment requests were proper. At the time of the violation, his duties included the signing of expense reports of the highest ranking employees of his division. Either individual, therefore, could have blocked the reimbursements at

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their respective plant. Thus, both respondents' positions are sufficiently analogous to those of a corporate officer to permit liability under section 441b.[9]

C. Respondents' lack of knowledge that their actions violated the law

Four of the individual respondents -- Ikeda, Miyashita, Nelson, Ishiguro and Eversole -- base their defenses against liability, at least in part, on their purported ignorance of law, contending that they did not understand they were consenting to prohibited corporate contribution. Betty Traeger raises a similar defense with respect to her alleged violation of section 441f.

Counsel for Ikeda argues that his client, a Japanese national, was ignorant as to United States election law generally and the Act's prohibition against corporate contributions specifically. Counsel does admit that Mr. Traeger had proposed to Mr. Ikeda that Toshiba-America establish a PAC prior to the contributions here, but argues that this should not be taken to mean that his client understood and subsequently consented to a violation of the campaign laws. In this regard, counsel claims that Ikeda was ignorant as to what a PAC was, an ignorance which Mr. Ikeda, according to counsel, held up to the date of the deposition when Mr. Ikeda in his testimony he stated he did not

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9. This Office believes that respondents' argument regarding the interpretation of the term "officer" more appropriately applies to individuals performing more ministerial functions, such as the general accounting supervisor in Tennessee and the administrative assistant in California, neither of whom the Commission has pursued in this matter.

understand the terms "PAC" and "contribution." Attachment 3 at 23. In addition, counsel argues that the time lag between the discussion of PAC in 1986 and the actual making of the contributions in 1987 lessens the relevancy of these two events. Furthermore, counsel for Mr. Ikeda argues that his client relied on the advice and understanding given to him by Mr. Traeger who, counsel asserts, also did not know he was violating the law. Counsel also stresses that Mr. Ikeda has only a limited understanding of English, which purportedly contributed to some misunderstandings on his part during his deposition. Counsel, therefore, assets his client should not be deemed to have knowingly consented to making a contribution in violation of section 441b.[10]

Counsel for Mr. Miyashita and Mr. Ishiguro, also Japanese nationals, similarly argue that their clients had only a limited understanding of the American political process and did not know that the reimbursement programs their respective corporate divisions approved violated the law. Attachment 4 at 21 and 37. Similarly, counsel for Mr. Nelson and Mr. Eversole assert that, since their responsibilities were purely administrative, they could have no knowledge that the reimbursement checks they approved were illegal. Attachment 4 at 30 and 40. Counsel for Mrs. Traeger argues that, because she was not aware of the law at the time she was making her contributions, the Commission should

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10. He concludes that without this threshold finding, the questions of knowing and willful violations becomes superfluous." Attachment 3 at 23.

reject the probable cause recommendation against her as a matter of prosecutorial discretion.

This Office is not seeking knowing and willful findings against Mr. Miyashita, Mr. Nelson, Mr. Ishiguro, Mr. Eversole or Betty Traeger. Therefore, those respondents' arguments that they did not know the legal consequences of their actions are irrelevant as awareness of the illegality of the action is not an element of the violation. What matters is that as the evidence indicates all four individuals knew that corporate payments were used to reimburse individuals for political contributions.[11] By reviewing and approving the requests at issue here, Norman Nelson, Tsunehiro Miyashita, Kazuo Ishiguro and Dennis Eversole, in their positions as officers of the corporation, clearly consented to prohibited contributions.

The same is true with respect to Betty Traeger, who made contributions with corporate funds. The knowledge argument advanced by her counsel certainly does not obviate her

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11. In the specific case of Mr. Traeger's reimbursements, Mr. Miyashita testified he questioned Mr. Ikeda on the purpose of the reimbursements to Mr. Traeger and acceded to the requests only when assured that the funds would be used for the purpose they were intended, making political contributions. Norman Nelson was aware of the unusual nature of these transactions, particularly the lack of supporting documentation; and made similar inquiries. As already mentioned, Mr. Nelson later kept a file containing copies of the Traeger contribution checks.

With the Wexler reimbursements, it is undisputed that the expense report submitted by Paul Wexler to Mr. Ishiguro and Mr. Eversole for the $1,000 reimbursement clearly stated that the payment being reimbursed was made to the "REPUBLICAN SENATORIAL INNER CIRCLE." It is the view of this Office that both Mr. Ishiguro and Dennis Eversole knew the purpose of the reimbursement and who received the payment.

section 441f violation.

Regarding Mr. Ikeda, this Office finds counsel's explanations of Mr. Ikeda's testimony difficult to accept. An examination of the deposition transcript indicates that this Office made great efforts to be clear and precise in the manner it questioned Mr. Ikeda. The language used was kept simple and, from the follow up questions, it appears Mr. Ikeda adequately understood what was being asked.[12] In any event, it is clear from the evidence that Mr. Ikeda understood and approved that the corporation would recompense Mr. Traeger for the contributions here. Therefore, the evidence supports this Office's finding that Mr. Ikeda at least knowingly violated section 441b and 441f.[13]

D. Knowing and willful aspect of the violations

Respondents' final defense involves challenges to the knowing and willful portions of the recommendations against certain respondents here, both regarding the appropriate burden of proof and regarding this Office's interpretation of the evidence.

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12. This Office notes that the brief to Mr. Ikeda does contain a misstatement. The brief incorrectly states that Mr. Ikeda denied ever discussing a salary increase for Mr. Traeger in order to allow him to make larger political contributions. Upon re-examination it appears that Mr. Ikeda did answer the questions in the affirmative.

13. Although this Office briefed Mr. Ikeda's violations as if they were knowing and willful, on further analysis we have decided not to make knowing and willful recommendations against him under the circumstances. Thus, Mr. Ikeda's arguments regarding his knowledge of illegality are irrelevant. See discussion, infra.

1. Burden of Proof.

The initial General Counsel's Briefs sent to Toshiba-America, Mr. Traeger and Mr. Ikeda incorrectly stated that knowing and willful violations must be proven by a clear and convincing standard of proof. The reference to this standard was based upon the House Report accompanying the 1976 amendments to the Act, which introduced the new knowing and willful provisions. As then written, the knowing and willful provisions expressly included a clear and convincing standard.

The supplementary briefs issued to respondents noted that this statement was no longer accurate since the 1979 Amendments to the Act removed any mention of the clear and convincing standard, and cited the House report accompanying the 1979 amendments which stated that, while the Committee on House Administration did not intend to reduce the standard, it did not think the clear and convincing element was "meaningful."

Several responses have addressed this issue. Counsel for Toshiba-America argues:

> Because the Committee on House Administration never disavowed the 1976 House Report, which plainly made the clear and convincing burden of proof a component of the knowing and willful standard, and because the Committee expressly intended not to change the knowing and willful standard, it is plain that the Committee intended that the clear and convincing proof standard remain the standard to be applied in deciding whether a knowing and willful violation has occurred.

Attachment 4 at 18.

Counsel's argument, based as it is on the 1976 report, is flawed. Counsel is correct that the House Administration

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Committee did not expressly repudiate the 1976 committee report; however, an express repudiation was not necessary. A committee report can be properly used as authority to explain a particular statute, see S & E Contractors, Inc. v. Calvert Distillers Corp., 341 U.S. 384, 395 (1951), but its usefulness as legislative history is squarely based on statute which it interprets. The House Report's comments relied on by counsel specifically relate to language deleted from the Act in 1979. These particular comments, dealing with the old language of section 437g, therefore were rendered obsolete with the adoption of the 1979 amendments.

Counsel for Mr. and Mrs. Traeger in a supplementary response argues:

> The House Report is certainly ambiguous about where the standard stands, once the deletion of the explicit reference to "clear and convincing" was deleted.

Attachment 2 at 1 (emphasis in original). Counsel for Mr. Traeger acknowledges, however, that a violation has to be "established by evidence, whether a preponderance of the evidence or clear and convincing evidence, drawn from the record which, in this case, includes sworn testimony." Attachment 2 at 3. Counsel for Mr. Traeger thus seems to concede the possibility that the preponderance of the evidence standard may indeed apply to knowing and willful violations. Regardless of which standard applies -- "clear and convincing" or "preponderance of the evidence" -- the evidence presented in the briefs is sufficient to support the knowing and willful findings recommended by this

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office.

2. Issue of respondents' intentional violation of Act.

In addition to questioning the applicable burden of proof, respondents raise separate arguments regarding the willfulness of the Tennessee violations by Robert Traeger and Hiroshi Ikeda. Counsel for Toshiba-America also raises additional arguments regarding the California violations.

a. Robert Traeger's knowing and willful violations

i. Direct versus Indirect Contributions

Initially, counsel for Toshiba-America and counsel for Robert Traeger both argue that while it is possible Mr. Traeger's actions violated the Act, the offense does not rise to a knowing and willful violation.

To make this argument, counsel for respondents both cite testimony from Robert Traeger's September 25, 1988 deposition stating that Mr. Traeger thought the reimbursements he received from Toshiba-America were legal. Both counsel admit that Mr. Traeger stated in his testimony that he knew it was illegal for corporations to make direct and indirect contributions to candidates. However, counsel for Mr. Traeger attempts to explain the admission by arguing that the terms "direct and indirect are legally confusing terms" and that Mr. Traeger did not believe that the reimbursements were an indirect means to allow Toshiba-America to make contributions. Attachment 1 at 2. Relying on the Supreme Court's recent decision in Cheek v. United States, ___ S.Ct. ___ (1991), counsel for Toshiba-America

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similarly argues that Mr. Traeger's purported good faith belief that he was not violating the law negates any possible element of willfulness whether or not the claimed belief was objectively reasonable. Attachment 5 at 1. This claim should be given great weight, counsel for Toshiba-America contends, because of the complexity and confusion regarding what constitutes indirect contributions under the Act. Id.

This Office finds Mr. Traeger's purported confusion regarding the statutory language "direct or indirect" unconvincing. Those terms are common English words with well known meanings. Respondent's argument is particularly difficult to accept given Mr. Traeger's background. Not only was Mr. Traeger familiar with the English language, but Mr. Traeger was not a simple businessman with no prior experience regarding the American political process. Available evidence indicates that Mr. Traeger consistently cultivated a relationship with local Congressmen whose influence could benefit his employers. For example, during his previous 23 year employment at General Electric Company, Mr. Traeger took an active role as plant manager in fostering relations with local Congressmen.[14] Mr. Traeger, as we noted in

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14. Mr. Traeger stated in his September 23, 1988 deposition:

> [W]hen I was with [General Electric] -- I spent 23 years with the General Electric Company -- one of the things that the company did was encourage their employees to be active in the political area, either to hold local political office themselves or to be active in supporting various candidates. And there were courses on it, education, "Here how its done; here is how legislation is passed, here is how you do this.

the General Counsel's Brief, assumed this same role at Toshiba-America Tennessee Plant even before Toshiba-America's parent corporation became the involved in the Toshiba Machinery controversy in 1987, which required an escalation of his efforts. The very fact that Mr. Traeger pressed with such consistently the advisability of forming a political committee argues forcefully against the claims of this ignorance or confusion regarding the Act.

Counsel's reliance on the Supreme Court's decision in Cheek v. United States is also misplaced. In Cheek, the Supreme Court ruled that where a respondent's good faith misunderstanding of law is raised as defense to IRS knowing and willful charges, a jury should be allowed to consider the defense even if the misunderstanding is itself not objectively reasonable. The stated rational for the Court's decision in Cheek was a concern that, in a prosecution for criminal violations of the federal tax code, the defendant's Sixth Amendment right to a jury trial would be violated if the jury was not allowed to consider the

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(Footnote 14 continued from previous page)

> Then when I became the plant manager with GE in upstate New York, one of my responsibilities was to invite the Representative or the Congressman from that district to visit the plant periodically. When he was coming home, I'd call him to get to know him on a first-name basis so if something was coming up in the future the relationship was already built on a personal basis as well as supporting, and felt that was a very effective system and logic, and basically practiced that ever since that point in time.

defendant's subjective reasoning. Cheek at 10. The extent to which Cheek is applicable to a civil administrative proceeding without these same Sixth Amendment concerns is an open question. Even assuming arguendo that it could apply in Commission enforcement proceedings, this Office notes that under Cheek, the Commission still would not be obligated to automatically accept respondent's claims. The Supreme Court noted in Cheek:

> Of course, in deciding whether to credit Cheek's good-faith belief claim, the jury would be free to consider any admissible evidence from any source showing that Cheek was aware of his duty to file a return and to treat wages as income, including evidence showing his awareness of the relevant provisions of the Code or regulations, of court decision rejecting his interpretation of tax law, of authoritative rulings of the Internal Revenue Service, or of any contents of personal income tax return forms and accompanying instructions that made it plain that wages should be returned as income.

Id. The Court concluded that "the more unreasonable the asserted beliefs or misunderstandings are, the more likely the jury will consider them to be nothing more than simple disagreements with known legal duties imposed by the tax laws and will find that the Government has carried its burden of proving knowledge."

Reference has already been made to Mr. Traeger's many years of involvement in the political process. In the view of this Office, that prior involvement combined with his testimony regarding his knowledge of the Act renders claims regarding Mr. Traeger's subjective intent unpersuasive.

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ii. Justice Department Guidelines.

Counsel for Toshiba-America also argues that this Office's knowing and willful recommendations are inconsistent with the guidelines published by the Department of Justice for use in determining whether to prosecute a violation as knowing and willful. In respondent's view, those guidelines limit knowing and willful violations to situations where there is:

> evidence of a surreptitious means (such as cash, conduits, or false documentation) employed to conceal conduct that itself violates the FECA's substantive requirements. In such situations, proof must exist that a defendant was actively aware that he violating one the FECA's regulatory prohibitions or duties.

Attachment 4 at 12 (citing to Federal Prosecution of Election Offenses, Fifth Edition.) Counsel maintains that, because Mr. Traeger did nothing to disguise the fact of the reimbursements themselves, there is no such surreptitious means and thus no evidence of a knowing and willful violation.

This Office notes however, that the Commission, not the Department of Justice, has primary jurisdiction over the administration interpretation and civil enforcement of the Act. See generally, 2 U.S.C. §§ 437c(b)(1), 437d(a) and 437g and Memorandum of Understanding Between FEC and Criminal Division (1977).

Furthermore, even if relevant, the manual does not preclude this Office's position. The Justice Department guidelines do not purport to limit, as a matter of law, what cases should be considered knowing and willful violations. The section cited by

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counsel merely states that "as a practical matter" the knowing and willful violations are confined to the situations dealing with 'surreptitious means' referred to by counsel for Toshiba-America. Therefore, even the Justice Department's own commentaries would not preclude finding knowing and willful violations under the circumstances found here.

b. Hiroshi Ikeda's knowing and willful violations

Counsel for Toshiba-America raises a variation of the arguments raised earlier by Mr. Ikeda's counsel regarding Mr. Ikeda's culpability. Unlike Mr. Ikeda's counsel, however, counsel for Toshiba-America admits the possibility that Mr. Ikeda's actions may have violated the Act. However, counsel for Toshiba-America argues that because of Mr. Ikeda's limited knowledge of English, Mr. Ikeda's violations do not rise to a knowing and willful level.

Despite the evidence cited earlier of his conversation with Mr. Traeger during which Mr. Ikeda may have been put on notice of the prohibitions of the Act, this Office notes that a distinction could be made between Mr. Ikeda's and Mr. Traeger's awareness of the Act. As noted earlier, it is clear that Mr. Ikeda knew that the payments to Mr. Traeger were to reimburse for political contributions. However, Mr. Ikeda, was a foreigner with apparently little understanding of American politics. Therefore, Mr. Ikeda's awareness of the extent his actions violated the Act is less clear. In view of this distinction with regard to Mr. Ikeda, this Office now recommends that his actions violated sections 441f and 441b but does not recommend that the Commission

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find his violations were knowing and willful.

C. The California Reimbursement and the knowing and willful recommendations

Counsel for Toshiba-America again does not deny that Mr. Wexler was reimbursed for the contributions he made. Counsel argues, however, that the violations of the Act stemming from the reimbursements in California are not related to the reimbursements made in Tennessee and contends that nothing in the California situation reflects a knowing and willful violation of the Act. Counsel for Toshiba-America argues that this Office should, at a minimum, separate the counts and the respondents. As part of this proposal, counsel urges that the knowing and willful recommendations be directed only against the Tennessee division of Toshiba-America as a separate respondent, while non-knowing and willful recommendations be directed against the California division as a separate respondent. As justification, counsel states that the divisions of Toshiba-America operated at the time as distinct and autonomous units.[15]

Counsel for Toshiba-America further contends that the Commission, for prudential reasons, should take no further action against Toshiba-America regarding the California violation. In support of this argument, counsel cites various factors such as the cooperation given by Toshiba-America in the Commission's investigation and the full refund made of the contribution

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15. Earlier in his brief, counsel for Toshiba-America states that in 1989 the status of the California and Tennessee divisions of Toshiba-America changed. These divisions became "independent operating subsidiar[ies] of Toshiba-America, Inc., which is now a holding company." Attachment 4 at 2.

involved.

The knowing and willful recommendations made by this Office against Toshiba-America concern the activities of company personnel in Tennessee, specifically activities of Mr. Traeger and Mr. Ikeda. This Office agrees with counsel for Toshiba-America that the California violations were not knowing and willful. However, it is unnecessary to artificially split the recommendation between two units of what remains essentially one economic enterprise. The divisions which committed the violations were part of Toshiba-America at the time of the violations and, as illustrated in counsel's reply brief, are still owned by Toshiba-America, now a holding company. However, to address the corporation's concern, this Office is now making two sets of section 441b and 441f findings against Toshiba-America, one set of recommendations will concern knowing and willful findings, the other, the "knowing" but not willful violations. With regard to the latter (California) violation, the factors cited by counsel do not remove the fact of the violation. This Office therefore recommends that the Commission reject Toshiba-America's request that the Commission take no further action against the corporation regarding the California violation.

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E. Yasuo Nishioka and the California reimbursements

This Office did not brief the issue of whether Yasuo Nishioka, the Legal Director of Toshiba-America, Inc. Industrial Electronics Business Sector, violated the Act.

The evidence in hand is unclear as to Mr. Nishioka's involvement in the reimbursement of Wexler's contribution to the Republican Senatorial Inner Circle. While it is clear that he agreed with Ishiguro that the payment of Wexler's membership dues to an organisation should be charged to his department, it is not clear whether Nishioka was ever told the name of the recipient organization. Consequently, the Office of the General Counsel recommends that the Commission take no further action with regard to Mr. Nishioka's apparent violations of 2 U.S.C. §§ 441b and 441f and close the file with respect to him.

F. Summary

Based on the foregoing, the Office of the General Counsel recommends that the Commission deny respondent Toshiba-America's request to take no further action against the corporation. Instead, this Office recommends that the Commission find probable cause to believe that Toshiba-America violated 2 U.S.C. §§ 441b and 441f in connection with the California reimbursements, and knowingly and willfully violated 2 U.S.C. §§ 441b and 441f in connection with the Tennessee reimbursements. This Office also recommends that the Commission find probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

With respect to the other respondents, this Office recommends

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that the Commission find probable cause to believe that Hiroshi Ikeda and Mr. Kazuo Ishiguro violated 2 U.S.C. §§ 441b and 441f, and that Tsunehiro Miyashita, Norman Nelson, and Dennis Eversole violated 2 U.S.C. § 441b. This Office also recommends that the Commission find probable cause to believe that Betty Traeger violated 2 U.S.C. § 441f. Finally, this Office recommends that the Commission take no further action against Yasuo Nishioka.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES

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IV. RECOMMENDATIONS

1. Reject Toshiba-America, Inc.'s request for the Commission to take no further action against it.

2. Find probable cause to believe Toshiba-America, Inc. violated 2 U.S.C. §§ 441b and 441f in conection with the Traeger contributions and knowingly and willfully violated 2 U.S.C. §§ 441b and 441f in connection with the Wexler contributions.

3. Find probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

4. Find probable cause to believe that Hiroshi Ikeda violated 2 U.S.C. §§ 441b and 441f.

5. Find probable cause to believe that Kazuo Ishiguro violated 2 U.S.C. §§ 441b and 441f.

6. Find probable cause to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

7. Find probable cause to believe that Norman Nelson violated 2 U.S.C. § 441b(a).

8. Find probable cause to believe that Dennis Eversole violated 2 U.S.C. § 441b(a).

9. Find probable cause to believe Betty Traeger violated 2 U.S.C. § 441f.

10. Take no further action against Yasuo Nishioka and close the file with the respect to him

11. Approve the attached proposed conciliation agreements and the appropriate letters.

7/23/91
Date

Lawrence M. Noble
General Counsel

Attachments
1. Response by Robert and Betty Traeger
2. Supplementary response by Robert and Betty Traeger
3. Response by Hiroshi Ikeda
4. Response by Toshiba-America, Inc. et al.
5. Supplementary response by Toshiba-America, Inc. et al.
6. Proposed Conciliation Agreements

Staff assigned: Michael Marinelli

9204090402 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2575
Toshiba-America, Inc.;	)	
Robert Traeger;	)	
Betty Traeger;	)	
Norman Nelson;	)	
Tsunehiro Miyashita;	)	
Kazuo Ishiguro;	)	
Dennis Eversole;	)	
Hiroshi Ikeda;	)	
Yasuo Nishioka.	)	

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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 30, 1991, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions in MUR 2575:

1. Reject Toshiba-America, Inc.'s request for the Commission to take no further action against it.

2. Find probable cause to believe Toshiba-America, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b and 441f in connection with the Traeger contributions and violated 2 U.S.C. §§ 441b and 441f in connection with the Wexler contributions.

3. Find probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b and 441f.

(continued)

4. Find probable cause to believe that Hiroshi Ikeda violated 2 U.S.C. §§ 441b and 441f.

5. Find probable cause to believe that Kazuo Ishiguro violated 2 U.S.C. §§ 441b and 441f.

6. Find probable cause to believe that Tsunehiro Miyashita violated 2 U.S.C. § 441b(a).

7. Find probable cause to believe that Norman Nelson violated 2 U.S.C. § 441b(a).

8. Find probable cause to believe that Dennis Eversole violated 2 U.S.C. § 441b(a).

9. Find probable cause to believe Betty Traeger violated 2 U.S.C. § 441f.

10. Take no further action against Yasuo Nishioka and close the file with respect to him.

(continued)

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11. Approve the proposed conciliation agreements and the appropriate letters as recommended in the General Counsel's report dated July 23, 1991

Commissioners Aikens, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott was not present.

Attest:

7-31-91
Date

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 8, 1991

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba-America, Inc.
Tsunehiro Miyashita
Kazuo Ishiguro
Dennis Eversole
Norman Nelson
Yasuo Nishioka

Dear Mr. Gross:

On July 30, 1991, the Federal Election Commission rejected the request made on behalf of your client, Toshiba-America, for the Commission to take no further action against it. Instead, the Commission found that there is probable cause to believe that Toshiba-America knowingly and willfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the reimbursement of contributions made by Robert and Betty Traeger and violated 2 U.S.C. §§ 441b and 441f in connection with the reimbursement of the contribution made by Paul Wexler. The Commission further found probable cause to believe that your client, Kazuo Ishiguro, violated 2 U.S.C. §§ 441b and 441f and that your clients Tsunehiro Miyashita, Dennis Eversole and Norman Nelson violated 2 U.S.C § 441b in connection with their roles in the reimbursements.

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.

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Enclosed are conciliation agreements that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreements, please sign and return them, along with the civil penalties, to the Commission within ten days. I will then recommend that the Commission accept the agreements. Please make your check for the civil penalties payable to the Federal Election Commission.

Finally, after considering the circumstances of the matter, the Commission determined on July 30, 1991, to take no further action against your client, Yasuo Nishioka, and closed the file as it pertains to him. The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal materials to appear on the public record, please do so within ten days of your receipt of this letter. 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. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreements, or if you wish to arrange a meeting in connection with mutually satisfactory conciliation agreements, please contact Anthony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

LMNoble(AB)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreements

9204090040026

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 8, 1991

Robert Bauer, Esquire
Judith Corley, Esquire
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

On July 30, 1991, the Federal Election Commission found that there is probable cause to believe your client, Robert Traeger, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the contributions made by Mr. Traeger and Betty Traeger which are the subject of this matter. The Commission further found that your client, Betty Traeger, violated 2 U.S.C. § 441f for her role in making these contributions.

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.

Enclosed are conciliation agreements that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreements, please sign and return them, along with the civil penalties, to the Commission within ten days. I will then recommend that the Commission accept the agreements. Please make your check for the civil penalties payable to the Federal Election Commission.

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If you have any questions or suggestions for changes in the enclosed conciliation agreements, or if you wish to arrange a meeting in connection with mutually satisfactory conciliation agreements, please contact Anthony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

LMNoble (AB)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreements

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 8, 1991

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran:

On July 30, 1991, the Federal Election Commission found that there is probable cause to believe your client, Hiroshi Ikeda, violated 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the reimbursed contributions made by Robert and Betty Traeger which are the subject of this matter.

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.

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.

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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 Anthony Buckley, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

LM Noble (ZH)

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 23, 1991

Kenneth A. Gross, Esquire
Skadden, Arps, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C 20005-2107

RE: MUR 2575
Toshiba-America, Inc.
Tsunehiro Miyashita
Kazuo Ishiguro
Dennis Eversole
Norman Nelson

Dear Mr. Gross:

On August 8, 1991, you were notified that the Federal Election Commission found probable cause to believe that your client, Toshiba-America, Inc., knowingly and willfully violated 2 U.S.C. §§ 441b and 441f. In addition, the Commission found probable cause to believe that Toshiba-America, Inc., violated 2 U.S.C. §§ 441b and 441f; that your client, Kazuo Ishiguro, violated 2 U.S.C. §§ 441b and 441f; and that your clients, Tsunehiro Miyashita, Dennis Eversole and Norman Nelson, violated 2 U.S.C. § 441b. On that same date, you were sent conciliation agreements offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 5 days of receipt of this letter.

Should you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble

Lawrence M. Noble
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 23, 1991

Robert Bauer, Esquire
Judith Corley, Esquire
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

On August 8, 1991, you were notified that the Federal Election Commission found probable cause to believe that your client, Robert Traeger, knowingly and willfully violated 2 U.S.C. §§ 441b and 441f, and that your client, Betty Traeger, violated 2 U.S.C. § 441f. On that same date, you were sent conciliation agreements offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 5 days of receipt of this letter.

Should you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	SENSITIVE
Toshiba America Consumer Products, Inc.	)	
(formerly Toshiba America, Inc.)	)	
Toshiba America Information Systems,	)	
Inc. (formerly Toshiba America, Inc.)	)	MUR 2575
Tsunehiro Miyashita	)	
Norman Nelson	)	
Kazuo Ishiguro	)	
Dennis Eversole	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached are conciliation agreements for each of the above-captioned respondents which have been signed by their common counsel.

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II. RECOMMENDATIONS

1. Accept the attached conciliation agreements with Toshiba America Consumer Products, Inc.; Toshiba America Information Systems, Inc.; Tsunehiro Niyashita; Norman Nelson; Kazuo Ishiguro; and Dennis Eversole.

2. Close the file as to these respondents.

3. Approve the appropriate letters.

2/25/92
Date

Lawrence M. Noble
General Counsel

Attachment
1. Conciliation Agreements (6)

Staff Assigned: Tony Buckley

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Toshiba America Consumer Products, Inc. (formerly Toshiba America, Inc.);	)	
Toshiba America Information Systems, Inc. (formerly Toshiba America, Inc.);	)	MUR 2575
Tsunehiro Miyashita;	)	
Norman Nelson;	)	
Kazuo Ishiguro;	)	
Dennis Eversole.	)	

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CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 28, 1992, the Commission decided by a vote of 4-0 to take the following actions in MUR 2575:

1. Accept the conciliation agreements with Toshiba America Consumer Products, Inc.; Toshiba America Information Systems, Inc.; Tsunehiro Miyashita; Norman Nelson; Kazuo Ishiguro; and Dennis Eversole, as recommended in the General Counsel's Report dated February 25, 1992.

2. Close the file as to these respondents.

(Continued)

3. Approve the appropriate letters, as recommended in the General Counsel's Report dated February 25, 1992.

Commissioners Aikens, Elliott, McGarry and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter; Commissioner McDonald did not cast a vote.

Attest:

2-28-92
Date

Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Wed., Feb. 26, 1992 11:13 a.m.
Circulated to the Commission: Wed., Feb. 26, 1992 4:00 p.m.
Deadline for vote: Fri., Feb. 28, 1992 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 4, 1992

Kenneth A. Gross, Esquire
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba America Consumer Products, Inc.
Toshiba America Information Systems, Inc.
Tsunehiro Miyashita
Kazuo Ishiguro
Norman Nelson
Dennis Eversole

Dear Mr. Gross:

On February 28, 1992, the Federal Election Commission accepted the signed conciliation agreements submitted on your clients' behalf in settlement of violations of provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your clients.

This matter will become a part of the public record within 30 days after it has been 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. 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.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

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Enclosed you will find copies of the fully executed conciliation agreements for your files. Please note that the civil penalties are due within 30 days of the conciliation agreements' effective dates. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

Enclosures
Conciliation Agreements (6)

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
92 FEB 11 PM 1:13

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Toshiba America Consumer)
Products, Inc. (formerly) MUR 2575
Toshiba America, Inc.))

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 FEB 12 PM 3:45

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Toshiba America, Inc. (now Toshiba America Consumer Products, Inc.) knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and Toshiba America Consumer Products, Inc. ("Respondent"), having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:

1. At the time of the events in this matter, Toshiba America, Inc. was a for-profit corporation incorporated in the State of New York. In 1989, after the dates of the violations, the Consumer Products Business Sector of Toshiba America, Inc. became Toshiba America Consumer Products, Inc., and assumed all of the assets and liabilities connected with the activities of the predecessor Business Sector. At the time of the reorganization, a new Toshiba America, Inc., incorporated in the State of Delaware, was created. Toshiba America Consumer Products, Inc. is an independent operating subsidiary of the new Toshiba America, Inc., which is a holding company. All references to corporate entities and titles of employees relate to the corporate structure and positions held prior to the reorganization.

2. Hiroshi Ikeda, at the time of the events in this matter, was the Executive Vice President and General Manager, and the highest ranking officer of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Ikeda was an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws.

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3. Tsunehiro Miyashita, at the time of the events in this matter, was the Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Miyashita was an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws.

4. Robert Traeger, at the time of the events in this matter, was the Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Traeger was not an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an officer of Toshiba America within the meaning of 2 U.S.C. § 441b(a).

5. Norman Nelson, at the time of the events in this matter, was the Controller of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Nelson was not an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an

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officer of Toshiba America, Inc. within the meaning of 2 U.S.C. § 441b(a).

6. In 1987, Robert Traeger approached his superior, Hiroshi Ikeda, with the idea that Respondent should provide Mr. Traeger with bonuses, the funds of which he would use to make political contributions to Federal committees. Mr. Traeger was aware at this time that it was illegal for corporations to make contributions to Federal political committees.

7. Subsequently, on several occasions, after requests for bonuses from Robert Traeger, Hiroshi Ikeda approached Tsunehiro Miyashita and requested that he make out bonus checks which were then used by Mr. Traeger to make contributions to Federal political committees. Mr. Ikeda also approved the payroll registers which reflected these bonus payments.

8. In each instance, after being approached by Hiroshi Ikeda, Tsunehiro Miyashita directed Norman Nelson to prepare the bonus checks. These checks were signed by Mr. Miyashita.

9. In each instance, after being approached by Tsunehiro Miyashita, Norman Nelson directed the general accounting supervisor to draw up the bonus checks.

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Robert Traeger separately approached Mr. Nelson and informed him that Mr. Ikeda had approved the bonuses.

10. In 1987, Respondent reimbursed or provided funds to Robert Traeger to be used to make the following contributions to Federal political committees:

Albert Gore, Jr. for President Committee, Inc.	$1,000
Congressman Bart Gordon Committee	$ 850 ($600 and $250)
Clement for Congress	$ 100

11. In 1987, Respondent reimbursed or provided funds to Robert Traeger which were used by his wife, Betty Traeger, to make the following contributions to Federal political committees on their joint checking account:

Friends of Jim Sasser	$1,000
Albert Gore, Jr. for President Committee, Inc.	$ 250
Friends for Terry Holcomb	$ 500

12. Betty Traeger signed a statement in the summer of 1987 reattributing $500 of Robert Traeger's $1,000 contribution to Albert Gore, Jr. for President Committee, Inc. to herself.

13. Between February 25, 1988 to June 30, 1988, Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee, and Clement for Con-

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gress together refunded $2,200 of the contributions they received from Robert Traeger and Betty Traeger.

14. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election.

15. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person. The term "person" is defined at Section 431(11) to include a corporation. A corporation is deemed to act through its officers.

V. 1. Respondent, through the conduct of its officers Hiroshi Ikeda, Tsunehiro Miyashita and Norman Nelson, and through the knowing and willful conduct of its officer, Robert Traeger, used funds from its corporate treasury for contributions totaling $3,700 made to Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee, Friends of Jim Sasser, Clement for Congress, and Friends for Terry Holcomb, in knowing and willful violation of 2 U.S.C. § 441b(a).

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2. Respondent, through the conduct of its officers Hiroshi Ikeda, Tsunehiro Miyashita and Norman Nelson, and through the knowing and willful conduct of its officer, Robert Traeger, made contributions to Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee, Friends of Jim Sasser, Clement for Congress, and Friends for Terry Holcomb in the names of Robert and Betty Traeger, in knowing and willful violation of 2 U.S.C. § 441f.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand Five Hundred Dollars ($6,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 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:

I M Noble (JP)
Lawrence M. Noble
General Counsel

3-4-92
Date

FOR THE RESPONDENT:

Kenneth A. Gross
Counsel for
Toshiba America Consumer
Products, Inc.

February 11, 1992
Date

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
92 FEB 11 PM 1:13

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
Toshiba America Information	)	
Systems, Inc. (formerly	)	MUR 2575
Toshiba America, Inc.)	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Toshiba America, Inc. (now Toshiba America Information Systems, Inc.) violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and Toshiba America Information Systems, Inc. ("Respondent"), having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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IV. The pertinent facts in this matter are as follows:

1. Toshiba America, Inc., at the time of the events in this matter, was a for-profit corporation incorporated in the State of New York. In 1989, after the dates of the violations, the Industrial Electronics Business Sector of Toshiba America, Inc. became Toshiba America Information Systems, Inc., and assumed all of the assets and liabilities connected with the activities of the predecessor Business Sector. At the time of the reorganization, a new Toshiba America, Inc., incorporated in the State of Delavare, was created. Toshiba America Information Systems, Inc. is an independent operating subsidiary of the new Toshiba America, Inc., which is a holding company. All references to corporate entities and titles of employees relate to the corporate structure and positions held prior to the reorganization.

2. Kazuo Ishiguro, at the time of the events in this matter, was President of the Industrial Electronics Business Sector of Toshiba America, Inc. Mr. Ishiguro was the highest ranking officer at the Industrial Electronics Business Sector of Toshiba America, Inc. in Tustin, California in 1985.

3. Paul Wexler, at the time of the events in this matter, was the Vice President and General Manager

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of the Telecommunications Systems Division of the Industrial Electronics Business Sector of Toshiba America, Inc. in Tustin, California. Mr. Wexler was not an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an officer of Toshiba America, Inc. within the meaning of 2 U.S.C. § 441b(a).

4. Dennis Eversole, at the time of the events in this matter, was Sector Controller of the Industrial Electronics Business Sector of Toshiba America, Inc. Mr. Eversole was not an officer of Toshiba America within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an officer of Toshiba America, Inc. within the meaning of 2 U.S.C. § 441b(a).

5. The National Republican Senatorial Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

6. In 1985 Respondent reimbursed or provided funds to Paul Wexler to allow him to make a $1,000 contribution to the National Republican Inner Circle, a program of the National Republican Senatorial Committee. In effecting this reimbursement, Kazuo Ishiguro authorized the payment of funds to Mr. Wexler and signed the

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expense report authorizing the payment. Dennis Eversole also signed the expense report authorizing the payment.

7. On April 7, 1988, Mr. Wexler repaid Toshiba America, Inc. for the reimbursement he received.

8. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election.

9. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person. The term "person" is defined at Section 431(11) to include a corporation.

V. 1. Respondent, through the conduct of its officers, Kazuo Ishiguro, Paul Wexler and Dennis Eversole, used funds from its corporate treasury for a contribution totaling $1,000 made to the National Republican Senatorial Committee, in violation of 2 U.S.C. § 441b(a).

2. Respondent, through the conduct of its officers, Kazuo Ishiguro, Paul Wexler and Dennis Eversole, made a contribution to the National Republican

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Senatorial Committee in the name of Paul Wexler, in violation of 2 U.S.C. § 441f.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Seven Hundred Fifty Dollars ($750), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 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

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agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

J M Noble (LP) — 3-4-92

Lawrence M. Noble
General Counsel

Date

FOR THE RESPONDENT:

February 11, 1992

Kenneth A. Gross
Counsel for
Toshiba America Information Systems, Inc.

Date

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
92 FEB 11 PM 1:13

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Tsunehiro Miyashita)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Tsunehiro Miyashita ("Respondent") violated 2 U.S.C. § 441b(a).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Tsunehiro Miyashita, at the time of the events in this matter, was the Vice President

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OFFICE OF GENERAL COUNSEL
92 FEB 12 PM 3:44

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and Assistant Treasurer of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee.

2. Robert Traeger, at the time of the events in this matter, was the Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee.

3. Toshiba America, Inc., at the time of the events in this matter, was a for-profit corporation incorporated in the State of New York.

4. In 1987, Respondent, as an officer of Toshiba America, Inc., authorized the corporation to reimburse or provide funds to Robert Traeger for the following contributions to Federal political committees:

Albert Gore, Jr. for President Committee, Inc.	$1,000	
Congressman Bart Gordon Committee	$ 850	($600 and $250)
Clement for Congress	$ 100	

5. In 1987, Respondent, as an officer of Toshiba America, Inc., authorized the corporation to reimburse or provide funds to Robert Traeger for the following contributions made by his wife, Betty Traeger,

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on their joint checking account, to the Federal political committees:

Friends of Jim Sasser	$1,000
Albert Gore, Jr. for President Committee, Inc.	$ 250
Friends for Terry Holcomb	$ 500

6. Betty Traeger signed a statement in the summer of 1987 reattributing $500 of Robert Traeger's $1,000 contribution to Albert Gore, Jr. for President Committee, Inc. to herself.

7. Between February 25, 1988 and June 30, 1988, Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee and Clement for Congress together refunded $2,200 of the contributions they received from Robert Traeger and Betty Traeger.

8. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to

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any contribution by the corporation prohibited by that section.

V. Respondent, in his capacity as Vice President and Assistant Treasurer of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc., authorized Toshiba America Inc.'s reimbursement of Robert Traeger and Betty Traeger for contributions totaling $3,700 made to Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee, Friends of Jim Sasser, Clement for Congress and Friends for Terry Holcomb, in violation of 2 U.S.C. § 441b(a). Respondent contends that the violation on his part resulted from a lack of familiarity with Federal election laws.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Three Hundred Dollars ($1,300), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief

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in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 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:

LMNoble (JH) 3-4-92

Lawrence M. Noble
General Counsel

Date

FOR THE RESPONDENT:

Kenneth A. Gross
Attorney for
Tsunehiro Miyashita

February 11, 1992

Date

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Kazuo Ishiguro)

CONCILIATION AGREEMENT

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 FEB 12 PM 3:44

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Kazuo Ishiguro ("Respondent") violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Kazuo Ishiguro, at the time of the events of this matter, was President of the Industri-

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al Electronics Business Sector of Toshiba America, Inc. Respondent was the highest ranking officer at the Industrial Electronics Business Sector in Tustin, California in 1985.

2. Paul Wexler, at the time of the events in this matter, was Vice President and General Manager of the Telecommunications Systems Division of the Industrial Electronics Business Sector of Toshiba America, Inc.

3. Toshiba America, Inc., at the time of the events in this matter, was a for-profit corporation incorporated in the State of New York.

4. The National Republican Senatorial Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

5. In 1985, Respondent, as an officer of Toshiba America, Inc., authorized the corporation to reimburse funds to Paul Wexler for a $1,000 contribution to the National Republican Inner Circle, a program of the National Republican Senatorial Committee.

6. Paul Wexler repaid Toshiba America for this $1,000 reimbursement on April 7, 1988.

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7. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

8. Pursuant to 2 U.S.C. § 441f, no person may knowingly permit his name to be used to effect a contribution by another person. The term "person" is defined at Section 431(11) to include corporations. Section 441f also applies to those who actively assist in the making of contributions in the name of another.

V. 1. Respondent, in his capacity as President of the Industrial Electronics Business Sector of Toshiba America, Inc., authorized Toshiba America, Inc.'s reimbursement of Paul Wexler for a $1,000 contribution to the National Republican Senatorial Committee, in violation of 2 U.S.C. § 441b.

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2. Respondent assisted Toshiba America, Inc. in making contributions to the National Republican Senatorial Committee in the name of Paul Wexler, in violation of 2 U.S.C. § 441f.

3. Respondent contends that any violation occurred as a result of his lack of familiarity with Federal election laws.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Five Hundred Dollars ($500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with

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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:

LM Noble (JH)
Lawrence M. Noble
General Counsel

3-4-92
Date

FOR THE RESPONDENT:

Kenneth A. Gross
Attorney for
Kazuo Ishiguro

February 11, 1992
Date

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FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
92 FEB 11 PM 1:13

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Norman Nelson)

CONCILIATION AGREEMENT

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 FEB 12 PM 3:45

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Norman Nelson ("Respondent") violated 2 U.S.C. § 441b(a).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Norman Nelson, at the time of the events in this matter, was the Controller of the Manufacturing Division of the Consumer Products Business

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Sector of Toshiba America, Inc. Respondent was not an officer of Toshiba America, Inc. within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an officer of Toshiba America, Inc. within the meaning of 2 U.S.C. § 441b(a).

2. Robert Traeger, at the time of the events in this matter, was the Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc.

3. Toshiba America, Inc., at the time of the events in this matter, was a for-profit corporation incorporated in the State of New York.

4. In 1987, Respondent, in his capacity as Controller of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc., authorized the corporation to reimburse or provide funds to Robert Traeger for the following contributions to Federal political committees:

Albert Gore, Jr. for President Committee, Inc.	$1,000
Congressman Bart Gordon Committee	$ 850 ($600 and $250)
Clement for Congress	$ 100

5. In 1987, Respondent, in his capacity as Controller of the Manufacturing Division of the Consumer

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Products Business Sector of Toshiba America, Inc., authorized the corporation to reimburse or provide funds to Robert Traeger which were used to make the following contributions made by his wife, Betty Traeger, on their joint checking account to the following Federal political committees:

Friends of Jim Sasser	$1,000
Albert Gore, Jr. for President Committee, Inc.	$ 250
Friends for Terry Holcomb	$ 500

6. Betty Traeger signed a statement in the summer of 1987 reattributing $500 of Robert Traeger's $1,000 contribution to Albert Gore, Jr. for President Committee, Inc. to herself.

7. Between February 25, 1988 and June 30, 1988, Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee and Clement for Congress together refunded $2,200 of the contributions they received from Robert Traeger and Betty Traeger.

8. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or

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services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

V. Respondent, in his capacity as Controller of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc., consented to Toshiba America, Inc.'s reimbursement of Robert Traeger and Betty Traeger for contributions totaling $3,700 made to Albert Gore, Jr. for President Committee, Inc., Congressman Bart Gordon Committee, Friends of Jim Sasser, Clement for Congress and Friends for Terry Holcomb, in violation of 2 U.S.C. § 441b(a). Respondent contends that the violation was not knowing and willful.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Four Hundred Dollars ($400), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief

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in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 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:

J M Noble (FJ) 3-4-92

Lawrence M. Noble
General Counsel

Date

FOR THE RESPONDENT:

Kenneth A. Gross
Attorney for
Norman Nelson

February 11, 1992

Date

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RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
92 FEB 11 PM 1:13

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Dennis Eversole)

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 FEB 12 PM 3:44

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Dennis Eversole ("Respondent") violated 2 U.S.C. § 441b(a).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent, Dennis Eversole, at the time of the events of this matter, was Sector Controller of the Industrial Electronics Business Sector of Toshiba America, Inc. Respondent was not an officer of Toshiba

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America, Inc. within the meaning of that corporation's by-laws; however, given his role in the operation of the Business Sector, he was an officer of Toshiba America, Inc. within the meaning of 2 U.S.C. § 441b(a).

2. Paul Wexler, at the time of the events in this matter, was Vice President and General Manager of the Telecommunications Systems Division of the Industrial Electronics Business Sector of Toshiba America, Inc.

3. Toshiba America, Inc., at the time of the events in the matter, was a for-profit corporation incorporated in the State of New York.

4. The National Republican Senatorial Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

5. In 1985, Respondent, as an officer of Toshiba America, Inc., caused the corporation to reimburse or provide funds to Paul Wexler specifically for a $1,000 contribution to the National Republican Inner Circle, a program of the National Republican Senatorial Committee.

6. Paul Wexler repaid Toshiba America for this $1,000 reimbursement on April 7, 1988.

7. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section

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441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

V. 1. Respondent, in his capacity as Sector Controller of the Industrial Electronics Business Sector of Toshiba America, Inc., authorized Toshiba America, Inc.'s reimbursement of Paul Wexler for a $1,000 contribution to the National Republican Senatorial Committee, in violation of 2 U.S.C. § 441b.

2. Respondent contends that he authorized this expenditure reimbursement because it had already been approved by his superiors.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Three Hundred Dollars ($300), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief

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in the United States District Court for the District of Columbia.

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

IX. Respondent shall have no more than 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:

LMNoble (JH) 3-4-92

Lawrence M. Noble
General Counsel

Date

FOR THE RESPONDENT:

Kenneth A. Gross
Counsel for
Dennis Eversole

February 11, 1992

Date

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OGC/4650

WILEY, REIN & FIELDING

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

April 8, 1992

JAN WITOLD BARAN
(202) 429-7330

FACSIMILE
(202) 429-7049
TELEX 248348 WYRN UR

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 APR -8 PM 4:13

Tony Buckley, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Buckley:

Enclosed please find a conciliation agreement signed by our client, Mr. Hiroshi Ikeda, and received by me today. This agreement is identical to the one transmitted by you to me by letter dated February 20, 1992, and is intended to resolve Matter Under Review 2575 as it pertains to Mr. Ikeda.

I look forward to receiving a copy of the fully executed agreement.

Sincerely,

Jan Witold Baran

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RECEIVED
F.E.C.
SECRETARIAT
92 APR 10 PM 5:00

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Hiroshi Ikeda) MUR 2575

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Hiroshi Ikeda. Attachment 1.

The attached agreement contains no changes from the agreement approved by the Commission on February 18, 1992. No check for the civil penalty has been received.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Hiroshi Ikeda.

2. Approve the appropriate letter.

3. Close the file as to this respondent.

4/10/92
Date

Lawrence M. Noble
General Counsel

Attachment
Conciliation Agreement

Staff Assigned: Tony Buckley

92040900800

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Hiroshi Ikeda.) MUR 2575

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 16, 1992, the Commission decided by a vote of 4-0 to take the following actions in MUR 2575:

1. Accept the conciliation agreement with Hiroshi Ikeda, as recommended in the General Counsel's Report dated April 10, 1992.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated April 10, 1992.

3. Close the file as to this respondent.

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

Attest:

4-17-92
Date

Delores R. Harris for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Fri., April 10, 1992 5:00 p.m.
Circulated to the Commission: Mon., April 13, 1992 4:00 p.m.
Deadline for vote: Thurs., April 16, 1992 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 27, 1992

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran and Ms. Laham:

On April 16, 1992, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441b(a) and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your client.

This matter will become a part of the public record within 30 days after it has been 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. 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.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted

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to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2575
Hiroshi Ikeda)

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 APR -8 PM 4:13

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Hiroshi Ikeda ("Respondent") violated 2 U.S.C. §§ 441b(a) and 441f.

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. At the time of the events in this matter, Respondent, Hiroshi Ikeda, was the Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Ikeda was the highest ranking officer at the plant. Mr. Ikeda is not a United States citizen and came to the United States to assume his positions as Executive Vice President and General Manager in July 1986. He had been in the United

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States for 10 months when the activity which is the subject matter of this agreement commenced.

2. At the time of the events in this matter, Robert Traeger was the Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee. Mr. Traeger was the second-highest ranking officer at the plant.

3. At the time of the events in this matter, Toshiba America, Inc. was a for-profit corporation incorporated in the State of New York.

4. In 1987, Respondent, as an officer of Toshiba America, caused the corporation to reimburse or provide funds to Robert Traeger specifically for the following contributions to Federal political committees:

Albert Gore, Jr. for President Committee, Inc.	$1,000
Congressman Bart Gordon Committee	$ 850 ($600 and $250)
Clement for Congress	$ 100

5. In 1987, Respondent, as an officer of Toshiba America, caused the corporation to reimburse or provide funds to Robert Traeger specifically for the following contributions made by his wife, Betty Traeger, on their joint checking account, to Federal political committees:

Friends of Jim Sasser	$1,000
Albert Gore, Jr. for President Committee, Inc.	$ 250
Friends for Terry Holcomb	$ 500

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6. Respondent did not initiate the making of the contributions identified in subparagraphs 4 and 5. Rather, Respondent agreed to their making in response to suggestions by Robert Traeger.

7. Betty Traeger signed a statement in the summer of 1987 reattributing $500 of Robert Traeger's $1,000 contribution to the Albert Gore, Jr. for President Committee, Inc. to herself.

8. Between February 25, 1988 and June 30, 1988, the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee and Clement for Congress together refunded $2,200 of the contributions they received from Robert Traeger and Betty Traeger.

9. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

10. Pursuant to 2 U.S.C. § 441f, no person may knowingly permit his name to be used to effect a contribution by another person. The term "person" is defined at Section 431(11) to include a corporation. Section 441f also applies to those who actively assist in the making of contributions in the name of another.

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V. 1. Respondent, in his capacity as Executive Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, consented to Toshiba America's reimbursement of Robert Traeger and Betty Traeger for contributions totaling $3,700 made to the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee, the Friends of Jim Sasser, Clement for Congress and Friends for Terry Holcomb, in violation of 2 U.S.C. § 441b(a).

2. Respondent assisted Toshiba America in making contributions to the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee, the Friends of Jim Sasser, Clement for Congress and Friends for Terry Holcomb in the names of two individuals, in violation of 2 U.S.C. § 441f.

VI. Respondent contends that any violation was not knowing and willful, but occurred as a result of his lack of familiarity with American election laws.

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of One Thousand, Five Hundred dollars ($1,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

X. Respondent shall have no more than 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.

XI. 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

4/27/92
Date

FOR THE RESPONDENT:

(Name) Hiroshi Ikeda
(Position)
General Manager
Fukaya Works
Toshiba Corporation

March 9, 1992
Date

9204090408

#4661

PERKINS COIE

A Law Partnership Including Professional Corporations
607 Fourteenth Street, N.W. • Washington, D.C. 20005-2011 • (202) 628-6600

May 19, 1992

92 MAY 19 AM 11:01

Tony Buckley
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Robert Traeger
Betty Traeger

Dear Mr. Buckley:

Please find enclosed a conciliation agreement in the above-referenced matter executed on behalf of Robert and Betty Traeger.

If you have any questions or need additional information, please let me know.

Very truly yours,

Judith L. Corley
Counsel for Respondents

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[10851-0001/DA921400.001]

RECEIVED
F.E.C.
SECRETARIAT
92 MAY 26 PM 12:20

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger	)	MUR 2575
Betty Traeger	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Judith Corley, counsel for Robert and Betty Traeger.

Attachment 1.

The attached agreement contains no changes from the agreement approved by the Commission on April 21, 1992. No check for the civil penalty has been received. Acceptance of the attached agreement will resolve this matter with respect to all outstanding respondents.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Robert and Betty Traeger..
2. Approve the appropriate letters.
3. Close the file.

5/22/92
Date

Lawrence M. Noble
General Counsel

Attachment
Conciliation Agreement

Staff Assigned: Tony Buckley

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger;	)	MUR 2575
Betty Traeger.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 29, 1992, the Commission decided by a vote of 5-0 to take the following actions in MUR 2575:

1. Accept the conciliation agreement with Robert and Betty Traeger, as recommended in the General Counsel's Report dated May 22, 1992.

2. Approve the appropriate letters, as recommended in the General Counsel's Report dated May 22, 1992.

3. Close the file.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Potter recused himself from this matter.

Attest:

5-29-92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tues., May 26, 1992 12:20 p.m.
Circulated to the Commission: Tues., May 26, 1992 4:00 p.m.
Deadline for vote: Fri., May 29, 1992 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

Craig C. Donsanto, Director
Election Crimes Branch
Criminal Division
U.S. Department of Justice
P.O. Box 27321
Central Station
Washington, D.C. 20038

RE: MUR 2575

Dear Mr. Donsanto:

This is in reference to the matter involving Toshiba America, Inc., Robert Traeger and Hiroshi Ikeda, which your office referred to the Federal Election Commission.

After conducting an investigation into this matter, the Commission found that there was probable cause to believe that Toshiba America, Inc. and Robert Traeger each knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f; that Hiroshi Ikeda and Kazuo Ishiguro each violated 2 U.S.C. §§ 441b(a) and 441f; that Betty Traeger violated 2 U.S.C. § 441f; and that Tsunehiro Miyashita, Norman Nelson and Dennis Eversole each violated 2 U.S.C. § 441b(a). The Commission has now entered into conciliation agreements in the matter. Copies of these agreements are enclosed for your information.

Additionally, the Commission found that there was reason to believe Paul Wexler and Yasuo Nishioka each violated 2 U.S.C. §§ 441b(a) and 441f, and that Tsunehiro Miyashita, Dennis Eversole and Norman Nelson each violated 2 U.S.C. § 441f. The Commission has entered into a conciliation agreement with Mr. Wexler in the matter, and taken no further action with regard to the other

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violations. A copy of the agreement with Mr. Wexler is enclosed for your information.

We appreciate your cooperation in helping the Commission meet its enforcement responsibilities under the Federal Election Campaign Act of 1971, as amended.

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
Conciliation Agreements

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CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

Stuart P. Jasper, Esquire
Jasper & Jasper
Commerce Bank Building
1201 Dove Street, Sixth Floor
Newport Beach, California 92660

RE: MUR 2575
Paul Wexler

Dear Mr. Jasper:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

92040904094

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

Kenneth A. Gross, Esquire
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005-2107

RE: MUR 2575
Toshiba America Consumer Products, Inc.
Toshiba America Information Systems, Inc.
Tsunehiro Miyashita
Kazuo Ishiguro
Norman Nelson
Dennis Eversole
Yasuo Nishioka

Dear Mr. Gross:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

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

RE: MUR 2575
Hiroshi Ikeda

Dear Mr. Baran and Ms. Laham:

This is to advise you that the entire file in this matter has now been closed and will become part of the public record within 30 days. Should you wish to submit any legal or factual materials to be placed on the public record in connection with this matter, please do so within ten days. Such materials should be sent to the Office of the General Counsel.

Should you have any questions, contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 8, 1992

Robert Bauer, Esquire
Judith L. Corley, Esquire
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

RE: MUR 2575
Robert Traeger
Betty Traeger

Dear Mr. Bauer and Ms. Corley:

On May 29, 1992, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Robert and Betty Traeger, in settlement of knowing and willful violations of 2 U.S.C. §§ 441b(a) and 441f, and a violation of 2 U.S.C. § 441f, respectively. Accordingly, the file has been closed in this matter.

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. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 219-3690.

Sincerely,

Tony Buckley
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Robert Traeger	)	MUR 2575
Betty Traeger	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that Robert Traeger knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and that Betty Traeger (collectively "Respondents") knowingly violated 2 U.S.C. § 441f.

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:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Robert Traeger, at the time of the events in this matter, was the Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, Inc. in Lebanon, Tennessee.

2. Betty Traeger is the wife of Robert Traeger.

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3. Toshiba America, Inc., at the time of the events in this matter, was a for-profit corporation incorporated in the State of New York.

4. In 1987, Robert Traeger, as an officer of Toshiba America, caused the corporation to provide him with bonus payments to cover the following contributions to Federal political committees:

Albert Gore, Jr. for President Committee, Inc.	$1,000
Congressman Bart Gordon Committee	$ 850 ($600 and $250)
Clement for Congress	$ 100

5. In 1987, Robert Traeger, as an officer of Toshiba America, caused the corporation to provide him with bonus payments to cover the following contributions made by his wife, Betty Traeger, on their joint checking account, to Federal political committees:

Friends of Jim Sasser	$1,000
Albert Gore, Jr. for President Committee, Inc.	$ 250
Friends for Terry Holcomb	$ 500

6. Betty Traeger signed a statement in the summer of 1987 reattributing $500 of Robert Traeger's $1,000 contribution to the Albert Gore, Jr. for President Committee, Inc. to herself.

7. Between February 25, 1988 and June 30, 1988, the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee and Clement for Congress together refunded

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$2,200 of the contributions they received from Robert Traeger and Betty Traeger.

8. Pursuant to 2 U.S.C. § 441b(a), corporations are prohibited from making contributions with treasury funds to political committees. For purposes of this section, the term "contribution" is defined at Section 441b(b)(2) to include any direct or indirect payment, distribution, loan, advance, deposit or gift of money or services or anything of value to any organization in connection with a Federal election. Section 441b(a) also prohibits an officer of a corporation from consenting to any contribution by the corporation prohibited by that section.

9. Pursuant to 2 U.S.C. § 441f, no person may knowingly permit his or her name to be used to effect a contribution by another person. The term "person" is defined at Section 431(11) to include a corporation.

V. 1. Robert Traeger, in his capacity as Vice President and General Manager of the Manufacturing Division of the Consumer Products Business Sector of Toshiba America, consented to Toshiba America's reimbursement of himself and his wife for $3,700 in political contributions made to the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee, the Friends of Jim Sasser, Clement for Congress and Friends for Terry Holcomb, in knowing and willful violation of 2 U.S.C. § 441b(a).

2. Robert Traeger made contributions in his own name to the Albert Gore, Jr. for President Committee, Inc., the Congressman Bart Gordon Committee and Clement for Congress, for which he received advances or reimbursements from Toshiba America,

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and actively assisted Toshiba America in making contributions in the name of Betty Traeger to Friends of Jim Sasser, the Albert Gore, Jr. for President Committee, Inc. and Friends for Terry Holcomb, in knowing and willful violation of 2 U.S.C. § 441f.

3. Betty Traeger made contributions in her own name to the Albert Gore, Jr. for President Committee, Inc., Friends of Jim Sasser and Friends of Terry Holcomb, which she knew were advanced or were to be reimbursed through checks made out to her husband from Toshiba America, in violation of 2 U.S.C. § 441f.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand, Three Hundred dollars ($6,300), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement

9204090410 1

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 6/4/92

FOR THE RESPONDENTS:

Robert Bauer/Judith Corley
Counsel for Respondents

Date 5/19/92

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RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Jun 2 10 53 AM '92

WILEY, REIN & FIELDING

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

FACSIMILE
(202) 429-7049
TELEX 248349 WYRN UR

JAN WITOLD BARAN
(202) 429-7330

June 1, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JUN -3 AM 10 5

Tony Buckley, Esq.
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 (Hiroshi Ikeda)

Dear Mr. Buckley:

Enclosed please find a check in the amount of $1,500.00 in full payment of the civil penalty for our client, Mr. Hiroshi Ikeda in the above-captioned MUR.

Sincerely,

Jan Witold Baran

92040904103

Solar Copy

OGC 4731

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C 20463

June 2, 1992

TWO WAY MEMORANDUM

TO: Virginia Whitted
OGC, Docket

FROM: Philomena Brooks PB
Accounting Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Wiley Rein & Fielding, check number 21832, dated June 1, 1992, and in the amount of $ _____. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: Virginia Whitted
OGC, Docket

In reference to the above check in the amount of $ 1,500.00, the MUR number is 2575 and in the name of HIROSHI IKEDA. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

XX Civil Penalties Account, 95-1099.160

__ Other: _____

Virginia Whitted
Signature

June 3, 1992
Date

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUN -3 AM 10:46

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Attached is our check in full settlement of items shown hereon. If not correct, please return with explanation.

No. 27832

Description	Date	Invoice No.	Amount of Invoice	Discount	Net
FEE FOR FEDERAL ELECTION COMMISSION CIVIL PENALTY			1,500.00		1,500.00

Remittance Advice
Detach before depositing

6/01/92

WILEY, REIN & FIELDING
Washington, D.C.

TOTAL 1,500.00

WILEY, REIN & FIELDING
1776 K STREET, N.W.
WASHINGTON, D.C. 20006

No. 27832

15-120
540

SOVRAN BANK D.C. NATIONAL
WASHINGTON, D.C.

Check No.	Date	Amount
27832	6/01/92	$1,500.00

Pay [redacted]

To the Order Of: U.S. TREASURER

TWO SIGNATURES REQUIRED ON AMOUNTS OVER $1,000.00

⑈027832⑈ ⑆054001560⑆ 1 0360098 76 26

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92 JUN -3 AM 9:51

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June 22, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
92 JUN 22 PM 3:02

Tony Buckley
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Robert and Betty Traeger

Dear Mr. Buckley:

Please find enclosed a letter on behalf of the Traegers in connection with the closing of the above-referenced MUR file. We ask that this letter be added to the file for release with the other materials that are placed on the public record.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Respondents

enclosure

9204090410 6

[10851-0001/DA921740.040]

Telex: 44-0277 Pcso Ui • Facsimile: (202) 434-1690
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June 18, 1992

Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Robert and Betty Traeger

Dear Commissioners:

Mr. and Mrs. Traeger have asked us to have this letter placed on the public record together with the file in this Matter Under Review, to clearly express their views on this case.

This case involves contributions to five candidates totaling $3,700 made in connection with the 1988 elections. It has dragged on for over four years at substantial expense to the taxpayer, also to private citizens who have incurred legal fees and experienced no small degree of frustration. This result was unnecessary.

The Commission refused to accept that this case was a product of a simple mistake by Mr. Traeger who misunderstood the federal campaign laws. There is nothing more to it. The problem could have been corrected easily enough, at little cost to the public, by having Mr. Traeger repay the company -- and a minor penalty to the Commission. For whatever reason, the Commission chose the most complicated and expensive, and worst, least logical route to a resolution. This included, inexplicably, a finding that Mrs. Traeger had in some way violated the law merely because, at her husband's request, she signed some of the contribution checks involved in this matter.

Because of the small amount of money involved, and the already huge legal expenses incurred, a decision was made not to pursue the right decision in the courts. This decision was made reluctantly because the Traegers come away from this proceeding with the sorrowful but firm conviction that the Commission's approach has been misguided and unfair. They had grave concerns that by acquiescing in the Commission's position in this matter, they would in some way compromise their integrity and reputation in the community.

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[10851-0001/DA921690.063]

It is unfortunate that the cost of seeking vindication is so high that private citizens cannot pursue it.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

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ORIGINAL

TRANSCRIPT OF PROCEEDINGS

FEDERAL ELECTION COMMISSION

IN RE: MUR 2575

DEPOSITION OF TSUNEHIRO MIYASHITA

Nashville, Tennessee

Thursday, July 28, 1988

ACE-FEDERAL REPORTERS, INC.
Stenotype Reporters
444 North Capitol Street
Washington, D.C. 20001
(202) 347-3700
Nationwide Coverage
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FEDERAL ELECTION COMMISSION HEARING

DEPOSITION OF TSUNEHIRO MIYASHITA

Hearing on July 28, 1988 at 2:00 p.m.

IN RE: TSUNEHIRO MIYASHITA

at

U.S. Federal Building
801 Broadway
Room 651
Nashville, Tennessee

Appearances: MS. JUDYBETH GREENE, ESQ.

MS. SUSAN BEARD, ESQ.

COUNSEL FOR
FEDERAL ELECTION COMMISSION

MR. KENNETH A. GROSS

MR. SCOTT D. EARNSHAW

COUNSEL FOR
MR. TSUNEHIRO MIYASHITA

~~MR. NORMAN NELSON~~

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P. O. Box 1028
Norton, Virginia 24273

By David Belcher

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I N D E X

TSUNEHIRO MIYASHITA

CROSS EXAMINATION BY MS. GREENE 10

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MS. GREENE: My name is Judybeth Greene, I'm an attorney representing the Federal Election Commission at this deposition today. I am here with the assistance of Susan Beard, an FEC attorney.

MS. TAKAMURA: My name is Mika Takamura. I am currently a student at Vanderbilt University. I'll be the interpreter.

MS. GREENE: Okay, do you need that translated?

MR. GROSS: Yes, we need it translated.

MS. GREENE: Please, could you translate what we just said?

MR. MIYASHITA: Okay, I will.

MS. GREENE: This deposition is being taken pursuant to a Federal Election Commission subpoena in connection with an investigation under Section 437 of Title II.

MS. TAKAMURA: Could you repeat it again?

MS. GREENE: Okay. This deposition is being taken pursuant to an FEC subpoena in connection with an investigation under Section 437G of Title II.

MS. TAKAMURA: Can you repeat it, the interpreter wishes to go off the record.

MS. GREENE: Can we go off the record, please?

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OFF RECORD

MS. GREENE: I'm repeating my question, my statement. This deposition is taken pursuant to an FEC subpoena in connection with an investigation under Section 437 of Title II.

MS. TAKAMURA: Could you explain what the subpoena means?

MS. GREENE: Can we go off?

MS. TAKAMURA: I think I'm not the appropriate person here, a lot of law and things involved.

MS. GREENE: Can we go off the record, please?

OFF RECORD

MS. GREENE: This deposition is being taken pursuant to a FEC subpoena, could you please translate that? Let the record show that the witness just nodded his understanding of the interpreter. This deposition is in connection with an investigation under Section 437 of Title II.

MR. GROSS: I don't want to get too technical but, you can, there can be either on the 437 D or 437 G, this is a 437 G proceeding.

MS. GREENE: I take it that that's understood by the witness?

MR. GROSS: Yes, it's understood by the

witness. I just wanted the record---

MS. GREENE: As we go on in this deposition, I would like the witness to say verbally "okay" or "yes", that he understands what the interpreter has translated, will you do that? Could you please speak into the microphone so the Court Reporter can catch that?

MR. MIYASHITA: Okay.

MR. GROSS: Why don't you give him that instruction in Japanese, please?

MS. TAKAMURA: Yes.

MR. MIYASHITA: Yes.

MS. GREENE: Thank you. The confidentiality provisions of this act apply until the file is closed in the matter with respect to all respondents.

MS. TAKAMURA: Could you repeat it again?

MS. GREENE: The confidentiality provisions of the act apply until the file is closed in this matter with respect to all respondents.

MS. TAKAMURA: Closed to, before close to--

MS. GREENE: Let me break it down. The confidentiality provisions of the act apply until the file is closed in this matter.

MS. TAKAMURA: I don't think I understand

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this until the file.

MS. GREENE: Okay, let's---

MR. GROSS: Until the proceeding is ended.

MS. GREENE: Can we go off the record again, please?

OFF RECORD

MS. GREENE: Once more. The confidentiality provisions of the act apply to this deposition.

MR. MIYASHITA: Yes.

MS. GREENE: Okay. These provisions apply until the file is closed in this matter.

MR. GROSS: I'm sorry but, when you say "hi", what are you doing?

MR. EARNSHAW: Well, the "hi", we are just using as "yes".

MR. GROSS: It has been accepted that the word "hi" means "yes".

MR. EARNSHAW: Or "okay" or something.

MR. GROSS: Or "okay".

MR. EARNSHAW: Is that how your transcribing it?

COURT REPORTER: Excuse me, that's what I took it to be, "hi", yes.

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MR. GROSS: You put a "yes" down?

COURT REPORTER: Yes.

MR. GROSS: All right.

MS. GREENE: Could you explain to us what he just said?

MS. TAKAMURA: Exactly the interpretation, what, exactly what you've said.

MS. GREENE: Okay.

MR. EARNSHAW: What did you say?

MR. GROSS: I just explained what it means for the case to be closed, the case is over,---

MS. TAKAMURA: Final.

MR. GROSS: Finished.

MS. GREENE: Okay. If you have any clarification questions about what I asked and what I meant, please ask them to me,---

MR. EARNSHAW: Okay.

MS. GREENE: For the future, okay.

MR. GROSS: And, I do want to emphasis this point of confidentiality, I think that we are getting caught up in the translation but, for everybody in this room, this is unlike depositions taken in court proceedings, this is a special statutory proceeding and I just want to emphasize that.

MS. GREENE: Okay, Ken, we went over

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that before we started. The investigation is designated as matter under review, 2575.

MR. MIYASHITA: Okay.

MS. GREENE: At the request of Mr. Miyashita and his attorney Ken Gross, we have provided an interpreter, Ms. Mika Takamura. Let the record show that Ms. Mika Takamura was sworn in before the start of this deposition. Ms. Takamura, could you state your name for the record, and spell it please?

MS. TAKAMURA: Okay, my name is Mika, M-I-K-A, Takamura, T-A-K-A-M-U-R-A.

MS. GREENE: Where were you born?

MS. TAKAMURA: I was born in Japan.

MS. GREENE: Is Japanese your native language?

MS. TAKAMURA: Yes.

MS. GREENE: How long have you spoken English?

MS. TAKAMURA: About 5 years.

MS. GREENE: When did you come to this country?

MS. TAKAMURA: The first time I came to the United States was 1981.

MS. GREENE: Are you a student?

MS. TAKAMURA: Yes, I am.

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MS. GREENE: What are you studying?

MS. TAKAMURA: I'm studying Social Psychology.

MS. GREENE: And, what program are you in?

MS. TAKAMURA: I'm in Ph.D program.

MS. GREENE: Are the classes in English?

MS. TAKAMURA: Yes.

MS. GREENE: Could you please state your experience as an interpreter?

MS. TAKAMURA: I have done the interpretation job at rather informal conference.

MS. GREENE: Okay. As we started to say before, in the course of this deposition, you'll give me a word for word translation of what Mr. Miyashita tells you and what I say to you into Japanese. If you do not understand what I say, and if it's a technical term, ask me. We'll clear it up.

MS. TAKAMURA: I will.

MS. GREENE: If you do not understand Mr. Miyashita's response, tell me what you understood of it and then ask for clarification. What I want to avoid is a back and forth in Japanese that is not on the record. And, you will translate in the first person. When Mr. Miyashita says "I said", or "I did", you will say to me in

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English, "I did", or "I said". Is that clear to you?

MS. TAKAMURA: Yes.

TSUNEHIRO MIYASHITA

a witness, having been duly sworn was examined and testified as follows:

CROSS EXAMINATION

BY MS. GREENE:

Q. Mr. Miyashita, have you---

MR. GROSS: Excuse me, could I just ask her one or two questions about her qualifications because some of it wasn't entirely clear.

MS. GREENE: Okay.

MR. GROSS: Have you ever done a legal proceeding, have you ever interpreted a legal proceeding before?

MS. TAKAMURA: I haven't.

MR. GROSS: And, how many years have you been interpreting?

MS. TAKAMURA: One year.

MR. GROSS: One year? And, you've interpreted how many conferences or proceedings or other meetings?

MS. TAKAMURA: I've done interpretation just once.

MR. GROSS: And, where are you getting

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your Ph.D.?

MS. TAKAMURA: At Vanderbilt.

MR. GROSS: Vanderbilt University? I think we should try and go through this, you know, she's probably not, doesn't have the most experience what we, what had been desirable for an interpreter but, let's try, I think it may move a little smoothly, more smoothly when we get away from this legal language but, I do have some degree of concern but, I'm hoping that I won't---

BY MS. GREENE:

Q. Mr. Miyashita, have you understood what the interpreter has said to you in Japanese?

A. Yes.

Q. Okay. Mr. Miyashita, will you state your full name for the record, please?

MR. GROSS: Excuse me, I'm sorry. Before the proceeding, I would, I don't think that to get on the record that representing Mr. Miyashita is Kenneth Gross, myself and Scott Earnshaw.

MS. GREENE: Mr. Gross, I was just going to get into that.

BY MS. GREENE:

A. My name is Tsunehiro Miyashita, T-S-U-N-E-H-I-R-O, M-I-Y-A-S-H-I-T-A.

Q. You have the right to be represented by

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counsel, is---

MS. TAKAMURA: Could you tell me what counsel means?

MS. GREENE: Attorney.

BY MS. GREENE:

Q. You have the right to have an attorney here.

A. Yes.

Q. Does Mr. Gross represent you personally?

A. Yes.

Q. Okay. The investigation will cover your involvement in potential violations of Federal Election law.

MS. TAKAMURA: I have trouble with "possible", the word "possible".

BY MS. GREENE:

A. Yes.

Q. We will also ask you about activities of other people that may have violated the act.

A. To me, questions, to me?

Q. We'll ask questions to you about things you've done and things that other people have done.

MR. GROSS: I think, let me make sure that he understands it that it's not an actual violations but potential violations and we left out that potential there at that time and that's may have been the cause of

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confusion. We're not asking him about anything that somebody else has done that's wrong, what they may have done is wrong, they have done that may have been wrong.

MS. GREENE: Okay, but, Mr.

MR. GROSS: Well, let me---

MS. GREENE: Could you explain that to Mr. Miyashita?

MR. GROSS: Well, why don't you tell him.

BY MS. GREENE:

A. Yes, okay.

Q. I'm going to give you instructions on how we're going to ask the questions here and ask, let me try again. I am going to ask you some questions to find out about the facts that gave rise to this investigation.

MS. TAKAMURA: Could you repeat it?

BY MS. GREENE:

Q. Okay, I am going to ask you some questions, are you saying that you understand it?

A. Okay.

Q. Raising your hand doesn't show up in the record so, I'd ask you to say---

MR. GROSS: Well, I would prefer that it be translated. I think that we should get him to, I am a little concerned, there are going to be certain words in

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English that he may understand but, I think it will create more confusion if we don't get into a pattern and if there is a problem, of course, Mr. Miyashita and Mr. Barnshaw can consult as lawyer and client so, hopefully we can take care of any problems that should arise.

MS. GREENE: Okay.

MR. GROSS: If you have a lot of preliminary, is that---

MS. GREENE: I wanted to make sure that as in a normal, as in a everyday deposition, that the deponent understands exactly how we are going to ask the questions.

BY MS. GREENE:

Q. If you do not understand a question, say so and I will rephrase it or repeat it.

A. Thank you.

MS. GREENE: Do you want her to---

MR. GROSS: Yes, please say that.

BY MS. GREENE:

A. Thank you.

Q. Okay. If you are tired or want to take a break, let me know.

A. Okay.

Q. Okay. If you don't understand a question, if you, if you answer a question, I will assume that you

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heard it and understood it.

MS. TAKAMURA: Could you repeat it again?

BY MS. GREENE:

Q. If you answer the question, we will assume that you have heard it and understood it.

A. Okay.

Q. Okay, so you understand the instructions I gave you?

A. Yes.

Q. Thank you. Mr. Miyashita, what is your nationality?

A. Japanese.

Q. Are you a U.S. citizen?

A. [redacted] no, I am not.

Q. What is your educational background?

A. I finished high school in 1955.

Q. Do you have any college degree?

A. I don't have any.

Q. Okay. What is your position in the company Toshiba America?

A. Vice President and Assistant Treasurer.

Q. What was your position in 1987?

MR. GROSS: He's getting confused between, if you can rephrase the question saying last year.

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BY MS. GREENE:

Q. The same position?

A. Yes, he was in the same position.

Q. Okay. Can you tell me what you do as Vice President and Assistant Treasurer?

A. My major job is to help the company to manage using my knowledge and education I had in Japan.

Q. Are you in charge of the Lebanon plants finances?

MR. GROSS: Can we go off the record for just a second?

MS. GREENE: Can we go off the record?

MR. GROSS: To clear something?

OFF RECORD

MS. GREENE: Let the record show that we just had an off the record conversation in which Mr. Earnshaw, Mr. Gross's assistant, has stated that he will assist in the translation when there is a question that needs clarification in Japanese.

BY MS. GREENE:

Q. I'll repeat the question to Mr. Miyashita. Are you in charge of the Lebanon plants finances?

A. Yes.

Q. Are you in charge of the finances of any part of Toshiba America outside of Lebanon?

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A. I am not in charge.

Q. So, is it correct that you position just relates to the Toshiba plant in Lebanon?

A. Yes.

Q. Who is your boss at Toshiba?

A. Lebanon plant?

Q. Who is you immediate supervisor?

A. Mr. Ikeda, Hiroshi Ikeda.

Q. Okay. Do you supervise anyone at Toshiba America?

A. Yes.

Q. Who do you supervise?

A. Mr. Norman Nelson.

Q. Do you supervise anyone else?

A. He supervises Norman Nelson, overall. the rest of the department

Q. Is Norman Nelson the only person that reports directly to you?

A. Yes.

Q. Okay. What is you signatory authority on corporate accounts?

MS. GREENE: Do you understand my question?

MS. TAKAMURA: Signatory?

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BY MS. GREENE:

Q. When can you sign corporate checks?

A. Anytime.

Q. There is no monetary limit?

A. For my case, it is limited.

Q. Okay. What do you mean for your case?

A. I'm solely in charge of finance at the Lebanon plant because I'm solely in charge of finances at the Lebanon plant as Assistant Treasurer.

Q. Okay. Who is the Treasurer?

A. Mr. Kamihara.

Q. Could you spell that please?

A. K-A-M-I-H-A-R-A.

Q. Is he at the Lebanon plant?

A. He's in New Jersey.

Q. When does a check require a second signature at Toshiba?

MR. GROSS: That question presupposes that a check requires more than one signature.

MS. GREENE: Let me rephrase the question.

BY MS. GREENE:

Q. Does a check ever require two signatures for a Toshiba account?

A. No, generally one signature is enough, but in some cases, two are required.

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9204090128

Q. Okay. Do you sign both payroll and nonpayroll checks?

A. When the amount of check is large, the two signatures are required.

Q. How large?

A. I'm not sure but, when it's above $50,000.00. For the executive payroll, I am the one who signs the checks.

Q. Do you sign both payroll and nonpayroll checks for executives personnel?

A. For the payroll checks, for clerks, and Mr. Nelson, ~~'s paint~~ signature appears in print by a signature machine.

Q. Is that a stamp?

A. And, for executive payroll only, I sign the checks.

MR. GROSS: Executives being supervisors, and above.

MS. TAKAMURA: Above.

MS. GREENE: Okay.

BY MS. GREENE:

A. Other than executive payroll, Mr. Nelson deals with accounting ~~payroll~~ payable.

MS. GREENE: I don't understand.

MR. GROSS: Deals with accounts receivable and the payroll accounts.

BY MS. GREENE:

A. Other than payroll checks for executives or above, he sign but, other than that Mr. Nelson is in charge of everything and the check is more than $50,000.00 then two signatures are required and he signs it.

MS. GREENE: Mr. Earnshaw, is that your understanding, what Mr. Miyashita just said?

MR. EARNSHAW: Mr. Miyashita signs the checks for the executive payroll and everything else, that means for the payroll below the executives and for all the other accounts receivables is done by Norman Nelson.

MS. GREENE: Okay.

MR. EARNSHAW: When the amount is above $50,000.00 then Norman Nelson may not have the authority to sign it for himself so, Mr. Miyashita, that would be the second signature required for nonexecutive payroll items required more than $50,000.00.

BY MS. GREENE:

Q. To clarify a earlier question, if there is a bill for over $50,000.00, you can sign it without a second signature, is that correct?

A. No, it's not true.

Q. What happens when there is a check for over $50,000.00?

A. The first person who signs the check is Mr.

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Norman Nelson and the second person is me, I, and then we both authorize it.

Q. Okay.

A. When I am not available, it is possible that Mr. Bob Traeger or Mr. Ikeda signs the check.

MR. EARNSHAW: As the second signature in my place, after Norman signs it the first time, if Mr. Miyashita isn't available for the second signature then, Bob Traeger or Mr. Ikeda may do so, may sign it.

BY MS. GREENE:

Q. When there's a request for a check from the executives, from one of the supervisors who is the second signature after you?

A. My signature only.

MR. EARNSHAW: Mines the only signature.

MS. GREENE: Okay.

MR. GROSS: Are we talking about checks in the excess of $50,000.00 or more than $50,000.00 I am getting a little confused.

MS. GREENE: That was my question.

MR. GROSS: You're question was more than $50,000.00.

MS. GREENE: More than $50,000.00.

MR. GROSS: I just want to make sure there is no misunderstanding. There's a difference between

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payroll and an expense authority, maybe we should try and clarify. I know you've asked the question but, maybe it's worth just getting that clear again.

MS. GREENE: Yes, that's what I'm trying to do.

MR. GROSS: Okay.

BY MS. GREENE:

Q. For the supervisor's expenses that are more than $50,000.00, is there a second signature other than yours required?

MR. EARNSHAW: Payroll expense?

MS. GREENE: No, nonpayroll.

MR. EARNSHAW: As a point of clarification, he answered before that he only signed payroll, executive payroll checks.

MS. GREENE: Okay.

MR. EARNSHAW: And, that everything else Norman Nelson does which means Norman does all the non, the lower level executives, the lower level payrolls and all other checks and then when the other nonpayroll checks that exceed $50,000.00, then he signs them, he's the second signature.

MS. GREENE: Okay, I don't believe that's what was translated earlier so, let me ask the questions to clarify.

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MR. EARNSHAW: Sure.

MS. GREENE: Okay.

BY MS. GREENE:

Q. Is it true that the only checks that you sign are executive payroll and checks exceeding $50,000.00?

A. Yes, that's true.

MR. EARNSHAW: Just executive payroll checks.

MR. GROSS: I realize that you are trying to clarify it but, try not to lead, I would request that you try not to lead the witness too much on these types of questions. I think it might help if he explains his authority rather than the question being in a leading form which I think could cause confusion.

MS. GREENE: Okay, what I am going to try to do in some instances is to restate the answer and see if Mr. Miyashita agrees with that because in this instance, while I would not want to be doing leading questions in general, I think that given the number of different people that we have involved in the translations, it may be necessary to help. Okay.

MR. GROSS: So far you haven't been terribly successful.

9204090132

BY MS. GREENE:

Q. Have you ever refused to sign a check for Toshiba?

A. Yes.

Q. When did you refuse to sign a check?

A. I mean, I haven't refused to sign a check which has been already made but, before the check is made, I have refused to make that check.

Q. When someone request a check, is there a request that comes to you before the check is made up or before the check is printed?

A. Before it is made, yes.

Q. What papers come to you before, requesting a check before it is printed?

A. It's case by case.

MR. GROSS: Could you clarify whether we're talking about a payroll check or a expense check because, I mean, I think there should, continuing confusion on this---

BY MS. GREENE:

Q. What paperwork comes to you before a payroll check is drawn or is printed?

A. Before my case dealing with executive payroll, I get the calculation that are on the payroll and if I look at the calculation data and find it correct, I sign

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it.

Q. What papers do you receive with request for nonpayroll checks?

A. Nothing. As I stated before, for executive payrolls I get calculation data but, for checks above $50,000.00, I get only voucher such as invoice.

Q. Okay.

A. Only.

Q. What do you mean by payroll, does it include bonuses and vacation pay?

A. Yes.

Q. Does payroll also include reimbursement for expenses incurred?

MS. TAKAMURA: Could you repeat it again?

BY MS. GREENE:

Q. Does payroll also include reimbursement for expenses incurred by executives?

MS. TAKAMURA: I'm confused with the word "reimburse".

MS. GREENE: Okay.

BY MS. GREENE:

Q. For example, if a supervisor pays a taxi for or pays a bill at lunch on business, and the company pays him back for that money, is that called executive payroll?

A. No, it isn't included in the payroll.

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Q. Do you sign checks for those purposes?

A. I don't sign the checks for that purpose but, I check the expense report before check is made.

Q. Who signs the check in that case?

A. Is it about check or evidence, check.

Q. When a supervisor fills out an expense report, who signs the check to pay them?

A. I stated earlier, Mr. Nelson.

Q. Do you authorize Norman Nelson to make a check in those instances?

A. According to our companies rules, he's the only one who signs the check and I don't have to authorize it. It is hard to cancel the check after the checks have been made so, we value checking the report before check is made.

Q. Do you check the expense report?

MR. GROSS: The word is value, you said you value the check list?

BY MS. GREENE:

Q. Is that correct?

A. As a company, we value, we think it's important.

Q. Okay.

MR. GROSS: Don't want to waste the checks.

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MS. GREENE: Gotcha.

BY MS. GREENE:

Q. Mr. Miyashita, do you investigate expense reports or check them over before sending them to Mr. Nelson for making a check?

A. Case by case, it's up to case.

Q. Generally, do you, for the most part, do you check those over?

A. There are companies rules concerning about the signing the check so it's based on the rules. I sign the checks and there are some cases which require two signatures or three signatures, it's based on the company's rules.

Q. Okay. But, when you receive, I think I'm confused on exactly what happens. When you receive an expense report from an supervisor, do you sign that and give that to Norman Nelson?

A. Yes. At this point it isn't clear to me what you mean by supervisor, is it finance supervisor or other section supervisors?

Q. The people that are on the executive payroll.

A. I'm confused, I cannot focus.

MS. GREENE: Okay, this might be a good time to take a break. Let's go off the record and---

OFF RECORD

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MR. GROSS: There was one point, I think the last question related to signing expense reports and I just want to make sure that the record is clear with regard to signing of expense reports. We had a little discussion and I just wonder if you could explain that? Could you just translate what I just---

MR. MIYASHITA: For supervisor only or for company---

BY MS. GREENE;

Q. For all people that are on the executive payroll.

A. [redacted], I directly sign [redacted] four persons expense reports.

Q. The what person?

MR. EARNSHAW: I directly sign expense reports for four people.

BY MS. GREENE:

Q. Which four people are those?

A. Executive Vice President, Mr. Ikeda.

Q. Yes.

A. Vice President, General Manager, Mr. Traeger, Bob Traeger. Vice President and General Manager, Mr. Hishimura.

Q. Could you spell that, please?

A. H-I-S-H-I-M-U-R-A. And, Norman Nelson who is

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the Controller and Finance Manager. For these four people, I sign the evidence.

Q. The expense report is the evidence?

A. Yes.

Q. Okay. I'm going to ask a long question.

MR. GROSS: Was that the end of that question?

MS. GREENE: Yes.

MR. GROSS: Did she, did you finish everything he's was going to say on that. I think that there was a further explanation. I stopped him at the end of a sentence and I think he intended to say more about other expense reports that he might sign.

MS. GREENE: Okay, please continue.

BY MS. GREENE:

A. Other than the 12 Japanese workers, including me---

MR. EARNSHAW: There are 12 Japanese, including myself, who work at the Lebanon plant.

BY MS. GREENE:

A. And, there is a case when these Japanese people make mistakes on the expense reports. Therefore, in such a case, I would look over expense report.

MR. EARNSHAW: Wait a minute. Let me just summarize because there's one or two things that I

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would like to add to that. The Japanese, the 12 Japanese that work at the Lebanon plant occasionally make mistakes in doing their expense reports, therefore I have, I look at their reports, frankly it's just for those 12. All those are shown to me, I check all those.

BY MS. GREENE:

A. In that case, ~~with regard,~~ the I signed expense report indicating that I have looked over that expense report. And, when I find ~~the~~ mistakes, I have ~~that~~ those mistakes corrected.

Q. Okay. I'm going to ask a long question and I am going to ask you to break it down phrase by phrase.

A. Okay.

Q. If an individual who is on the executive payroll is going to get a bonus, describe every step that occurs from the time it's decided that the person is going to get a bonus until they get the check.

A. Basically, we don't have bonus. However, there have been times when the company benefits more than the company expected.

MR. EARNSHAW: Their profits are higher than expected.

MS. TAKAMURA: In other words.

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BY MS. GREENE:

Q. Okay.

A. In that case, there has been a bonus given. Also, in the meeting, we decide then how much money will be given to a certain person.

Q. When you decide to give the bonus, does everyone get the bonus?

A. No, depends on the case.

Q. Are bonuses decided on person by person basis?

A. Amount of bonus?

Q. The amount of bonus in the decision whether to give a bonus?

MR. EARNSHAW: The question is, is the amount and the decision to give a bonus decided on an individual basis?

BY MS. GREENE:

A. There are two ways to decide. There are two ways and for example one case is, we decide depending upon the class, for example, supervisor, rank---

Q. Yes.

A. That individual is in. And, we decide on percentage. We don't give a certain amount depending upon an individual.

MR. EARNSHAW: We don't give special bonuses to individuals.

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BY MS. GREENE:

A. Second way, instead of percentage, we give a certain amount of bonus to individuals in different ranks. Basically, there has been the case when a person who didn't work well got less bonus.

MR. GROSS: Could you just say what you mean by "individuals", because that is a little vague, these questions?

MS. GREENE: What I am trying to do is leave them open enough for Mr. Miyashita to explain how the payroll system works in his company and how someone gets a bonus. My questions are addressed to individuals on the payroll account and I think that's what we've been talking about, the executive payroll account.

MR. GROSS: So, you're talking about executive payroll and you should understand that we are talking about executive payroll.

MS. GREENE: Okay.

BY MS. GREENE:

Q. In 1987, last year, how many times did supervisors get bonuses? Wait, let me clarify, how many times did people on the executive payroll get bonuses?

A. Basically, there weren't any going out, given.

MS. GREENE: Correct?

MR. GROSS: Could we define the time

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frame on that?

MS. GREENE: Last year, 1987.

MR. GROSS: Last year.

MS. GREENE: Correct?

MR. EARNSHAW: Yes.

BY MS. GREENE:

Q. I'm introducing---

A. Excuse me, Mr. Traeger---

Q. I'm sorry, I don't understand.

A. Basically, we didn't give any bonus to any employees, workers but, in this case, there's such a thing which touch this matter.

Q. Okay. Why was this case different?

A. The reason is, the, I think that is one reason why I'm here.

MS. GREENE: Is that all?

MR. EARNSHAW: Yes.

MR. GROSS: You say, "Why is this case different?" Could you just explain that question a little more fully for the witness because I think it doesn't, it may be unclear to him.

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BY MS. GREENE:

Q. Mr. Miyashita said that basically there were no bonuses given but, that in this case it was different. I want to know why it was different in this case, with the case of Robert Traeger?

A. It's because I authorize a special check and then issue it.

Q. Why did you authorize the check?

A. It isn't clear that if I should call the check "bonus" or not.

Q. Why is it not clear?

A. It's because Mr. Ikeda signed the ~~expected~~ executive payroll calculation data.

MR. GROSS: Could you just repeat that answer, please?

MS. TAKAMURA: It's because Mr. Ikeda signed the ~~accepted~~ executive payroll calculation data as a, indicating that is bonus.

MS. GREENE: Okay.

BY MS. GREENE:

A. It was troublesome if we, we should use the word "bonus" but, we did use the word "bonus".

Q. Who did you discuss, let me work on the question. Who did you speak to when deciding to use the term "bonus"?

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MR. EARNSHAW: The question was a little different, the answer when it comes out, it's going to be--she asked who did you discuss it with and you asked who decided. He's going to respond, I decided and she's going to wonder what happened to the question.

MS. TAKAMURA: I thought the second question was "who" decided.

MS. GREENE: Okay.

MR. EARNSHAW: Her question is, "Who did you discuss it with", I think if you read back the question.

MS. GREENE: Okay.

MR. EARNSHAW: Who decided?

BY MS. GREENE:

A. I think I suggested that we use the word "bonus".

Q. Who were you discussing this with?

A. We didn't discuss.

Q. Who is "we"?

A. I didn't discuss about it with anybody.

MR. EARNSHAW: That's what he said.

MS. GREENE: Okay.

MR. EARNSHAW: He understood, I mean,---

BY MS. GREENE:

Q. Why was it troublesome to decide what word to

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use, to describe the payment?

A. There are certain categories and Mr. Ikeda wrote the word "bonus".

Q. I thought you, did you, I thought you just said that you decided to call it a bonus, did you decide or did Mr. Ikeda decide?

A. Mr. Ikeda signed the calculation and data. Then, Mr. Ikeda asked me if I should write some reason on that check to issue the check.

Q. Yes.

A. And, but, we, I didn't think, I couldn't think of anything, any nice name so, I suggested we should put the word "bonus".

MR. EARNSHAW: I couldn't think of a better term so, we----

MS. TAKAMURA: Better term.

MR. EARNSHAW: I couldn't tell from the Japanese whether it was I or Ikeda who decided.

MS. TAKAMURA: I couldn't either.

BY MS. GREENE:

Q. Could we clarify?

A. I suggested it to Mr. Ikeda.

Q. What did Mr. Ikeda tell you that the checks were being issued for?

A. I asked him.

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MS. GREENE: Could you read back a question, please, I just want to go over what the question was.

The question was played back and repeated as follows:

Q. What did Mr. Ikeda tell you that the checks were being issued for?

MS. GREENE: Okay, let me ask the question again.

BY MS. GREENE:

Q. What did Mr. Ikeda tell you the checks were being issued for, what was the purpose of the checks?

A. Mr. Ikeda came to my office and Mr. Ikeda asked me to make a $1,000.00 check therefore, a $1,000.00 was such a large amount that I asked him, "What are you going to do with it?" And, Mr. Ikeda responded that Mr. Bob Traeger came to my place, Mr. Ikeda said, Bob Traeger came to my place and he said I am not sure if it was senator or house or what the name, his name was but, Bob Traeger wants to donate or contribute to that congressman. I don't remember, he's a senator or house and I cannot remember his name.

Q. Was this before Mr. Traeger made the contributions?

A. Yes, it is, twas before the company issued the check.

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Q. Do you know about what date that conversation took place?

MR. EARNSHAW: I'm sorry, I want to clarify one thing. As I understood it, you asked, first of all if it was before Bob Traeger made the contribution and he answered, the conversation took place before the company gave the check to Bob Traeger and those seemed to be missing each other. I think it's the same answer, I don't know but, the answers don't jive.

MS. GREENE: Okay, let me ask that question.

BY MS. GREENE:

Q. Did you have this conversation with Mr. Ikeda before Bob Traeger made his contribution?

A. Yes.

Q. Okay. When did you have this conversation?

MR. EARNSHAW: Excuse me.

A. I say it was true in imagining that---

MR. EARNSHAW: In my earlier response, when I said it was true, that's what I imagined because I don't know whether in fact Bob Traeger made the contribution before or after but, that's what I assume based on the conversation with Mr. Ikeda.

MS. GREENE: Is that definition correct?

MS. TAKAMURA: Exactly.

MS. GREENE: Okay.

BY MS. GREENE:

Q. I would like to have the Court Reporter mark this document as exhibit number 1 and I'll give a copy to the interpreter, Mr. Miyashita, and Mr. Gross. Mr. Miyashita, do you recognize this document?

A. Yes.

Q. Do you recognize the signature?

A. It is mine.

Q. Okay, can you describe what this document is, exhibit number 1?

A. Yes. I think I said it earlier but, I might repeat the same thing. Probably, this is the first check I signed.

Q. Let me clarify, is this the first check you signed to reimburse Robert Traeger for political contributions?

A. It is hard to respond to, if you use the word "political contribution".

Q. Okay, let me rephrase. Do you know what this check was for?

A. Yes, I do.

Q. And, it was for, could you explain what it was for?

A. I think I answered it earlier. Mr. Ikeda came

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to my room and Mr. Ikeda request me to issue a $1,000.00 check and I asked him how he would use it. And, Ikeda explained the following. And, Ikeda, Mr. Ikeda said senator or house, I don't remember, Mr. Traeger wants to give donation to senator or house, I don't remember. I heard him say that but, it's been a long time so---

MR. EARNSHAW: I don't remember exactly, I said, "What is it for?" and---

BY MS. GREENE:

A. And, we didn't know that kind of case, like donation, is, and we didn't know what we should do about that kind of case, i.e. donation---

Q. Yes.

A. So, I asked, I suggested Mr. Ikeda we should ask other companies in the ~~native~~ neighborhood, other companies. I recall that I asked Mr. Ikeda if we, if I should pay $1,000.00 as a company's expense or put a $1,000.00 on Mr. Traeger's payroll. Mr. Ikeda answered as following. And, Mr. Ikeda answered as Mr. Traeger ~~was saying~~ said, when some company's expect that kind of thing to happened so they put some money on the annual payroll of representative of the company. And, Mr. Traeger suggested to Mr. Ikeda that some company's expect that kind of thing to happening. So, they put some amount of money on their annual payroll for that representative of that company, the person.

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MR. GROSS: That's sort of a sequence that we just completed with regard to that transaction and we kind of backed into it and I could go through it again on cross but maybe it is just better to clarify because if I'm not mistaken when we started out, we started talking about the bonus and Mr. Miyashita said that he decided the bonus without consulting anybody and I think it's clear when we got up to the factual sequence that that was not what happened and I don't know exactly how to, I don't want the record to be unclear but, I think it's pretty clear that the later testimony is what in fact occurred and there was some misunderstanding as to the questioning as we started to get into the first transaction.

MS. GREENE: Well, I think as we're going, we're clearing up what happened so---

MR. GROSS: Yes, I think so. This---

MS. GREENE: We'll let Mr. Miyashita answer the questions to clarify that.

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BY MS. GREENE:

Q. Could you please clarify what Mr. Ikeda told you that Mr. Traeger had suggested? I want to clarify what he last explained to me. I didn't understand your answer to the last question.

A. Mr. Traeger said some company expecting some kind of activity such as donation, they decided the payroll of, representative of the company.

MR. EARNSHAW: They increased the payroll of those executives to included monies for such activities as contributions. Is that fair?

MS. TAKAMURA: He didn't use the word increase.

MR. EARNSHAW: He said included---

MS. GREENE: Could you ask him a question to clarify?

BY MS. GREENE:

A. He said, increase the salary expecting some activity fees such as contribution. It's not only a political purpose, but other reasons include the activity fees. Mr. Ikeda said, Mr. Traeger, okay, Mr. Traeger asked Mr. Ikeda to be considered as such a case, increasing as solely as a activity fee. Responding to that, I disagreed that the money which might not be used should be given. And, I asked Mr. Ikeda if this $1,000.00

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should be paid as a expense or payroll. On that day, were there was no answers and the conversation was ended. Later, I don't remember if it was the next day or two days after but, Mr. Ikeda came to my office again. And, Mr. Ikeda asked me to put the $1,000.00 on Mr. Traeger's payroll. And, I made sure he wanted it $1,000.00 and I said to Mr. Ikeda that we should gross up ~~the gross up~~---

MR. EARNSHAW: If you put it in the salary then you want a net of a $1,000.00 therefore, we will have calculations to gross $1,000.00, is that what you want me to do, I think is what it was.

MS. TAKAMURA: Exactly.

BY MS. GREENE:

A. And, he asked me to do so. And, I finished, and then I finished talking with Mr. Ikeda.

Q. Do you have any notes of those meetings with Mr. Ikeda?

A. Nothing, just ~~the problem~~ that we communicated with each other.

Q. Has Mr. Ikeda made other request to you that you have earlier discussed about whether or not to put a bonus on the payroll?

A. 1987, only?

Q. Generally?

A. Yes, I have.

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MR. GROSS: Could you repeat that question or rephrase it so that we don't have to go back, to make sure I'm following the line here.

BY MS. GREENE:

A. I consider 1987 as through 1987, April, through 1988, March.

Q. Okay, I'm thinking before that, January, 1987 through December.

A. In that period there is no discussion for it but, 1988, February or March, I think there was such a thing.

Q. Do you think, just to clarify, in February or March of 1988, there was a discussion of this contribution?

A. No, there wasn't. I told Mr. Ikeda, I suggested to Mr. Ikeda that maybe we should pay the bonus to employees.

Q. In February or March of 1988?

A. Yes.

MR. GROSS: I guess I am getting confused as to what we're talking about here.

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BY MS. GREENE:

Q. Well, I think the witness just stated that in February or March of 1988 he suggested to Mr. Ikeda that the company reimburse employees for making contributions, is that correct?

A. It's not the political contribution money but, the single, simply a bonus to employees.

Q. Okay. Why did you decide not to pay, why did you decide to give Mr. Traeger the $1,000.00 rather than to have the company give the candidates $1,000.00?

MR. GROSS: That question presupposes that he decided to give the $1,000.00 to Mr. Traeger and I am not sure that's clear for from the record that it was his decision to give Mr. Traeger the $1,000.00.

MS. GREENE: I'm hoping to clarify that if he can answer that.

MR. GROSS: That question presupposes that.

MS. GREENE: Okay.

BY MS. GREENE:

Q. Did you decide to give Mr. Traeger the $1,000.00?

MR. GROSS: I think we've gone through this so, this is a process that we went through, that we discussed, the discussions between Mr. Ikeda and Mr.

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Miyashita about this $1,000.00 and I think, actually we've gone through this twice now as to how this came about, this $1,000.00 came about.

MS. GREENE: Mr. Gross, you just asked me to rephrase the question so that he could answer what I, what you said was presupposed. I'm trying to clarify that before I go on to the next question. I don't think that's clear, you just, by your previous objection that you stated was unclear and so now I would direct Mr. Miyashita to answer who had decided to pay Mr. Traeger $1,000.00 which is shown as exhibit 1.

BY MS. GREENE:

Q. Why made the ultimate decision?

MR. GROSS: Is that the question, who made the ultimate decision to give Traeger the $1,000.00?

MS. GREENE: I'm sorry, no.

BY MS. GREENE:

Q. The question is, who made the decision to give Mr. Traeger $1,000.00 to reimburse him for this contribution?

A. The person who decided was Mr. Ikeda. I was asked to issue the check. And, I can't simply issue the check, $1,000.00 check so, I asked him why you need a $1,000.00 check. He goes, that's my job, it's not like blindly issuing the check but, make sure the purpose of

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the check.

Q. So, you had, did you have authority to deny Mr. Ikeda's request to make this check?

A. Yes, I have.

Q. And, why did you decide to issue this check?

A. And, then I heard the explanation from Mr. Ikeda and, about how American companies, in general, handle the situation, that was point of the question to Mr. Ikeda.

Q. Did you speak to anyone from other companies about this?

A. I didn't ask any other person, other companies but, I assume that this is the case.

Q. Did you---

MR. EARNSHAW: He said he asked Mr. Ikeda if that was the case with other companies and I said, oh, I see that's how they do it in other companies so therefore it's okay, isn't that---

BY MS. GREENE:

A. I heard this, how other American companies handles this situation from Ikeda so, I asked him if that was the case?

MR. EARNSHAW: Well, I understood that was the case, I recognized that was the case.

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BY MS. GREENE:

A. And, Mr. Traeger wanted to get extra money for that reason but, I refused it.

Q. When was that?

MR. EARNSHAW: He's referring back to before what he said, Traeger wanted an increase, an overall increase in the salary to take care of those kinds of things generally but, he turned that down so, he---

BY MS. GREENE:

Q. When was that request made for the overall increase?

A. I don't remember exactly when it was but, before this check was issued.

Q. So, you discussed---

MR. GROSS: Exhibit 1, we are referring to now.

BY MS. GREENE:

Q. So, prior to the time you discussed making this check out to Mr. Traeger, this check, exhibit 1, you discussed the idea of increasing his salary overall to include political contributions in general, is that correct?

MR. GROSS: Could you just resay that, one more time?

MS. GREENE: I hope so.

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BY MS. GREENE:

Q. So, you just described to me two conversations you had with Mr. Ikeda right before you agreed to sign this check, exhibit 1? Was there a conversation about increasing Mr. Traeger's salary in general before that, earlier?

MS. TAKAMURA: Earlier, earlier than---

MS. GREENE: Than these two conversations.

MS. TAKAMURA: These two conversations.

BY MS. GREENE:

A. No.

Q. So, in other words, Mr. Traeger asked, at that time, Mr. Traeger asked that his salary be increased in general and at this meeting you decided to give him money just for the contributions as they came up?

A. Once Mr. Traeger asked Mr. Ikeda to increase his salary. Not specific to this check but, Mr. Traeger hoped to have his salary increased in general.

Q. And, you and Mr. Ikeda decided to turn down that request and instead to give Mr. Traeger bonuses when he made political contributions, is that correct?

MR. GROSS: I don't believe that was his testimony.

MS. GREENE: I'm asking him to clarify

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that.

MR. GROSS: If that was the premise of your question, I would object to it being the premise of the question because it was so leading. And, it is, I guess I'm sensitive to leading the witness in a deposition such as this.

BY MS. GREENE:

Q. At that meeting with Mr. Ikeda, before issuing this check, did you deny Mr. Traeger's request for an overall increase?

A. I didn't agree.

Q. He denied that request?

A. I denied the request.

MR. GROSS: There's a difference between, the question, you know, is really, was the question put to him, was it up to him to decide this or was it decided before, that's where I think the confusion is coming in here.

BY MS. GREENE:

Q. Mr. Miyashita, did you, were you asked to increase Mr. Traeger's salary in general to make these contributions?

A. No, I wasn't asked but, I heard that from Mr. Ikeda.

MR. EARNSHAW: That Traeger had asked that

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of Ikeda.

BY MS. GREENE:

Q. And, did Mr. Ikeda say that he had denied Mr. Traeger's request to increase the salary overall?

A. Mr. Ikeda denied the whole increase, Mr. Traeger's salary.

Q. At the time you spoke to Mr. Ikeda before issuing exhibit number 1, before signing it, did you discuss the possibility of making more checks to Mr. Traeger for political contributions?

A. I, by that time, I had been in the Lebanon plant for more than 4 years but, that was the first discussion about the contribution.

Q. When was that discussion, do you remember the date?

A. I don't remember it at all.

Q. Okay, let me have the Court Reporter mark exhibit number 2.

MR. GROSS: I'd just like to take a short break, if you would, before there's close of business, because it's 5 minutes to 5:00.

MS. GREENE: All right, then let's take a break now and I will have that exhibit introduced when we get back in 10 minutes.

OFF RECORD

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BY MS. GREENE:

Q. I've just ask Court Reporter to mark this as exhibit number 2. Give a copy of this to Mr. Gross, Mr. Miyashita, and the interpreter. Mr. Miyashita, can you identify this document for me?

A. This is executive payroll calculations document.

Q. This document dated, which says run date May 11, 1988, have you seen it before? Excuse me, I said, I meant run date May 11, 1987?

A. I've seen it but, I saw it after this was made or issued.

Q. Does this refresh your recollection as to when you had your discussion with Mr. Ikeda about reimbursing Robert Traeger for his political contributions?

A. I cannot remember.

Q. Could you read the handwriting on the document, please?

MR. GROSS: He can't, the question was refresh your recollection. I assume he's saying that he doesn't remember anything, he can't recall not that it does not refresh his recollection. I think that's a fair response to what you are saying. He doesn't recall. Maybe we should clarify that.

MS. GREENE: Yes, okay.

9204090161

BY MS. GREENE:

Q. Could you clarify?

A. Looking at this, I can recall the fact that I had discussion with Mr. Ikeda. I cannot remember exactly when I talked with Mr. Ikeda but, this is closer---

MR. EARNSHAW: I imagine it was---

BY MS. GREENE:

A. The date, the discussion was taking place closer to this date.

Q. Before that date, before May 13th, 1987?

A. Looking at this, I guess it was before this was issued.

Q. When was the check, exhibit number 1, to Mr. Traeger approved? Is it the date on the check?

A. When this check was approved, was this date.

Q. And, that's the May 15th, 1987?

A. Excuse me, but, not this date when the check was approved.

Q. When was the check approved?

A. Probably May 13th, when Mr. Ikeda signed this.

Q. When did you first see this, exhibit number 2?

A. On this date, May 11th, 1987.

MR. EARNSHAW: I think you mean May 13th.

Q. Which date---

MS. TAKAMURA: Refer to this page.

9204090162

MS. GREENE: Yes, exhibit 2.

MS. TAKAMURA: May 13th.

BY MS. GREENE:

Q. Did Mr. Ikeda have the conversation about Traeger's contributions before you saw this document?

MR. GROSS: You're asking him whether Mr. Ikeda had conversations with---

MS. GREENE: With him.

MR. GROSS: With him about the contribution before May 13th?

MS. GREENE: Right.

MR. GROSS: Does he recall---

BY MS. GREENE:

A. Mr. Ikeda and Mr. Traeger had conversation about contribution before and I was reported about it.

Q. You was what?

A. I was ~~reported~~ told about ~~these~~ their conversation.

MR. GROSS: But, the question was, I don't know if it got lost in the translation was did Miyashita and Ikeda have a discussion about the contribution prior to May 13th?

MS. TAKAMURA: I interpreted exactly what he said.

MS. GREENE: Could you answer the question again to clarify it?

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MR. GROSS: Ask him that question again.

BY MS. GREENE:

A. Yes, I did.

MS. GREENE: Did you ask him if the conversation took place without this document?

MS. TAKAMURA: Without?

BY MS. GREENE:

Q. I'm sorry, didn't follow. Is his answer that the conversation took place before he saw the document?

A. Yes, I did.

Q. Okay.

A. Therefore, I made this.

Q. After you received this?

MR. EARNSHAW: Because we had the conversation about it, I made this as a result of the conversation.

MS. GREENE: Okay.

BY MS. GREENE:

Q. You stated earlier that you had authority to deny a request for a check?

A. Yes.

Q. And, is it correct that you, so you approved this first check on May 15th, exhibit number 1, based on your discussion with Mr. Ikeda, is that correct?

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A. Yes, that is true.

Q. When you had your discussions with Mr. Ikeda about Traeger's contributions, was anyone else present?

A. Nobody was present.

Q. Did you discuss Traeger's contributions or proposed contributions with anyone else at Toshiba?

A. Before this issue came up, I had not discussed about it to anybody but after this issue appeared, I talked to some people.

Q. Do you mean that you discussed this issue with other people after May, 1987? Is that what you mean by when this issue came up?

A. Yes, after May.

MR. GROSS: The question was, do you mean this issue coming up meaning is May 15th the date that this issue came up and I'm not sure that got through. I think there may be some confusion on that point.

MS. TAKAMURA: Right.

MR. EARNSHAW: But, the confusion, I think, is in English.

MR. GROSS: Okay.

MS. GREENE: We're trying to figure out what "when this issue" means.

MS. TAKAMURA: Issue mean another word problem. It's not like issue, like a document.

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BY MS. GREENE:

A. After problem occurred.

Q. What do you mean by when the problem occurred?

A. By the problem occurred I mean that Mr. Ikeda got some kind of document from FEC or, I don't, other, I'm not sure if it was from FEC or not but, Mr. Ikeda was surprised to know that he was, he made a mistake and---

Q. Did you discuss the corporations paying Mr. Traeger for his contributions with anyone else between May 1987 and the time that Mr. Ikeda got this document from the FEC?

A. I'm not sure you mean, after, between May 1987 and when the problem occurred.

Q. Yes.

A. Between, during that period, I didn't.

Q. Okay.

A. Those who involve me and Mr. Traeger and Mr. Nelson, of course, had the discussion.

Q. When did you and Mr. Traeger and Mr. Nelson have a discussion?

A. When Mr. Traeger came up to Mr. Ikeda, this is the second time, asked to make check for him and Mr. Ikeda, in turn, told me about that and then I talked to, I asked Mr. Nelson to issue the check.

MR. EARNSHAW: And, before that you said

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it wasn't like the principals got together and had a discussion about this but, rather it was a discussion, there was really no discussion, it was rather, it was a request made, so I want you to know until I make the check. Those short conversations that occur.

BY MS. GREENE:

Q. Did you have a direct conversation with Mr. Traeger about his contributions?

A. I didn't.

Q. Did you have a direct conversation with Mr. Nelson about Mr. Traeger's contributions?

A. Yes, I had discussion with Mr. Nelson about Mr. Traeger's contribution.

Q. Did you discuss with Mr. Nelson who Mr. Traeger was giving contributions to?

A. But, I did have discussion with Nelson about the contribution but, I didn't understand to whom the contribution was given, would be given.

Q. Did you learn after the contributions were made, who they were given to?

A. Yes.

Q. But, not before?

A. I don't quite know to whom the contribution be given but, probably Mr. Ikeda knew. I think I didn't have much interest in to whom the contribution would be given

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so, I think I missed the, like Mr. or Mrs. so and so or if the person is a senator or house, it is simply didn't have interest so, I think I missed.

Q. Did you understand that these contributions were going to federal candidates?

A. I didn't know how the money would be used but, I knew that the money would go to a, I didn't know that money would go to a certain person but, I didn't know who he or she was.

Q. But, you did know that it was to a congressman or a senator, excuse me to a U.S. Congressman or Senator?

A. I didn't know that money would go to either congressman or house.

Q. You said, I did know.

A. I did.

MR. EARNSHAW: You did know that the money---

BY MS. GREENE:

A. But, I didn't know the individual, the certain person, Mr. so and so or Mrs. so and so but,---

Q. Yes. You did know that it was a senator or a congressman, okay.

A. Yes, I knew because I heard the story.

Q. Beforehand?

A. Yes.

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Q. Okay. I would like to introduce or have the Court Reporter mark exhibit number 3 and exhibit number 4, exhibit number 5, okay, and exhibit number 6, okay. Is exhibit number 3 dated June 11th, 1987 and a check for $1,000.00, is that correct?

MR. GROSS: Could you just describe the exhibits and number those and describe them?

MS. GREENE: Okay. Exhibit number 3 is check number, in the right hand corner, 002247, a $1,000.00 check to Robert Traeger dated June 11th. Exhibit number 4 is check number 002282, dated July 16th, 1987, $600.00 to Robert Traeger. Exhibit number 5 is check number 002416, dated November 23rd, 1987 for $600.00 to Robert Traeger and exhibit number 6 is check number 002417, dated November 25th, 1987 for $500.00 to Robert Traeger---

COURT REPORTER: Excuse me, I have a discrepancy on number 5. I have November the 27th on the original.

MR. GROSS: There's 2 dates there.

MS. GREENE: Oh, I am looking at the one in the,---

MR. GROSS: Right hand corner.

MS. GREENE: Under the date box---

COURT REPORTER: Okay, I see it there, thank

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you.

MR. GROSS: Your reference is to the date as well as the typewritten date, is that correct?

MS. GREENE: Right.

BY MS. GREENE:

Q. Mr. Miyashita, I asked you to review these documents, do you recognize them?

A. I recall the fact that I have signed these.

Q. And, that is your signature on all of these?

A. Yes, they are.

Q. And, just to clarify, there was no other signature needed on these checks?

A. As I stated earlier.

Q. Okay. Could you complete the sentence?

A. As I stated earlier, other signature than my signature be required.

Q. Would not be required?

A. Would not be required.

Q. Okay. Do you recall what these checks were for?

A. Yes.

Q. And, what were these checks for?

A. What I can say right now is that these for dinner ticket. First I thought these were for contribution or donation but, someone told me these are

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for dinner party and then so, at this point, I say these are for dinner party but, before the someone told me these were dinner party, I thought these were for contribution or donation.

Q. Then, let's take the, who told you that these checks were for dinner parties?

A. Mr. Ikeda.

Q. When did he tell you this?

A. I'm not sure but maybe around the time I got the second check.

Q. Around the time you signed the second check?

A. About the time I signed the second check.

Q. When you signed the second check, was it your understanding that it was for a political contribution?

A. I didn't know it was for a political contribution. I have trouble with the word contribution but, I know that the money will be given but, I don't know how the money would be used or what the benefit of the dinner party to that, the person who is contributing.

Q. I don't understand the answer, did you understand---

A. For me, contribution is understood as political contribution but, at that time, I just simply thought there was money would be given, not in political sense.

Q. The money would be given to who?

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A. As I stated earlier, I wasn't sure to whom the money will go.

Q. Then, why did you, did you think that this payment would benefit the company in some way and if so, how?

MR. GROSS: I think that question will cause some speculation.

MS. GREENE: I'm trying to get at what was in his mind at the time he signed these checks which is relevant to this investigation.

MR. GROSS: Benefit the company in what way?

MS. GREENE: Well, that's, if he has an answer for it then, he had an impression of what he had understood when he signed the check and that's what I'm getting at.

MR. GROSS: Okay.

BY MS. GREENE:

A. ~~The~~ T things are different ~~from~~ now, present time, and at that time. And, at that time, I felt that would benefit Mr. Traeger, only. And, now that this issue, the problem, is open and I heard, I was told many things, so, right ~~know~~ now I do know. Now I realize that there are things that I should inspect.

Q. Back to exhibit number 4, the check, $600.00

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check on July 16th, you said that was for a dinner party, who is, do you know who it was a dinner party for or do you know if it was a dinner party for a senator or a house member?

A. When I issued the first and second check, I remember it well. I'm a little bit uncertain about 3rd or 4th or 5th check. Though I don't remember it well, the 3rd and 4th and 5th check, I think, out of these three checks, I think about 2 checks Mr. Traeger directly proposed Mr. Nelson to issue them. And, having done all that job preparation on the check, Mr. Nelson came up to me and asked me to sign it.

Q. Asked you to sign, did he come up with the check itself all printed out and you just signed it?

A. Yes, that's right.

Q. There was no other paperwork?

A. A check and a calculation report with data.

Q. Okay.

A. I'm not quite sure but, I think that is the way it went.

Q. When Norman Nelson approached you with these checks and with the, what did you call it, with the data calculations, did the data calculations have Mr. Ikeda's signature on them?

A. No, there's wasn't Mr. Ikeda's signature on

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that.

Q. Did you ask him why not?

A. Generally, Mr. Ikeda doesn't sign the calculation data sheet. Mr. Nelson came up to me and casually, there is another request and---

MR. EARNSHAW: You need to explain that he's, again, that he's just saying what he assumes happened and what he remembers. He doesn't have a clear memory of this. He's just saying what the, my senses to what probably happen was that the last three times that Norman showed up with a check and said, here's another request that you need to sign and that's, as I understood, that's how I translated what he said.

MS. TAKAMURA: Yes, but, it's a little bit above what he said. He didn't mention though, about the third check but, I just simply interpreted what he said and he, I think I should have rephrased it again.

MR. EARNSHAW: Well, maybe we should resay the answer and try it again.

MS. GREENE: Could we clarify?

MR. EARNSHAW: Okay.

BY MS. GREENE:

A. I think, for the 3rd, 4th, and 5th, two checks, Mr. Traeger directly request Mr. Nelson to issue them.

MR. EARNSHAW: I think that he must have

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gone directly to Mr. Nelson.

MS. GREENE: Yes.

BY MS. GREENE:

A. Mr. Nelson brought the check and calculation data sheet to me. Both of us, me and Mr. Nelson knew the simple procedure so, because we knew that simple procedure so, we didn't exchange to many words but simply---

MR. EARNSHAW: We understood the gist of it, we understood basically what was going on so, we didn't discuss it again. He just gave me the checks and said, this, here's another request and I responded by taking care of, that was my sense of what happened and I think that's exactly what you said.

BY MS. GREENE:

Q. So, your sense of what happened when Nelson brought these to you was that these were for reimbursing Traeger for political contributions?

A. I, as I said earlier, no, I can say I know that the political contributions but, at that time I didn't know that was the case.

Q. So, when Nelson approached you with these sheets, what was your understanding about what those payments were for?

A. I didn't know, I didn't ask. I didn't care about the individuals name, to whom the contribution would

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go but, other than, I knew that they would go to a senator or congressional but, I didn't know the certain individuals name.

Q. Okay, so you knew the checks that Nelson asked you to sign would go to some congressman or senator?

A. Yes, I knew that money would go to a senator or congressman but, I didn't know their name, individual.

Q. Did you ever discuss with anyone at Toshiba whether it would be good to contribute to particular senators or congressman?

A. No, not at all.

Q. Okay.

A. To Toshiba in America to or Toshiba including Japan?

Q. Toshiba including Japan?

A. No, not at all.

Q. Okay.

A. My motivation at that time was just simple. I felt that contribution would benefit Mr. Traeger only.

Q. Which contribution?

A. All of these.

Q. You thought this would benefit Mr. Traeger and not Toshiba?

A. I felt that was the case, that contribution benefit only Mr. Traeger, not Toshiba.

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MR. GROSS: He's testified to that a few times running.

BY MS. GREENE:

Q. Is Mr. Traeger generally, who is the Lebanon Toshiba plants community representative or representative in the community?

MR. GROSS: That presupposes there is a community representative.

MS. GREENE: All right.

BY MS. GREENE:

Q. Is there a community representative in Lebanon for Toshiba?

A. The representative of Toshiba Lebanon plant is Mr. Ikeda but, generally, relating, the company's relation to community of Lebanon such as relating to a---

MR. EARNSHAW: Rotary club.

BY MS. GREENE:

A. Rotary club and timber Chamber and was Mr. Traeger's responsibility. Not really responsibility but, Mr. Traeger takes part in those community activities.

Q. As Toshiba's representative?

A. I think you can understand that way.

Q. Okay. So, when Mr. Traeger made contributions to political, to politicians, did you feel it would also benefit Toshiba?

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MR. GROSS: I think he's already testified to this two times or three times already and he said that he---

MS. GREENE: I'm asking that in light of his answer to the previous question about Mr. Traeger's role in the community on behalf of Toshiba?

MR. GROSS: He's still testified to that answer, that---

BY MS. GREENE:

Q. I'd like to direct the witness to answer the question in light of his previous testimony of Mr. Traeger's role in the community whether it was felt that Mr. Traeger's contributions would reflect well on Toshiba?

A. For this specific case, I didn't think that would benefit company but, I thought Mr. Traeger only would benefit, would benefit, get benefits.

MS. GREENE: Is that?

MR. EARNSHAW: Yes. I mean, he gave a further example that he usually go to these dinners and meet people but, that's, you said it was for Mr. Traeger's benefits and not for the company's.

MS. GREENE: Okay.

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BY MS. GREENE:

Q. And, did you understand these dinner parties to be for politicians?

A. When I get, first and second check, I didn't know but, as I was getting third and fourth and fifth checks, I was told and I didn't know they was for political.

Q. Okay. Mr. Miyashita, what is the practice in Japan with regard to corporations giving money to candidates?

A. Is not pertinent to Toshiba but, other, in general Japanese company.

Q. What is the rule in Japan, can corporations make contributions to candidates in Japan?

A. Not specific to Toshiba company but, corporation in general.

MR. GROSS: You're really asking him for a legal conclusion.

MS. GREENE: Well, this is, I'm trying to examine his understanding of the propriety of making contributions in general.

MR. EARNSHAW: So, is he aware of any laws in Japan with regard to corporate contributions?

MS. GREENE: Right.

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BY MS. GREENE:

A. They are---

Q. They're allowed to?

A. Such a thing. Yes, it is allowed.

Q. For corporations to meet contributions?

A. Yes.

Q. Did you know that it was not permissible to make corporate contributions in the United States?

A. At that time, I didn't know. And, I did it without knowing that.

Q. Did you sign checks for other employees or officers at Toshiba to reimburse them for political contributions?

A. No. Toshiba, Lebanon, I didn't sign the check for other employees and workers.

Q. Did you ever sign a check from Toshiba to reimburse someone for a political contribution other than Robert Traeger, outside of Lebanon?

A. I can't understand your question other than these checks,---

Q. Yes

A. I have.

MS. GREENE: What I would like to do is take a short break at this time and, for about 5 minutes, and then come back and hopefully wrap up within about 15

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or 20 minutes of that, okay?

OFF RECORD

MS. GREENE: Back on the record.

BY MS. GREENE:

Q. I just, right now, want to clarify what we've gone over so far and get what you understanding was when you signed each of these checks, what they were for. Exhibit number 1, which was the May 15th check, you stated that that was for, to pay Robert Traeger for contributing to a federal candidate but, you know who, the identity of the person, is that correct?

MR. GROSS: I think his testimony was that he, he referred to a congress, to some congressman or senator rather than a federal candidate.

MS. GREENE: A congressman or a senator being a, well, I'll ask a follow-up on that but, let me ask him to clarify.

MR. GROSS: All right. Yes, I just don't want the question to presuppose that he said that it was a federal candidate.

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BY MS. GREENE:

Q. We have asked that before but, just to clarify it, when you say senator or congressman, do you mean a federal candidate, a person who is in the United States Senate or Congress.

A. Could you rephrase the question, again?

Q. When, you said these, that this check, exhibit 1 was for a contribution to a senator or a congressman, did you mean someone with a federal position who is in Washington?

A. I didn't think it was a person in Washington D. C. but, vaguely felt it to be for congressman or senator.

Q. Who did you understand congressmen and senators to be, were they people at the local level or people who went to Washington as representatives of the state?

A. I didn't know, I think that a person is a person who Mr. Traeger knows and relates so, I didn't think that, I didn't think in terms of Washington or Tennessee state but, no relational thing but, so, I thought, simply I thought that the person is a person Mr. Traeger knows.

Q. I'm concern ed that I might have confused you when I talked about Washington. You said that the contributions were going to people who are congressmen or senators, is that correct?

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A. I just didn't care where the money will go but, I just simply felt that Mr. Traeger was asked and then in turn asked the company, Toshiba company, to give money and there's nothing profound thought in my mind.

MR. EARNSHAW: That's basically a "yes".

MS. GREENE: Okay, I think maybe the my question is not coming across, necessarily.

BY MS. GREENE:

Q. When you say, when you talked earlier about this money going to congressmen or senators, I'm not concerned with the specific identity of who those people are, right now, I'm just concerned with establishing that you understood there would go to congressmen or senators, U.S. Congressmen or Senators?

MR. GROSS: I'll let him answer the question but, I believe this question has been asked three or four times.

MR. EARNSHAW: The question that time, unless I misunderstood it, you asked it by saying you didn't know the identity, you, the person that you know is going to a senator or a congressman, you answered it U. S. and I don't know if he knows the difference between---

MR. GROSS: You answered it U.S.

MR. EARNSHAW: A U.S. Senator/Congressman or a state senator and congressmen or, you know, if

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there's a distinction being made there.

MS. GREENE: Okay, that's what I'm trying to find out.

MR. GROSS: Well, yes, I mean, I think that's the root of the problem, I mean, there wasn't really much foundation laid as to his knowledge of this area and it's obvious that he doesn't have a clear understanding.

MS. GREENE: We, okay, we haven't established that. Then, let me rephrase the question.

BY MS. GREENE:

Q. Do you understand the difference between a U.S. Senator and a state senator?

A. I understand that there are senators, federal senators and senators for the state working at the, observing that their senator and house in state capital and federal.

Q. Okay. Then, let me ask, when you signed exhibit number 1 check to reimburse Robert Traeger for contributions, was that for contributions to U.S. Senators and Congressmen?

A. I didn't know.

MR. EARNSHAW: And, just for clarification so you understand. The question, the way it was asked was do you know whether it was a state or federal senator, he

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said he didn't know the answer and which is the same purpose as your question, I just wanted you to know how it was asked.

MS. GREENE: Okay.

BY MS. GREENE:

Q. And, do you know what, okay, would the rest of these exhibits, 3, 4, 5, and 6, which exhibits did you, which of these checks did you think were going for contributions, were going to reimburse Traeger for contributions?

A. No, I didn't know. I'm not sure what you mean by contributions, could you define contributions?

Q. The money that Traeger paid to congressmen and senators or to fund raisers for them?

A. I have no idea how a person who was given money use that money.

Q. But, when you signed them, what did you think the money would be used for?

A. I didn't think at all about how the money would be used.

MS. GREENE: What I was trying to do was to clarify what we went over before and I think we've spoken about the purpose for these checks and that you had testified that some of these were to reimburse Robert Traeger for his contributions to senators and congressmen

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and I just wanted to clarify which ones, which of these checks, were to reimburse him for contributions.

MR. GROSS: Just a couple of things. The word contribution pops up in all these questions and it is a legal term and as lawyers we know what that means. It's clear for the testimony that there is, he's already questioned the use of the word, he doesn't really understand what that word means and the last question was do you know what these monies were going to be used for and who did you mean, by whom, either by Mr. Traeger or by the congressmen or the senators, I think there's some confusion on that point as well.

MS. GREENE: Okay.

BY MS. GREENE:

Q. When you signed exhibits 3, 4, 5, and 6, did you list the purpose as you understood it of the check to reimburse Robert Traeger for monies he gave to congressmen or senators or their political committees or fund raisers for them?

A. I didn't really think about it but, I think there's two types of political funds and one is---

MR. GROSS: Political what?

MS. TAKAMURA: What?

MR. EARNSHAW: Funds.

MS. TAKAMURA: Funds.

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BY MS. GREENE:

A. And, one is group based and the other one is individual based.

Q. Yes.

A. And, I didn't know, I didn't think this money would be for individual or for group. I didn't---

MR. EARNSHAW: Why didn't you make you distinction between the two. I mean, he didn't, he says he didn't think it was for one or the other. He says, I didn't think about what it was for, the one or the other.

BY MS. GREENE:

A. And, I just didn't care and I just simply signed it.

Q. But, you thought it had to do with politics?

A. I didn't think of it as a political but for an individual because an individual who is congressman or senator requested it.

MR. EARNSHAW: Requested it, is ~~the~~ that what you're saying?

MS. TAKAMURA: Yes.

BY MS. GREENE:

A. Because a individual who might be a senator or congressman request it, Mr. Traeger so, I thought that was for an individual purpose rather than political.

Q. Okay, but that happened with all of these

checks, exhibit 3, 4, 5, and 6?

A. Including one, all of the checks.

Q. Right. Okay. Just to clarify, all of these checks were written to reimburse Mr. Traeger because he had been, because different individuals had asked him to give money to their committees?

MR. EARNSHAW: That question didn't read quite through the same way because she's saying, she is asked, did they give them to him, reimburse Traeger, for what Traeger gave to the committees and I think that his answer to that may be different from the one that you're asking. I just want to make sure that that's the question that gets asked. I mean, you're welcomed to ask the other one as well but,---

MS. TAKAMURA: Could you---

MS. GREENE: I think we're all confused, can I start again?

MS. TAKAMURA: Yes, please.

BY MS. GREENE:

Q. When you signed these checks, you signed these, did you sign these checks to reimburse Robert Traeger for money that he gave to individuals who requested that Mr. Traeger give them or their committees money?

MS. TAKAMURA: What the question, did you know---

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MR. EARNSHAW: Maybe because, if I just repeat it in English the question that was asked so that we keep vague on what they're responding to. The question, as I understand what you asked was when you signed the checks did you know that Traeger was given money to people in request of it.

MS. GREENE: By individuals.

MS. TAKAMURA: But, I interpreted it---

MR. EARNSHAW: By individuals.

MS. TAKAMURA: But, you said different individuals.

MR. EARNSHAW: By different people, yes. On behalf of individuals.

MS. TAKAMURA: Individuals.

MS. GREENE: Yes.

MR. EARNSHAW: Not, I mean, also on behalf of their committees, you added that to the question.

MS. GREENE: Okay.

BY MS. GREENE:

Q. Or their committees?

A. I think for the first and second check I vaguely recall that those were requested by different individuals but, I didn't know that those two checks would be for that one, for the same person and the third and fourth and fifth check, I just, working procedure so, I

didn't think of anything. I think that Mr. Ikeda probably told me something but, since I didn't have interest, I just overlooked or missed what Mr. Ikeda told me.

Q. About checks that are exhibits 4, 5, and 6?

A. I think all the checks including one, I think Mr. Ikeda told me about senator or congressman or, may or might, he might of told me the name but, I---

MR. EARNSHAW: I would just like to clarify that based on what he just said. He said, you asked him if it was just the last three, he said, no, even including one, because it was only the first time that he ever had the conversation with Ikeda---

MS. GREENE: Yes.

MR. EARNSHAW: And, so, but, no, it goes back to the very first time. Ikeda may have said a particular senators name to me but, I don't remember that but, I may have gotten from that the idea that it was going to people like senators or congressmen.

MS. GREENE: For all of these?

MR. EARNSHAW: Yes, well see, the conversation was only for the first, Mr. Ikeda only talked to him the first, and maybe the second time and so after that, you know, it was just, well, you know, I'm not going to answer the question, next question.

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BY MS. GREENE:

A. When Mr. Ikeda gave me the first check, I think he told me about senator/congressman and the name but, I just didn't have much interest about, in that so, now, very vaguely, I am talking about like senator or congressman but, I just don't recall specific thing.

Q. Okay.

A. I just responded to request rather than who that person is, the specific, I didn't concern about the specific identification of that person. Just simply I responded to the request and then professed it.

Q. Do you mean the request---

MR. EARNSHAW: And, I think you said that I didn't know it was a federal or a state or a city. He said he didn't know whether the individuals to whom they were going were involved in federal or state or city.

MR. GROSS: All right.

BY MS. GREENE:

Q. That's the case with all of these checks, with the rest of these checks, correct?

A. Yes.

Q. Okay. When Mr. Ikeda wrote on a check, on a printout, the term "bonus", did you understand it to mean the term that you had discussed in your first meeting with him on this subject?

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MR. EARNSHAW: You're referring to exhibit 2, now?

MS. GREENE: Well, I am going to introduce exhibit 7 which I am going to ask the Court Reporter to mark. There is another, exhibit 7 is a, appears to be a printout with a run date of June 11th, 1987 with some writing on it, with some handwriting on it. Mr. Miyashita, do you recall seeing this document?

A. I cannot remember but, I guess so.

Q. When you saw the term "bonus" handwritten on this printout, did you assume, what was your assumption about that term?

MR. GROSS: What was his assumption at the time?

MS. GREENE: At the time?

MR. GROSS: He testified he doesn't know, remember, necessarily having seen this document.

BY MS. GREENE:

A. I simply thought that I got a request again.

Q. The same request that you had discussed with Mr. Ikeda before the May 15th check was issued?

A. Yes.

Q. Okay. So, in other words, at that time when you saw the term "bonus", you thought it was for, to reimburse Robert Traeger for contributions to a senator or

congressman, is that correct?

A. I think this is for second check. I think for the first and second check, Mr. Ikeda came up to me and explained.

Q. For both of them?

MR. EARNSHAW: Well, for the first checks he said he explained it but, the second check he said, oh, here's, here comes a request again or here's another request. He personally came both times but, he only explained it the first and the second time---

BY MS. GREENE:

A. For the first check, Mr. Ikeda explained to me but, for the second check, he just gave me, like there was another request, without explanation.

Q. But, you assumed that it was for the same thing?

A. Yes.

Q. Okay, I just have one more clarification. I ask that the Court Reporter mark this exhibit number 8 and ask Mr. Ikeda, excuse me, Mr. Miyashita, if he recognizes this document?

MR. GROSS: Could you describe this document?

MS. GREENE: This document appears to be, again, another check printout dated July 15th, 1987,

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it has some handwriting at the bottom, right in the middle.

BY MS. GREENE:

A. These forms are well established in my mind so looking at it, I can recognize them but, I don't recall.

Q. Okay. Looking at this form, does that refresh your recollection about what the July 16th check was for?

A. It is the same thing as the first check. I knew that was what Mr. Traeger but, I didn't think specifically for each check but, I knew that that was for Mr. Traeger.

Q. To reimburse him?

MR. EARNSHAW: For the contributions, rather than for reimbursement, you have been saying, well, I don't think it will make it a problem with the contribution this year.

MS. TAKAMURA: I made a mistake.

MR. EARNSHAW: I'm just keeping you up to date on the discussion.

MS. GREENE: Okay.

BY MS. GREENE:

A. I think there is a level of profoundness of that word, like contribution is really heavy and deep to me so, but, if I answer simply, yes.

MR. GROSS: The question was, with

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regard to reimbursement.

MS. GREENE: For, okay but, I think, but, the responding answer is what I was trying to get at.

MR. GROSS: I guess I'm a little unclear.

MS. TAKAMURA: Miss---

MR. GROSS: I'm troubled, I'll state it again, it's sort of a continuing objection but, I'm continued to be troubled by the use of the word contribution, we've kind of used it here almost as a term of art other than a legal term.

MS. GREENE: Okay.

MR. GROSS: Because I think it's clear that the witness doesn't fully understand or appreciate the meaning of that word.

BY MS. GREENE:

Q. Let me ask you Mr. Miyashita, what has been your understanding of the term "contribution"?

A. Now I know what contribution means. Now I know that a contribution means money for political campaign.

Q. Okay. In your understanding of that term, did you understand this exhibit number 4, the July 16th check, to reimburse, to be for the purpose of reimbursing Robert Traeger for contributions?

MR. GROSS: Let the witness answer, I'm

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sorry, go ahead. I'll let the witness answer the question but, I just want to make the point that the prior question of that is understanding what the word "contribution" meant was not a foundation for the question, what you're asking him now which was his understanding of the time that he saw the sheet. Do you want the question repeated.

BY MS. GREENE:

Q. I direct the witness to answer, if he remembers the question.

A. Now when I'm asked what you've done then, now that I know how big the problem is then, I'm surprised with what I've done but, at that time, I just didn't have any idea and didn't care.

Q. But, the question was, were these to reimburse for contributions in the sense that you now understand the term, the way in which we were using that word was---

MR. EARNSHAW: Let me repeat his last answer, she can correct me if I misstate it but, I think what he said was that, you know, given the definition I just gave, contribution, I understand now, you know, the seriousness perhaps of what has occurred but, what I understood then was very different and so, it's not the same understanding that I had then.

MS. GREENE: Okay, I was just trying to establish that what had happened then, regardless of his

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knowledge of the law, was that these monies were going to political candidates, were being used for contributions.

MR. GROSS: I think it's, he's answered---

MS. GREENE: That's what we're trying to establish and I don't think I've got a clear answer to that question, on the record.

MR. GROSS: You know, I think he's given that answer three or four times on the record. I think what you're trying to do is ask, is you're asking to impose his present state of mind on the mind, on the state of mind of the time that he saw these sheets.

MS. GREENE: I don't want to do that. I just want to know what he thought the money was being used for at the time he saw the sheets and to establish whether he thought it was going to political candidates or to anybody who had requested it.

MR. GROSS: He's answered that question.

MS. GREENE: All right. What I would like to do at this time would be to continue the deposition and end the deposition for today with the understanding that we may call you again to answer further questions, do you want to review the transcript?

MR. GROSS: You mean, do I want to

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waive signature, is that what you're asking me?

MS. GREENE: Yes.

MR. GROSS: No, I do not want to waive signature.

MS. GREENE: Okay. In that case, you will have an opportunity to review and correct the transcript. If there is a change in the answer, you should explain it and will probably be further questioned.

MR. GROSS: If there's a change in the answer---

MS. GREENE: Well, I mean if there's a change in the transcript in anyway, you know, such that it changes an answer, we may ask further questions. Additionally, I'd like to ask counsel to stipulate about the sufficiency of the translation, during this deposition.

MR. GROSS: Well, I would stipulate to the sufficiency of the translation with proviso that we will have the opportunity to review the transcript pursuant to 111.12C which is the provision in the Federal Election Commission regulations which refers to review of transcripts under the federal rules.

MS. GREENE: Sure.

MR. GROSS: Which, you know, provides us the opportunity to make those changes so, with that

proviso, we're not objecting to the translation but, there may be things that we will see in the review of the transcript that will cause us to provide comments.

MS. GREENE: Right. The deposition for today, I would like to remind everyone that the confidentiality rules of the act still apply and that and you're not to discuss this with people outside, until this matter is closed and I'm also going to present the witness with the witness fee and mileage, Jeff.

MR. GROSS: Okay, I have no questions for the witness.

MS. GREENE: Thank you.

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All changes are interlineated throughout the deposition. I have some difficulty understanding the transcription due to the language problem.

AND FURTHER THIS WITNESS SAITH NOT.

TSUNEHIRO MIYASHITA

STATE OF Texas

AT LARGE, TO-WIT:

Subscribed, sworn to and acknowledged before me this 21 day of Sept, 1988, in my jurisdiction by Tsunehiro Miyashita.

My commission expires 4-2.89.

Kay Cassetty

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CORRECTIONS TO DEPOSITION

Page	Line	Correction:
1	21	delete MR. NORMAN NELSON
5	15	change "respondence" to "respondents"
5	19	change "respondence" to "respondents"
6	15	change "hi" to "hai"
6	16	change "hi" to "hai"
6	19	change "hi" to "hai"
6	25	change "hi" to "hai"
15	14	delete "I have not,"; change "no" to "No"
16	8	change "plants" to "plant's"
16	22	change "plants" to "plant's"
17	6	end line with "?" instead of with "."
17	15	change "He supervise overall." to "He, Norman Nelson, supervises the rest of
		the department."
18	8	change "of Lebanon" to "of finances at the Lebanon"
18	25	change "No, one signature is enough." to "No, generally one signature is
		enough, but in some cases, two are required."
19	10	change "executives" to "executive"
19	11	after "checks" insert ","; after "clerks" insert ","; delete "and"
19	12	change "Nelson, print signature." to "Nelson's signature appears in print
		by a signature machine."
19	21	between "than" and "payroll" insert "executive"
19	21	change "accounting payroll." to "accounts payable."

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CORRECTIONS TO DEPOSITION

Page	Line	Correction:
20	4	change "and the" to "and if the"
21	9	change "my" to "may"
21	15	change "Mines" to "Mine's"
23	5	change "executives" to "executive"
23	11	change "to" to "too"
24	7	change "have" to "has"
26	11	change "companies" to "company's"
27	9	change "companies" to "company" , delete "about the"
27	10	delete ","
27	11	change "is" to "are"
28	12	delete "The," and "the"; change "persons" to "person's"
28	23	change "Hishimura." to "Hashimura."
28	25	change "H-I-S-H-I-M-U-R-A." to "H-A-S-H-I-M-U-R-A."
29	22	before the word "such" insert the word "in"
29	23	change "I look" to "I would look"
29	24	change "Let's" to "Let"
30	7	delete "with regard,"; change "signed expense" to "signed the expense"
30	9	delete "the"; change "that" to "those"
31	3	change "have" to "has"
31	17	change "is" to "are" both times that the word appears in this line
31	21	change "decide in" to "decide on"
32	2	change "ways" to "way"

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CORRECTIONS TO DEPOSITION

Page	Line	Correction:
34	6	change "authorize" to "authorized"
34	7	change "issue" to "issued"
34	12	change "expected" to "executive"
34	17	change "accepted" to "executive"
40	15	change "native," to "neighborhood,"
40	19	change "was saying," to "said,"; change "when," to "when"
40	20	change "company" to "companies"; change "thing happened so they" to
		"thing to happen they"
40	21	change "the of representative the" to "the annual payroll of the
		representative of the"
40	22	change "company" to "companies"
40	23	change "thing happening." to "thing to happen."
40	24	change "or" to "for"; delete ","
43	2	change "was" to "were"
43	3	change "is" to "it"
43	6	change "want" to "wanted"
43	7	change "gross up the gross up" to "gross it up"
43	18	change "Nothing just the problem that" to "Nothing, just that"
43	19	insert the word "with" before the word "each"
45	14	change "for" to "from"
48	7	change "take of those" to "take care of those"
49	18	insert the word "his" before the word "salary."

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CORRECTIONS TO DEPOSITION

Page	Line	Correction:
52	21	change "nothing" to "anything"
54	17	change "reported" to "told"; change "there" to "their"
63	19	delete "The"; change "things" to "Things"; delete "from"
63	23	change "things so," to "things, so"; change "know" to "now"
66	7	change "to" to "too"
66	25	change "individuals" to "individual's"
68	18	change "timber" to "chamber"
70	22	change "the" to "he"
70	23	delete ","
73	22	change "concern" to "concerned"
74	3	change "Toshiba company to" to "Toshiba company, to"
78	18	change "the" to "that"
81	16	change "senators" to "senator's"

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ORIGINAL

TRANSCRIPT OF PROCEEDINGS

FEDERAL ELECTION COMMISSION

IN RE: MUR 2575

9204090205

DEPOSITION OF NORMAN NELSON

Nashville, Tennessee

Friday, July 29, 1988

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FEDERAL ELECTION COMMISSION

IN RE: MUR 2575

DEPOSITION OF NORMAN NELSON

at

U.S. FEDERAL BUILDING
801 BROADWAY
ROOM 651
NASHVILLE, TENNESSEE

FRIDAY, JULY 29, 1988

10:00 A.M.

PRESENT:

MS. JUDYBETH GREENE, ESQ.
MS. SUSAN BEARD, ESQ.

Counsel for
FEDERAL ELECTION COMMISSION

MR. KENNETH A. GROSS
~~MR. SCOTT D. SHAWSHAW~~

Counsel for
NORMAN NELSON

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The depositions were reconvened on July 29, 1988 at 10:00 a.m. and proceeded as follows:

MS. GREENE: Good morning, my name is Judybeth Greene. I'm an attorney representing the Federal Election Commission. I'm here with the assistance of Susan Beard, also an attorney for the Federal Election Commission. This deposition is being taken pursuant to a FEC subpoena under Section 437 of the act. The confidentiality provisions of the act apply to this proceeding and will apply until the file is closed in this matter with respect to all respondence. This investigation is designated as matter ~~and to~~ under review 2575. The deponent has been sworn in by the Court Reporter before we went on the record.

NORMAN NELSON

a witness, having been duly sworn was examined and testified as follows:

CROSS EXAMINATION

Q. Mr. Nelson, I ask that you state your full name for the record.

A. Norman Martin Nelson.

Q. You have the right to be represented by counsel, is counsel present with you today?

A. Yes.

Q. Could you identify counsel?

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A. Yes, Ken Gross.

Q. Is he representing you personally?

A. Yes.

Q. These question will cover your involvement and potential violations of the Federal Election Act of 19--, Election Campaign Act of 1971 as amended and will also cover possible violations of that act by other individuals. I'm going to ask you some questions to find out about the facts giving rise to this investigation. If you don't understand a question, say so and I will repeat or rephrase it. If you realize an earlier answer was incorrect, please say so and say that you want it correct or supplement an answer and you'll be allowed to do so. If you're confused at any time or tired, let me know. And, if you don't remember the information necessary to answer a question, please say so. If you answer a question, I will assume that you've understood it and has given me your best recollection, do you understand these instructions?

A. Yes, I do.

Q. Okay. Okay, I remind you that you're under oath and that you are to treat these proceedings as if you were in court. Mr. Nelson, could you tell me about your educational background?

A. I have a Bachelor's Degree in Accounting from

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the University of Wisconsin and I have a Master's Degree in Finance from the University of Missouri.

Q. And, your citizenship?

A. United States citizen.

Q. What is your position in Toshiba America?

A. I'm a Controller of Toshiba America, Inc., Manufacturing Division.

Q. Does that position relate to a plant in Lebanon, Tennessee or does it relate to plants in other parts of the country?

A. It relates to the plant in Lebanon and, to an extent, to an activity in El Paso, Texas and Juarez (phonetic), Mexico. By that, there is an accounting manager there in Juarez but, the consolidation of those facilities is done in Lebanon, Tennessee.

Q. Was that your position in 1987?

A. The first part of the answer, yes. I was the controller and I am the controller of Toshiba America, Inc., Manufacturing Division. The facilities mentioned in El Paso and Juarez did not exist at that point. They opened in 1987.

Q. How long have you been associated with Toshiba America?

A. I started December 1st, 1982.

Q. Could you describe your duties as controller?

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A. I think normal controllers do these duties. I'm responsible for the general ledger activities which includes accounts payable, payroll, accounts receivable and the monthly, and half year and year end closings of the general ledger. I'm responsible for the cost accounting activities and assist in budgeting, forecasting, things of that nature.

Q. Do you report to anyone else in the company?

A. I report to Mr. Miyashita, the Assistant Treasurer and Vice President and Assistant Treasurer.

Q. Do you report to anyone else?

A. No.

Q. Does anyone, do you supervise anyone at Toshiba America?

A. Yes, I do. There's the general accounting supervisor who reports to me and there are three clerks reporting to her. And the cost accounting supervisor and assistant finance manager, one person, reports to me and there are two clerks reporting to him.

Q. Who is the general supervisor who reports to you?

A. General accounting supervisor, Lou Ann Hutto.

Q. Could you spell that please?

A. H-U-T-T-O.

Q. And, what is the name of the cost accounting and

assisting finance manager who reports to you?

A. Ed Baird, B-A-I-R-D.

Q. Do you handle the, is there a separate executive payroll and employee payroll at Toshiba America?

A. Yes.

Q. Do you handle the executive payroll?

A. Define handle.

Q. Do you have any part in the process of providing executives with payroll checks?

A. My general accounting supervisor normally provides the executive payroll checks.

Q. Could you describe the process by which an executive receives his payroll check, his or her payroll check?

A. All salaried people are paid twice a month and there are approximately 15 people who have been designated to be on the executive payroll. The checks are prepared three or four days, typically, prior to the issuance of the check, and the checks are issued on the last working day closest to the 15th and the end of the month. The general accounting supervisor will generate through a personal computer program the, what I call the payroll register and the checks for the executive payroll. She then takes those checks to Mr. Miyashita for his review and signature. Review includes checking the register. He then normally

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returns the checks to her, she stuffs them in envelopes and distributes them on the proper day.

Q. Is Robert Traeger on the executive payroll?

A. Yes, he is.

Q. When Ms. Hutto takes the checks to Miyashita for his signature, what documents does she bring with her for his review?

A. As I said, she takes the payroll register and the checks themselves.

Q. Is the payroll register always printed up?

A. Yes.

Q. Who provides the data that's entered for printing on the payroll register?

A. On a normal paycheck to paycheck calculation, the data already exist in a personal computer program and the only changes necessary are to change the month, the number of the payroll, (is it the first or second payroll of that month or is it a special payroll?) and then to check to see that the calculations are done properly. The original data as far as salaries is normally provided on or around April 10th, somewhere between April 1st and April 15th, normally and then that is done in one of two ways. Usually, Mr. Traeger provides a handwritten document that list the individuals under his area, the television operation, and what their current salaries and

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what changes there will be and then that is approved by Mr. Ikeda. There are also microwave operation people on that payroll and the man who is in charge of the microwave operation provides a comparable document or a status form which is the normal method for everybody who's not on the salary payroll, on the executive payroll, excuse me.

Q. Who is in charge of the microwave division?

A. Mr. Hashimura, H-A-S-H-I-M-U-R-A.

Q. Earlier you mentioned a special payroll, could you explain what that is?

A. It almost never occurs but once in a great while, we will use it if there is a bonus. I think that's the only time it's ever been used. And, it's designated as a 3 in our system as opposed to 1 for the first payroll of the month, 2 for the second.

Q. And, what is the process by which someone gets a special payroll check?

A. Again, the normal procedure, if there is such a thing, in a bonus situation is that Mr. Traeger will provide a document and Mr. Hashimura will provide a document listing the individuals who have been granted a bonus and we will enter that information into the appropriate payroll.

Q. Do you enter it by computer?

A. Yes. The reason, when you say do we do it by

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computer, we do it if a significant number of people get the bonus. In other words, if virtually everybody on the executive payroll gets the bonus. We don't want to generate 15 manual checks.

Q. Since your association with Toshiba America as controller, how many times has there been a bonus for the executive payroll?

A. Approximately once a year, sometimes twice a year.

Q. So, it's been once or twice a year for the past five years, is that correct, six years?

A. Usually, yes.

Q. Who makes the decision about whether to enter a bonus onto the computer printout?

A. As I said, if there are a large number of people getting it, then we'll put it into the computer. If there's only one or two then it's simpler to generate a manual check but, so you don't misunderstand, all the information will eventually be entered into the computer because we have to keep up with year to date earnings, federal and FICA and so forth. It's just, at that moment, it's easier to generate one check manually then to go through the process of eliminating records for everybody else temporarily in order to do one or two checks.

Q. What is the document that Mr. Traeger or Mr.

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Hashimura provides to you to get a bonus or special payroll check?

A. Again, normally a plain sheet of paper with the individuals name written thereon and approved by Mr. Ikeda ~~for the~~ in Mr. Traeger's case, In Mr. Hashimura's case, it can either be that document, a plain sheet of paper on which he's recorded the information or he can use a status form but in the case of a bonus, it almost always would be the plain sheet of paper.

Q. Would the sheet of paper explain the reason for the payment?

A. Other than to say bonus payment, no.

Q. Would that piece of paper be saved?

A. Certainly.

Q. And, would you have those pieces of paper in your records?

A. I think I would have all of them, yes because they are the auditrail that I would have, that I would need to show it to the external auditors or the internal auditors from Toshiba Corporation.

Q. Do you ever ask Hiroshi Ikeda to initial items on a printout sheet?

A. I have never asked him directly but I can recall.

Q. Are you involved in approving request for

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payment for bonuses?

A. I do not approve bonus payments, they have been approved when they come to me.

Q. Who is involved in making the decision on whether or not to approve a bonus payment?

A. I, it's difficult for me to answer that. I will speculate that Mr. Ikeda, Mr. Traeger, Mr. Hashimura, Mr. Tiere (phonetic) who is the industrial relations manager. I have, on at least one occasion, sat in a meeting where it was discussed as how to pay a bonus, what to pay.

Q. Could you tell me about that meeting?

A. It's, Mr. Ikeda came to Toshiba America about 2 years ago. His predecessor, Mr. Mashuta (phonetic), had given what was termed a salary advance the previous year and so when April of 1987 and it was determined how, what to pay selective individuals, a number of salaried people, both executive payroll and normal salary payroll but, not everybody on that salaried payroll, there was concern by Mr. Ikeda as to what people should be paid, what was to be classified as the salary based, what was to be considered a bonus for that year and that was the discussion as to how to satisfy what apparently a number of people thought Mr. Mashuta had intended and yet to keep cost as low as possible.

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Q. So, you haven't sat in any other meetings than that one to discuss bonuses?

A. Not to my recollection, by discuss I mean, I assume you mean to determine the bonus?

Q. Yes.

A. No, I have not.

Q. At this time, I would like to introduce, to have the Court Reporter mark this document as exhibit 1. Mr. Nelson, would you please review this document? Mr. Nelson, do you recognize the two documents in exhibit 1?

A. Yes, I do.

Q. Could you describe them for me?

MR. GROSS: Could you just generally identify the document as to what we're talking about, a 2 page?

MS. GREENE: Sure. What I have asked the Court Reporter to mark as exhibit 1 is a two page stapled document whereas the first page appears to be a computer printout with a run date of May 11th, 1987 and the second page of exhibit number 1 is a, appears to be a $1,000.00 check to Robert Traeger, designated as check number 002212.

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BY MS. GREENE:

Q. Mr. Nelson, do you know what the check on page 2 of this document was, let me rephrase. Do you know what the purpose was for the check on page 2 of this document?

A. At the time the check was generated, I was told that it was a bonus payment to Mr. Traeger.

Q. What do you mean by bonus payment?

A. Additional compensation.

Q. How did you receive, did you receive a request for this document, for this check?

A. I received a verbal request from Mr. Miyashita.

Q. So, Mr. Miyashita contacted you directly?

A. Yes.

Q. Do you know about, do you recall what date that was?

A. No, I don't.

Q. Would that have been before May 13th, 1987?

A. On or before that date, yes.

Q. Did Mr. Miyashita tell you anything else about the reason for the bonus?

A. He told me that we were to pay a $1,000.00 check to Mr. Traeger as a bonus.

Q. Was this unusual?

A. It was unusual because there was no documentation to support the payment. It was somewhat

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unusual because only one person was being paid and because it wasn't a normal time to pay a bonus, again, by normal, usually it came at the end of a half, end of March, end of September.

Q. Did you ask him anything further about the request, given your statement that you felt this to be unusual?

A. I asked him the purpose, he told me bonus. I asked him if it had been approved, he said yes, Mr. Ikeda had approved it. I said, do you have any documentation, there was none. So, I asked him to have Mr. Ikeda sign what I'm calling the payroll register.

Q. And, is Page 1 of exhibit number 1 the document that you received after making that request?

A. That's correct.

MR. GROSS: It's a copy of the document.

MS. GREENE: A copy of the document.

BY MS. GREENE:

Q. Mr. Nelson, could you read the handwriting that is on Page 1 of exhibit number 1?

A. Starting with Robert Traeger?

Q. No, starting the line below that.

A. H. Ikeda, 5-13-87, approved as bonus payment to Mr. Traeger.

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Q. Do you recognize the handwriting?

A. Yes.

Q. Who's handwriting is that?

A. The signature and the date is that of Hiroshi Ikeda.

Q. And, the printing?

A. Is that of my general accounting supervisor, Lou Ann Hutto.

Q. Did you have any conversations with Ms. Hutto about this payment?

A. Yes.

Q. And, what was the content of this conversation?

A. I told her that we had received a request to issue a check in the net amount of $1,000.00 to Mr. Traeger, it had been designated as a bonus, she should mark it accordingly and to do the necessary calculations and produce the check.

Q. Is the handwriting that reads Robert Traeger and has some other financial information on Page 1 of exhibit number 1 also Ms. Hutto's writing?

A. Ms. Hutto's, yes.

Q. Did Ms. Hutto bring this check to Mr. Ikeda for signing?

A. No.

Q. Who brought this printout to Mr. Ikeda for

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signature?

A. Mr. Miyashita, to the best of my knowledge.

Q. Did Mr. Miyashita come into your office and get this printout to take to Mr. Ikeda?

A. I don't recall. I can only tell you the normal procedure. As I indicated before, Ms. Hutto prepares the executive payroll several days prior to the date of the issuance of the payroll. Then, she takes the executive payroll register and the unsigned checks and gives them to Mr. Miyashita. He reviews them and signs them and either returns them to her or may bring them into my office because the payroll register itself is stored in my desk.

Q. Would Mr. Miyashita sign the printout page of the executive payroll?

A. No, he doesn't.

Q. What document does Mr. Miyashita sign?

A. Each individual check.

Q. I would ask the Court Reporter at this time to mark this document as exhibit number 2. I'll ask Mr. Nelson to review this document. The document that I've asked the Court Reporter to mark is exhibit number 2. It's a two page stapled document. The first page appears to be a computer printout with the run date of June 11th, 1987 and the second page appears to be a check to Robert Traeger for $1,000.00 designated as check number 002247.

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Have you seen either of these documents before?

A. Yes, I have.

Q. Have you seen both of them before?

A. Yes, I have.

Q. Do you recall the circumstances behind the issuance of the check on Page 2 of this document?

A. Not clearly but to the best of my knowledge, again Mr. Miyashita came to me and indicated there was going to be another bonus payment to Mr. Traeger.

Q. About when did he come to you?

A. I don't know. only I can tell you that it was close to the date of the signature on this payroll register which is June 11th.

Q. Could you tell me more about the conversation you had with Mr. Miyashita?

A. No, I can't. I don't know, I don't recall.

Q. Did Mr. Miyashita provide any documentation at that time?

A. There was no documentation and again, because there was none, I wanted, I checked, I asked him, Miya, does Mr. Ikeda approve this? He again said, yes. so, again I wanted an audit trail,---

Q. Yes.

A. Accountant's like audit trails and I wanted a signature since I was lacking a document so that it was

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proven that the person who had approved this payment had initialed it.

Q. Is Miya Mr. Miyashita?

A. Yes, he is.

Q. On Page 1 of exhibit number 2, there is some handwriting. Could you tell me what the handwriting says and identify it, who's handwriting it is?

A. The handwriting that says Robert H. Traeger bonus and vacation and list the gross calculations and net and check numbers is that of Lou Ann Hutto. The signature is that of Hiroshi Ikeda and the date. Whoever wrote early pay on there, I have no idea.

Q. Did you know what the bonus payment was for at the time that it was issued?

A. I don't recall.

Q. Are there any documents you could look at to refresh your recollection?

A. None whatsoever.

Q. Did you later learn what the payment, what the June 11th, 1987 payment to Robert Traeger for $1,000.00 was for?

A. Yes, I did.

Q. And, what was that?

A. It was a payment, it was a political contribution, I don't know which one. You show me the

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document, then, I would know.

Q. When did you have a, when did you first discuss Toshiba's payments to Robert Traeger for political contributions?

A. I can't, I don't recall, somewhere between the issuance of the first check and the third check.

Q. Who did you speak to?

A. Again, I don't recall. I know that I talked, sometime during that time, with Mr. Traeger.

Q. Did Mr. Traeger approach you?

A. To the best of my knowledge, yes.

Q. And, what did Mr. Traeger tell you?

A. He told me that payments had been made to certain political committees and that he had received a payment from Toshiba and that he wanted me to have a copy of the checks that he issued to these political committees, re-election committees, for example, in order to prove that the checks paid to him were not for his own benefit. By that I mean, only go into his pocket.

Q. Did you discuss these, once you learned that these payments were for political contributions, did you discuss these payments with anyone else in Toshiba?

A. Mr. Miyashita and Mr. Traeger were the two people.

Q. Did you approach Mr. Miyashita?

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A. I don't recall because I don't know if he was the first one who told me or Mr. Traeger was the first one who told me.

Q. Did Mr. Miyashita ask that you obtain copies of Mr. Traeger's checks to political committees?

A. No, he didn't.

Q. I'd like to introduce a 5 page document, exhibit number 3, if the Court Reporter would mark this document. I ask that the witness review the document. Have you seen these documents before?

A. Some.

Q. Could you identify which of these photostatic copies of checks, on Pages 1 through 5 of exhibit number 3 that you've seen before?

A. I don't think so. I can just tell you in general terms that the earlier checks, May, June, and July of 1987 checks, I probably have seen.

Q. Okay. Could you turn to the final page of that document? The bottom check, see if it's the same handwriting, a check for $1,000.00 to the Friends of Jim Sasser on May 15th, 1987 on the account of Robert H. or Betty R. Traeger, have you seen this check before?

A. Yes, I have.

Q. And, when was, was that provided to you, was a copy of that check provided to you?

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A. Yes, it was.

Q. And, when was that provided to you?

A. I don't know. As I say, somewhere between the issuance of the first check and the third check. Mr. Traeger and I talked.

Q. Did Mr. Traeger tell you who he had contributed to or was planning to contribute to?

A. I don't recall.

Q. Did you discuss with Mr. Traeger any of the politicians whom you felt it would be beneficial for the company for him to contribute to?

A. None whatsoever.

MR. GROSS: Could you repeat that question.

MS. GREENE: Let me ask the Court Reporter to read that back.

The question was played back and repeated as follows:

Q. Did you discuss with Mr. Traeger any of the politicians whom you felt it would be beneficial for the company for him to contribute to?

A. None whatsoever.

MR. GROSS: I don't recall the witness testifying that there was, any of the contributions was for the benefit of Toshiba which I believe is presumed in the question.

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MS. GREENE: Let me rephrase the question.

BY MS. GREENE:

Q. Did you ever discuss with Mr. Traeger who Mr. Traeger should give political contributions to?

A. I didn't discuss it. I had no opinion on it, I was not asked.

Q. Have you seen, previously seen the second, the middle document on Page 5 of exhibit number 3, it appears to be a check to Clement for Congress for $100.00 on Betty and or Robert Traeger's account?

A. I think so.

Q. Do you have a copy of that in your records?

A. I think that is one that I do have a copy.

Q. The top check on that page, I apologize for the poor quality of the photocopy, appears to be a check to Congressman Bart Gordon, or Bart Gorgon for Congress for $250.00 on Robert or Betty Traeger's account, do you have a copy of this check?

A. What's the date?

Q. The date says sometime in 1987, I can't clearly read it.

A. Again, if it's May, June, or July, I probably have it.

MR. GROSS: You really can't tell the

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date on that check.

MS. GREENE: Okay.

BY MS. GREENE:

Q. Turn to Page 4, the bottom check, to Congressman Bart Gordon committee on July 16th, 1987 for, it appears to be $600.00, do you have a copy of this check?

A. I believe so.

Q. The check above that, the check for $1,000.00 to the Albert Gore for President committee, on Robert or Betty Traeger's account, do you have a copy of this check?

A. Again, I think I do.

Q. Above that, there's a check from Robert or Betty Traeger to the Albert Gore for President committee for $250.00 on November 19th, 1987, do you have a copy of this check?

A. I don't believe so.

Q. Turning to Page 3, of exhibit number 2, there's a check that purports to be from Robert or Betty Traeger on January 20th, 1987 to Bell for Representative for $50.00, do you have a copy of that check?

A. I've never seen that check before.

Q. On Page 2 of exhibit number 3, there's, the first check is to Friends of Jim Sasser for $500.00 from Robert or Betty Traeger, on what appears to be, is that

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January 20th, 1986?

MR. GROSS: Looks like January the 20th.

BY MS. GREENE:

Q. Have you seen this check before?

A. If that date is correct, I haven't never seen that check.

Q. There's a check for Bart, the second check for Bart Gordon for Congress committee for $250.00 on Robert or Betty Traeger's account on what appears to be April 1st, 1986, have you seen this check before?

A. No.

Q. On Page 2, below the check for Bart Gordon, there's a check paid to the order of Steve Cobb campaign for $25.00 on June 15th, 1986, have you seen this check before?

A. No, I haven't.

Q. Turning to the first page of exhibit number 3, there's a check for, to the order of Friends for Terry Halcomb for $500.00 on Robert or Betty Traeger's account dated November 27th, 1987, have you seen this check before?

A. I don't believe so.

Q. When you spoke to Mr. Miyashita about the reimbursement for Mr. Traeger's political contributions,

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what did Mr. Miyashita say to you?

A. Basically that Mr. Ikeda had approved the payment.

Q. Did he discuss the reimbursement of anyone else's political contributions at Toshiba?

A. No.

Q. Did you ask him why no other person was being reimbursed for political contributions?

A. No, I didn't.

Q. Let me just restate, I assume that no other person was being reimbursed by Toshiba for political contributions, is that correct?

A. To the best of my knowledge, that's true.

Q. Looking at exhibits 1 and 2, again, where it says, in handwriting, Robert Traeger bonus, were there any other payment sheets that you saw that stated in handwriting bonus in this matter?

A. I don't quite understand the question, were there other people?

Q. Yes.

A. Who had such a document, I mean a check generated for other people other than Mr. Traeger?

A. Yes, what I would like to know is whether there were other checks that were manually generated to people on the executive payroll for, that were designated in

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handwriting on these printouts as a bonus?

A. During any time period?

Q. During 1987?

A. I don't know for certain, there may have been one but, I don't think there were any, any other people.

Q. When you say there may have been one, do you know, do you recall the person who may have received a separate bonus?

A. Yes, I do.

Q. And, who is that person?

A. His name is Louis Moix, M-O-I-X.

Q. And, do you remember the circumstances surrounding that payment?

A. Yes.

Q. Could you please tell me?

A. Again, to the best of my recollection, there was a earlier bonus payment made to a number of individuals on the executive payroll and I think this ~~is~~ was 1986 and his bonus was withheld, he was informed that there was a bonus check but, due to some extenuating circumstances, primarily poor attendance, he was not given the bonus check and he was given, I gather, I was not involved in the discussion but, my impression was that he was given some time to improve his performance and I think at the end of 1986, certainly at the end of the year,

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being 1986 or 1987 but, I think 1986, I approached Mr. Traeger and I said, I am holding a check and the end of the calendar year is approaching and the end of the payroll year and I need to do something with this check, either issue it or void it and he understood and it was agreed that the check would be canceled and a substitute check in a lower amount be issued. So, there's a check, a manual check, similar somewhere to this and I cannot swear that it said "bonus" on there but, that was certainly the purpose of it.

Q. Thank you.

MR. GROSS: Could we take a little break now, just---

MS. GREENE: Sure.

OFF RECORD

MS. GREENE: I'm going to ask the Court Reporter to mark this two page document as exhibit number 4 and I will give a copy of it to Mr. Nelson and ask him to review it. What the Court Reporter is marking is exhibit number 4. It appears to be a two page document which is stapled. The first page appears to be a computer printout with a run date of July 15th, 1987 and the second page appears to be a check to Robert Traeger in the amount of $600.00 from Toshiba marked as check number 002282.

MR. GROSS: My document has a run date

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of July 8th and a check date of July 15th, are we looking at the same document?

MS. GREENE: Yes.

BY MS. GREENE:

Q. Mr. Nelson, have you seen this document, have you seen Page 1 of exhibit number 4 before?

A. Yes, I have.

Q. Could you tell me what it is?

A. It's again an executive payroll register for the regular checks that were dated July 15th, 1987.

Q. The hand, there is handwriting on this document?

A. Again, the Robert Traeger and the payroll calculations and check number and date are put on by Lou Ann Hutto and the signature is that of Hiroshi Ikeda with the date.

Q. Do you know what this payment was for?

A. I cannot recall but, I believe I did. I cannot totally recall.

Q. Could you tell me what you recall?

A. To the best of my knowledge, I was approached by Mr. Traeger or Mr. Miyashita and told that there was another check request as a payroll and that another payroll, political contribution was going to be made, another or a political contribution, I'm not sure which.

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Q. Was it the first time that you had heard that Mr. Traeger was being reimbursed for political contributions?

A. I don't know. Somewhere between the first one and this one.

Q. So, that's possible you might have learned that before the second check was issued?

A. That is correct.

Q. Do you have any records relating to that?

A. I have no information beyond what you see, what you have in front of you as exhibits 1, 2, and 3, and 4, and I don't have all of exhibit 3 for that matter.

Q. When Mr. Miyashita or Mr. Traeger asked you, gave you, requested a check in the amount of $600.00, did you ask that Mr. Ikeda be asked to sign this printout?

A. I asked Mr. Miyashita again, had Mr. Ikeda approved the issuance of this check, he said yes. Again, I requested that Mr. Ikeda approve the payroll register because I had no other documentation.

Q. So, you're now saying that it was Mr. Miyashita who had requested?

A. No, I'm not saying that. I'm saying I asked Mr. Miyashita after I learned another check had to be produced, was it approved, as I'm saying it, it may have been Miya coming to me and asking me directly, it may have

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been Mr. Traeger coming to me. In either case, I asked Miyasan (phonetic) is this approved?

Q. Is Miyasan Mr. Miyashita?

A. Yes, he is.

Q. Has Mr. Miyashita often approached you, let me rephrase, how often has Mr. Miyashita approached you directly to issue checks?

A. How many times?

Q. How many times in 1987?

A. Two or three, to the best of my knowledge.

Q. And, were all those times in relation to these checks that we have as exhibits?

A. Yes, they were. It's possible that he came to me to say we'll issue the bonus checks at the end of March or early April, I don't know.

Q. When you say bonus checks at the end of March or April, are you referring to bonus checks for everyone on the executive payroll or individual bonus checks?

A. Virtually everybody on the executive payroll, it may have been everybody.

Q. Did you have authority to prevent these checks from being made, when the request was given to you?

A. I had the ability, the responsibility to ask about the checks, the purpose and I perhaps could have said no, if I knew exactly what they were for and when I

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knew exactly what they were for, but, my boss had approved it, his boss, the number one person at Toshiba America, Inc., Manufacturing Division had approved it and therefore, I issued the checks.

Q. Who is the number one person?

A. Mr. Hiroshi Ikeda.

Q. Have you ever, in the time that you have been controller at Toshiba America, have you ever refused to authorize a check?

A. I don't recall any instance. The typical procedure, if there is a problem or a question about something, is to refer it back to Mr. Miyashita or directly to the requester but, I could not recall a specific instance.

Q. What would have been, what would be the effect if you rejected a request?

A. Probably, again, this is speculation---

MR. GROSS: The question calls for speculation.

MS. GREENE: I'm asking about the extent of his authority. So, I would like to know what his understanding is of what would happen in the event that he rejected a request for a check.

MR. GROSS: I don't know if whether we have established that he has the authority to do anything.

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MS. GREENE: I believe we---

MR. GROSS: With regard to---

MS. GREENE: That question was asked and answered previously.

MR. GROSS: Well---

MS. GREENE: But,---

MR. GROSS: The question said, do you have the, did you have the authority to refuse to issue the check and he said that the, that I was not required, that I could have not signed the check but I was ordered to or I was directed to by his, by his boss and by his number one boss. Now, what are we getting at at this point, I don't quite understand.

MS. GREENE: I'd like to establish the parameters of Mr. Nelson's authority and I would like to proceed with that line of questioning.

BY MS. GREENE:

Q. Now, let me confirm, you state, is it correct that you have the authority to disapprove a request for a check?

A. I have the authority to question a check request. As I say, I don't know that that issue has occurred where I have had to refuse a payment, refuse a request for payment.

Q. Do you have a written job description?

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A. I don't have one, one may exist but, I don't have it.

Q. In your understanding of your job, if there was a request for a purpose that you disagreed with strongly and you questioned it, would you be able to prevent the issuance of a check?

MR. GROSS: That's a highly speculative question.

BY MS. GREENE:

A. If, this is, again, my opinion, if I could support my answer be it with the advice of a book, a reference manual so to speak, a auditor's opinion, something of that nature, probably.

Q. Under what circumstances would you question a request?

A. If it were patently illegal, on it's face.

Q. If something were not patently illegal on it's face, would you do any further checking?

A. Again, is there a document that supports this request for payment, who has approved the request, those are all important factors to an accountant, ~~in this case~~?

Q. In the case with exhibit number 4, did you see the, Mr. Ikeda's signature on Page 1 before this was, this information was passed along to Mr. Miyashita for him to sign the check on Page 2 of his document?

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A. I doubt it because the executive payroll register is given with the check and so, I can only assume Mr. Miyashita signed the check and took the register to Mr. Ikeda or he took the register to Mr. Ikeda, got the signature and then signed the check. I was never in Mr. Ikeda's presence when he signed a check, when he signed the check register, the payroll register.

Q. I'm now going to ask the Court Reporter to mark this two page document as exhibit 5, give a copy to Mr. Nelson, Mr. Gross for review. What I've asked the Court Reporter to mark is exhibit 5, it's a two page document. The first page of which has a photocopy of a check written on a Toshiba America account, numbered 002416, dated November 3rd, 1987 for the amount of $600.00 to Robert Traeger and the second page of this document is a check, is a photocopy of a check on Toshiba America's account, number 002417 for $500.00 to Robert Traeger. Mr. Nelson, have you seen these checks before?

A. Yes, I have.

Q. Do you recall what they're for?

A. They are for political contributions to various committees, I cannot tell you the specific individuals involved.

Q. Was there any, did you receive any documents with a signature from Mr. Ikeda?

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A. No, I didn't.

Q. Who requested that these checks be made?

A. To the best of my knowledge, Mr. Traeger approached me.

Q. And, what happened then?

A. And, informed me that he had these amounts that he wished paid to him. I approached Mr. Miyashita, asked him if he was aware of these items and did they have his and Mr. Ikeda's approval and he indicated that they were acceptable.

Q. Is it correct that Mr. Miyashita orally approved these?

A. That is correct.

Q. Do you have any documents to that effect in your files?

A. No, I don't.

Q. Did you ever have any documents?

A. No, I didn't.

Q. You stated earlier that accountants like to leave a paper trail, was there any paper trail associated with either of these checks?

A. The only trail that exists is the executive payroll register and the information written thereon.

Q. And, what was written on those, on the payroll register?

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A. Again, without a document in front of me, to the best of my knowledge, it said Robert Traeger and listed the gross to net calculation and the check number and the date.

Q. Did anyone sign that payroll?

A. Mr. Miyashita signed the payroll checks, no one signed the payroll register.

Q. I don't have a copy of that document. Looking at exhibit number 4, did that document look somewhat like Page 1 of exhibit number 4 without the signature?

A. Very comparable except that there were two listings, one for the $600.00 check and one for the $500.00 check.

Q. Were there any signatures after---

A. No, there were not.

Q. Those entries? Did it concern you that you didn't have any paper trail for those checks?

MR. GROSS: He testified that he had, that he did have a paper trail for those checks, he had the computer printout.

BY MS. GREENE:

Q. Did it concern you that you did not have any signature on these print, on that printout?

A. I don't remember exactly what happened at that time but, I will tell you that that was the week of

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Thanksgiving. The one check, the second check for $500.00 is dated November 25th, it is the Wednesday before Thanksgiving, I was not in the office that day. Mr. Ikeda was not in the office that day. I was also gone the previous week and I don't know what happened on the November 23rd check. My, so, I was not available to ask Mr. Miyashita to get Mr. Ikeda's signature, on the second one I'm referring, to which I'm referring. And, Mr. Ikeda was not there and obviously we failed to do so when we returned from Thanksgiving vacation.

Q. But you approved the payment of both of these checks?

A. I didn't approve any check. I asked Ms. Hutto to issue the checks.

Q. If you do not ask Ms. Hutto to issue the checks, does that prevent a check from being issued?

A. Hopefully, yes, unless Mr. Miyashita were to directly ask her.

Q. Before these checks were issued, you knew that they were for political contributions?

A. Yes, I did.

Q. Did you receive copies of---

MR. GROSS: Which checks are we talking about, exhibit 5 checks?

MS. GREENE: Exhibit 5.

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BY MS. GREENE:

Q. Did you receive copies of those checks that Mr. Traeger made for political contributions?

A. Again, we're referring to exhibits 4 and 5?

A. For exhibit 5, for the two checks dated November 23rd and 25th, did you receive photocopies of contributions made by Mr. Traeger as a result of these checks?

A. I don't think I have them. If I have them, I have part but, I do not, I definitely do not have all of them.

Q. Just to double check. Earlier you testified with exhibit number 3, Page 5 that you had neither seen or had a copy of a check for Clement for Congress for $100.00, what appears to be November 16th, 1987, is that correct?

A. I, no, I think that check date is June 16th.

Q. All right, thank you. Did Mr. Traeger tell you who he was going to give, planning to contribute to for when he told you that he told you that he planned to make political contributions and asked to be reimbursed in the form of, in the amount of $600.00 and $500.00?

A. Again, I don't recall but, I think so. I don't specifically recall. As I said, I knew it was a political contribution.

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Q. Were there any other checks to Mr. Traeger for political contributions beyond the checks that we've introduced as exhibits 1, 2, 3, and 5, 4, and 5?

A. Not to my knowledge.

Q. Were there any checks to anyone else in the corporation to reimburse them for political contributions?

A. Not to my knowledge.

Q. Did Mr. Miyashita tell you that all of these checks were for for political contributions?

A. At the time that he requested them or approved them, no.

Q. When did Mr. Miyashita tell you these were for political contributions?

A. Sometime between the first check and the third check, I learned about them. Then, on the fourth and fifth checks, I knew they were for political contributions.

MR. GROSS: The question what point did Mr. Miyashita---

BY MS. GREENE:

A. Sometime between the first and the third check, sometime between the middle of May and the middle of July, 1987.

Q. Did you speak to Mr. Miyashita about the checks in November, the November checks?

A. Yes, I did.

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Q. When did you speak to him about that?

A. On or about November 23rd.

Q. Prior to the time they were issued?

A. Yes, I sought his approval.

Q. Why didn't you ask for, did you ask that the printouts be initialed?

A. I don't recall.

MR. GROSS: Which printouts?

BY MS. GREENE:

Q. The November 1987 printout or the printout that would reflect the November 1987 checks?

A. I don't recall. I had asked on the previous May, June, and July.

MR. GROSS: Complete that statement.

BY MS. GREENE:

A. Okay. I had asked on the checks that were issued dated May, June, and July, 1987 related to political contributions as I knew or later found out, for Mr. Ikeda's signature. Therefore, I find it reasonable to assume that Mr. Miya knew that I wanted the signature. Whether I specifically asked him, I don't know.

MS. GREENE: At this point, I would like to take a 10 minute break and go back on the record then.

OFF RECORD

MR. GROSS: Before we get to commencing

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questions or continue the questioning, there was point that was discussed during the break that maybe worth clarifying the record on. I'm not sure if it came out exactly fully but, it related to Mr. Nelson's knowledge of when he learned of this between the first and third checks and I, it may serve as a proper clarification, on the record, in response to some of your questions on that.

MR. NELSON: A question that you asked, I'm not sure if you are asking if Miya is the one who told me about the political contributions and I have told you that somewhere between the first check and the third check I learned about it. But, I don't know if Miya was the first one who told me or Mr. Traeger was the first one. What I was indicating is that yes, I discussed them all with Mr. Miyashita and when Mr. Traeger approached me, again, whether he was first or subsequent, I asked him is this okay and he said, yes, it is. I have discussed this with a number of executives in this area and they do it. This is the way it's handled.

BY MS. GREENE:

Q. Mr. Miya told you that?

A. Mr. Traeger told me that.

Q. What did Mr. Miyashita tell you about the propriety of reimbursing Mr. Traeger for political contributions?

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MR. GROSS: You're assuming he said something about the propriety of it.

BY MS. GREENE:

Q. Did Mr. Miyashita say anything to you about the propriety?

A. Not that I recall.

Q. Did Mr. Miyashita tell you that any of these checks would be used for political contributions?

A. Yes.

Q. Which checks did he tell you would be used to reimburse Robert Traeger for political contributions?

A. Eventually, he indicated all of them but, originally, I didn't know, on the first one and as I stated, I'm not sure whether it was the second one or the third one, well, I learned that when I learned that.

Q. Did you question Mr. Traeger about the propriety reimburse, having the corporation reimburse him for political contributions?

A. Only to the extent as I just testified, is this okay and his answer.

Q. Did you discuss this subject with Mr. Miyashita?

A. Again, only to ask him has Mr. Ikeda approved that because he was Mr. Traeger's superior. He was also Mr. Miyashita's superior, was and is.

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Q. Why did you question Mr. Traeger and not Mr. Miyashita about propriety of these payments?

A. Because I felt that (1) the payments were going to Mr. Traeger (2) it's much easier to discuss it with him than it is with Mr. Miyashita because he's an American and Miyasan is obviously Japanese.

Q. If you had questions about propriety of those payments and that you asked Mr. Traeger is that all right, why did you not then ask that of Mr. Miyashita, was it a cultural distinction?

A. I did ask in the sense that I asked him if it had been approved, that's, his answer was yes, it had been approved. Mr. Ikeda had approved it.

MR. GROSS: And, I assume that's what you're meaning, that you mean by the use of the word propriety, that these are proper payments for reimbursement as a logic matter. If you're asking about the legality of it then I would object on the basis of asking, it would call for legal conclusion. But, if it's appropriate for him as an audit matter reimburse then---

MS. GREENE: Let me, let me just rephrase.

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BY MS. GREENE:

Q. When you answered those questions about the propriety of these payments, was it your understanding that the issue was whether they had been approved by the appropriate chain in the company?

A. That is correct.

Q. Did you have any question about the legality of these checks?

A. I did not question the legality of the checks.

Q. Had, to your knowledge,---

MR. GROSS: The question was did you question the legality of it. Did you, read back the question because I don't think the answer answered the question precisely. Could you just read back that question?

The question was played back and repeated as follows:

Q. Did you have any question about the legality of these checks?

A. I did not question the legality of the checks.

MR. GROSS: The reason I'm making this point is the question was did the witness have any question about the legality and I think it was interpreted to mean did he question the legality of it because that was the answer that he gave, that I did not question the legality of it. The question really related to his

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knowledge of whether it was legal, that's how I interpreted the question so, I would just like to clarify both those points.

MS. GREENE: Earlier the witness testified that he would question a payment if it was patently illegal on the face and I was asking him if there was anything that caused him to question the legality of this payment.

MR. GROSS: Okay, fine. That was not the question he answered, that, then, you can answer that question. Why don't you answer that question.

MR. NELSON: You lost me.

BY MS. GREENE:

Q. Was there anything about these payments, the request for these payments that caused you to question the legality?

A. No.

Q. Were you aware at the time that it's illegal for corporations to make contributions to federal political committees and candidates?

A. No.

Q. Had you discussed the issue of whether it was within the law to make, to have a corporation make contributions to political committees?

A. No.

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MR. GROSS: Discuss with whom, with anybody?

BY MS. GREENE:

Q. With anyone at Toshiba?

A. No.

Q. Did you have any knowledge at the time that you approved these request that it was illegal to provide another individual with funds to make contributions in their names?

A. No.

Q. Did it strike you in any way as unusual that the corporation would be giving money to an individual to give to someone else?

MR. GROSS: I would object to that question of striking him and being unusual, I allowed questions with regard to being unusual with the general understanding that the witness understood what was in the normal course but, combining usual and striking, I think, calls for to much speculation. He's already testified that he didn't know it was illegal, three times.

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BY MS. GREENE:

Q. I'm not asking for speculation, I'm asking for what you, what your thought process was at the time, I mean, what was your impression of what was going on with these request.

A. With regard to what?

Q. With regard to Mr. Traeger requesting that the corporation pay him money to make political contributions?

MR. GROSS: His impression with regard to the legality or the audit trail or to whether this the type of thing that a corporation should be doing, you know.

MS. GREENE: To whether this is the type of thing that a corporation should be doing.

MR. GROSS: As a matter of practice in the community or, it's a typical, it's a troublesome question, there's a couple of reasons---

MS. GREENE: Well, what I'd like to do is restate the question and ask the witness and direct the witness to answer what his impression was at the time that he approved of the propriety of a corporation paying an executive to make contributions to a political committee or, at the time he made---

MR. GROSS: Again, propriety not as a matter of law but just---

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MS. GREENE: Not as a matter of law but just, is this something the corporation should be doing.

MR. GROSS: You're asking him for impression whether this corporation, whether a corporation should be making political contributions, his feeling about that?

MS. GREENE: Correct.

BY MS. GREENE:

A. Speaking for corporations in general, I have no opinion. I was surprised that Toshiba was doing it, that Mr. Traeger was involved. We had not done it in the four and a half years that I had been there, to my knowledge. Why now?

Q. Did you ask that question?

A. In the sense that I asked is it okay. I asked that of Mr. Traeger and I asked Mr. Miyashita, has it been approved.

Q. And, was that the full extent of those discussions?

A. Yes.

Q. Why were there no request, you stated earlier that there were, that Toshiba America did not make payments to anyone else at Toshiba for making political contributions, is that correct?

A. To my knowledge.

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Q. Why was Mr. Traeger different?

A. I can't answer that question.

Q. Did you have any discussion with anyone at Toshiba America as to why Mr. Traeger was being reimbursed for contributions and not anyone else?

A. No, I didn't.

Q. Who else at Toshiba America knew that Mr. Traeger was receiving reimbursement for his political contribution?

A. Again, to my knowledge, Mr. Ikeda, Mr. Miyashita, myself and Ms. Hutto.

Q. Who told, did anyone tell Ms. Hutto that these checks were for political contributions?

A. Again, to the best of my knowledge, at some point, I told her that.

Q. What is Ms. Hutto's position with Toshiba America?

A. General Accounting Supervisor.

Q. And, what is her responsibility in relation to the approval of a check?

A. None, she does not approve checks.

Q. Taking exhibit 4, Page 1, you stated that Ms. Hutto wrote the words Robert Traeger and the payments amounts on this page, is that correct?

A. This is the check date, 15, July, 1987?

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Q. 16, July, 1987, oh, yes, yes.

A. I'm sorry, repeat the question.

Q. Earlier you stated that Ms. Hutto, that this is Ms. Hutto's handwriting on Page 1 of this exhibit, stating Robert Traeger and giving some numbers, is that correct?

A. Yes.

Q. Did you ask her to write this on the executive payroll?

A. To the best of my recollection, no. It's again a normal thing to do in order to track payments. A manual check had been issued so, we needed to have a record of that check and the various taxes affected and cash account, so this is where you would put it.

Q. Who asked that she put it here?

A. I am the only one that had a conversation with her concerning this document.

Q. Did Ms. Hutto---

A. Well, I think I answered it before. Nobody asked her to specifically write that on there, to the best of my knowledge. It's just a normal thing to do when a manual check is issued to record the information.

Q. Okay. The other, the first two, the two check printouts on Page 1 of exhibit 1 and Page 1 of exhibit 2, have the payment to Robert Traeger characterized as a bonus. There's no characterization of this check on Page 1

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of exhibit 4. Is there a reason for that?

MR. GROSS: Page 1 of exhibit 4.

BY MS. GREENE:

A. I don't know.

Q. Do you know who characterized the payments to Robert Traeger as a bonus?

A. I don't know who characterized them. Mr. Miyashita told me it was a bonus.

Q. Okay. On Page 2 of exhibit 4, is this the third check that went to Robert Traeger for his political contributions?

A. The third one of which I'm aware, yes.

Q. Let me correct myself. Have you seen this check before?

A. I have the originals of all executive payroll checks issued so, yes, I have seen that check.

Q. Okay. And, it's your understanding at the time that you had Ms. Hutto forward the executive payroll to Mr. Miyashita, you knew that this check would be reimbursing Robert Traeger for political contributions?

A. Somewhere between the first one and the third check, this is the third check so, to the best of my knowledge, yes, I knew this one.

Q. Okay. Do you recall any, did Mr. Traeger tell you who he was going to give political contributions to at

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that time?

A. I don't know.

Q. I'm not asking whether you now remember what names he gave you but, I'm asking did he provide you with names at the time?

A. I don't know.

Q. Okay. What was Mr. Traeger's role in the community, let me rephrase that. Did Mr. Traeger have a role in the community as a representative of Toshiba?

A. He's the number 1 ranking American at Toshiba America, Inc. and, therefore, yes, he has a role as, I think, any high ranking executive would in a community.

Q. To your knowledge, does he represent Toshiba at community events?

A. I don't know. He attends events, his specific function, I can't answer.

Q. Did Mr. Traeger ever say, did you and Mr. Traeger ever discuss whether these contributions to political candidates or committees were made for the benefit of Toshiba?

A. I have problems with the word benefit.

Q. Did you have discussions about whether these contributions would reflect positively on Toshiba?

A. No.

Q. Did you have discussions regarding whether

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making contributions to these candidates would be in Toshiba's interest, generally?

A. No.

Q. Did you have discussions regarding whether or not these checks would be issued for Traeger's benefit solely?

A. No. Again, you're telling me between Traeger and myself on all these questions, no.

Q. Between yourself and Miyashita, did you ever have conversations regarding whether or not these contributions would be, reflect positively on the company?

A. No.

Q. Did you have discussions with Mr. Miyashita about whether or not these contributions would benefit the company in the long run?

A. No.

Q. Did you have conversations with anyone about why Mr. Traeger was making political contributions?

A. With Mr. Traeger, just to the extent of is that okay. I don't know if I asked that question directly to Mr. Miyashita. Again, I asked him has it been approved.

Q. Yes. But, you're saying that Mr., you never asked anyone about why Mr. Traeger is making these contributions, is that correct?

MR. GROSS: Repeat that question, it

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leads the witness. I would ask that you rephrase it.

BY MS. GREENE:

Q. I just asked whether, previously asked whether the witness had any conversations with anyone about why Mr. Traeger was making contributions and I received what I felt was a non-responsive answer so, I was trying to rephrase the question and I will ask it as I originally asked it which is, did you have conversations with anyone about why Mr. Traeger was making contribution?

A. Again, I don't know that I ever asked that question specifically. What, in my questioning of Mr. Miyashita, implicit in my mind, anyway, was why is he doing that. Now, what his interpretation of the question was, I don't know.

Q. But, when Mr. Miyashita told you it was approved---

A. Excuse me, can I say one more thing. Again, the why is, four and a half years I worked at Toshiba as of April 1987, May 1987, and to my knowledge this has never occurred, why now?

Q. And, is that a question that was answered for you?

MR. GROSS: He said he didn't ask it.

MS. GREENE: He's just said implicit in his mind, that was part of his question.

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MR. GROSS: It was implicit in his mind.

MS. GREENE: I'm asking whether it was answered.

MR. GROSS: The question wasn't asked, it was only implicit in his mind.

BY MS. GREENE:

Q. Would you care to respond to how your counsel has characterized what you just said?

A. As I said, I asked in my questioning of Mr. Miyashita, I felt in that question of has it approval, then included in that question was why are we doing it now, and that question directly was never answered. It's yes, it has approval. But, again, I'm not talking about the first one.

Q. Yes.

A. Somewhere along the line.

Q. Did you ever discuss with anyone else at Toshiba, did you ever have that question of why now answered by anyone else at Toshiba?

A. No, nobody asked by me.

MR. GROSS: He was never asked the question, is that right?

MR. NELSON: By me or anyone.

BY MS. GREENE:

Q. Okay. Could you explain to me what Mr. Miyashita's job includes?

A. He's my boss so he's responsible for the finance and accounting activities at Toshiba America, Inc., Manufacturing Division. Specifically, he handles communications with Japan, often handles any problems or issues involving the other Japanese, does most of the forecasting and part of the budgeting. And, then we discuss day to day issues.

Q. What is the relationship of Toshiba America in your plant to Toshiba, to Toshiba America's parent company?

A. We are the Manufacturing Division of Toshiba America, Inc. We manufacture televisions and microwaves and sell a substantial portion of them to what is called the consumer products business sector of Toshiba America Inc. We also sell to other Toshiba entities outside of the United States.

Q. Do you have, does Mr. Miyashita have much communication with the parent company of Toshiba America?

MR. GROSS: You're asking for the best of his knowledge.

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BY MS. GREENE:

Q. To the best of your knowledge?

A. I don't know what much is, but faxes are exchanged between Toshiba Corporation and our office.

Q. To your knowledge, has there been any communication about the reimbursement of Robert Traeger's political contributions to the parent company of Toshiba America?

A. The parent company means Toshiba Corporation.

MR. GROSS: Do you mean Toshiba America or Toshiba Corporation?

BY MS. GREENE:

Q. Toshiba, has there been any communication to Toshiba Corporation?

MR. GROSS: During what time frame?

BY MS. GREENE:

A. To authorize the payments?

Q. To authorize or notify?

A. I have no knowledge, I don't think so. I have no reason to believe there was.

Q. Does the Lebanon plant of Toshiba America have any congressional or political liaisons office?

A. Certainly not to my knowledge.

MS. GREENE: I'd like to take a short break at this time.

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OFF RECORD

MS. GREENE: I'd like to summarize an off the record conversation that counsel had regarding the provision of a executive payroll run date, November 11th, 1987. We'll have the Court Reporter mark this as exhibit 6 and at the end of today's proceeding, I will give this back to, at, okay. Can you strike that and let me rephrase? Thank you.

MR. GROSS: Do you want to go off the record for a moment?

MS. GREENE: Can I go off the record?

OFF RECORD

MS. GREENE: Let the record show that counsel, Mr. Gross and I had an off the record conversation in which Mr. Gross agreed to produce copies of the checks on Robert and Betty Traeger's account which Mr. Nelson had in his file and any other pertinent documents possessed by Toshiba America, by Friday, August 5th. Let the record also reflect that Mr. Gross has provided a check run summary of the executive payroll at Toshiba America with a run date of November 11th, 1987 which I've asked the Court Reporter to mark as exhibit 6.

BY MS. GREENE:

Q. Mr. Nelson, have you seen this document before?

A. Yes, I have.

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Q. Could you identify the handwriting at the bottom of the page?

A. Again, the handwriting is that of Lou Ann Hutto.

Q. Did you ask Ms. Hutto to enter this information on this document?

A. I doubt it. I asked her to run the checks, prepare the checks, and this would be part of the check preparation process.

Q. Were the checks in exhibit 5 for $600.00 and $500.00, the checks which correlate to these figures on exhibit 6?

A. Yes, they are.

Q. Did you keep a separate file for, in which you, for Mr. Nelson's, excuse me, for Mr. Traeger's checks that were political contributions?

A. His personal checks?

Q. Yes.

A. Yes, I kept, after I was aware that the checks Toshiba America, Inc. were issuing, was issuing, were used for Mr. Traeger's reimbursement of political contributions, I kept a file. Mr. Traeger provided the checks to me and to the best of my knowledge, at his request.

Q. Where did you keep these checks?

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A. In my desk, in my office.

Q. Okay. Did you keep the file at Traeger's request?

MR. GROSS: He just testified to the best of his knowledge.

BY MS. GREENE:

Q. Is that correct?

A. That is correct.

Q. Did you keep anything else in that file?

A. At some point, I kept copies of the executive payroll registers relating to the particular Toshiba checks issued to Mr. Traeger characterized as bonus or having no description. And, eventually I put the original checks issued to Mr. Traeger in that file as well. And, by eventually, that probably was after Mr. Ikeda and Mr. Traeger were notified by the Federal Election Commission that there was some question relating to them.

Q. Were the payment made to Robert Traeger made to reimburse contributions which his wife had made?

A. I think so.

Q. Did Mr. Traeger tell you that that was part of his request?

A. I don't recall that he did but, it seems that at some point he said Betty, his wife, had issued a check also.

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Q. Did Toshiba have a policy in 1986 or 1987 of encouraging political contributions?

A. I can't speak for Toshiba. If you're asking me Toshiba America, Inc.---

Q. Toshiba America, Inc.?

A. I certainly don't think so, not to my knowledge. And, maybe I should further say that Toshiba America, Inc., Manufacturing Division because I can't respond to Toshiba America, Inc. as a whole either.

Q. Okay. We have a document here, a two page document, stapled document which I will ask the Court Reporter to mark as exhibit 7. I'll provide a copy to Mr. Nelson and ask him to review it. Mr. Nelson, have you seen the documents in exhibit 7 before?

MR. GROSS: Just generally identify.

BY MS. GREENE:

Q. The two pages in exhibit 7 are photocopies of the payroll stubs to Robert Traeger, of checks made to Robert Traeger from Toshiba America, check number, 2212, 2247, 2282, 2416, and 2417?

A. I don't think I've seen these.

Q. Generally, do you see the pay stubs for checks made on the executive payroll?

A. No. Again, Ms. Hutto prepares the payroll check. The stub portion, on a normal check, is computer

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generated. On a manual check, she would type that information on there. In either case, the check goes to Mr. Miyashita for his signature. Usually, she gets it back directly, not always, and she stuffs it in the envelope and sends it. The stub is retained by the individual and even when the check comes back to me, after Mr. Miyashita signs it, he normally simply indicates here. I take it and put it in the office desk drawer until such time as Ms. Hutto stuffs the envelopes and distributes the checks.

Q. Who does the calculations with the amount of withholding?

A. The payroll system itself, on a normal check because each January 1 we review the withholding files, the changes in the FICA and then when a raise occurs or any change in payroll and these particular checks, on the first one, she and I looked at it and determined that the calculation was correct. I looked at it, she probably, and again, this is to the best of my knowledge, she did the calculation and then I checked it. But, that was before anything had been put on any check. A subsequent ones, I don't think I saw any other calculations other, because she had a model to follow.

Q. On one of these checks, there was a FICA payment, the first check, the check of, with a net of

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$1,000.00 and then there were no subsequent FICA payments, did you discuss with Ms. Hutto or with anyone at Toshiba America whether these payments would include FICA withholding?

A. No, I issued the payroll check and he had exceeded his FICA limit after the first paycheck. So, it wasn't necessary to withhold any FICA.

MS. GREENE: Okay. What I'd like to do at this time is to continue the deposition and end the deposition for the day. I'm continuing it so that in the event that we'd like to ask you some more question, we can do that.

MR. GROSS: You mean conclude it for the day?

MS. GREENE: Conclude for the day but, continue it.

MR. GROSS: But, read it.

MS. GREENE: Do you want to sign a copy of the transcript?

MR. GROSS: Yes, I suppose.

MR. NELSON: Yes.

MS. GREENE: Okay. Additionally, we have, pursuant to regulations, we have a witness fee for you in the amount of $42.60 payable to Norman Nelson for mileage and a witness fee which I've given the witness.

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At this point, I remind you that the confidentiality provisions of the act abide until this matter is closed with respect to all respondents and I conclude the deposition.

MR. GROSS: I have no questions.

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STATE OF VIRGINIA

AT LARGE, TO-WIT:

I, David Belcher, a Notary Public of and for the State of Virginia at Large, do hereby certify that the foregoing depositions were taken, subscribed and sworn to before me on the date and place aforesaid in caption; said depositions were transcribed by Laser Processing under my personal supervision.

Given under my hand this the ninth day of August, 1988.

My commission expires July 1, 1989.

David Belcher

David Belcher

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All changes are interlineated throughout the deposition.

AND FURTHER THIS WITNESS SAITH NOT.

Norman Nelson

NORMAN NELSON

STATE OF Tenn.

AT LARGE, TO-WIT:

Subscribed, sworn to and acknowledged before me this 21 day of Sept., 1988, in my jurisdiction by Norman Nelson.

My commission expires 4.2.89.

Kay Cassetty

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002212 87-987 641

EXECUTIVE PAYROLL ACCOUNT

CO	DEPT NO	EMP NO	DATE	CHECK NO
			15-MAY-87	2212

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$1,000.00

MAY 18 87

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON – HARTSVILLE – MT JULIET, TENN.

⑈002212⑈ ⑆064058736⑆ ⑈802 688 3⑈ ⑈0000100000⑈

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EXHIBIT No. 1

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002247 87-987/641

EXECUTIVE PAYROLL ACCOUNT

CO.	DEPT. NO.	EMP. NO	DATE	CHECK NO
			11-JUN-87	2247

PAY THIS AMOUNT
$1,000.00

PAY TO THE ORDER OF: ROBERT E. TRAEGER

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—NORENE—MT. JULIET, TENN.

⑈002247⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈

EXHIBIT
No. 3

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002282 87-367/641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT NO. EMP NO.

DATE 7/16/87

CHECK NO. 2282

PAY TO THE ORDER OF: ROBERT H. TRAEGER

*****$600.00

JUL 20 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORNE–MT. JULIET, TENN.

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EXHIBIT
No. 4

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002416 87-987 641

EXECUTIVE PAYROLL ACCOUNT

CO DEPT NO. EMP NO.

DATE 11/23/87 CHECK NO 2416

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$600.00****

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THE PEOPLES BANK
LEBANON–NORENE–MT JULIET TENN

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EXHIBIT
No. 5

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002417 87-307/641

EXECUTIVE PAYROLL ACCOUNT

CO DEPT NO EMP NO

DATE 11/25/87 CHECK NO 2417

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$500.00****

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—HERMITAGE—HT JULIET, TENN.

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⑈00000 50000⑈

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EXHIBIT No. 6

TOSHIBA *AMERICA, INC.*

Manufacturing Division

1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002212

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641

EXECUTIVE PAYROLL ACCOUNT

CO	DEPT NO	EMP NO	DATE	CHECK NO
			15-MAY-87	2212

PAY TO THE ORDER OF: ROBERT H. TRABER

$1,000.00

MAY 19 87

AUTHORIZED SIGNATURE

THE PEOPLES BANK
(LEBANON–HORNE–MT JULIET, TENN

⑈002212⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈

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TOSHIBA AMERICA, INC.
Manufacturing Division
1439 TOSHIBA DRIVE – LEBANON, TN. 37087

002247 87-987/641

EXECUTIVE PAYROLL ACCOUNT

CO.	DEPT. NO.	EMP. NO.	DATE	CHECK NO
			11-JUN-87	2247

PAY TO THE ORDER OF: ROBERT H. TRABER

PAY THIS AMOUNT
$1,000.00

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THE PEOPLES BANK
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ROBERT H. OR BETTY R. TRABER
3035 IDLEWOOD RD.
NASHVILLE, TN 37215

4224

11/27/ 87

Pay to the order of Friends for Terry Holcomb $ 500 00

Five Hundred + no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For

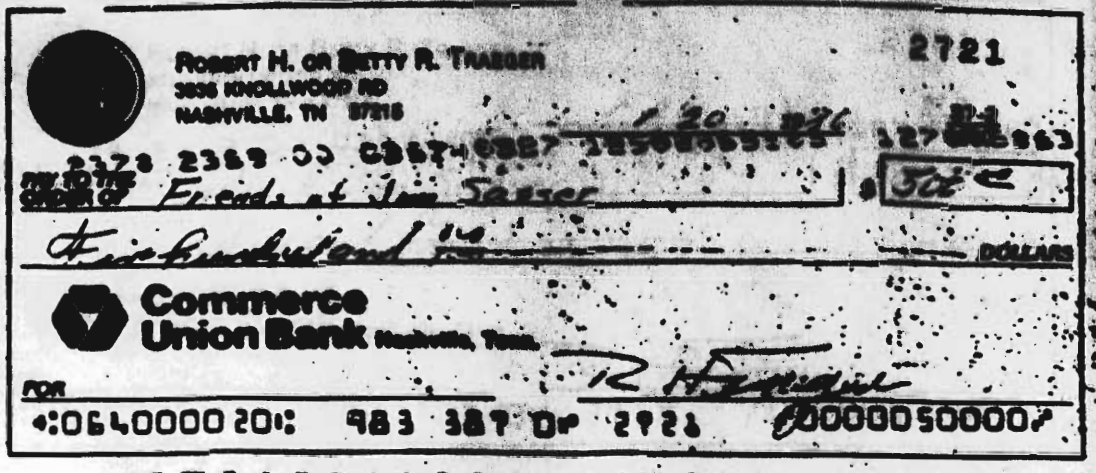
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for Deposit Only
Friends for Terry Holcomb
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EXHIBIT
No. 3
3 Pages



ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD
NASHVILLE, TN 37215

2721

6/20 1986

PAY TO THE ORDER OF Friends of Jim Sasser $ 500 00

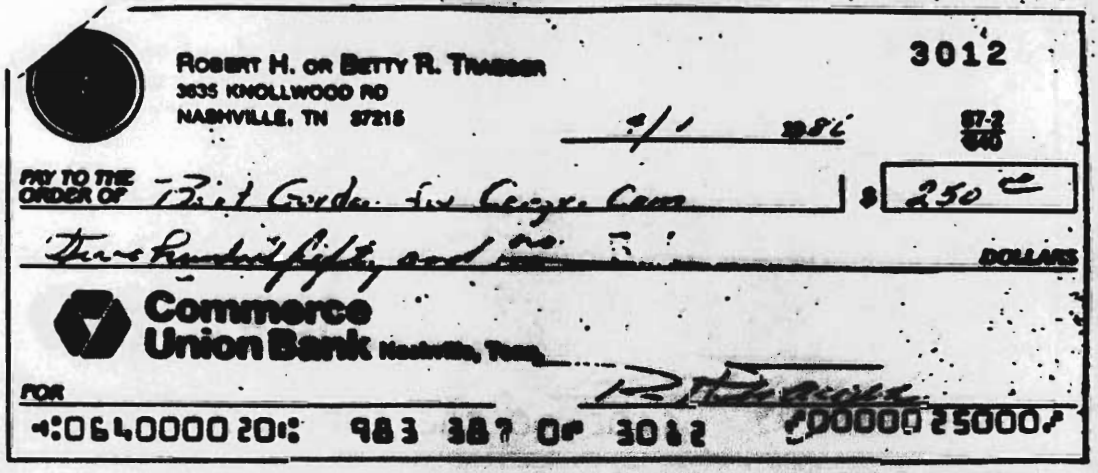
Five hundred and no/100 DOLLARS

Commerce Union Bank Nashville, Tenn.

FOR

R H Traeger

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ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD
NASHVILLE, TN 37215

3012

6/1 1986

PAY TO THE ORDER OF Pilot Garden for Cooper Campaign $ 250 00

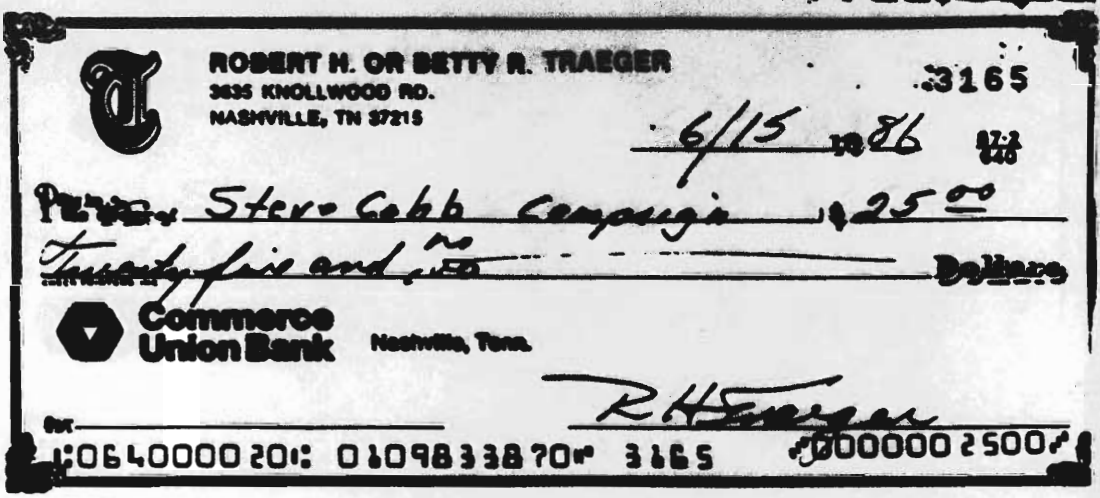
Two hundred fifty and no/100 DOLLARS

Commerce Union Bank Nashville, Tenn.

FOR

R H Traeger

⑆064000020⑆ 983 387 0⑈ 3012 ⑈000025000⑈



ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3165

6/15 1986

Pay to the order of Steve Cobb Campaign $ 25 00

Twenty five and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For

R H Traeger

⑆064000020⑆ 010983387 0⑈ 3165 ⑈000002500⑈

9204090 2281

ROBERT H. OR BETTY R. TR...GER
3035 KNOLLWOOD RD.
NASHVILLE, TN 37215

3283

1/20 19 87

Pay to the Order of Bell for Representative $ 50.00

Fifty and 00/100 Dollars

Commerce Union Bank Nashville, Tenn.

For

R Hinger

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ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4203

11/19 19 87

250

Two Hundred Fifty 2/100 Dollars

Commerce Union Bank Nashville, Tenn.

Mrs. Betty R. Traeger

FOR DEPOSIT ONLY
BANK GUARDS FOR CORRECTS

PREVIOUS ENDORSEMENT GUARANTEED

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3554

6/11 19 87

The Albert Einstein Medical Center $ 1000

One Thousand and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

R. H. Traeger

PREVIOUS ENDORSEMENT GUARANTEED

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3291

3/16 19 87

Temporomandibular Joint Dysfunction $ 600

Six Hundred and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

R. H. Traeger

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BANK GUARDS FOR CORRECTS

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ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4194

Pay to the order of Gordon Correll $ 250.00

two hundred fifty and 00/100 Dollars

Commerce Union Bank

For

⑈000025000⑈

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4195

4/16 20 17

Pay to the order of Citizens for Congress $ 1,000.00

One thousand and 00/100 Dollars

Commerce Union Bank Nashville, Tenn.

For

⑈000001000⑈

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3644

5/05/ 2017

Pay to the order of Friends of Jim Gasser $ 1000.00

One thousand and 00/100 Dollars

Commerce Union Bank Nashville, Tenn.

For Mr. Robert H. Traeger

⑈000001000⑈

FOR DEPOSIT ONLY
BART GORDON FOR CONGRESS

Pay to the Order of
THIRD NATIONAL BANK
CITIZENS FOR BOB CLEMENT
Acct. 29...

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002282 87-367 641

EXECUTIVE PAYROLL ACCOUNT

CO	DEPT NO.	EMP NO.	DATE	CHECK NO.
			7/16/87	2282

PAY TO THE ORDER OF: ROBERT H. TRAEGER

*****$600.00

JUL 20 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—HORNE—MT. JULIET, TENN.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002416 87-887 641

EXECUTIVE PAYROLL ACCOUNT

CO DEPT NO. EMP NO.

DATE 11/23/87 CHECK NO 2416

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$600.00****

NOV 27 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORENE–MT JULIET, TENN

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EXHIBIT
No. 5

9204090 2287

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

CO DEPT NO. EMP NO

002417 87-587 641

EXECUTIVE PAYROLL ACCOUNT

DATE 11/25/87 CHECK NO. 2417

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$500.00****

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–NORENE–MT. JULIET, TENN.

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AUTHORIZED SIGNATURE

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ORIGINAL

TRANSCRIPT OF PROCEEDINGS

UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ELECTION COMMISSION

IN THE MATTER OF:	
ROBERT HOIT TRAEGER	MUR 2575

DEPOSITION OF ROBERT HOIT TRAEGER

Washington, D. C.

Wednesday, August 3, 1988

ACE-FEDERAL REPORTERS, INC.
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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:	
ROBERT HOIT TRAEGER	MUR 2575

Washington, D.C.

Wednesday, August 3, 1988

DEPOSITION OF ROBERT HOIT TRAEGER

Deposition of ROBERT HOIT TRAEGER, called for examination by counsel for the Federal Election Commission, pursuant to notice, at the offices of the Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, at 1:10 p.m., before Claire B. Tepper, a Notary Public in and for the District of Columbia, when were present on behalf of the respective parties:

On Behalf of the Federal Election Commission:

JUDYBETH GREENE, ESQ. and
JONATHAN M. LEVIN, ESQ., Attorneys, and
MARTA AGUIRRE, Intern,
Federal Election Commission
999 E Street, N.W.,
Washington, D.C. 20461.

On Behalf of Robert Hoit Traeger:

JUDITH L. CORLEY, ESQ.,
Perkins Coie,
1110 Vermont Avenue, N.W.,
Washington, D.C. 20005.

** ** **

9204090042289

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** ** **

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PROCEEDINGS

Whereupon,

ROBERT HOIT TRAEGER

was called as a witness and, having been first duly sworn, was examined and testified as follows:

MS. GREENE: My name is Judybeth Greene. I am representing the Federal Election Commission, with the assistance of Jonathan Levin, an attorney at the Federal Election Commission, and Marta Aguirre, a law clerk at the Federal Election Commission.

This deposition is being taken pursuant to an FEC subpoena in connection with an investigation under Section 437(g) of Title II. The confidentiality provisions of the Act apply until the file is closed in this matter with respect to all respondents. This investigation is designated as Matter Under Review 2575.

You will note that the deponent, Robert Traeger, has been sworn in before we started.

DIRECT EXAMINATION

BY MS. GREENE:

Q Mr. Traeger, will you state your full name for the record.

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A Robert Hoit Traeger.

Q You have the right to be represented by counsel. Is your counsel here today?

A Yes.

Q Could you identify your counsel.

A Judith Corley.

MS. CORLEY: Judith Corley.

BY MS. GREENE:

Q Does she represent you personally?

A Yes.

MS. CORLEY: Yes, I do.

THE WITNESS: I can't think of what other way she would represent me.

BY MS. GREENE:

Q This deposition will cover your involvement in potential violations of the Federal Election Campaign Act of 1971, as amended, and the potential involvement of violations of the Act by other individuals.

I am going to ask you some questions to find out about the facts giving rise to this investigation. If you don't hear a question, say so and I will repeat it. If you don't understand a question, say so and I will rephrase it.

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If you answer a question, I will assume you have heard it and understood it and have given me your best recollection.

If you become confused or want to take a break, let me know. If you don't know or remember the information necessary to answer a question, say so.

Do you understand the instructions I have just given you?

A I believe so.

Q Mr. Traeger, are you married?

A Yes, I am.

Q Could you give me the name of your wife?

A Betty. Betty Rae Traeger.

Q And how long have you been married.

A Thirty-nine years in September.

Q What is your educational background?

A High school; University of Washington, degree in mechanical engineering, degree in industrial engineering, and further studies after that, not a degree beyond those two.

Q Are those two master's degrees?

A No, both bachelor's.

Q What is your position with Toshiba America?

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A I'm Vice President and General Manager for their Manufacturing Division for consumer products.

Q How long have you had that position?

A Ten-and-a-half years.

Q Did you have a position with Toshiba America prior to that time?

A No, I did not.

Q Could you describe your duties as Vice President and General Manager at Toshiba America.

A The primary responsibility is to -- well, when the company decided to start manufacturing in the United States, then I joined the company and selected the plant site, built the plant, and I'm responsible for that aspect of it, staffing, and then running the operations for production of color television sets.

Q Did you have any role as a political liaison for Toshiba America?

A Only in the context of my presence at the plant and ~~responsible~~ responsibility for the plant. And with that you obviously have to know who your representatives are. So in that context, yes.

Q Did you have any formal or informal role in the

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community as a corporate representative?

A The answer would be in the affirmative to that. Originally, the first three years, I was the most senior person, and then as we expanded they brought in a Japanese, but I still represented the company, and still do today, on a local basis or in the community.

Q Do you have a role in any particular organizations as Toshiba America's representative?

A Let's see. It would be Heart of Japan, the U.S.-Southeast organization, which is an organization comprising seven southeastern states, that I represent Toshiba or participate in the seminars. There's one coming up, their annual affairs, hosted by the Governor from each state on a rotating basis. So in that case I represent the company.

Let's see. That would be the only thing in that way. I belong to Rotary and things like that, but I don't know if you'd call that representing a company or not.

Q When you say you are involved in Rotary and things like that, could you be more specific?

A Well, let's see. Service clubs -- that's Rotary. As far as organizations, we have informal meetings of various companies that are in the small town where the plant

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is, but that's not an organization per se. We just get together and have lunch once a month or something like that.

Chamber of Commerce.

I think that would be all of this type of thing.

Q When you say businesses get together, is there any formal name for any of those type organizations?

A No, most of us belong to the Rotary, and then we just have a business lunch to talk about what the economic situation is with your kind of business, "Are you planning to expand?" and that type of thing. There are no direct competitors -- I mean we are all competitors for the labor market, but other than that, there are no two companies that produce the same kind of product located in Lebanon, Tennessee, where the plant is.

Q Do you represent Toshiba's interests at the Rotary Club and the Chamber of Commerce?

A The answer would be yes.

Q Do you deal with any of the congressional offices in your capacity as an officer of Toshiba America?

A Uh-huh; yes, I do.

Q And who do you speak with?

A Well, either staff people or directly to Senator

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Gore, Senator Sasser, Bart Gordon, who is the Congressman from our district; the new Congressman who is now from the Nashville district, Bob Clement. He was the former President of Cumberland University, and I'm trustee on Cumberland University so I knew him very well before he left the presidency and ran for Congressman successfully and is now up here. I haven't been to his office since he's been here. I expect to some day when I come up to stop in and see him. That would be the extent of it.

Q Do you speak to Terry Holcomb directly?

A Uh-huh.

Q When you deal with these individuals, do you deal with them for the most part directly or do you usually deal with their staff?

A Do I deal directly or with staff?

Q Yes.

A Oh, on the average I'd say more times than not directly, but it depends again on what the issue is. If we're talking legislative issues, which usually is what we're talking about, a trade bill or whatever it might be, then I might very well be talking with staff. But I see them when they come back to Tennessee. They all try to

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spend as much time in the state as possible. They'll come by to visit the factory and talk about business and how things are going from a future forecast, "Are you going to expand and have more people?"-- that type of question.

Q When you speak to them, is that in your role as Vice President and General Manager of Toshiba America?

A Basically, yes.

Q Did you propose that Toshiba America reimburse you for political contributions?

A Yes.

Q When did you do that?

A Last May, I think, roughly; I can't remember exactly. Last spring -- a year ago spring.

Q Who did you approach?

A I approached my boss, Mr. Ikeda, I-k-e-d-a -- pronounced "Ekada" -- and told him that I felt it appropriate to make contributions -- I make personal contributions, always have, small amounts relatively speaking, a few big ones -- that I felt that the amount of assistance, meaning an opportunity to have discussions with the representatives, was going to increase due to the political situation, the Toshiba Machinery issue, and that I

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should be making larger contributions or significant contributions to the people that represented us here in Washington.

And he said, "Is that legal?"

And the answer was, "Yes," through a bonus system. To my knowledge it was.

And he said, "Okay, if that is what we should do. Go ahead."

Q Had you ever spoken to Mr. Ikeda about your political contributions prior to the spring of 1987?

A Yes, I think I probably mentioned that I had made contributions to XY at some point in time, obviously that I was active in contacting various representatives for, as I say, various legislation being proposed or on the books, or the Federal Trade Commission or whatever it might be -- customs, foreign trade sales issues, that type of thing -- almost since the time we started the plant.

Q Did you ever discuss, prior to spring 1987, with Mr. Ikeda, who should be a recipient of your political contributions?

A No. That was strictly my own decision of who I thought we ought to give to.

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Q Did you contact anyone other than Mr. Ikeda about your political contributions prior to that time?

A No.

Q What system of reimbursement did you propose to Ikeda in the spring of 1987?

A That I be paid a bonus, from which then I would have money that I could make a contribution with.

Q When you say "a bonus," do you mean an overall salary increase, or do you mean a reimbursement for a specific contribution?

A Well, I proposed a block originally, and then we discussed that, and he was not sure we should do that. So then he said, "Well, rather than that, if you've got a specific request, why don't we pay you a bonus to cover that specific request." So that's the way we did it.

Q Could you explain to me what you mean by the term "a block"?

A Well, like a basic salary increase. "If you feel you need to spend X dollars to represent the company, I will increase your salary by that amount."

Q Just to clarify it, did Mr. Ikeda agree to reimburse you after you had made specific contributions?

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A All in advance.

Q All in advance?

A Yes.

Q Did the system you agreed to involve approaching him with requests for contributions?

A Per se, no. What I would do is tell him there was a fundraiser for Mr. X, a Congressman or a Senator, and that I think it would be appropriate for me to make a contribution in the amount of -- to get a bonus to allow me to make that expenditure.

Q But this agreement that you had with Mr. Ikeda -- as you understood it on the day that he first agreed to reimburse you for your contributions, did it involve an opportunity for Mr. Ikeda to deny your request for reimbursement on an individual contribution basis?

A Oh, sure; he's my boss. He can deny anything he wants to when you're talking money, just like your boss can, to give you a raise or not authorize it at certain times.

Q In your conversation with Mr. Ikeda, what was the reason for the agreement to pay you on an individual basis for your contributions rather than as an overall block increase?

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A I can only speculate that he just felt it was -- I don't know other than, as I said, pure speculation, that he felt in better control if there wouldn't be a lot of money involved.

Q Did he flat-out reject the idea of an overall bonus?

A "Flat-out reject" -- I don't know quite what that means, but I proposed it and he said he didn't think he wanted to do that. Then I made a counterproposal, if there's a specific request and a need for that amount of money, and he said okay.

Q Was your counterproposal for a specific fundraising event, or was it for a general course of reimbursement?

A No, where there was a specific request toward a fundraising activity that I felt it appropriate that I make a contribution to, I went to him and said, "This is the activity, and here is the money that I'd like to contribute, so I need a bonus to cover that amount."

Q Did you tell him who the request had come from?

A Yes, sure, a Senator or Congressman or whoever.

Q At this meeting with Mr. Ikeda, who had requested

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the contribution from you?

A Would you repeat that again. At the meeting with Mr. Ikeda --

Q When you approached Mr. Ikeda for this advance, because of a request you had received for a contribution, who was that request from?

A I can't -- well, from all those that I gave monies to, I received requests for donations. I don't know how else to answer it any more succinctly than that.

Q Do you recall what Senator or what Congressman had requested a contribution from you at that time?

A The first one, I don't remember if that was Sasser or Gore -- I believe one or the other Senators, and subsequent ones. You know, there are fund drives going on all the time. To keep them in order of which one came first and exactly what dates, I can't remember, except that this is a standard procedure. You get a barrage of fundraising requests. They come across your desk all the time.

Q When you get the fundraiser requests, do they come to you at the plant in your capacity as Vice President and General Manager of Toshiba America?

A I can't remember how they are addressed. I think

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they're usually just by name. Well, they come to the plant so they have an address on them. At least they have my name title. They may or may not have my name title. I get them at home, too.

Q The contributions which you made which were reimbursed by Toshiba America, were those contributions in response to requests that you received at the plant?

A I am not sure whether they came to the house or whether they came to the plant.

Q When you approached Mr. Ikeda in spring of 1987 with the request, did you show him a copy of the invitation or the request from the Congressman or Senator?

A I don't recall whether I showed him or not. I can't remember if I showed him the specific request or not.

Q But you identified the individual who had requested it?

A Yes, I told him what I was going to use the money for.

Q Did you discuss at all whether or not it would be appropriate for Toshiba's interest to make a contribution to that individual?

A That you can't do. The company cannot make a

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contribution so I never even suggested it -- other than through a PAC. I had proposed several times over the 10 years that the company ought to consider forming a PAC, but it was never accepted, so we never have.

Q Who did you make the proposal to?

A If I remember right, I made it to Ikeda and I made it to his predecessor. I can't remember who I made it to prior to that -- somebody in Japan or where. But the concept of a PAC and what it was, a vehicle where a company could make a contribution directly. But they had no familiarity with that type of structure, and so I'm just assuming, you know, "What's that? It sounds strange. Let's not get involved." That's just an assumption.

Q When you approached Mr. Ikeda with the idea of forming a PAC, did you explain to him that the PAC was a method for corporations to make contributions to candidates?

A That was how simple it was, to explain to them that the only legal vehicle is through a PAC where a company can make a contribution and I proposed that it ought to be considered. But it didn't go any further than that.

Q When did you make that proposal to Mr. Ikeda?

A I'm going to guess a year and a half ago,

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roughly.

Q So that would have been January of 1987?

A Or the fall of '86.

Q Did you ever raise that suggestion with Mr. Ikeda again?

A No.

Q Did you also suggest to Mr. Ikeda in the spring conversation you had with him regarding your contributions that your wife also be reimbursed for political contributions?

A No. You use the word "reimburse," and it's just a fine line. Part of the rationalization is that I get a bonus check. Then after I got the bonus check, I wrote a check out, or my wife did, to Politician X.

Reimbursement in the normal expense account reimbursement is that you go ahead and incur the expenses, get the receipts, turn that in, and sign the paper that these are for this XYZ activity, whether it's a trip or whatever, and, "Here are the receipts," and you get a check to cover those costs. But normally when you talk of reimbursement, that's what I normally think of, in that context.

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Q But in this context you received money in advance of the contributions?

A That is correct.

Q Did you speak to anyone else at Toshiba America before making the proposal that your contributions be reimbursed by Toshiba America?

A Well, the mechanics of what would happen is I would discuss it with Mr. Ikeda and he would say, "Go ahead," and then I went to the Manager of Finance --

Q Who is -- ?

A Norm Nelson. -- and said, "I got approval from Mr. Ikeda for you to write me a bonus check to net out X." He'd say, "Okay," and he went ahead and prepared a check, and I received the check. So when you say "in advance," I don't know what sequence you're talking about in that sense.

Q When you first approached Mr. Nelson to write you out a bonus check, did you explain to him what the purpose of the check was?

A The very first time I'm not sure, but yes, in the normal -- most of them, yes. Well, in fact, maybe the first one. I can't recall with the first one whether I made it

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totally clear or not, but I subsequently did, so there was no question. So that there was no question about how I used the bonus money, I gave them a copy of my cancelled check to show them how I spent the money -- not for my own personal gain.

Q Was there a question about that?

A No. It's just that I don't like to do anything that there can be any question about, you know, "How did you use these funds?"

Q Prior to the time that you proposed to Mr. Ikeda that the corporation reimburse you for your political contributions, did you discuss the idea of having the corporation reimburse you with anyone else at Toshiba America?

A No.

Q Did you discuss that with any people from other companies?

A That the company reimburse me for --

Q Yes.

A No.

Q How did you come up with the idea?

A Well, where do contributions come from? That's

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the question. You can read contribution lists, and there are a lot of people and executives of other companies who make contributions all the time, and sizable ones, with the concept that they represent their firm, and that in either their bonus or in their day's pay there are enough dollars that they are expected to properly represent their firm by making political contributions.

So on that basis I said, "What I need is to have adequate compensation to do that," and I felt that my salary -- that I hadn't budgeted monies from my own salary to make those contributions, and therefore I requested the company to pay me a bonus so that I'd be in a position to make the contributions.

Q What was your salary in the spring of 1987?

A It was

Q And how much of a bonus in terms of a block increase had you proposed to Mr. Ikeda?

A I'm not sure I gave him a specific number. It was a concept idea. Whether I told him $3,000, $5,000, or something -- I can't remember if I gave him a specific number or not, just that, "Here's a situation that needs to be responded to in my judgment politically and they need

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contributions. The company cannot make payments. It has to be done on an individual basis. Here's a method to do it, by paying me a bonus, and then with the proceeds of the bonus I can make a payment, and that's legal." And to my knowledge it was. I found later it's not, but --

Q And the idea of having the corporation pay you directly to then make a contribution to a candidate was your own?

A Uh-huh.

Q Why did you feel it was appropriate for the company to directly reimburse you?

A You said, "To directly reimburse me" --

Q To reimburse you.

A Well, in the first place, I felt it was legal; and, two, to make contributions to those representatives here in Washington, and particularly when I wanted to be able to call them on a frequent basis or whenever it was necessary. That's why it's appropriate.

Q Did you ever mention to any of the candidates that received these contributions that the contributions had been reimbursed by Toshiba America?

A No.

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Q Did you feel it was appropriate to do so?

A Again, that's a fine line. What do you call a reimbursement? In the context that I mentioned earlier, I'd say I never have been reimbursed in that context.

Q All right. Then let me rephrase it. Did you tell any of the people to whom you made contributions with money provided by Toshiba that that money had been specifically provided by Toshiba America for those contributions?

A No.

Q Did you think it would be appropriate to tell them?

A Oh, appropriate or inappropriate never crossed my mind to discuss it.

Q Did you think it would --

A You know, if you make a contribution, as I'm sure you probably do, where is the money coming from? The money is coming from the Federal Government because that's paying your salary. So if I ask you, "Where did the money come from that you paid that $25 contribution to the candidate?" -- hm, it came from the Federal Government. Oh, boy. So you don't tell them that the money came from the Federal

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Government.

Q But in this case it would be different. In this case, considering that you were receiving money directly from Toshiba America for making specific contributions for the purpose of increasing your access as a representative of Toshiba America to those candidates, did you perceive it would be in your interest as a representative of Toshiba to let them know that Toshiba America was providing you with this money directly for their campaigns?

A No, not in that way. The contribution made by any corporate executive to any representative -- the normal assumption is that that contribution is being made and they represent the company. And unless the guy has got outside resources, where is the money coming from? He's getting it in his paycheck. That, I believe, would be the normal assumption.

Q Do you know if any of these campaigns knew that you were receiving money from the company for those specific contributions?

A No, to my knowledge, no way would they have knowledge of that.

Q Just to clarify, did you tell anyone at the

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Albert Gore, Jr. for President Committee or Senator Gore that Toshiba America had given you money to contribute to this campaign?

A No.

Q Did you tell Mr. Sasser or anyone at this committee?

A No.

Q Did you make any representations of that nature to Bart Gordon or his committee?

A No.

Q Did you make any representations of that nature to Bob Clement or anyone at his committee?

A No.

Q Did you make any representations to that effect to Terry Holcomb or his committee?

A No.

Q To the best of your recollection, did you receive solicitations from Senator Albert Gore, Jr. for President at your office at Toshiba America?

A I think so. I can't specifically recall. Sometimes I'd get a telephone call, "Hey, we're having a fundraiser for XYZ. I'd like you to make a contribution.

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Let me mail you the paperwork." Okay; that's all I got. So it had never come to the office.

Q But the phone call would come to the office as well?

A Sure. During working hours that's where I am. Yes, you get them at home, too, but at times at the office.

Q And with Jim Sasser, did you receive --

A That would be the same. All of them, with the exception of Holcomb --

Q Excuse me; all of them being Gore, Sasser, Gordon, and Clement?

A Right. Well, let me see. Clement -- that would have been strictly at home. And Holcomb would not be at work; it would be strictly at my residence. The other three would be a mixture.

MS. GREENE: I'd like the court reporter to mark this five-page exhibit as Exhibit 1, and I'd like to give a copy of this to Mr. Traeger and his attorney to review. I'll give you a couple of minutes to look through that.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 1.)

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BY MS. GREENE:

Q Have you had a chance to review this document, Mr. Traeger?

A Uh-huh.

Q Could you describe what's on this document.

A Copies of checks sent by either myself or my wife to various candidates.

Q Can you please identify which of these checks were made after Toshiba America provided you with funds to make the contributions?

A Okay. The first, Holcomb -- wait a minute now. Let me hear that question again. Those that had been -- ?

Q The checks that you made for which you received money from Toshiba America.

A For which I received; okay. Let's see, Gore for President --

Q Which page are you on?

A The first one, yes.

Q The first one is on page 1, Friends for Terry Holcomb?

A Yes.

Page 2, I'm not sure about the 4/1/86 for Gordon.

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The one for Steve Cobb, no.

Q Excuse me. What about the one for Friends of Jim Sasser on the top of page 2 of the Exhibit 1?

A That, I believe, was my own funds.

Bell for Representative, my own.

Q Page 4 of Exhibit 1.

A Let's see what we've got here. All of these, I believe, were compensated.

Q Just to clarify, those are checks to Albert Gore for President for $250, Albert Gore for President for $1,000, and Congressman Bart Gordon for $600?

A Correct. And I believe the $250 on the top of the next page.

Q To Congressman Gordon?

A I can't tell the date, but I think so.

Clement, yep; and then Sasser, yep.

So all three of them on that page, I believe.

Q That's on page 5 of Exhibit No. 1.

Going back to page 2 of Exhibit No. 1, why didn't you receive compensation from Toshiba America for the check to Friends of Jim Sasser and the check to Steve Cobb?

A Didn't request it.

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Q Now, the check to Friends of Jim Sasser is dated July 20, 1986; is that correct?

A Is that January 20th?

Q January 20th; is that correct?

A I assume that's January.

Q And the check to Steve Cobb Campaign is dated June 15, 1986; is that correct?

A That is correct.

Q You stated earlier you were not sure whether or not you received compensation for the check to Bart Gordon.

A That's '86. The answer would be no compensation.

Q You're sure of that?

A Yes.

Q Why didn't you request compensation for these contributions?

A At that time the frequency or the projected amounts, compared to what I was getting for salary at the time, I went ahead and paid them out of my own pocket and did not make a specific request.

Last year, when I felt the activity level was going to have to go significantly higher -- ~~they~~ there were all political problems -- I then felt larger contributions would

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be appropriate. And then I decided, "I don't have enough money to do that," so that's when I came up with the idea of a way to receive bonus checks to provide the dollars to do that..

Q Could you explain what you mean by "political problems"?

A Yes, the Toshiba Machinery situation. That has taken a tremendous amount of effort and activities, trying to get as favorable treatment as possible against our operations.

Q Could you explain what the Toshiba Machinery problem was?

A Yes, it was a case where Toshiba Machinery, which is a subsidiary, 51 percent owned -- if it had been 49 there would have been no problem but it was 51 percent -- by Toshiba Corp. -- Toshiba Machinery, in Japan, specialized in making unique equipment, one of those being a computerized milling ~~billing~~ machine that had the capability of machining propellers to a very fine tolerance. And based on investigation and information I've read through the public press, they produced and sold several of these machines that ended up in Russia, which has contributed to making the

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Russian subs quieter through the cavitation of the props in propelling the submarines in their own patrol, which is a very serious situation for all of us, of course, because we don't want that to be the case. When they're noisy you can detect them relatively easily.

So that whole thing, once it broke -- the impact it had on Congress and everybody else was major, a negative situation. And even today there are still various bills to penalize Toshiba, to prohibit the government from purchasing any Toshiba products.

Q Were there bills to, as you say, penalize Toshiba before Congress in the spring of '87 when you made your request to Mr. Ikeda that your contributions be reimbursed?

A Yes. A discussion was going on of what we call the Garn amendment to the trade bill, which was devastating, would put me out of business, based on the original proposal. That's how serious it was. It threatened the livelihood of my plant. We couldn't viably continue business. So that's very serious.

The answer is yes.

Q Had you discussed ways to improve your position with Congress with other members of Toshiba America during

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that time in the spring of 1987?

A I can't remember when we got together the first time to minimize the damage situation in that first meeting, but it was around that time, because the thing started off with a small little thing in the paper and went -- (indicating).

Q Was that prior to May 1987?

A Yes, I think the first information came out at the end of March, if I remember correctly, and from then on it built a head of steam (indicating), as far as the press and information and that type of thing, you know, and then it finally resulted in Garn proposing this amendment to the trade bill which was really a disaster. So there was a culmination at that time.

Then there were a lot of other bills that were coming up that they wanted to attached this and this and this to it. A number of them actually occurred that way. And this trade bill maybe today will come out of the Senate -- we don't know. It's been that long floating around.

That's the answer.

Q So the first meeting that you had about this political problem with Toshiba Machinery was in April of

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1987?

A No, I would think May. I'm guessing. Probably May because that's when things were getting enough notoriety that obviously there could be problems, that there might be various pieces of legislation penalizing the company. And the posture of the company was that they had no problems in penalizing Toshiba Machinery, which is off doing a thing by itself, and no question that it violated COCOM. But people like myself and all my people in my factory almost never heard of Toshiba Machinery, "If there is such a company, a subsidiary operation, what do they do? What do they make?" And to pass legislation that would put my 600 people out of work, what are you talking about? That's no good.

So obviously that potential type of activity, soliciting the aid of the representatives that represent our operation and contacting vendors and other people, "As a customer, we may not be, if certain legislation is passed, so we'd appreciate it if you'd contact your representatives."

Q Let me get back to this meeting that you say you had about how to deal with this problem. Was that before you spoke to Mr. Ikeda about providing you compensation for

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your political contributions?

A I'm not sure of those exact timings.

Q When you spoke about a meeting about how to deal with the Toshiba Machinery problem, who was the meeting between? Who was at the meeting and who called the meeting?

A Let's see. It would have been -- who was there? There was a gentleman from Texas who was the general manager for a motor manufacturing plant we have in Houston. That's industrial.

Let's see -- marketing. Our sales offices are in Wayne, New Jersey. Somebody was from there.

The corporate headquarters of all these various pieces is in New York. There are several pieces. When I use the word "pieces," I mean various segments, different products, that are represented here in the United States, in southern California, so they were represented because this whole thing was going to impact all of it. "What do we do? What's going to be found next? What is the next chapter going to reveal?"

Q Who called this meeting?

A I think actually the meeting was called by Ishizaka, who is the Chairman of Toshiba America and titular

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head in the sense of all of the activities here in the U.S.

Q Would you spell his name, please?

A I-s-h-i-z-a-k-a, I believe it is.

Q And where was the meeting held?

A Here in Washington.

Q Do you have notes of that meeting?

A Pardon?

Q Do you have notes of that meeting?

A No.

Q How many people were at the meeting?

A Oh, probably eight, 10 people. There have been so many meetings I can't remember that first one.

Q Did the people there come up with a plan of political action for dealing with the bills before Congress?

A That is what came out of it eventually. There were a number of subsequent meetings to talk about how to approach it to, let's say, minimize the damage, approaching various Representatives and Senators and Congressmen to make sure they understood the implications of damaging legislation, and the role that we played in it when the Toshiba Machinery issue became known. They explained what happened in Japan, and as far as the company was concerned,

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what action they had taken. As a result of this thing, one major thing occurred.

The then Chairman of the Board and President of the parent Toshiba Corp. resigned, even though they did not control the subsidiary. It was run very independently. But the violation occurred on their watch, and in Japan it's the name of the game -- far different from the United States.

The company then installed a series of procedures to minimize the potential of this ever occurring again, the violation of COCOM rules. Japan itself changed their laws.

So a lot of things happened. A big portion of the objective is to make sure we can keep our various representatives informed of what was happening and what investigations we're finding and what the involvement of the parent to Toshiba Machinery was, and trying to make an honest and best case that we shouldn't be penalized in a severe way here, and do what you need to do with Toshiba Machinery that clearly violated the COCOM laws, but not us.

Q Was Hiroshi Ikeda at this meeting?

A I can't remember if he was at that meeting or not.

Q Were you the only representative of the Lebanon

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plant at this Washington meeting?

A He may have been with me. If he wasn't, then I would have been the only representative of the Tennessee plant.

Q At the meeting was access to Representatives of Congress mentioned as a necessary part of the political action plan?

A No, it was not mentioned. We said, "Be sure you call on the various Representatives," as the plan developed of how to go at this.

Q Could you clarify that, please,, or explain that further.

A At the initial meeting, "Here is the situation, and we've got to start figuring out how we're going to minimize the damage control." And things were breaking. Actually, the company president resigned and this kind of stuff, and there were headlines all over the place. But part of it was communication objectives, what's the latest we've heard and know about, and we don't know yet what's going to happen. But then as things just started to developed, we anticipated. Then how do you deal with those problems in the most effective legal way.

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Q When a plan was developed out of these meetings in terms of how to do this damage control for the political situation, what did that plan entail?

A It entailed writing and corresponding and calling on your respective representatives.

Q Was there any document that said that this was the plan of this group of people?

A No minutes, to my knowledge, were made.

Q Were there any notes kept of the objectives of the meeting or the conclusions of the meeting?

A I didn't -- you know, to back up a little back -- well, to back up a long ways, if I might digress for a minute -- when I was with GE -- I spent 23 years with the General Electric Company -- one of the things that the company did was encourage their employees to be active in the political arena, either to hold local political office themselves or to be active in supporting various candidates. And there were courses on it, education, "Here's how it's done; here is how legislation is passed; here is how you do this."

Then when I became the plant manager with GE in upstate New York, one of my responsibilities was to invite

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the Representative or the Congressman from that district to visit the plant periodically. When he was coming home, I'd call him to get to know him on a first-name basis, so if something was coming up in the future the relationship was already built on a personal basis as well as supporting, and felt that was a very effective system and logic, and basically practiced that ever since that point in time.

So when Toshiba decided they were going to build a plant and built a plant down in Lebanon, Tennessee, a pretty significant activity to start with in that state -- it's a relatively small state with a small population. So we were the first Japanese company to establish a manufacturing activity in Tennessee and it had a high visibility to that effect. Normally, in looking for plants, you learn the state's economic development groups and everything else. We're running all over the place so you get to know all those kinds of people. And Sasser was one of our guest speakers at the ceremony for the plant opening.

And I then followed through on the same kind of pattern I did with GE in making sure there was an invitation to all of our Representatives to come and look at our facilities. And they liked to walk through, too. I think

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at about that time there were about 300 people but it's grown since, and there are a lot of people visible. And if you have the opportunity you try to address the group -- constituents.

Then, after that, a number of trade issues have arisen. Legislation, changes in tariffs, trade activities, legislation that was going to impact our facilities.

So we developed a close working relationship with not only attorneys here in Washington but with the various Representatives and their staffs long before this Toshiba Machinery thing hit.

So when the Toshiba Machinery issue came up, ours was the largest single Toshiba employer here in the U.S. It was the first manufacturing activity to start with, and the other ones were sales offices spread all over the place, not one single spot with a lot of people in it.

And through these various trade things, I had developed a relationship with my Representatives, and the other Toshiba offices and so forth had not done that. They maybe knew who their Senators were but didn't even know who their Congressmen were.

So at the time the issue hit, I was already on a

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first-name basis with my Representatives, but the rest of them were strangers to their Representatives. And a lot of the legislation was going to hit us very hard, so I was very active in making contacts and coming up here to Washington and talking to staff or the Representatives themselves.

So that is to sort of give you some background. I was running pretty fast real quick when this thing boiled over.

MS. GREENE: I'd like to ask some follow-up questions on that, but I think for right now I'd like to take a 10-minute break.

THE WITNESS: Okay.

(Whereupon, a short recess was taken.)

BY MS. GREENE:

Q Mr. Traeger, you said there were a series of meeting which you had with other members of Toshiba America in which you discussed a plan of action for controlling the political damage to Toshiba America in light of the Toshiba Machinery problem. Can you tell me how many meetings there were on the subject before a plan was created?

A I don't recall exactly how many. It was sort of an evolutionary situation. First is ~~informity~~ information; then it's

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how we're going to approach it, and then legislation was happening and all the press and everything else was going on, and then finally, as things started to crystallize politically, legislativewise, that developed plans -- who do you contact? We hear that --

Q Mr. Traeger, I don't mean to cut you off, but could you just think a moment about how many meetings you think there were without explaining the process to me. Just go over in your mind how many meetings.

A That's why I can't remember because these things all sort of flowed together. When you said "the plan," the plan was a dynamic situation going on.

Q To establish a time frame, were these meetings carried out between March and June of 1987?

A Well, the majority of the meetings really occurred after July 1st, actually.

Q 1987?

A Yes. The initial ones started, I think, probably in April, if I remember correct, the first one -- the April-May period. Then they started increasing.

Q So to clarify, the first meeting was before your meeting with Mr. Ikeda in which you discussed reimbursement

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for political contributions?

A I believe that would be correct. I'm not sure.

Q The people who were at these meetings -- were they generally the people you named who were present at this first meeting, or did the group expand?

A It expanded. Well, there were a lot of people by -- when? -- fall; I would guess there may have been 20 different people -- plus.

Q When a plan of action was discussed in terms of damage control, with these bills that were before Congress, did you ever make a suggestion that other members of Toshiba America make political contributions?

A No, at no time at any of those meetings that I was present at were contributions ever brought up -- mentioned or brought up or discussed in any way.

Q Was the importance of maintaining open-line communications with Representatives ever brought up?

A Oh, sure. That was the key thrust. Part of it was educational: How do you approach? Who are your Representatives? What committees do they sit on? What kind of legislation might they influence for our suppliers and the whole networking? How do you influence Congress? It's

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that simple. It's not simple; it's complicated as all get out, but that was obviously the objective.

Q Given the objective of these meetings of getting to know the Congressmen and making sure there were open lines of communication with the Representatives, the idea of making contributions to candidates and political committees was not discussed; is that correct?

A To my knowledge it was not discussed.

Q Are there any records of these meetings that you know of?

A There may be. I don't know specifically of records of the meetings.

Q Did you keep notes of these meetings?

A No.

Q When you went to these meetings, did you go as a representative of the Toshiba plant in Lebanon?

A Yes.

Q Did you report back to anyone in Lebanon about the progress of these meetings and what was decided?

A Sure.

Q Who did you report to?

A Ikeda and the other managers, "Here's what's the

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latest; here's what's occurring; here's the legislation that's on the books." Then I have weekly staff meetings, and I keep them informed even today at every staff meeting what is the latest chapter.

Q And you did all of this without notes?

A Oh, I'm sure I made some notes at the time like, "This week I should call Sasser's office," or "Gore's office" or "Gordon," or, "They're on recess, and this is the time to catch them at home." So you make those kinds of notes. And, "Here's a copy of the legislation that is being proposed" -- that type of thing.

So in that sense, notes, yes. But then the pile got like that (indicating) and I was going to clean it out.

Q Did you keep any records of these meetings? Did you summarize the notes?

A Nope.

Q Is the only record that you have of these meetings just in your head?

A Oh, I'm sure there is -- you see, when you say "the meetings," I don't know if I've got anything on meetings. The notes that I have, the paperwork that I have, are status reports of various legislative issues -- where

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it is, what's happening, that type of situation. So lots of paper of that type. Notes saying, "Traeger is going to do this, this, this, this, and you're going to do this, this, this" -- that kind of note per se to my knowledge was never generated. Somebody may have made notes like that, but I was interested particularly in the total picture, and here is some action things that I need to do to assist.

Q Did Mr. Ishizaka run all the meetings relating to the Toshiba Manufacturing?

A Toshiba Manufacturing? Toshiba Machinery, you mean?

Q Yes.

A Toshiba Manufacturing sounds like me, but you're saying Toshiba Machinery.

Q Yes.

A I don't know if you can say he ran the meetings exactly.

Q He called them?

A Yes.

Q Was he present at all of them?

A Those that I went to -- maybe not 100 percent but most of them.

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Q Were these meetings in Washington?

A Yes.

Q When you reported back to Mr. Ikeda at the Lebanon plant, did you mention to him whether contributions were discussed at these meetings?

A No.

Q When you spoke to Mr. Ikeda about the meetings, did you tell him that you were supposed to speak to Senator Gore or Senator Sasser?

A I would say in normal discussions, yes, "Here's some contacts that I need to make"; maybe some letter or, "I'm going to do this, this, this" -- to keep him abreast. He's sitting back wondering what's going to happen, not familiar with our total legislative system of laws and that type of thing, so different from Japan. Obviously if you read the paper, "Are we going to be able to have a plant tomorrow?" But what to do, when to do it, where to do it, he is not knowledgeable in that area at all, just curious. So I try to keep him informed, "I've got to go to Washington next week, ta, ta, ta, ta, ta."

Q Did you keep any of the other Japanese members of the Toshiba America plant informed about the American system

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and what you were doing on the political front?

A Other than strictly the Japanese managers at my plant, there would be no -- obviously, when something like this happens, then you discuss it and try to educate them so they can understand what you're doing and what you're up to. So that would be the only area that I would have had such discussions with managers who report to me.

Q Okay. Who reports to you?

A Japanese?

Q Yes. Well, who reports to you, first of all?

A I'll draw you a little organization chart.

Q Okay. Let me give you a piece of paper and I'll put it in as an exhibit.

A (Indicating on paper.) This has gone through some changes, but this is current.

Q Could you give this to me as of last year?

A I don't think we've changed it in the past 18 months, so this should be the same structure.

Q Okay.

A (This (indicating) is the total plant structure.

(Discussion off the record.)

THE WITNESS: Okay. This is the organization

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structure. Those with the asterisks are Japanese. Those with non-asterisks are U.S. managers.

BY MS. GREENE:

Q Okay.

A I put Nelson on here because, you know, where does he sit in the picture? The Treasurer is Japanese, and Nelson reported to him.

Q Who is the Treasurer?

A Miyashita.

Q And who is the Industrial Relations Manager?

A Leonard Tyree.

Q Is he above the Treasurer?

A No, no. This (indicating) is reporting direct. This (indicating) is reporting direct. Does that make sense, the way I drew this? These rank the same rank.

Q So it's sort of a vertical rank this way (indicating)?

A Yes. This is the way Japanese draw organization charts. These (indicating) are all the same rank.

Q Okay. Let me just write on it "same rank."

A All my direct reports, Ikeda's direct reports, and Hoshimura, the Japanese, his direct reports.

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MS. GREENE: Let me introduce this piece of paper which we'll call FEC Exhibit No. 2.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 2.)

MS. GREENE: Off the record a minute.

(Discussion off the record.)

MS. GREENE: Back on the record.

BY MS. GREENE:

Q This sheet marked Deposition Exhibit No. 2 -- could you explain what the chart is that you wrote on it?

A Yes. This shows the organization of our Tennessee plant, Mr. Ikeda being the Executive Vice President. Reporting to him are myself, the Industrial Relations Manager, the Treasurer, Mr. Miyashita, and Mr. Hoshimura who is the Vice President and Manager for microwave oven activities.

Below that it shows my direct reports.

Q Let me just clarify. In the case of the Industrial Relations Manager, the Treasurer, and the Manager of Finance, do all three of those report separately to Mr. Ikeda?

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A In the case of Nelson, he reports to the Treasurer. The Treasurer reports directly to Ikeda; Mr. Nelson does not.

Q And Tyree reports directly to Ikeda?

A Correct. So then those listed below my name, as well as Hoshimura, are our direct reports. So you've got Materials Manufacturing; Engineering; MIS, meaning data processing -- Management Information Services.

Q Could you identify those people as you go? The Manager of Materials?

A Manager of Materials.

Q Who is that?

A That is Kanai, K-a-n-a-i.

Q Okay.

A Engineering is Ohmya, O-h-u-m-a-y-a. I'm missing a letter in there somewhere.

Q Okay.

A The Manufacturing Manager is Collins, Joe Collins. MIS is Shirley Collins. No relation between the two of them. Transportation Manager is Jim Taylor.

These two functions (indicating) serve the whole plant, just like these do (indicating).

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Q Which two are those, for the record?

A These two (indicating) and these (indicating) serve the whole plant. In other words, there is only one data processing center for the total Tennessee plant activities, even though I've got primary responsibility for the TV production.

Q Excuse me. Let me stop you for a second. When you point to the chart and say "these," it is unclear in the record what you're talking about. So could you go over that part again.

A From the organization structure, Ikeda, the Executive Vice President, has total responsibility for everything at the Tennessee plant.

Q Okay.

A Then, for the two products we are producing, the TVs and microwave ovens, I have the responsibility for the TV manufacturing activities, which include Materials, Engineering, and Manufacturing or assembly itself.

Mr. Hoshimura for microwave ovens has the same three pieces of basic organization that is responsible for producing microwave ovens.

In addition to that, we have functions that are

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common to both, such as Finance, Industrial Relations, Management Information Services, and Transportation.

Reporting to me, even though they cover everything, are Management Information Services and Transportation.

Q Okay.

A They report directly to me. The reason they do, compared to Finance, is that the activities here are unique enough in the U.S., being very different than Japan, that for me to give direction to these two people (indicating) is more productive than --

Q "These two" being --

A MIS ~~and Materials~~ ~~and~~ Transportation. sic RR

Q Okay.

A Transportation is more than just transportation. It's importation, all the steamship arrangements, customs -- all that activity.

Q Okay.

A So because of my familiarity with these kinds of activities, they report directly to me, even though they serve the whole plant.

Q Let me ask you a question here. The people that

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report to Ikeda are yourself, Tyree, Miyashita and Hoshimura; is that correct?

A That is correct.

Q Are you the only officer at Toshiba America who is reimbursed for political contributions?

A To my knowledge.

Q When you say "to your knowledge," are you excluding conversations that you overheard or that you have had with other members of Toshiba America?

A It never has been discussed that I am aware of. Again, anybody in my structure, in order to get paid, I'd have to approve it internally, just like Ikeda has to approve any salary adjustment that I get.

Q Is Mr. Hoshimura relatively your co-equal in terms of his responsibility for the Microwave Division like you're responsible for the TV Division?

A Uh-huh.

Q Was it proposed, to your knowledge, that he also received reimbursement or payment for political contributions?

A I don't know if that was proposed. Again, to my knowledge, he has never made a political contribution. So

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there would be no discussion of compensation of any kind.

Q Was there any discussion about Mr. Tyree and Mr. Miyashita making contributions?

A No.

Q When you spoke to Mr. Ikeda for the first time regarding your desire to have the corporation pay you for political contributions, did you suggest that any other individuals be reimbursed or that it be instituted on a plantwide or other basis?

A No; no. The reason is fairly fundamental, that is, that I have been the prime contact, if you want to call it that, to the political outside world as far as our plant is concerned. On a very local basis, statewide, Tyree of Industrial Relations gets involved -- like the county and the city and that type of thing.

Q Does he make local contributions, to your knowledge?

A It is my assumption he does. I know he goes to fundraisers and that type of thing. But he has never been compensated, to my knowledge.

Q To your knowledge, has he ever requested compensation?

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A No.

Q Is Mr. Tyree Japanese or American?

A No, U.S.

Q U.S. And Mr. Miyashita?

A Japanese.

Q And Mr. Nelson?

A U.S.

MS. GREENE: I'm going to ask the court reporter to mark as Exhibit 3 a three-page document, containing photocopies of five checks drawn on Toshiba accounts to the order of Robert Traeger.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 3.)

BY MS. GREENE:

Q Mr. Traeger, could you please review Exhibit 3.

A These appear to be, as you stated, payroll checks issued to me.

Q What I'd like to do, with the assistance of Exhibit No. 1 and Exhibit No. 3, is establish which of these checks were used -- let me first ask: Were any of these checks used to pay you for political contributions?

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A Uh-huh.

Q Is that a yes?

A Yes, as we have stated.

Q What I'd like you to do is help to identify which checks from Toshiba were to reimburse political contributions and which contributions they were made to reimburse.

A Exhibit 1, page 1, Terry Holcomb, check dated 11/27 -- I believe payroll check dated 11/25 in the amount of $500 was for that contribution.

Q All right.

A Let's see, Exhibit 1, page 2, no relationship.

Page 3, no relationship.

Page 4 of Exhibit 1 -- my check to Bart Gordon in the amount of $600, dated 7/16, would be Exhibit 3, page 2, 7/16.

Q Let me see if I can help a little bit on this. Would it be correct to say that the check on page 4 of Exhibit No. 1 to Albert Gore for President in the amount of $1,000 was prepaid to you by Toshiba --

A Check No. 2247.

Q Check 2247, dated June 11?

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CBT/cs

A Correct.

Q Was the check number 2212 on page 1 of Exhibit 3 for $1,000 on May 15 to pay you for a contribution by your wife to James Sasser on May 15, 1987, in the amount of $1,000?

A Correct.

Q And that check is shown on page 5 of Exhibit No. 1?

A Correct.

Q Now, on page 3 of Exhibit No. 3 there is a check to you in the amount of $600 dated November 23, 1987.

A Uh-huh.

Q Was that to pay you for contributions to Bart Gordon for $250 on page 5 of Exhibit No. 1?

A Okay, page 5, Exhibit No. 1 -- I don't know if that matches.

Q Was the check on November 23rd for a combination of three contributions?

A I think that is correct.

Q Would one of those contributions be a contribution to Bart Gordon in the amount of $250?

A I believe that is correct.

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Q And that check is shown on page 5 of Exhibit No. 1?

A Yes.

Q That $600 check dated November 23rd, 1987 -- was that also designed to pay you for a check to Clement for Congress in the amount of $100?

A I think so. I have to do some math here and see if everything adds up.

Q So far that is $250 and $100, which is $350 out of the $600.

A There should be a $250 somewhere that adds to $600, doesn't it? It doesn't add up.

MS. GREENE: Can we go off the record for a minute.

(Discussion off the record.)

MS. GREENE: Can we go back on the record.

Let the record show we had an off-the-record discussion regarding the need to refresh the witness' recollection about which contributions were reimbursed by which checks from Toshiba.

I am handing a nine-page document to the court reporter to mark as FEC Exhibit No. 4 to refresh the

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witness' recollection.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 4.)

BY MS. GREENE:

Q Directing the witness' attention to page 3 of this document, Exhibit No. 4, which is page 2 of the document, does this document refresh your memory about which checks the $600 check from Toshiba dated November 23rd, 1987, was meant to provide you with money for?

A Uh-huh. Oh, it's clearly stated in Exhibit 4. I think it all matches out.

Q Specifically in regard to the November 23rd check of $600 to you, which contributions was that meant to pay you for?

A The check of November 23rd --

Q Page 3 of Exhibit No. 3.

A Yes.

Q The footnote on the bottom of page 3 of that exhibit states that that --

A Oh, there it is; okay. This is correct.

Q Could you read that, please, which contributions

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were covered by the November 23rd, 1987, check from Toshiba.

A Bart Gordon in the amount of $250; Bob Clement in the amount of $100; and Al Gore in the amount of $250.

Q The contribution to Al Gore -- was that contribution made by your wife?

A Let me look that one up. Yes, I believe that is correct.

MS. GREENE: I'm giving a document to the court reporter and ask her to mark it as FEC Exhibit No. 5, and I will give a copy of the document to Mr. Traeger and ask him to look this over.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 5.)

(The witness examined the document.)

THE WITNESS: I believe this is the same as Exhibit 4, is it not?

BY MS. GREENE:

Q This is a summary that I had made up of the contributions which you and your wife made to various candidates, the date of those contributions and the reimbursement payment from Toshiba, and the date of the

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bonus. I have introduced this one sheet to help refresh your recollection as we discuss the following questions.

When you first approached Mr. Ikeda with the idea of receiving compensation for your political contribution, and you stated earlier that there was a request for a contribution to a candidate, was that to Albert Gore?

A The date again?

Q The date that you first had a conversation with Mr. Ikeda.

A Okay. I believe that was with Sasser, the first case, in May.

Q And you stated to him that you had received an invitation or a request from Senator Sasser's campaign?

A Correct.

Q Did you discuss the proposed compensation with anyone else other than Mr. Ikeda?

A Other than when I got his approval and went to the Finance Manager, Nelson, and said, "I am approved for a bonus check to net out in the amount of $1,000."

Q Is there any intermediary between you and Nelson?

A No.

Q And did you explain --

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A Excuse me. From a practical standpoint, no. If you look on the organization chart, yes, because we have Miyashita who Nelson reports to, but as far as normal activities, I don't go through Miyashita; I go directly to Nelson.

Q Do you often bring proposals for payment directly to Nelson?

A No.

Q Was this the only event in 1987 in which you did that?

A Well, for each of these occurrences, when I received a check I did.

Q Did Nelson question you about the authority for issuing these checks?

A No, because I told him that I had discussed it with Ikeda and he approved it.

Q Did he request any documentation?

A Did he request any documentation?

Q Yes.

A No.

Q About when did you speak to Mr. Nelson?

A The same day.

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CBT/cs

Q The bonus check of $1,000 appears to have been issued on May 15th, 1987.

A Uh-huh.

Q Would that be correct?

A Correct.

Q About how many days prior to this date was your conversation with Mr. Ikeda?

A I believe the same day.

MS. GREENE: Let me introduce another exhibit. This would be FEC Exhibit No 6, and let me give you a copy, Mr. Traeger, and ask you to look it over.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 6.)

(The witness examined the document.)

BY MS. GREENE:

Q Mr. Traeger, have you reviewed Exhibit No. 6?

A Yes.

Q It's a four-page stapled document which appears to be a computer run of checks in the executive payroll.

A Uh-huh.

(Discussion off the record.)

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CBT/cs

BY MS. GREENE:

Q There is handwriting on page 1 of Exhibit No. 6.

A Yes.

Q Do you recognize the signature?

A It appears to be Mr. Ikeda's signature.

Q And there is a date next to that signature.

A 5/13.

Q 1987?

A '87.

Q And it says, "Approved as bonus payment to Mr. Traeger."

A Uh-huh. Obviously that predates the 5/15.

Q Right. Would the conversation that you had with Mr. Ikeda have been earlier than May 15, 1987?

A Of course.

Q Would it have been prior to this date?

A I'm not sure exactly in that sense now of the precise day that I spoke to him. I would say obviously it had to be the 13th or earlier.

Q Have you ever seen this document before?

A Nope.

Q Were you aware that anyone had asked Mr. Ikeda to

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CRT/cs

initial a bonus request?

A I had heard that since the interrogatories and so forth that Norm Nelson did request his signature, but I haven't seen this page before.

Q Did you speak to Mr. Miyashita about your request for a $1,000 contribution?

A No.

Q I'm referring to the May 15th check.

A Correct. For the record, I never discussed a bonus payment with Miyashita at any time, at this date or prior to or since then, since the 13th.

Q Did you ever speak to Mr. Miyashita about your meetings in Washington with respect to the Toshiba --

A Political status? Only as a member of the whole group, weekly staff meetings and that type of thing.

Q Who was at a weekly staff meeting?

A All my direct reports plus -- look at this organization chart. This group of people (indicating) plus --

Q "This group of people" being -- ?

A All my direct reports.

Q "This group of people" is referring to the first

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column under "Robert Traeger" on FEC Exhibit No. 2; is that correct?

A Correct. It would be my direct reports, plus Mr. Ikeda and those that report directly to him.

Q By those you mean Tyree, Miyashita, and Nelson?

A With the exception of the Microwave.

Q The Microwave Division does not participate in your weekly meetings?

A Correct. So if you look at this exhibit, it would be everybody on here with the exception of the Microwave people.

Q Is Nelson included in the weekly staff meetings?

A Yes, he is.

Q Did you ever explain the American political system or the ways to approach Congress in light of the bills regarding Toshiba at these staff meetings?

A Uh-huh; sure.

Q At the weekly staff meetings, did you ever mention that it was illegal for corporations to give directly to political committees?

A I don't know if that ever came up or not. I can't remember.

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CPT/cs

Q At the weekly staff meetings, did you ever suggest that others make contributions to political committees?

A I did not.

Q At the weekly staff meetings did you ever say that you were making contributions to political committees?

A I did not.

Q The second compensation check to you, dated June 11, 1987, to compensate you for a $1,000 contribution to Albert Gore -- how did this check originate?

A The same procedure as we discussed for Sasser, the 5/13 check -- not 5/13 check; the 5/15 check. The same procedure was followed in all cases.

Q Did you approach Mr. Ikeda again?

A Yes.

Q What did you say to Mr. Ikeda?

A Basically the same thing.

Q I'd like to isolate each of these instances and find out what you said.

A It would be totally redundant because it was the same type -- and I use the word "type" because that's what it is -- of discussion which was saying, "Who is the

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fundraiser for?"

"For Sasser," "Gore," "Clement," or whoever. "And I think it's best for me to make a contribution of X amount of money."

And in all cases he said, "Okay." And then I proceeded to go to Nelson again and say, "I have been approved for a bonus payment in this amount."

Q Okay. So you approached Mr. Ikeda and specifically stated that you wanted to give contributions to Gore, Sasser, Gordon, Clement, and Holcomb; is that correct?

A Uh-huh.

Q Did you ever propose that you make a contribution to a candidate where he rejected the idea of Toshiba America paying compensation?

A To my knowledge, no.

Q The checks to Bart Gordon and Bob Clement, the original checks that you wrote to their campaigns --

A Uh-huh.

Q -- are dated November 16, 1987.

A Uh-huh.

Q And the check your wife wrote to Albert Gore is dated November 19, 1987, in the amount of $250.

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CBT/cs

A Uh-huh.

Q You state that you were compensated for these contributions in the amount of $600 on November 23rd, 1987.

A Uh-huh.

Q In this case it appears that the contributions predated the compensation from the corporation.

A Correct.

Q Were those contributions cleared with Ikeda before the contributions were made?

A Yes. If you look at page 4 of this exhibit, the last one --

Q Exhibit 6, page 4.

A Yes. If you look at their run date, the 13th of November, that the discussions occurred and he agreed to a bonus payment.

Q Could you speak more clearly, please.

A Okay. The discussion was held with Ikeda. He agreed to a bonus payment on roughly 11/11, roughly that date. So then I was comfortable that I would have the money to be able to make the payment. I arranged in advance and went ahead and made the payments, and then the payroll period came along and I got the compensation.

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Q Okay. Could you please state when was the last contribution which you were compensated for by Toshiba America?

A Yes. The last check was 11/25, I believe it is, and no checks subsequent to that.

Q Why was that the last check?

A That was after the elections and all the political activity. There were no fundraisers, to my memory, following that period. So I had no solicitation to make a contribution.

Q I don't believe 1987 was an election year.

A On the local basis of raising funds, in the case of Holcomb it was an election year for the Congressman. The reason for that is the former Congressman resigned. He went to be the Mayor of Nashville so the seat was empty. So then they had the contest in November of '87 for Congress. And Clement and Holcomb were both running for that seat.

Q Did you receive any invitations or requests for contributions for political fundraisers in December 1987?

A Not to my memory.

Q And what about January 1988?

A I may have, but just judging from the amount I

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had already contributed -- calendar-year-wise, I had already maxed out in the case of Sasser, unless I deliberately said, "Okay, Betty, you've got to sign this one instead of myself." I didn't think in those terms, but I felt the amount given during the calendar year was sufficient. And January I was very busy traveling so I had no solicitations for political contributions.

Q What about February 1988?

A No, nothing came across at that time, either, that I felt was appropriate and that a contribution was in order.

Q And March of '88?

A The interrogatory hit about that time. I forget what the date of that was. It was the end of February, I think. Once I realized that, of course --

MS. GREENE: I'd like to take a short break at this time for about five minutes.

(Whereupon, a short recess was taken.)

MS. GREENE: Let's go back on the record.

BY MS. GREENE:

Q Mr. Traeger, when you decided to approach Toshiba America to receive compensation for your political

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contributions and those of your wife, did you have any conversations with anyone outside of Toshiba America about the practice of reimbursing corporate officers for political contributions?

A Oh, only in the context of it's understood they're going going to make political contributions.

Q Could you speak up, please.

A In the context of other executives that you see at various fundraisers and so forth, you have to make a contribution to even be there, that they are expected to make such contributions and all. And the salary is such that that is part of what they are supposed to do, part of their job.

Q So you didn't discuss this idea with other people before you proposed it to Mr. Ikeda?

A Only in that context that I described. The point I make is this, that in an executive's compensation, "How much is this guy worth?" -- well, okay, if you look at professional headhunters or whatever, the base salary is X for this particular kind of job or position. And then the benefits or whatever, bonuses, go on top of that. And part of that is, "Okay, you, as the CEO or the representative for

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our company, are expected to represent the company, be involved in any political issues that may impact us, and part of that is you should be making appropriate contributions."

Q You said earlier that you had a discussion with Mr. Ikeda in which you proposed setting up a PAC.

A Uh-huh.

Q I believe you said it was the only legal way you knew of for a corporation to give a political contribution; is that correct?

A That is correct.

Q Your compensation for political contributions would appear to be a second way of a corporation doing that. Do you find that inconsistent?

A Again, as I was trying to point out, the representative, the top officer of branches, corporations, subsidiaries, that are expected to be active in the local political arena -- and I mean active in the sense of contributions, and knowing who their representatives are so they can make the case for the company -- part of their compensation is considered to be used for that kind of activity. So when you say, "Is this a different way for the

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company to give money?" in a sense, if you look at -- okay, you pay your executives so much money and you expect them to be politically active. If you want to say that's a different way to give money besides the PAC, the answer is in the affirmative. So in that context the answer is yes.

Q Did you discuss with anyone in Toshiba America, outside of the Lebanon plant, who you should give contributions to?

A No.

MS. GREENE: Can we go off the record for a minute.

(Discussion off the record.)

MS. GREENE: Let's go back on the record.

THE WITNESS: My explanation of where monies come from --

BY MS. GREENE:

Q Could you speak up, please.

A My explanation of saying in this case this is an alternate way for a company to provide money politically, is through their officers by being in their compensation. That still is up to the individual as to where or how he is going to apply it, and in my case it was exactly the same. No

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directive was given me, "Hey, you need to make a contribution to this guy" or "this guy." So, again, it's consistent in the context that nobody directed me. It was my own decision as to where I felt the contributions should be made.

MS. GREENE: Let's go off the record a second.

(Discussion off the record.)

MS. GREENE: Let's go back on the record.

I have a three-page exhibit that I would like to mark as FEC Exhibit 7, and I ask Mr. Traeger to review it.

(The document referred to was marked for identification as FEC Deposition Exhibit No. 7.)

(The witness examined the document.)

BY MS. GREENE:

Q Mr. Traeger, have you reviewed this document?

A Yes, I have.

Q Could you describe what Exhibit No. 7 is?

A Exhibit 7 is a written summary of the broader story because the interrogatory had very specific questions, and this is an overall story of the background and what transpired in regards to contributions.

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CBT/cs

Q This is a letter from your counsel, Bob Bauer, on April 19, 1988, to Larry Noble of the Federal Election Commission; is that correct?

A Yes.

Q As I ask questions, I'm going to ask you to speak louder again.

A All right.

Q Having looked at this document, does that refresh your memory as to whether or not -- let me first ask: Have you seen this document before?

A Yes.

Q Having reread page 3, does that refresh your recollection as to whether or not you discussed your contributions to political committees in 1987 with others at the Toshiba America corporation before making your contributions?

A It does not state that and I did not.

Q I direct your attention to line 10 on page 3, which is in parentheses, which states, "He -- "he" referring to you, Mr. Traeger -- "consulted with other American representatives of the company" -- meaning Toshiba America -- "in Washington."

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Would that be an accurate reflection?

A That is a correct statement?

MS. CORLEY: I don't believe it was, since she described the American representatives as member of the company.

THE WITNESS: Restate the question again, please. What was your question that I said "yes" to? Let's have it again so I'll be sure what I said "yes" to.

BY MS. GREENE:

Q The statement made here is, "He consulted with other American representatives of the company in Washington."

Does that mean that you consulted with other American representatives of Toshiba America in Washington about your proposed contributions?

A Not Toshiba employees.

Q Who did you discuss your contributions with?

A With legal counsel.

Q Prior to the time that you made your contributions?

A Yes.

Q Did those discussions concern who to make the

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CRT/cs

contributions to?

A Uh-huh.

Q In what capacity were those individuals speaking with you?

A They were assisting on coordinating the legislative damage control, if you want to call it that.

Q When these lawyers were speaking to you, were they speaking to you as agents of Toshiba America?

A I would have to say yes.

Q Did they advise you to make contributions to Gore, Sasser -- well, let me take it individually. Did they advise you to make contributions to Gore?

A Yes.

Q Did they advise you to make contributions to Sasser?

A Yes.

Q Did they advise you to make contributions to Holcomb?

A No.

Q Did they advise against that?

A No.

Q Did they advise that you make contributions to --

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CRM/cs

A Gordon?

Q -- Gordon?

A Yes.

Q Did they advise that you make contributions to Clement?

A No.

Q Did they advise against that?

A No.

Q Did they make any statement regarding Clement?

A No.

Q Approximately when did you have this conversation?

A Generally they would predate the date that I made the contribution.

Q These conversations predated each contribution?

A I don't know if it was each, but generally I would say that they did.

Q Who were the lawyers that you spoke to?

MS. CORLEY: Can we take a break now? I'd like to talk to Bob for just a second.

MS. GREENE: Sure. Let's go off the record.

(Whereupon, a short recess was taken.)

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MS. GREENE: Let's go back on the record.

MS. CORLEY: Bob would like to clarify an answer that he gave.

MS. GREENE: Okay.

THE WITNESS: When I stated that I had discussed with legal counsel here in Washington before making contributions, I was being solicited, and I asked, "Do you think this would be an appropriate thing to do?" I was asking for advice. They did not direct me to make contributions. They said, "Yes, if you can, that would be great." And I did not discuss how I was going to make the contributions.

BY MS. GREENE:

Q Referring back to Exhibit No. 7, page 3, there is a statement here made by your counsel which says, "He consulted with other American representatives of the company in Washington," regarding the selection of candidate contributions. I think that's the reference.

A Uh-huh.

Q Is that statement correct?

A I thought that's what we answered already. The answer is that is not a Toshiba employee but counsel --

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CBC/cs

American representatives. So it's how you interpret what this "American representatives" means.

Q Of the company?

A Right.

Q "American representatives of the company" means what?

A Attorneys. It does not mean another Toshiba employee. That's why I want to make sure there is no mistake about that.

Q That's not what it would appear from the language.

A That's why I tried to clarify what that sentence means.

Q When you say "attorneys," are they people on Toshiba America's legal staff?

A No.

Q Who is this statement in reference to, "other American representatives of the company in Washington"? Who does that statement refer to?

A It refers to the law firm of Arent, Fox, and the person I talked to specifically was Bert Wides. Wise.

Q It says "other American representatives" in the

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CRT/cs

plural. Is there another person that you had spoken with?

A No. It was -- maybe; I don't remember. Possibly Meg Roggensack, also of the same firm.

Q Did these conversations take place in the context of the damage control meetings that you referred to earlier?

A Not at the meetings, no. Usually what would happen is I'd get a solicitation and then I'd make a phone call.

Q You'd make a phone call to whom?

A To ~~Wise~~ Wides. RJH

Q From Lebanon?

A Yes.

Q You would call --

A -- Bert and say, "Look, I have been solicited to make this contribution. What do you think?"

And he'd say, "If you can do it, that would be great."

Q Why did you call Mr. ~~Wise~~ Wides for this advice? RJH

A For the very simple reason that this whole political arena -- where should you emphasize? Where are the hot spots? And, frankly speaking, what doors do we want to have as easy access to as possible?

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CRF/cs

Q Now, was Mr. Wides acting as a counsel or a representative of Toshiba in connection with these damage control meetings or the damage control plans?

A The firm was hired to coordinate our activities here on the Hill.

Q With respect to -- ?

A The Toshiba Machinery case.

Q How does this jibe with your earlier statement that you didn't discuss your contributions with people involved with the damage control plans in Washington?

A My memory is, when you were talking about those meetings, at those meetings no discussion of contributions was ever mentioned in my memory by anybody -- myself or anybody else.

Q And these conversations about your contributions were outside of those meetings?

A Correct.

Q They were all by phone call?

A I wouldn't say all. I'm not sure if they were all by phone call because I was up here frequently visiting Washington. I'd say most of them were but not all.

Q Did Mr. Wides make any other suggestions about who

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CRT/cs

to within the context of the meetings?

A There was no need to. I didn't bring it up or it wasn't discussed.

Q When you discussed --

A Why nobody elected to discuss it, I don't know what their reasons were for it.

Q And what were your reasons?

A I didn't think it was necessary to discuss it.

Q Yet, at those same meetings you discussed that you were going to contact Gore and Sasser and other people when you got back?

A Sure; uh-huh.

Q Is that "uh-huh" a yes?

A Yes; I'm sorry.

Q At these meetings in Washington, did Bert Wides attend the damage control meetings?

A Yes.

Q Who else at Toshiba knew you were being reimbursed?

A Other than Nelson, Miyashita, Ikeda.

Q How did Miyashita know?

A Oh, I didn't know he knew at the time.

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CBT/cs

Subsequently I found out that he was consulted with by Nelson; maybe Ikeda, too, I'm not sure.

Q Do you speak with Mr. Miyashita on a regular basis?

A How do you define "regular basis"? Periodically, but nowhere near the frequency I do with Nelson. Number one, his language is very tough, and Nelson is the one who has the answers 90 percent of the time to the questions I have. So other than budgeting and some things like that that are involved directly -- forms and that kind of stuff from Japan -- I don't interface. Oh, he comes to my staff meetings, but I don't normally consult on matters with him. There are a few policy questions, but not normally.

Q Did you ever discuss with him the need to have access to politicians or people in Washington for damage control?

A Only in the context of the staff meetings.

Q Did you ever directly have any conversations with him about the American political system and about efforts Toshiba needed to make in that?

A Not one on one, no.

Q Did you suggest to Mr. Ikeda how your

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contributions be compensated?

A No.

Q How did you arrange for the compensation?

A I thought we discussed that a number of times. I can repeat it, if you like.

Q I'm trying to find out: Did you submit any documentation?

A To Miyashita?

Q To whomever.

A After the fact I submitted a cancelled check to Nelson.

Q And that is the entire paper record?

A In my memory, that's all. I may have shown a solicitation letter or something like that. It's possible but I don't recall that.

Q Did you keep copies of the solicitations you received?

A No.

Q Did you give any of those to Ikeda?

A I may have shown him one or two, but I can't remember for sure if I physically said, "Here's the invitation."

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CBT/cs

Q Would he have them in his possession?

A I would guess no, because to my knowledge I never gave him any.

Q How is Miyashita involved in the process of getting compensation to you for these contributions?

A Well, the actual responsibility for writing checks and preparing checks is done by Norm Nelson. So with approval from Ikeda, I'd go directly to Nelson and say, "Ikeda has approved ta, ta, ta." So Miyashita is bypassed on the normal loop.

Q Does Nelson have the authority to prevent the check from being issued?

A Uh-huh.

Q Is that a yes?

A Yes. Well, in this way -- he authorizes and has checks made. He wouldn't have the authority to stop a check being written -- a payroll check or something like that, I mean -- without some very unusual situation.

Q But he does have that within his authority?

A Well, he was the manager -- you know, can you stop something? Well, technically you can, but it's a very awkward situation.

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Q I'm looking for the technical power.

Generally, how do you receive a bonus from Toshiba America? How would you arrange for that?

A Normally that is discussed, negotiated, decided.

Q Who decides?

A The boss.

Q Ikeda?

A Yes. I don't know if he has to go back to Japan and get approval or not, but he's the one the discussion is held with. And normally the bonus check was made the first of April or March.

Q When you say you don't know if he goes back to Japan to authorize a bonus, would he have to contact Japan to authorize a bonus?

A In the normal sense.

Q Yes?

A For a standard bonus, I don't think he gets approval from Japan. I think he has the sole responsibility or authority to decide, "This manager will get this much; this one, this one, this one, and this one."

Q Why did you state you didn't know if he had to back to Japan?

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A Because in my particular case, it's one on one. In General Electric, for example, you always had to have a double approval. In this case, I'm not sure if he has to get that or not. I believe it's a lump sum, that he gets approval for so many dollars for the operation that he can divide up whichever way he wants, and that's the end of it.

Q Did he ever state to you that he was going to approach anyone at Toshiba America's parent company regarding these bonuses for your contributions?

A No.

Q Did he make any mention of Toshiba Corporation in regard to these contributions?

A No.

Q To your knowledge, how often does he speak to members of Toshiba Corporation regarding the political situation in the United States?

A Well, every time he goes back to Japan on a business trip, obviously that's a major discussion, has been for the last 14 months. Prior to that, I would guess very little, unless there is some legislation that's coming that's going to really put a crimp on it.

Q Particularly in regard to the legislation that

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sort of developed in response to the Toshiba Machinery problem, was he in frequent touch with the Toshiba Corporation?

A Oh, sure. There's all kinds of correspondence floating around the company all the time. On a weekly basis, "What's the status? What's happening?" Explanations of the internal audits and resignation of the officers and what the Japanese Government found and all that that type of thing -- press clippings.

Q Do you think it's probably that he made any mention of the corporate reimbursement of your contributions to Toshiba Corporation members?

A I have no reason to believe that he did.

Q Do you have any reason to believe that he didn't?

A Well, the reason I would guess that he may not have is that he has the authority. You know, the amount of money we're talking about, expenses and that type of thing, is totally within his authority. So technically, corporatewise, there is no reason he'd have to go back and get approval for the kind of money we're talking about.

Q But is it the kind of thing that you think he would have apprised them of?

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CBT/cs

A Probably not; probably not.

Q Because -- ?

A He can authorize up to $100,000. So when you're talking this amount, I don't worry about that.

Q Did you tell your wife that you received compensation from Toshiba America for the contributions she made to Sasser, Gore, and Holcomb?

A Yes.

Q Did you tell her before she made those contributions?

A It's fundamental, "Here's the check." She handles normally the household checking. She keeps the master book. I bring the paycheck home and she pays the bills.

Q So she puts the check in the bank.

A Yes.

Q So you told her what all of those checks in Exhibit 3 or 4 --

A Those that I wrote -- I'd go to the bank and deposit the check, and write a check at the same time, or give her the check and she would deposit it. She is responsible for balancing the books.

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Q Did you discuss with her who she should contribute to?

A Uh-huh; sure. What I gave her was, "Here's the solicitation for a contribution, so make out a check for here," and, "Here's a bonus check from the company to cover the cost, so go ahead."

Q Did you direct her to make those contributions to these particular individuals?

A Uh-huh, in that way, sure. "Here's what we want to do and here's a check to cover it. Please go ahead and make that check."

Q And did you tell her that Toshiba America was giving you money specifically to give money to those candidates?

A Yes, I guess -- obviously; "Here is a check for $1,000, a bonus check" -- and I don't bring a $1,000 bonus check home every day; I wish I did -- "and that is to cover sending the check to XYZ." So in that context, yes, here's a check that covers the expense.

Q Did you tell her that corporations were prohibited to make contributions?

A I don't know if I told her. She is knowledgeable

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of that.

Q Did she question you about this?

A No. She said, "Is this legal?" and I said, "Yes."

"Okay."

Q When she asked you, "Is this legal?" did it raise any question in your mind that this might be something you would discuss with the attorneys who were the damage control lawyers for problems?

A No, it didn't. I wish it had, but it didn't.

MS. GREENE: Let's take a five-minute break.

(Whereupon, a short recess was taken.)

MS. GREENE: Let's go back on the record.

BY MS. GREENE:

Q Mr. Traeger, I had a question for you regarding one of the paychecks and a couple of the notations that were made on them.

On page 4 of Exhibit No. 1, there is a check from Betty Traeger to Albert Gore for President for $250, and there's a notation that appears to be "INTMOI." Could you explain the meaning of that?

A The top check up here (indicating)?

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CBM/cs

Q Yes.

A My copy is such a bad copy, I'm not sure I can read it. What does it say?

MS. CORLEY: No, this one right here (indicating).

THE WITNESS: Oh, that's not Betty's writing. I don't recognize that. I see the notation, but I don't recognize that writing.

BY MS. GREENE:

Q It is not your wife's writing?

A I don't think so. It's printing so it's a little bit hard to tell, but it's a different pen than the one she used to make the check out. It looks like a felt tip or something like that. I don't know whether Gore's staff put that on there. Did somebody put "invitation number"? Could that be what that's for? I have no idea. I'm totally speculating right now. I don't know what that means.

Q Directing your attention to page 1 of Exhibit 1, there's a notation on the bottom left corner under where it says, "Commerce Union Bank" in printing.

A Somebody's signature.

Q Do you recognize it?

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A No. It looks like "BR" or "B" -- what is that? I don't know. Like somebody's little "ch, ch, ch, ch."

No, I don't recognize that hand at all.

Q Getting back to the weekly staff meetings, you said that you kept people apprised of the damage control meetings in Washington.

A Uh-huh.

Q Did you also bring up the subject of contributions at the weekly staff meetings?

A No.

Q Ever?

A No. Correct; never.

Q Did Toshiba America have any policy regarding encouraging its employees to make contributions?

A The answer to that is no, and subsequent to the interrogatory by FEC, according to Ishizaka, there was a company policy stating there would be no political contributions. I hadn't seen it.

Q You haven't seen it yet?

A Yes, I've seen it now, but I was not aware that such a policy had been issued by him.

Q By whom?

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CBT/cs

A Ishizaka.

Q Was that sent to everyone at Toshiba America, to your knowledge, or only to the supervisors?

A I'm assuming that was -- I've never seen the distribution list, so I don't know who it all went to. He stated, "Damn it, we've got a policy."

"We do?"

MS. GREENE: Could we go off the record for a second.

(Discussion off the record.)

MS. GREENE: Let's go back on the record.

An off-the-record discussion just took place in which Mr. Traeger's counsel agreed to provide a copy of the Toshiba America --

MS. CORLEY: Try to provide.

MS. GREENE: -- will try to provide a copy of the Toshiba America policy statement regarding political contributions.

BY MS. GREENE:

Q Mr. Traeger, do you know a Paul Wexler?

A Why does that sound familiar? I can't place the face and name. Help me.

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CBT/cs

Q Is he a member of Toshiba America in the California office?

A I'm not sure.

Q Is he a member of Toshiba America?

A I'm not sure. You know, if you look at the company -- and we drew this picture -- but as you look at the company, as they started off geographically, my plant and the one at Houston and one in Sunnyvale, California, and another one in L.A. -- all of us are different parts of the company. I've got consumer products here. Another one is heavy industrial. Another one is semiconductors and that kind of stuff. Frankly, we just don't see each other and get together. But the first time meeting of a lot of these guys was when we had these meetings in New York.

Q In New York or Washington?

A I mean in Washington.

Q Did Mr. Wexler attend any of these damage control meetings?

A As I say, I can't put face to name, and if you ask me if he's a company employee I don't even know that. I have no idea whether he attended or not.

Q I'd like to just review who was at this first

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CBT/cs

damage control meeting in Washington, the one called by Ishizaka, and see if we can get some names to some of the titles that we mentioned before.

A Okay. One would be --

Q You mentioned there was someone from Texas.

A Uh-huh.

Q Who was that?

A Floyd Bender.

Q And his position?

A President or Vice President of Toshiba International Motor -- maybe Toshiba International Manufacturing Division. I'm not sure of the title.

Q Okay. And you mentioned someone from New Jersey. Who was that?

A Let's see, who was that? John Anderson, legal counsel, was there. And there was a Japanese, too. I'm trying to think who that was. I can't remember. And Ishizaka out of New York, and Hiyashita, his right-hand man, from New York.

Q What's his name?

A Hiyashita.

Q And his first name?

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CRM/cs

A Don't ask me any first names.

Q Sorry.

A Well, the reason is Japanese never use first names, even close buddies. It's strange but they don't.

Q And Mr. Hiyashita's title is -- ?

A I don't know. Administrative Affairs or some title like that, reporting to Ishizaka.

Q Okay.

A Let's see who else. There was somebody from California and, boy, that's when I get lost real quick to remember their names, who they were.

And that's all I can remember.

Q There were two from California?

A I believe there were two from California.

Q Do you remember now whether Mr. Ikeda came with you to the first meeting?

A For some reason I feel like he didn't. There was some reason he couldn't, if I remember right, that he didn't come. I believe that's correct.

Q Was Mr. Bert ~~Wise~~ Wides there?

A Uh-huh.

Q And was Meg Roggensack there?

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CBT/cs

A I don't think so.

Q Again, the meeting, the first one, was probably in April of 1987; is that correct?

A April or May.

Q Before you made the contribution to Sasser?

A Uh-huh.

Q That's a yes?

A I believe that is correct.

Q Okay. How was Norman Nelson involved in the corporate compensation of your contributions?

A Norm Nelson is the Manager of Finance with all the payroll, accounts payable, and receivable, and the whole nine yards reporting to him.

Q When did you tell him that the bonuses were to pay you back for contributions?

A I'm not sure if it was the first or second one, because I decided I wanted him to see the cancelled checks so there wouldn't be any question in the company about using money for my personal use, that there would be no question about it.

Q So it was before the first one or before the second?

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A I just can't remember for sure if I told him when the first check was issued. I know by the time of the second one, for sure he was, and then I showed him also the copy of the first Sasser check.

Q When you brought him the first request, did he act surprised?

A Um.

Q Just try to think back to that conversation.

A I can't remember exactly how he acted. He's a pretty calm guy, doesn't act very surprised about anything.

Q Did he question you about it?

A I don't believe so.

Q He just said, "Okay, you have a request for $1,000 with no documentation, and that's fine"?

A The approval was from my boss.

Q With no documentation?

A Well, that's when he went back and got some documentation, as you showed me in one of these exhibits here, Exhibit 6. He got documentation.

Q Do you know of anyone in the company other than you and your wife who have received compensation from the company for contributions?

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A No. I know of no other person.

Q Earlier you mentioned GE as a place where there were executives making contributions.

A Uh-huh.

Q Was it GE's policy to compensate employees or supervisors for individual contributions?

A Only in this way, that the job description of executives in GE clearly states, "Responsible for community affairs and political activities for your geographic operation." And it is clearly understood that at that level appropriate legal contributions will be expected.

In GE, people at that level -- number one, the base salary is good and there's annual bonuses, but there is no segregation and direction that, "Here's who you've got to contribute to, and ta, ta, ta, ta." So it's just a general policy.

Q But the only thing in the job description is "political activities"?

A Uh-huh.

Q What does your current job description say regarding political activities?

A I don't have one.

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CBT/cs

Q Do you have a job description?

A No. That's what I said; I don't have a job description for my current job.

Q Were there any company rules that you knew of regarding contributions?

A No.

Q What years did you hold your job at GE?

A 1951 through '74. From '74 to '77 I was with Sony in New York City, and then I joined Toshiba at the end of '77.

Q When you were at GE, was there a certain base amount that was salary, and then an additional part that was bonus or an allocable sum to be spent for political contributions?

A No, no stated amount.

Q To your knowledge, did anyone get in trouble with GE for not using their salary for contributions?

A Well, I have no knowledge of a specific case. One can guess that if a guy never created decent relationships with people -- why? It's a bad situation. I endeavored to make a contribution that had some impact, but if you have any sense, it's part of your responsibilities to

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CPT/cs

do this. I don't think there is any direct linkage at all.

MS. GREENE: What I would like to do at this point is to continue the deposition in the event we need to call you and ask you any clarification questions, but to end questioning for the day.

Do you waive your right for signature?

MS. CORLEY: No.

MS. GREENE: I'm sorry, Judy, did you want to ask any follow-up questions.

CROSS EXAMINATION

MS. CORLEY: The only question that I would ask is to ask Bob to clarify a little bit of his understanding of the difference between the compensation that he received from the company and his understanding of reimbursements at the company.

THE WITNESS: Well, we hit on it a little bit earlier.

MS. GREENE: Would you speak up, please.

THE WITNESS: Normal reimbursement, as we call it, is our normal expense account routine. And the procedure there is, after expenditures are made, receipts are retained, picked up. Then you fill out the expense

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CPT/cs

report -- what's the purpose of the trip, your expense; here is the [illegible] receipt. And that gets approved in my particular case by Nelson and Miyashita. And based on that expense account, subsequently a check is issued to cover those expenses.

BY MS. CORLEY:

Q Then how does the procedure differ for bonuses?

A Well, of course, bonuses is base salary pay, the income tax and the whole nine yards. So it was different. One is payroll and one is not. One is regular accounts payable and the other one is a payroll check.

Q And your understanding was that the compensation the company was paying to you fell into the category of a bonus, not in reimbursement for an expense?

A Clearly. That's why I asked for a bonus check, and we called it that from Day One.

Q And you understood that that was lawful?

A Yes.

Q And what was your first inkling that that was perhaps not lawful?

A When I got the interrogatory. It stated right there, "bonus." "My God." "The law says ta, ta, ta, ta,

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CBT/cs

and you violated it."

Q And you operated throughout this whole time under the assumption that the system you had proposed to Mr. Ikeda was perfectly legal?

A That is correct.

Q And in the course of this process of being compensated, did you ever go outside of the small group of people that you have named so far in this deposition to discuss it with anyone?

A No. To my knowledge, there are only four of us that are aware of this thing today.

Q And the reason in your mind was that it was perfectly lawful and therefore there was no need to discuss it with anyone else?

A Yes. It was pay, salary. You don't discuss salary with other people.

Q And it was not made a part of any of the discussions you had at the damage control meetings?

A Never mentioned, never discussed.

MS. CORLEY: Thank you.

MS. GREENE: Let me redirect for a couple of questions.

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REDIRECT EXAMINATION

BY MS. GREENE:

Q Mr. Traeger, you said in Toshiba a part of your role was as a representative and sort of a liaison with the congressional representatives. Did you question whether or not Toshiba should have a broader effort of contributions to congressional leaders or congressional representatives?

A No, only that a very brief discussion was held about PACs, but the feeling was, "My God, under this political environment, this is not the time to be involved in developing a PAC. Forget it at this time."

Q When you said you thought it was appropriate to give larger sums of money than you had in the past, didn't you consider having a broader number of people reimbursed at Toshiba so that Toshiba could have maybe $10,000 or $20,000 or a larger sum generated toward a particular individual while reflecting that they were Toshiba employees?

A Uh-huh. I can understand that possible rationalization, but my concept was that, okay, who is the guy that's knocking on the door? And rationalized that it's an individual that's knocking on the door, meaning myself, and to make it easier to get the ears of aides and so forth.

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CBT/cs

As every politician does, he keeps a list of who contributes and who doesn't, and it's just easier to get return telephone messages and so forth if you have been an active participant in their fundraising. And because I was the only one at the plant making contacts with our representatives, it didn't dawn on me to consider, "Hey, they could have three or four more guys involved," because there isn't a need -- at least I didn't feel a need for anybody else to represent the company to the politicians.

Q You said earlier that you knew that it was illegal for corporations to give money directly to committees.

A Uh-huh; yes.

Q How did you know that? What was the source of that knowledge?

A Oh, it's public information. I say "public information." You read most any article on why are there PACs generated, and the reason is so that it provides a vehicle so it can be done with restraints and restrictions and all that stuff.

Q Did you understand that corporations were prohibited from giving contributions both directly and

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CBT/cs

indirectly? Had you heard that language before?

A Oh, I felt directly would be like an expense account, and I realize in retrospect that a bonus payment is not an expense. It looks like an expense account but it's not, but that's the way it's looked at in the eyes of the Commission. I made a differentiation, maybe entirely wrong, between the two.

Q But just to clarify, you had heard at some point prior to making the first contribution to Sasser in May 1987 that corporations were prohibited from giving contributions both directly and indirectly?

A Uh-huh.

Q That is correct?

A That is correct.

MS. GREENE: I'll end the question there, Judy. Do you have anything else?

MS. CORLEY: I have nothing more.

MS. GREENE: We will have a copy of the transcript sent to you for signing. We will continue the deposition and questioning.

(Discussion off the record.)

MS. GREENE: We are going back on the record for

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CRT/cs

a moment.

I am presenting to Robert Traeger a witness fee in the amount of $30 for his appearance here today.

Thank you.

(Whereupon, at 5:00 p.m., the taking of the deposition was adjourned.)

Robert Hoit Traeger

Robert Hoit Traeger

DISTRICT OF COLUMBIA, SS:

Subscribed and sworn to before me this 22nd day of September 1988

Elaine C. Haynes
Notary Public

My Commission Expires [redacted] June 30, 1993

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, Claire B. Tepper, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

Claire B Tepper

Notary Public in and for the
District of Columbia

My Commission Expires
January 31, 1990

9204090044 00

ROBERT H. OR BETTY R. TRAEGER
3636 KNOLLWOOD RD.
NASHVILLE, TN 37215

4224

11/27/ 87

Pay to the order of Friends for Jerry Holcomb $ 500 no

Five Hundred + no/100 Dollars

Commerce Union Bank Nashville, Tenn.

For Deposit Only
Friends for Jerry Holcomb
B09SH1894 6 5

Betty R Traeger

[redacted] 4224 #000005000#

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DEPOSITION EXHIBIT
FEC No. 1
8/3/88 cbt

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD
NASHVILLE, TN 37215

2721

PAY TO THE ORDER OF Friends of Jim Sasser $ 50.00

Fifty and no/100 DOLLARS

Commerce Union Bank Nashville, Tenn.

FOR

R H Traeger

[redacted] 2721 [redacted] 000000 50000

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD
NASHVILLE, TN 37215

3012

5/1 1986

PAY TO THE ORDER OF Bill Gordon for Congress Comm $ 250.00

Two hundred fifty and no/100

Commerce Union Bank Nashville, Tenn.

FOR

R H Traeger

[redacted] 3012 [redacted] 000000 25000

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3165

6/15 1986

Pay to the order of Steve Cobb Campaign $ 25.00

Twenty-five and no/100 Dollars

Commerce Union Bank Nashville, Tenn.

R H Traeger

[redacted] 3165 [redacted] 000000 2500

9204090044402

ROBERT H. OR BETTY R. TR...GER
3035 KNOLLWOOD RD.
NASHVILLE, TN 37215

3283

1-30 19 87

Pay to the order of Bell for Representative $ 50.00

Fifty and 00/100 Dollars

Commerce Union Bank Nashville, Tenn.

For _____

R H Trainer

3283 ⑆000000 5000⑈

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ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

4203

11/19 19 87

250

Dollars

Commerce Union Bank Nashville, Tenn.

Mrs Betty R Traeger

FOR DEPOSIT ONLY
FIRST AMERICAN BANK N.A.
NASHVILLE, TENNESSEE

PREVIOUS ENDORSEMENT GUARANTEED
FRB NASHVILLE

NO 25

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3554

6/11 19 87

The Albert Gore Jr. for Pres. Com $ 1000

Dollars

Commerce Union Bank Nashville, Tenn.

PREVIOUS ENDORSEMENT GUARANTEED
FRB NASHVILLE

ROBERT H. OR BETTY R. TRAEGER
3635 KNOLLWOOD RD.
NASHVILLE, TN 37215

3291

3/16 19 87

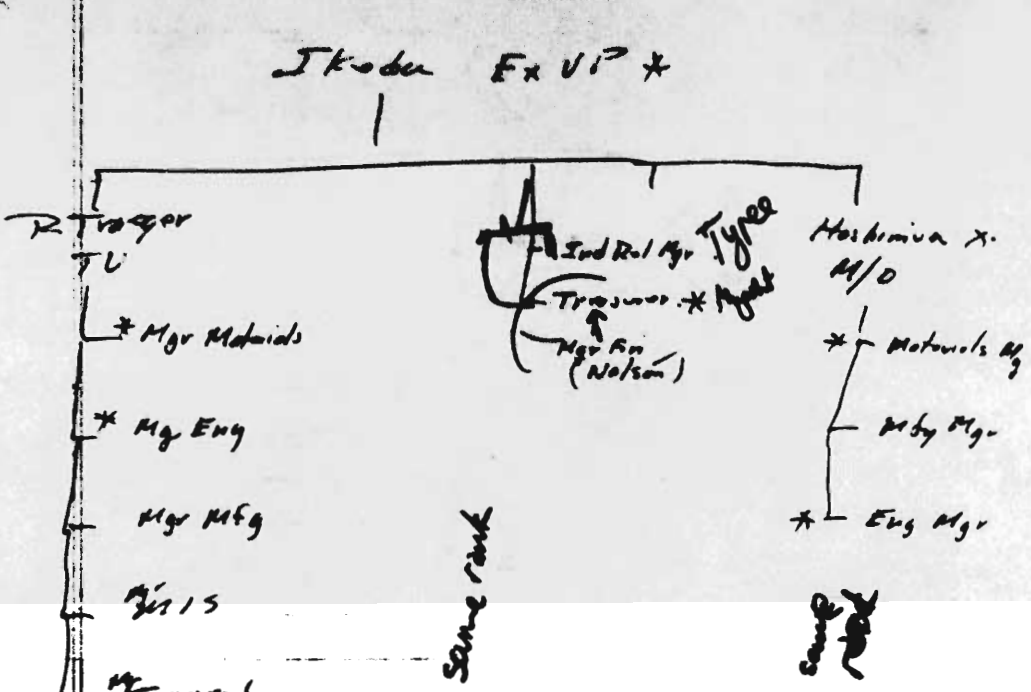
Congressman Bill Gordon Committee $ 60

Dollars

Commerce Union Bank Nashville, Tenn.

3291

FOR DEPOSIT ONLY
BANK GORDON FOR CONGRESS



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DEPOSITION EXHIBIT
FEC 42
91-1151 CET

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002212 97-987 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT NO. EMP. NO.

DATE 15-MAY-87 CHECK NO 2212

$1,000.00

PAY TO THE ORDER OF: ROBERT H. TRAEGER

MAY 18 97

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HOHENE–MT. JULIET, TENN.
⑈002212⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈0000100000⑈

0904406

TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE – LEBANON, TN. 37087

002247 97-987 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT. NO. EMP. NO.

DATE 11-JUN-87 CHECK NO. 2247

$1,000.00

PAY TO THE ORDER OF: ROBERT H. TRAEGER

JUN 17 97

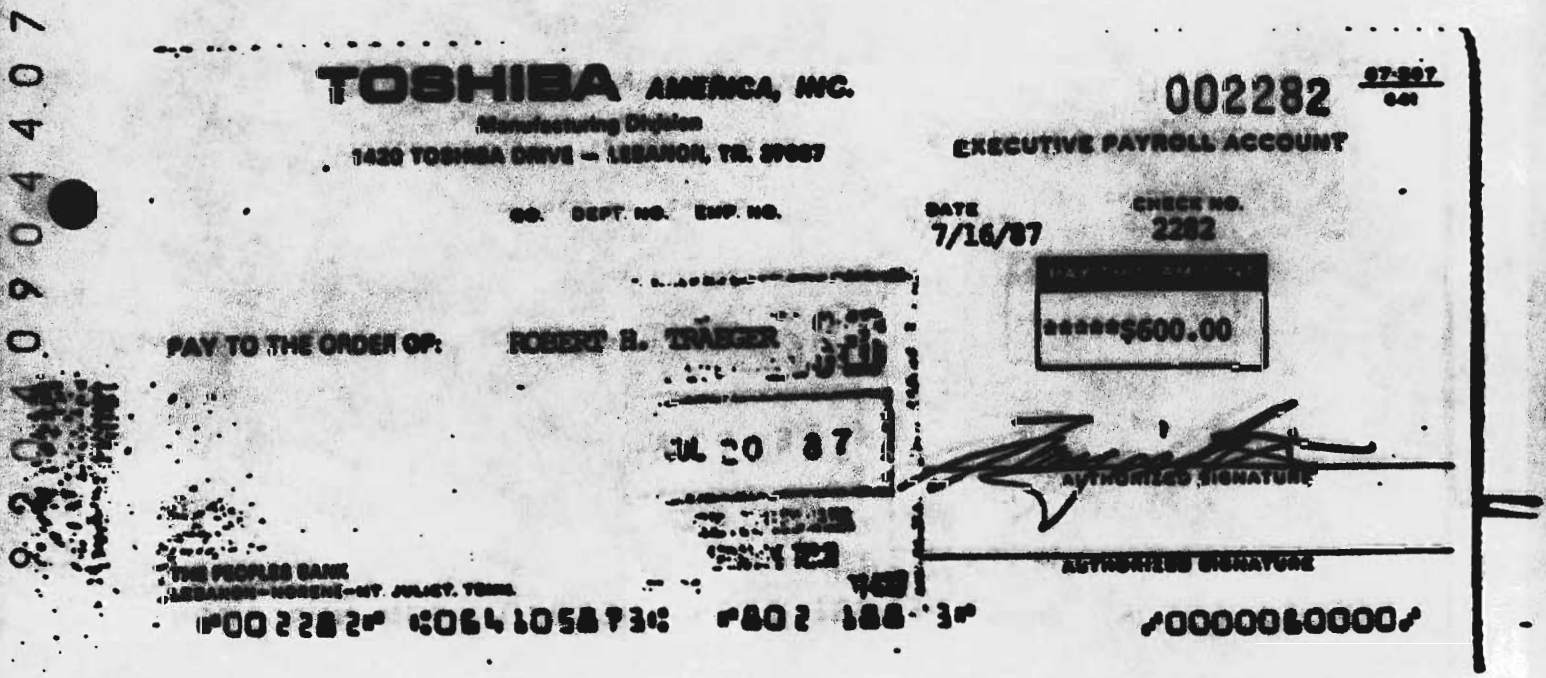
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AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HOHENE–MT. JULIET, TENN.
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DEPOSITION EXHIBIT FEC 3 8/3/88 CH

Exhibit 3



TOSHIBA AMERICA, INC.
Manufacturing Division
1420 TOSHIBA DRIVE — LEBANON, TN. 37087

002282
07-567
641

EXECUTIVE PAYROLL ACCOUNT

SS. DEPT. NO. EMP. NO.

DATE 7/16/87

CHECK NO. 2282

*****$600.00

PAY TO THE ORDER OF: ROBERT R. TRÄGER

JUL 20 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON—HORSE CAVE—MT. JULIET, TENN.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1439 TOSHIBA DRIVE – LEBANON, TN. 37087

002417 37-367 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT NO. EMP. NO.

DATE 11/25/87 CHECK NO. 2417

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$500.00****

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AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORNE–MT. JULIET, TENN.

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TOSHIBA AMERICA, INC.
Manufacturing Division
1439 TOSHIBA DRIVE – LEBANON, TN. 37087

002416 37-367 641

EXECUTIVE PAYROLL ACCOUNT

CO. DEPT. NO. EMP. NO.

DATE 11/23/87 CHECK NO. 2416

PAY TO THE ORDER OF: ROBERT H. TRAEGER

$600.00****

NOV 27 87

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

THE PEOPLES BANK
LEBANON–HORNE–MT. JULIET, TENN.

⑈002416⑈ ⑆064105873⑆ ⑈802 188 3⑈ ⑈00000 60000⑈

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

March 7, 1988

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

Re: MUR 2575 - Robert H. Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

Respondent Robert H. Traeger herewith replies through counsel to the Federal Election Commission's Interrogatories and Requests for production of Documents dated January 28, 1988.

Respondent intends to file in the near future an additional reply on the merits to the Commission's finding of reason to believe that Mr. Traeger violated the Federal Election Campaign Act of 1971, as amended. At this time, it is sufficient to state that Mr. Traeger believed, at the time it was proposed and implemented, that the method used to increase his salary to make political contributions was lawful.

If you have any questions or need additional information, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel for Robert H. Traeger

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DEPOSITION EXHIBIT
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8/3/88 CBT

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Before the Federal Election Commission

MUR 2575

Respondent: Robert H. Traeger

ANSWERS TO INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

The answers to these interrogatories are based on the recollections of Robert H. Traeger, and on information derived from the files and records in Mr. Traeger's possession and control.

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Interrogatory No. 1:

State whether you made political contributions in 1986 or 1987 to the political campaigns of:

a. Congressman Bart Gordon,
b. Senator Albert Gore (for President),
c. Senator James Sasser, or
d. Any other candidate for public office.

If so, please indicate the amount and date of each contribution to these candidates or their campaign committees.

During 1986 and 1987, Mr. Traeger made the following political contributions:

1/20/86	James Sasser	$500.00
4/1/86	Bart Gordon	$250.00
6/15/86	Steve Cobb	$25.00
1/20/87	Joe Bell	$50.00
6/11/87	Albert Gore	$1,000.00
7/16/87	Bart Gordon	$600.00
11/16/87	Bart Gordon	$250.00
11/16/87	Bob Clement	$100.00

Interrogatory No. 2:

State whether Toshiba-America, Inc. reimbursed you for your contributions to Congressman Bart Gordon, Senator Albert Gore or Senator James Sasser or any of their campaign committees. Please list the date, amount and form (i.e., bonus, cash, check, advance, salary increase, etc.) of all such corporate reimbursement payments.

Mr. Traeger was reimbursed by Toshiba-America, Inc. for the following contributions by means of bonus checks in the following amounts:

		Contribution		Bonus
6/11/87	Albert Gore	$1,000.00	6/11/87	$1,626.01
7/16/87	Bart Gordon	$600.00	7/16/87	$975.61
11/16/87	Bart Gordon	$250.00	11/23/87	$880.40[1/]
	Bob Clement	$100.00		

In addition, Mr. Traeger was reimbursed by Toshiba-America, Inc. for the following contributions made by his wife, Betty R. Traeger, by means of bonus checks in the following amounts:

		Contribution		Bonus
5/15/87	James Sasser	$1,000.00	5/15/87	$1,839.92
11/19/87	Albert Gore	$250.00	11/23/87	$880.40[1/]
11/27/87	Terry Holcomb	$500.00	11/25/87	$604.41

These amounts represent the gross amounts paid, on each day cited, to Mr. Traeger; when adjusted for tax withholding, they resulted in a net reimbursement to Mr. Traeger in the full

---

1/ This reimbursement covers three contributions made by Mr. Traeger and his wife:

11/16/87	Bart Gordon	$250
11/16/87	Bob Clement	$100
11/19/87	Albert Gore	$250

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amount of the contributions made by Mr. Traeger and his wife.

Interrogatory No. 3:

> State whether any director or officer of Toshiba-America, Inc. or Toshiba International directed you to contribute to the campaigns of Congressman Bart Gordon, Senator Albert Gore or Senator James Sasser or suggested that you do so. If so, please identify the individuals, including their nationalities and positions in the company and the content of the conversations with those individuals regarding your campaign contributions.

No director or officer of Toshiba-America, Inc. or Toshiba International suggested or directed that Mr. Traeger make any contribution to any campaign for public office.

Interrogatory No. 4:

> Identify the individual(s) who authorized Toshiba-America, Inc. to reimburse you for your political contributions. Please include the positions and nationalities of these individuals.

The individual who authorized the reimbusement of Mr. Traeger for his political contributions was Mr. Hiroshi Ikeda, a Japanese citizen, who is Chief Executive Officer of Toshiba-America, Inc.

Interrogatory No. 5:

> Identify the individual(s) who initiated the plan or system through which Toshiba-America, Inc. reimbursed you for your political contributions. Please include the position and nationality of these individuals and explain your knowledge of the plan.

The individual who initiated the plan for reimbursement for

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political contributions was Mr. Traeger, a United States citizen, who is Vice President and General Manager of the Manufacturing Division of Toshiba-America, Inc. His knowledge of the plan comes from his having initiated it.

Interrogatory No. 6:

Explain how you were first approached by officials of Toshiba-America, Inc. regarding its plan to repay you for your political contributions.

As stated in response to Interrogatory No. 5, Mr. Traeger was not approached by any official of Toshiba-America regarding a plan to reimburse him for political contributions.

Interrogatory No. 7:

State whether Toshiba-America, Inc. compensated you financially or otherwise, for giving contributions to candidates and political committees beyond the amount of direct reimbursements.

No.

Interrogatory No. 8:

State whether other Toshiba-America, Inc. officers, directors, or employees were reimbursed by Toshiba-America for making contributions to candidates or their political committees.

Mr. Traeger has no personal knowledge of other officers, directors or employees who may have been reimbursed by

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Toshiba-America, Inc. for making contributions to candidates or their political committees.

Interrogatory No. 9:

State whether you were reimbursed for contributions made to candidates other than Congressman Bart Gordon, Senator Albert Gore and Senator Sasser. If so, please identify the contributions for which you were reimbursed.

All contributions to candidates for which Mr. Traeger was reimbursed are identified in the response to Interrogatory No. 2 above.

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Interrogatory No. 10:

State whether you informed any of the recipients of your contributions that Toshiba-America, Inc. had reimbursed you for your contributions.

Mr. Traeger did not inform any of the recipients of his contributions that Toshiba-America, Inc. had reimbursed him for his contributions.

Interrogatory No. 11:

State whether any of the political committees or candidates to whom you gave contributions knew from any other source that Toshiba-America had reimbursed you or planned to reimburse you for your contribution.

Upon information and belief, Toshiba-America, Inc. has, within the past two weeks, contacted some, if not all, of the candidates to whom Mr. Traeger made reimbursed contributions and informed these candidates that Toshiba-America had reimbursed him.

Interrogatory No. 12:

State the title of your position with Toshiba-America, Inc. and generally explain your responsibilities and duties associated with this position.

Mr. Traeger is Vice President and General Manager of the Manufacturing Division of the Consumer Products Group of Toshiba-America, Inc., a New York corporation. Mr. Traeger is principally responsible for managing the manufacture of television sets at Toshiba-America's plant in Lebanon, Tennessee.

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Interrogatory No. 13:

State whether Toshiba International, Inc. was involved in any way, either directly or indirectly, in providing reimbursement for your contributions to political committees. Please explain.

Upon information and belief, Toshiba International, Inc. was not in any way, directly or indirectly, involved in providing reimbursement to Mr. Traeger for his contributions to political committees. Like Toshiba-America, Inc., Toshiba International, Inc. is an American subsidiary of Toshiba, Inc., but Mr. Traeger's responsibilities and duties are performed for Toshiba-America, Inc.

Interrogatory No. 14:

State whether Toshiba International, Inc. was involved in any way, directly or indirectly, in directing you to make contributions to particular candidates or political committees. Please explain.

Toshiba International, Inc. was not involved in any way, directly or indirectly, in directing Mr. Traeger to make contributions to particular candidates or political committees.

Interrogatory No. 15:

> Please provide photocopies of both sides of every check received as reimbursement for a campaign contribution and every check written as a direct campaign contribution for which reimbursement was paid or promised by Toshiba-America, Inc. or any Toshiba-America representative.

Photocopies of all checks received as reimbursement and all checks written as direct campaign contributions for which reimbursement was paid are attached to these responses to interrogatories.

Interrogatory No. 16:

> Please provide photocopies of any documents relating to the initiation, development and execution of Toshiba's reimbursement of campaign contributions.

Upon information and belief, there are no documents related to the initiation, development and execution of Toshiba-America's reimbursement of campaign contributions.

Interrogatory No. 17:

> Please provide an itemized list with supporting documentation of all forms of payment which you have received from Toshiba-America, Inc. within the past two years stating the date, amount and nature of each payment.

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Respondent objects to this interrogatory as overly broad and unduly burdensome. The interrogatory does not seek relevant information. Mr. Traeger has provided all available information concerning reimbursements to him by Toshiba-America, Inc. for political contributions.

Interrogatory No. 18:

Please provide an itemized list with supporting documentation of all contributions you made to candidates and their political committees within the past two years, stating the date, amount and receipt of each contribution.

All contributions made by Mr. Traeger to candidates and their political committees have been itemized above in response to Interrogatories No. 1 and 2. Supporting documentation for these contributions was provided in response to Interrogatory No. 15.

Respectfully submitted,

Robert F. Bauer
Judith L. Corley
Counsel for Robert H. Traeger

cc: Robert H. Traeger

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Candidate	Contributions	Date of Contribution	Reimbursement Bonus Net	Date of Bonus
Albert Gore	$1,000	6/11/87	$1,626.01 (1,000 net)	6/11/87
*James Sasser	$1,000	5/15/87	$1,839.92 (1,000 net)	5/15/87
Bart Gordon	$600	7/16/87	$975.61 (600 net)	7/16/87
Bart Gordon	$250	11/16/87		
Bob Clement	$100	11/16/87	$880.40 (600 net)	11/23/87
*Albert Gore	$250	11/19/87		
*Terry Holcomb	$500	11/25/87	604.41 (500 net)	11/25/87

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RECEIVED
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Lawrence M. Noble
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 2575 - Robert H. Traeger

Attention: Judybeth Greene

Dear Mr. Noble:

This letter serves to supplement the response filed on March 7, 1988 for Robert Traeger in the above-referenced Matter Under Review. This supplemental response in no way changes the substance of the answers given by Mr. Traeger to the Commission's interrogatories.*/

Bob Traeger has devoted ten successful years to the corporate affairs of Toshiba America, Inc. ("TAI"). He was hired to establish a color television production plant in the United States, and he did, from ground-breaking to completion. He was responsible for site selection, plant design, plant construction and staffing. Today, the Toshiba plant built by Traeger is by far the largest employer in the region, and its construction in the area had, and continues to have, a significant impact on the economics of the region.

Traeger understood the importance to TAI of strong community relations generally, and Congressional relations in particular. TAI was a new and commanding presence in the state. It was also foreign-owned, one of several much remarked manufacturing facilities established by Japan in the state of Tennessee; and it was, therefore, noteworthy in its

---

*/ In response to Interrogatory No. 4, Mr. Traeger identified Hiroshi Ikeda as the Chief Executive Officer of Toshiba America, Inc. Mr. Ikeda's correct title is Executive Vice President of the Manufacturing Division of the Consumer Products Group of Toshiba America, Inc.

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own right and as part of a larger continuing story of foreign investment in the United States. Traeger, the highest ranking American at TAI in Tennessee, attempted to guide the company in developing relations with its American host. This would require, Traeger believed, some plan for making appropriate contributions to candidates for election or reelection to public office.

The trouble, of course, started here; but Traeger, following what he thought to be conventional practice, could not have known it. For sometime Traeger, through his own personal initiative and his own money, made up TAI's entire political contribution plan. When Traeger was solicited for or learned of a political fundraising event, he contributed from his own pocket. The amount he contributed ranged from $25.00 to $1,000.00. This approach worked adequately for a time; but it placed too great a burden on Traeger, and it was suitable only for dollar-limited and sporadic efforts, as limited as Traeger's own resources.

From time to time Traeger proposed, unsuccessfully, that TAI establish a PAC. He advanced also a suggestion, inspired by conversation with businessmen outside TAI, that his salary be increased in recognition of his direct personal financial responsibility for making political contributions. Other executives in other companies, so he understood, were compensated in some way for personal charitable and political contributions. This was a practice that he unquestioningly took to be commonplace, and as such, neither improper nor illegal. TAI also rejected this suggestion.

When Traeger perceived new and heavier demands on Toshiba, he made another run at management, in the person of Mr. Ikeda. This time Traeger suggested a variation of his compensation proposal: not an across-the-board annual increase in his salary, but "bonuses" paid to cover specific contributions previously made by Traeger. On this occasion, Ikeda relented. Whether he did so because of a concern shared with Traeger over the company's delicate political position, or more because he was inclined to yield to Traeger's judgment on a matter better understood by the American, is not known to Traeger. It is sure that Traeger neither imagined nor stated to Ikeda when he renewed the proposal that it was in any way illegal.

Traeger did know then and before that the FECA prohibited corporate contributions, direct giving from general treasury funds to candidates. He did not believe that the law

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prohibited compensation to executives for personal contributions made in the company's interest and within the general scope of their corporate responsibilities. This was the lore that Traeger picked up in discussion with other businessmen; and apart from comfort he took in the apparent prevelance of this practice, it made some measure of sense to him. He, not the company, was making the contributions; he alone was selecting the candidates, the occasion, the amount. (He consulted with other American representatives of the company in Washington, but the decision in the end was his.) The company thus covered his costs by paying him a bonus; its role was passive, and the result of its action was not much different, as Traeger saw it, than a minimal salary increase to avoid penalizing Traeger for doing what he thought was right for the company.

Bob Traeger was wrong, but this mistake is understandable only if viewed from an experienced executive's, not a lawyer's, perspective. Traeger took any program of political contributions to be part of his job; his main purpose was to get this job -- identifying candidates and making contributions -- done. The cost, and the question of how it was paid, was incidental to Traeger's mind; the money required was minimal, the amount of contributions involved in this matter totaling no more than $3,700.00. The task called for getting to know public officials and candidates and providing contributions to the right ones, in the right amounts, at the right time. Traeger had done this work for TAI before the company had begun to reimburse his costs. The nature of the work, that it was Traeger's work and in this sense involved Traeger's "contributions," did not seem to him to change simply because its costs were borne by the company.

Mr. Traeger is fully prepared to accept fairly assessed responsibility for his mistake. Accordingly, he respectfully requests pre-probable cause conciliation.

Respectfully submitted,

Robert F. Bauer
Counsel for
Robert H. Traeger

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STENOTYPE REPORTERS

MUR 2519

23 September 1988

Federal Election Commission
ATTN: Ms. Judybeth Greene
999 E Street, Northwest
Washington, DC 20461

Re: Deposition of ROBERT HOIT TRAEGER,
Washington DC, 3 August 1988.

Dear Ms. Greene:

Enclosed is the Original copy of the above-entitled deposition, which has been read and signed by the Deponent. Corrections made in this transcript are noted on the list of changes prepared by the Deponent.

Sincerely,

Edwin G. Crowley, Deposition Supervisor.

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CORRECTIONS TO DEPOSITION OF
ROBERT HOLT TRAEGER

August 3, 1988

Page	Line	Correction
6	19	The word "responsible" should read "responsibility."
11	7	Insert between the words "okay" and "that" the word "if."
16	2	Delete the last word on the line and insert in place of it the word "my."
16	3	Delete the first word on that line and insert in place of it the word "name." Delete in that same line the word "name" and insert in its place the word "title."
26	2	Delete the word "he'd" and insert in its place the words "it had."
29	21	Delete the word "they" and insert in its place the word "there."
30	18	Delete the word "billing" and insert in its place the word "milling."
31	7	Insert between the words "had" and "Congress" the word "on."
34	22	Correct the spelling of the name to "Ishizaka" instead of "Ishisaka." This same change in the spelling of the name should also be made on page 35, line 3; on page 46, line 8; on page 97, line 16; on page 98, line 1; on page 100 line 2; on page 100, line 18; and on page 101, line 7.
39	12	Insert between the words "first" and "company" the word "Japanese."
41	22	Delete the word "informity" and insert in its place the word "information."

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51	15	The correct spelling of the name is "Ohumaya" instead of "Ohmya."
53	13	Delete the words "materials" and the word "and" the second time it occurs.
82	21	The correct spelling of the name is "Wides" instead of "Wise." This change in the spelling of the name should also be made on page 83, line 10; page 83, line 18; page 84, line 1; page 84, line 22; page 85, line 3; page 85, line 7; page 85, line 17; page 86, line 15; and page 101, line 20.
107	2	The word "tax" should be deleted.

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TRANSCRIPT OF PROCEEDINGS

BEFORE THE

FEDERAL ELECTION COMMISSION

In the Matter of:	:	MATTER UNDER REVIEW
	:	
HIROSHI IKEDA	:	Number 2575

DEPOSITION OF HIROSHI IKEDA

Washington, D. C.

Thursday, August 4, 1988

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BEFORE THE

FEDERAL ELECTION COMMISSION

In the Matter of:	MATTER UNDER REVIEW
HIROSHI IKEDA	Number 2575

DEPOSITION OF HIROSHI IKEDA

Washington, D. C.

Thursday, August 4, 1988

Deposition of HIROSHI IKEDA, called for examination pursuant to notice, at the office of the Federal Election Commission, 999 E Street, N.W., Sixth Floor Conference Room, at 9:30 a.m. before BRENDA M. SMONSKEY, a Notary Public within and for the District of Columbia, when were present on behalf of the respective parties:

JUDYBETH GREENE, ESQ.
JONATHAN LEVIN, ESQ.
Federal Election Commission
999 E Street, N.E.
Washington, D. C. 20463
On behalf of the Federal Election Commission.

JAN W. BARAN, ESQ.
CAROL A. LAHAM, ESQ.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D. C. 20006
On behalf of the Witness.

ALSO PRESENT:

ELIZABETH CAMPBELL

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Hiroshi Ikeda by Ms. Greene	3

EXHIBITS

IKEDA EXHIBITS	IDENTIFIED
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PROCEEDINGS

Whereupon,

HIROSHI IKEDA

was called as a witness and, having first been duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. GREENE:

Q My name is Judybeth Greene. I am representing the Federal Election Commission, with the assistance of Federal Election Commission Jonathan Levin and law clerk Elizabeth Campbell. This deposition is being taken pursuant to a deposition in an FEC subpoena in connection with an investigation under section 437(g) of Title II. The confidentiality provisions of the act apply in this matter with respect to all the respondents until the investigation is closed. I think the investigation is designated as matter under review 2575.

Let the record reflect that the deponent has been sworn in. Mr. Ikeda, can you state your full name for the record.

A Excuse me?

Q Could you state your full name?

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A Hiroshi Ikeda.

Q You have a right to be represented by counsel. Is your counsel present today?

A Counsel? I don't understand. -- Yes.

MR. BARAN: Could you speak just a little more slowly. I would like to point out for the record here that Mr. Ikeda does speak English, but that is not his native language. And that he believes he can provide testimony in this deposition in English, but we request that perhaps in order to ensure understanding and clarity that we try and speak a little more slowly and if there is any difficulty in having this deposition in English, we can address that issue at that time.

MS. GREENE: All right.

BY MS. GREENE:

Q Does Mr. Baran and Ms. Laham represent you personally?

A Yes.

Q You understand that this deposition will cover possible violations of the Federal Election Campaign Act as amended by you and by other people?

A Yes.

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Q I am going to ask you some questions about the facts giving rise to this investigation. If you don't understand a question, tell me so and I will repeat it or rephrase it.

A Okay.

Q If you don't hear a question, please let me know. If you answer a question, I will assume that you have heard it and understood it. If you become confused or if you want to take a break, let me know.

If you realize an answer that you gave earlier was incorrect, let me know and you can correct that. Do you understand the instructions?

A Yes.

Q Mr. Ikeda, what is your educational background?

A I majored electronics in ~~Japan~~ Japanese university.

~~Communication -- electronic communication university.~~ University of electro communication

Q Is that for a bachelor degree?

A Yes.

Q Do you have a masters degree?

A No.

Q What is your position with Toshiba America?

A Executive vice president and general manager. In charge of ~~the~~ Manufacturing Division of consumer products.

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Q How long have you held that position?

A Two years. Almost two years.

Q What was your position before that?

A I was the department manager of manufacturing department of Fukaya, F-u-k-a-y-a, ~~Inc.~~ Works, Toshiba Corporation.

Q Where was that?

A Manufacturing department making color TV sets. 15

Q Where was that position geographically?

A Close to Tokyo. ~~Next to Tokyo~~ Next prefecture of Tokyo.

Q When did you come to this country?

A Two years ago. 1986, July.

Q Had you had a lot of contact with American businessmen before that time?

A No.

Q Had you been to America before that?

A Yes, for business purposes I traveled two times.

Q When was that?

A The ~~past~~ First one ~~is~~ was -- I was in Singapore around -- I cannot remember the exact date. Around seven years ago.

The second one ~~is~~ was 3-1/2 years ago.

Q Where did you visit?

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A First one ~~in visit~~ Tennessee plant because Singapore at that time, supplying TV chassis to the ~~factory~~. The second time for my, how to say, just visiting several plants.

Q How long were those trips?

A First time only two or three days. Second time 20 days, three weeks.

Q Who reports to you at Toshiba America?

A I report to Toshiba America.

Q Who reports to you?

MR. BARAN: Do you understand the question?

THE WITNESS: Yes. Four persons report to me directly in Toshiba ~~labor in Toshiba plant~~.

BY MS. GREENE:

Q Who are those people?

A Assistant treasurer, Mr. Miyashita, second one is industrial relations manager, Mr. Tyree. Third one is Mr. Robert Traeger. Fourth one is Mr. Hashi-Mura. Also Japanese. He is in charge of microwave oven activity.

Q Who was the second person who reported to you? You said Tyree?

MR. BARAN: Tyree, industrial relations manager.

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BY MS. GREENE:

Q Could you spell those names for us, please?

A T-Y-R-E-E.

Q And the Robert Traeger and Mr. Miyashita, could you spell that for the record.

A M-i-y-a-s-h-i-t-a, Miyashita.

Q Does anyone else report directly to you at Toshiba America?

A No.

Q Who is it that you report to?

A I report to general manager of ~~audio~~/video TV equipment, Toshiba Corporation. Division of

Q Who is that?

A Mr. Komada.

Q Could you spell that, please.

A K-o-m-a-d-a.

Q Is he with Toshiba America or Toshiba Corporation?

A Toshiba Corporation.

Q That's the parent company of Toshiba America?

A Right.

Q Where is he located?

A Tokyo.

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Q How frequently do you speak with Mr. Komada?

A Komada ~~just to cover~~ covers the responsibility -- just of ALL Video products in Tokyo. He ~~assumed~~ took over the responsibility as of the first of April of this year. So, meantime, ~~I met him~~ I typed two times for business discussion. I met him two times only. This is since last April.

Q Who did you report to before Mr. Komada?

A His predecessor, Mr. Yamakawa. Y-a-m-a-k-a-w-a.

Q Was he also in Tokyo?

A Right.

Q How frequently did you speak with him?

A Very seldom. ~~He was~~ a day-to-day operation. I don't ~~report to~~ speak with frequently him. ~~He is just responsible for our~~ My responsibility is at TW plant. I discuss with him business strategy such as ~~investment purposes~~ budget, new investment plan. Day-to-day ~~basic~~ basis, business communication mainly handled between my ~~manufacturing department~~ division and sales office in New Jersey.

Q So, who did you report to in 1987?

A 1987, I ~~report~~ reported to Mr. -- 1987 I ~~report~~ reported to Mr. Yamakawa.

Q When you reported to Mr. Yamakawa, did you submit reports?

A Yes.

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Q -- To him?

A On a monthly basis we sent a financial report, manufacturing and operation report. That's all.

Q Did you consult with him beyond that?

A No.

Q Did you speak with him on the phone?

A No. He is very high [redacted] ranking person. I am low ranked person. We didn't have a chance to talk directly on the phone.

Q Who did you speak to directly in Mr. Yamakawa's office?

A Directly speak to Yamakawa's office?

Q Did you directly speak with anyone in Yamakawa's office?

A No. Through a report, a financial report and a monthly [redacted] operation report.

Q If you had a question about a business activity or an idea, who did you speak to in 1987?

A 1987, of course minor area I decide. The big investment or middle term management [redacted] plan I talk with Yamakawa, finally.

Q So, you did speak to Mr. Yamakawa in 1987?

A Right.

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Q You spoke to him directly?

A Yes. But between me and Yamakawa there are many staff people. Understand?

Q Yes.

MR. BARAN: For purposes of clarity here, the question is did you ever speak personally with Mr. Yamakawa.

THE WITNESS: No chance because he is director.

BY MS. GREENE:

Q But you said when you had an investment question, you would speak to someone of a higher rank than yourself; correct?

A Right.

Q Who did you speak to?

A For example, if we have department which controls overseas manufacturing ~~[illegible]~~ activity only for ~~audio~~/video TV ~~activity~~ products. So, I normally contact with the manager of such department.

Q Who was the manager of the department of overseas activity in 1987?

A Mr. Nakagawa, N-a-k-a-g-a-w-a.

Q Was there someone of a higher position than yourself that you spoke to about political affairs in the United States?

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A No.

Q What was -- did Robert Traeger have a role in the community in Lebanon as a representative of Toshiba America?

A Yes.

Q Could you explain that role?

A Mr. Traeger is the first employee Toshiba Lebanon plant. He actually selected the site of manufacturing activity and employed the key people and trained the people ~~[illegible]~~ last 10 years. Meantime, Japanese manager~~s stated~~ changed, three persons. I am the third person. So, from this point and from his career as a VP and a general manager of the Lebanon operation, he naturally represent the community activity. He represent such local activity.

Q Could you give us some examples?

A He was a member of a rotary, also the director of Cumberland University board. He sometimes ~~represent~~ attends Lebanon industrial ~~States~~ ~~industry affairs executives committee~~ industrial estates meeting. That type of activity.

Q Did he have any role as a Congressional liaison? Did he represent your company's interests in talking to Congressmen?

A ~~No~~ No

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A Let me confirm your question.

Q In his role as general manager for the Toshiba Lebanon plant, did he contact Congressmen and Senators on behalf of Toshiba America?

A Let me consult with my lawyer.

(Witness and counsel conferred.)

(The reporter read the record as requested.)

MR. BARAN: The answer is no. In his role as general manager did he contact these members?

MS. GREENE: Would you please repeat the question to the witness?

(The reporter read the record as requested.)

THE WITNESS: My feeling not on behalf of Toshiba America. Through his first 10 years activities, through his 10 years in residence in Nashville, he knows, I think, them.

BY MS. GREENE:

Q Did you ever discuss political affairs with Mr. Traeger?

A Yes.

Q Did Mr. Traeger ever tell you that he was contacting Senators and Congressmen to assist Toshiba America?

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A No.

Q Did you have direct conversations with Mr. Traeger?

A Yes.

Q How often did you speak to him?

A Almost every day because his room and my room are next to each other, operation wise. Every problem occurs, I talk to him.

Q Do you keep notes of any of those conversations?

A No. Notes?

Q Written notes.

A No. No time to write down. Many things.

Q Do you have weekly staff meetings?

A Yes.

Q Who is at the weekly staff meetings?

A The section managers that we assemble. And we assemble regularly and ~~they~~ We exchange ~~communication~~ information and each manager bring their ~~program~~ problem -- their problems ~~and discuss~~ are discussed how to solve ~~these problems~~ among managers. Mainly manufacturing problem, ~~a situation~~ such a, quality problem, how to improve the passing rate of ~~production~~ productivity, such type of discussion.

Q Who is at that meeting? Could you give me their

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names and their positions?

A above our section managers, we have around 15 people.

Q Could you tell me who they are?

MR. BARAN: You want all 15 names?

MS. GREENE: Yes.

THE WITNESS: One is Mr. Tyree, I.R. manager, the personnel manager, Brenda Copeland. Mr. Miyashita, Mr. Nelson, and also Ed Baird. He is a section manager of the finance department. We come to the production control area, Mr. Kanai, who is a department manager of production control and Dick Brannan. He is a section manager of production control department. Come to engineering, Mr. Ohmaya, O-h-m-a-y-a, who represents engineering department and Bobby Nayler, QC manager, quality control. Iwasaki, also Japanese, I-w-a-s-a-k-i. Come to computer, Shalley Collins, computer manager. Transportation manager, JTH Taylor. Manufacturing manager, Joe Collins. Not 15?

Q Two more people.

A And I, me. Not 15?

Q We are missing one. Do you want me to read back the names?

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A I think that is all. Let me correct not 15, 14 people.

MR. BARAN: This is -- the names are to the best of your recollection.

THE WITNESS: Right.

BY MS. GREENE:

Q You have a meeting with these people once a week?

A Yes, regularly I want to have.

Q Do you ever have smaller weekly meetings with the people that report directly to you?

A From time to time basis, not weekly.

Q What is Mr. Miyashita's role in the company?

A Miyashita's role is assistant treasurer. He is responsible only for the Toshiba Lebanon manufacturing activity financial and accounting area.

Q Do you have direct conversations with him?

A Yes.

Q How often is that?

A ~~Every day.~~ (almost) almost every day.

Q Do you keep notes of your conversations with him?

A No.

Q Do you have any direct conversations with Norman

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Nelson?

A No. ~~But~~ Basically through Miyashita, very rare the direct talk with Nelson. Nelson report to Miyashita.

Q Do you ever request that Miyashita arrange for special payments to be made?

A Yes.

Q How often do you do that?

A ~~Relate together~~ Relating to this case?

Q In general.

A Special payment, special payment.

MR. BARAN: Do you understand what special payment means?

BY MS. GREENE:

Q Outside of a normal payroll process.

A Other than this, no.

Q Generally, does Mr. Nelson bring you executive salary -- executive payroll printouts to sign?

A No.

Q Has he done that in cases other than the special payments to Mr. Traeger in 1987?

A Yes.

Q What other --

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A Just a moment.

MR. BARAN: Could you repeat the question, please?

BY MS. GREENE:

Q Sure. Has Mr. Nelson approached you with executive payroll printouts for your signature in cases other than your -- the payments to Robert Traeger?

A Other than?

MR. BARAN: Other than.

BY MS. GREENE:

Q Not those payments, other payments.

A Let me confirm your question. Nelson came to my office to -- my signature, other than this case?

Q Yes.

A No.

Q Generally, how would a person get a bonus who is on the executive payroll?

A We don't officially call bonus. But end of a fiscal year, normal year, end of March, we pay ~~fecne~~ (round sum) money. We call it appreciation, not a bonus.

MR. BARAN: Normally, at the end of March we pay a round sum of money which we don't call a bonus, we call

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appreciation.

THE WITNESS: It depends on the financial outcome.

BY MS. GREENE:

Q Do you have -- give bonuses or appreciation in any other circumstances other than as a determination based on profit?

A Let me confirm the question.

MR. BARAN: Perhaps, if I may attempt to restate the question. Are there any other payments to employees besides appreciation payments and salary?

THE WITNESS: No.

BY MS. GREENE:

Q Is there any method for a supervisor to attain an additional payment for one of the people he supervises because he thinks his work is good?

A Supervises?

Q Of the four people that report to you, that supervise departments, is there any way for them to get special payment for one of their workers because they thought their work was good or for any other reason?

MR. BARAN: I want to interpose an objection. I

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think that Mr. Ikeda, immediately preceding the question, testified that there were no other payments to employees other than the appreciation payments and salary payroll.

THE WITNESS: Yes. = NO

MR. BARAN: Your question presumes that there are other payments and his testimony does not substantiate that.

MS. GREENE: I want to find out if there is a method for obtaining other payments in the company's rules.

MR. BARAN: Can we confirm that there are no other payments?

BY MS. GREENE:

Q Is that correct; that there are no other payments?

A No.

Q That is not correct or that is correct?

A No other payment, other than payroll and appreciation.

Q Did Toshiba America reimburse Robert Traeger for making political contributions?

MR. BARAN: I object to the use of the word "contribution" to the extent that it is meant to be a term of art under the Federal Election Campaign Act.

MS. GREENE: As we use it in this context, the

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term "contribution" will mean what it means in the daily usage in the English vocabulary of the term "contribution" meaning --

MR. BARAN: If you will stipulate when you use the word contribution you are not using the word in a legal sense, I will agree to that.

MS. GREENE: When we talk in terms of the word "contribution" in this context, we are not referring to a legal conclusion necessarily. I think the term in the act relates very much to the everyday usage of that.

Let's go off the record.

(Discussion off the record.)

BY MS. GREENE:

Q Let the record show that with -- we had an off-the-record discussion between Mr. Baran and myself in which Mr. Baran discussed --

MR. BARAN: I object to any characterization of what I said off the record. If you wish to repeat the conversation for the record, I can use my own words. The record can show that we were off the record.

MS. GREENE: The conversation off the record concerned Mr. Baran's objection to the use of the term

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"contribution." That is what I was going to say.

BY MS. GREENE:

Q Did Toshiba America reimburse Robert Traeger for making payments to political committees?

A I don't understand political committee.

Q By the term "political committee" I mean the groups -- the committees formed by political candidates --

MR. BARAN: May I suggest the question be rephrased to ask Mr. Ikeda what his understanding was of the purposes of the payments that Mr. Traeger had issued.

MS. GREENE: What I would like to do now is take a 10-minute break and go off the record and resume questioning in 10 minutes.

(Recess.)

BY MS. GREENE:

Q Mr. Ikeda, when we -- when I ask you questions about payments for political purposes -- and I will use that phrase for the next several questions and for the rest of the record -- I mean payments made to political committees. What I mean by that is payments to candidates for the United States House of Representatives, to the United States Senate or for the United States presidency or their organizations or

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their campaign organizations. For example, that would mean a payment to Jim Sasser or his campaign organization for his U.S. Senate position. Do you understand that?

A Understand. It's okay?

MR. BARAN: If you understand.

BY MS. GREENE:

Q Did Toshiba America make payments to Robert Traeger to compensate him for payments for political purposes?

MR. BARAN: Would you like the question repeated?

THE WITNESS: Political purposes Toshiba America reimbursed Mr. Traeger?

MR. BARAN: Yes. You may answer the question.

THE WITNESS: Yes.

BY MS. GREENE:

Q Did Toshiba America compensate Mr. Traeger for payments his wife made for political purposes?

A Let me explain the political purposes. When he came to my office, he received an invitation letter for a dinner party for Mr. and Mrs. Traeger. So, he said he want to attend this dinner party because many of his acquaintances may join. That is the first thing he told me. Understand

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what I mean?

Q Yes.

A So, let me supplement also my understanding. Such dinner party participants participation in Japan quite normal. So, that's my -- same things in the U.S. That's my first understanding.

Q When you talk about dinner parties, you talk about -- are they dinner parties for people who are -- who hold political offices?

A ~~I don't know~~ I didn't know. Because I haven't seen the card itself. That card directly ~~mail~~ mailed to Mr. Traeger's house. was Understand?

Q Directly mailed to his house?

A Yes. His house, his own house.

Q How do you know that it was mailed to his own house?

A He said he received the letter, invitation letter, from some person to his house. ~~He~~ He told me.

Q Did he say that he received the invitation at his office?

A I can't remember. At that time my understanding at his house, not office.

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Q When was the first time that Mr. Traeger spoke to you about having Toshiba America pay him or compensate him for payments he made or was going to make for political purposes?

A I cannot recall exactly the time, but after I see that record. I suppose sometime April or end of March last year, 1987. He came to my office and just ~~said~~ told me the card, invitation card and he ~~want~~ wanted to participate. That was the first discussion. I remember at that time -- we had visits every day. Many problems occur there. So, we touch bases ~~spoke~~ and we departed.

Q In this conversation in April or March 1987, did that relate to an invitation by James Sasser?

A I ~~don~~ did't know the name exactly. I cannot remember the name from who.

Q But he told you the name?

A Yes, might be.

Q Yes or no?

A Yes, he told me the name. That I ~~cannot~~ couldn't remember the name of the person.

Q Did Mr. Traeger propose that the company pay him -- increase his salary to make payments for political

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purposes?

A Yes. As I told you, first time he proposed -- come to my office with a card -- and said, I received this letter so I want to participate with my wife.

My first response was negative, for ~~most people~~ he told that it was ~~1000~~ +1000 to go, ~~500~~ $500 each person. Concerning our financial status, P&L status, no money. That situation, we ~~couldn't~~ Couldn't afford to do so.

But one or two weeks later he again appeared to my office --

Q Let me just interrupt for a second. The first meeting when he asked about increasing his salary --

A No.

Q I want to know when the first meeting was and the second.

A That's just informed me that at the first meeting just told me. We ~~are~~ were so busy at the time so touch bases. He came. I received this letter. I want to participate in this party.

Q Please.

A I ~~can~~ could't recall, but one or two weeks later, again he appeared to my office and advised me, please let him allow

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to participate in the party. Because some -- have to reply, you have to reply yes or no.

Q Okay.

A So, at that time he brought the idea, please pay bonus. Then we can -- then he can afford to attend he advised. That's quite unusual matter for me to pay a bonus such at May time. So, I questioned why? His explanation to me, this is such a way -- well done in the U.S., it is common, no problem paying bonus.

Q Paying bonus for individual payments?

A Yes.

Q Did Mr. Traeger tell you that payments by corporations for political purposes were illegal?

A No, not at all.

Q Never?

A Never. He explained that's the way his understanding -- I suppose -- sorry. (I) cannot tell this one. He never explained.

Q I'm sorry. I didn't understand what you meant by I cannot tell.

A He tell -- he didn't tell anything about illegality of this way.

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Q That's not the question I am asking.

MR. BARAN: Were you about to speculate? Were you about to guess at something when you stopped your testimony? When you said, I suppose, were you starting to speculate?

THE WITNESS: Okay. Not testimony. I suppose --

MR. BARAN: I believe Mr. Ikeda stopped talking because he realized he was about to speculate about something and declines to speculate.

BY MS. GREENE:

Q Is that correct, Mr. Ikeda?

MR. BARAN: Do you understand what speculate means?

THE WITNESS: To guess.

MR. BARAN: Yes.

BY MS. GREENE:

Q Is that yes?

A Yes.

Q Did Mr. Traeger ever ask you -- did Mr. Traeger ever suggest to you that Toshiba America establish a PAC, political action committee?

A No.

Q Did anyone at Toshiba America discuss with you the

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idea of establishing a PAC, a political action committee?

A No.

Q Did Mr. Traeger -- do you know what a PAC or a political action committee is?

A Sorry. I don't know.

MR. BARAN: Do you know what a PAC or a political action committee is? Do you understand what the term PAC or political action committee means?

THE WITNESS: No.

BY MS. GREENE:

Q These are committees set up by a PAC, a committee that is set up for the purposes of making payments for political purposes and putting forth usually a corporation's viewpoint where people in the corporation contribute to the political action committee.

A Okay.

Q You understand. Did Mr. Traeger ever discuss that with you?

A No.

Q Did Mr. Traeger ever discuss with you that corporations cannot make payments --

MR. BARAN: I object. It has been asked and

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answered.

MS. GREENE: I want to clarify, Mr. Baran. In this case I think there is some clarification necessary.

BY MS. GREENE:

Q Did Mr. Traeger ever tell you about -- that corporations are prohibited from making contributions or payments for political purposes?

A No.

Q Did -- were positive political relations with Congress particularly important to Toshiba America in 1987?

A Let me confirm the question. Your question is particularly very important in 1987 for Toshiba America?

BY MS. GREENE:

Q Yes.

A Lebanon plant?

Q Yes.

MR. BARAN: Answer as best as you can.

THE WITNESS: Yes.

BY MS. GREENE:

Q Could you explain that.

A As you know at that time Toshiba machinery incident happened.

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MR. BARAN: The propeller?

THE WITNESS: Right. Some legislation proposed --

MR. BARAN: Regulation.

THE WITNESS: legislation to the Toshiba operation in the United States. Do you understand what I mean?

BY MS. GREENE:

Q Do you mean there was a bill in Congress?

A Right.

A 1987 first of July, Toshiba machinery scandal blew up and the TV and newspaper in Lebanon (very country side of rural town.) They have a very local news only, the Lebanon Democrat. TV news reported such news and our 600 employees were so much concerned at that time. That was the period 1987 that we are speaking.

Q Were there any reports of the Toshiba machinery plant in Lebanon blow up in March 1987?

A No, not public. Not at that time.

Q You knew about the problem at that time?

A Yes, some started to report some news.

Q In March 1987?

A No, no. Some small paper in Washington, I think.

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Q When did they report -- first report this?
A Washington times or such paper.
Q When was that first report to your knowledge?
A I cannot remember. March or May or such time --
MR. BARAN: Do you remember?
THE WITNESS: No.
BY MS. GREENE:
Q Were there any meetings called in Washington, D.C. by the head of Toshiba America?
A No.
Q In 1987?
A No.
Q There never --
A In Washington, no. I don't know.
Q You don't know or no?
A No. I found -- out as far as I know, no.
Q In 1987, who was the head of Toshiba America?
A Head Mr. Ishizaka. He is a chairman of Toshiba America Inc. His office is in New York.
Q Did Toshiba America have any meetings in Washington in 1987?
A No, I don't know.

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Q Were there any efforts, to your knowledge, by Toshiba America to control the political problem connected with Toshiba machinery?

A As far as I know, I don't know. You mean the meeting of Toshiba America?

Q Of representatives of Toshiba America.

A No. Representatives of Toshiba America, including me?

Q Including you or Robert Traeger.

A I don't know. I cannot remember.

Q Did Robert Traeger ever discuss in weekly meetings efforts in Washington by Toshiba America to control the political damage connected with Toshiba machinery?

A Let me clarify.

MR. BARAN: Do you understand the question?

THE WITNESS: Yes.

MR. BARAN: If you understand the question, please respond.

THE WITNESS: I think not weekly, not weekly. After July -- after July, this case blew up and everybody concerned with job security and on behalf of local American, Mr. Traeger, I think, very much concerned and come to -- came

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to Washington, I think.

BY MS. GREENE:

Q He did?

A Yes.

Q Did he come to Washington as a representative of Toshiba America's Lebanon plant?

A I don't think so. He is a personal -- how to say. He acquaint with Congressman Gordon, ~~which~~ whom he knows well. So, to meet him and get the information what is going on. That ~~is~~ was my understanding at that time.

Q He did that for his own purposes?

A Well, his own purposes, for his job security and on behalf of Toshiba America Lebanon plant, I think. Very difficult to specify, distinguish -- identify the purposes for his own purposes or on behalf of.

Q Did -- you stated earlier that Mr. Traeger was a representative of Toshiba in the community.

A Right, was.

Q Was he also a representative of Toshiba to Congress?

A I cannot understand that, such case represent, what that means. Represent on behalf of Toshiba America?

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What he did, what he planned, Exactly doesn't mean ~~that~~ Toshiba America's intentions or ~~were~~ the idea. Do you understand what I mean?

Q When you spoke to Congressman Gordon?

MR. BARAN: I object. There is no foundation.

BY MS. GREENE:

Q When Robert Traeger went to Washington to speak to Congressman Gordon, was Toshiba America paying for the trip?

A Yes.

Q Was Toshiba America paying for his hotel?

A Yes.

Q And meals?

A I think so.

MR. BARAN: Do you know?

THE WITNESS: Yes. I think so.

BY MS. GREENE:

Q That's a yes?

A Yes.

Q When Robert Traeger was sent by Toshiba America to Washington and spoke to Mr. Gordon, was he speaking on behalf of Toshiba America?

A Cannot tell the exactly -- I don't know the exact

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purpose of his trip, who he will meet, who met with him.

Q But it was on Toshiba America business?

A Yes, right. Just the business trip.

Q Was his business to speak to members of Congress on behalf of Toshiba America?

A He is a vice president and general manager of Toshiba America. Whatever he says -- what he says will represent Toshiba America, Lebanon plant, I think.

Q Did Mr. Traeger tell you whether anyone that he met from Toshiba America -- let me rephrase the question.

Did Mr. Traeger tell you that he was meeting in Washington with representatives of Toshiba America regarding the Toshiba machinery problem?

A Please repeat the question. Sorry.

Q Did Mr. Traeger tell you that he was meeting other representatives from Toshiba America in Washington about the Toshiba machinery problem?

A He didn't tell me. Just he -- he is familiar with Washington because he is now the chairman of EIA, the electronics industries EIA.

MR. BARAN: Electronics Industry Association.

THE WITNESS: Sub [redacted]committee, yes. He also [redacted]

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handle in the attorney, like, how to say, [redacted] attorney for duty and custom matters. I can't remember the -- so, other purposes, he also came to Washington.

BY MS. GREENE:

Q Did Robert Traeger frequently go to Washington in 1987?

A Cannot exactly the frequency. Once or twice or two months that's what I recall.

MR. BARAN: He said once or twice is his recall.

THE WITNESS: Once or twice a month.

BY MS. GREENE:

Q Once or twice a month?

A Yes.

A Let me correct. Once a month, not twice a month because he is very busy in factory.

BY MS. GREENE:

Q When Mr. Traeger asked you -- asked that Toshiba America compensate him for his payments for political purposes, what did he tell you about American practices?

A He explained to me companies executive, like Robert Traeger, sometimes face such a necessity to donate money or participate in a dinner party for such purposes.

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So, companies executives get some money as a bonus, such a very well known and very prevailing way. That was his explanation to me.

Q Why did you call it a necessity?

A Necessity means that he is company executive and lives in Nashville and comes as a member of an active community, active community to -- how to say -- a member. He is ~~involved~~ involved in many, many committees. He is also a Nashville Opera committee member and ~~restaurant~~ industrial estates manager's committee, such purposes. Sometimes he explained the necessity. That's what that means.

Q Was it necessary as a -- did he explain that -- when you talked about it being a necessity for corporate executives to pay to go to these kind of parties, do you mean for their reputation in the community or for the company?

A I think both. For his own reputation, for his community and, according to him, for the company.

Q Did he suggest that other people -- other executives at Toshiba America receive compensation for payments for political purposes?

A No.

Q Did you discuss that idea with him?

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A No.

Q When Mr. Traeger told you that he had to reply to this first invitation, did he -- did you agree at that time to authorize compensation for him?

A Yes.

Q About when was that?

A I cannot remember, but judging from this, my signature, that time authorized.

Q What I would like to do now is have the court reporter mark this four-page stapled exhibit item as Exhibit Number 1. I will give a copy of this to Mr. Ikeda and his counsel to review.

(Ikeda Exhibit 1 identified.)

BY MS. GREENE:

Q Have you had a chance to review the document, Mr. Ikeda?

A Yes.

Q Could you describe what this document is?

MR. BARAN: I object. The document speaks for itself. For purposes of foundation, Mr. Ikeda ought to confirm his familiarity with this document.

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BY MS. GREENE:

Q This document appear to be an executive payroll for Toshiba America manufacturing division. It includes four run dates: Run date May 11, 1987; June 11, 1987; July 8, 1987 and November 11, 1987.

Mr. Ikeda, looking at page 1 of Exhibit Number 1, have you seen this page before?

A Yes.

Q When did you see it?

A This one is when Mr. Nelson came to my office and asked me to sign. This is my signature at that time first.

Q Looking at this date next to your signature, May 15, 1987, does that refresh your memory about when you had a conversation with Mr. Traeger?

A I thought at that time.

Q That day?

A No.

Q Before that day?

A After.

A This date -- I think, before ~~that~~ this date, Mr. Traeger approached me to approve. Then this is the financial record. So, Mr. Nelson came here to give me approval for such

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purposes. So, not directly the date it said -- not directly linked with the date of discussion.

Q How many days before this was your discussion with Mr. Traeger?

A Sorry. I cannot recall.

Q Would it have been --

MR. BARAN: I object. It is asked and answered. He does not recall.

MS. GREENE: Mr. Baran, I would like to establish a time frame.

MR. BARAN: You began your question with the words, "would it have been," which requires a speculative answer.

MS. GREENE: Okay.

BY MS. GREENE:

Q Your conversation with Mr. Traeger, the first conversation, was it in April of 1987?

A March or April.

MR. BARAN: I object. That question has been asked and answered. It is on the record twice.

BY MS. GREENE:

Q Did you tell Mr. Traeger that -- let me rephrase

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it. After you told Mr. Traeger that you would approve compensation for this payment, who did you -- did you approach anyone to authorize the payment?

A I approach? I talk to Mr. Miyashita. He is responsible for financing and accounting.

Q When did you speak to Mr. Miyashita?

A I can't recall the date exactly. I think after one or two days' later discussion with Mr. Traeger.

Q Would that discussion have been -- was that discussion in May 1987?

A I cannot recall. This date is just -- on that date, I was requested by Mr. Nelson, so I recall this date clearly written here. Before that, time frame I couldn't remember the date.

Q When you say this date, you mean May 13, 1987?

A Yes. I can remember that I signed myself. No question. But before that, what day I did what I -- I can't recall March or April or May. I can't remember when before -- nobody can recall, I think.

Q When you approached Mr. Miyashita, what did you tell him about payment?

A I approve the money as a [redacted] to Mr. Traeger. payment?

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That's all.

Q Did he ask you why?

A Did -- of course he questioned. He [redacted]ol's of the financial and accounting. I explained just what Mr. Traeger [redacted], that he [redacted] to participate in a dinner party, invited by somebody and he, according to his explanation, paying bonus this way, is no problem legally. So [redacted] proceed. That's my instruction to Mr. Miyashita.

Q Did you tell him that the dinner party was being held for political purposes?

A Myself?

Q Yes.

A Of course I -- politician's party, political purposes, I suppose. Dinner party means communities, how to say, all key peoples in the such area assemble and meet each other, say hello. I thought that is the type of dinner party. That's my first feeling.

Q Did you -- when you spoke to Mr. Miyashita, did you say that it was -- the dinner party was for a politician?

A Yes.

Q Did you say it was for -- did you say who it was for?

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A Sorry. I couldn't tell who was who at that time. Now I can do it. But politicians, I was not familiar with that name. House or Senate side, I'm sorry. I didn't know who was who. Now I know.

Q When you approached Mr. Miyashita, did you tell him who the House or Senate member -- whose dinner party -- when you approached Mr. Miyashita, did you tell him who the dinner party was for?

A Yes. I think, if I remember, some politician who Mr. Traeger know. That's the expression.

Q You told him that it was legal?

A Me?

Q Yes.

A Yes. I understand legal, this case.

Q At that time you told Mr. Miyashita that this payment would be legal?

A Yes. Yes. Just -- I told legality, same as Mr. Traeger explained to me.

Q Did Mr. Miyashita ask you about the legality?

A No. As I told him, as what Mr. Traeger says, legal, so he had no objection to such request.

Q Have you approached Mr. Miyashita in other cases

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to make checks?

A What do you mean "checks"?

Q For payments.

A Before --

Q Other than this, other than the payments to Mr. Traeger.

A No.

MS. GREENE: Excuse me for a moment.

(Pause.)

BY MS. GREENE:

Q After you spoke to Mr. Miyashita, who was the next -- when was the next time you discussed the payment to Mr. Traeger?

A You mean the following page?

Q The first payment.

A Next person?

Q Or the next time you discussed it.

A No. Just I spoke to Mr. Miyashita. That's all.

Q Then did Mr. Nelson approach you?

A Yes, to get my approval.

Q Why did Mr. Nelson approach you for your approval?

A Normally, payment period of appreciation [redacted] bonus

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is an end of a fiscal year, end of March. It depends on their performance. So, only for Mr. Traeger paying some money. So it is quite unusual. So he wanted to get my approval. That's what he said when he came to my office.

Q You said before that you used the term appreciation. Here are the -- here the written language is "approved as bonus payment."

A I didn't have a deep thinking bonus or appreciation, just at the time, whatever you want, what Mr. Nelson said, a bonus or appreciation, anyway, at that time I chose this word "bonus."

Q Did you think of -- did you discuss calling it anything else other than a bonus with anyone?

A No.

Q When Mr. Nelson came up to you, that was the first time there was a question about how to characterize the payment; is that correct?

A How to characterize the payment. The first person -- please repeat. Sorry.

Q When Mr. Nelson approached you to have you sign this print out, was that the first time there was a question about how to categorize this payment?

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A Yes.

Q Did you discuss with Mr. Miyashita how to characterize this payment?

A I cannot remember. Maybe speak, maybe not. So, I cannot remember.

Q Did you discuss with Mr. Miyashita whether to make this payment to Robert Traeger in the form of a bonus or reimbursement?

A I told bonus.

Q Did you ask Mr. Traeger to provide Mr. Nelson with canceled checks to prove that he had made the payments?

A Sorry. Please repeat that.

Q Did you ask Mr. Traeger to provide Mr. Nelson with copies of his checks for these dinner parties?

A I think so, yes.

Q When did you ask him to do that?

A I asked Mr. Traeger to show the copy of a payment. That's your question?

Q Yes.

A If so, sorry. Let me cancel my words. No, I didn't tell him.

MR. BARAN: He is changing his answer.

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THE WITNESS: I think Mr. Nelson request -- I think, requested.

BY MS. GREENE:

Q Did you discuss Toshiba America's compensation of Mr. Traeger for these payments with anyone else other than Miyashita and Nelson and Traeger?

A Absolutely no.

Q Did you approve compensation for anyone else at Toshiba America for making payments for political purposes other than Robert Traeger?

A No.

Q Did you tell -- when was the second time -- did Mr. Traeger again approach you to receive payment from Toshiba America for making payments for political purposes after March or April of 1987?

A Sorry. Could you repeat the question?

Q You stated that Mr. Traeger asked you to compensate him for payments that he was going to make.

A Yes.

Q And that was -- that payment was compensated in May; correct?

A Yes; right.

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Q Did Mr. Traeger again approach you for --

A Yes.

Q To make other contributions?

A Yes.

Q When did Mr. Traeger next approach you?

A I can't remember. I cannot recall.

Q The date?

A The date.

Q But he did approach you again?

A Yes, sure.

Q Did he show you an invitation or state that he had an invitation?

A I cannot remember. Just verbally.

Q What did Mr. Traeger tell you or ask you in the second meeting?

A I cannot clearly recall what conversation was made between us, a similar letter he received, so please approve as [redacted] the first invitation letter. That's my (Well as) understanding.

Q Did he tell you who --

A He might, but --

MR. BARAN: I don't think there is a complete

9204090447 4

question here.

BY MS. GREENE:

Q Did he tell you who he was going to make the payment to?

A He might, but I couldn't recall who ~~is~~ was who [redacted] now.

Q Did you discuss with him whether to make -- whether he should make a payment to that person?

A Yes. Means first approval already made, the following procedure, same thing. I have never doubted legality, so I said okay, proceed the same way. That is my answer at that time.

Q Did you discuss whether it would be good for the company to contribute to that person?

A No.

Q Did you approach Mr. Miyashita to approve for payment to Mr. Traeger?

A Yes, I did. Same request I received from Traeger. We proceed as well as the previous time.

Q Did you tell Mr. Miyashita at that time, the second time, that Mr. Traeger had received an invitation for political purposes?

A I cannot remember. But I might.

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Q Did Mr. Miyashita question you about the request?

A No.

Q Did Mr. Traeger tell you that he had been advised by someone in Washington that Mr. Sasser and Mr. Gore would be good people to contribute to?

A He didn't, no.

Q Did you have any further conversation with Mr. Miyashita regarding a second payment to Mr. Traeger?

A No.

Q Did Mr. Nelson ask you to initial page 2 of Exhibit 1?

A Yes.

Q So, Mr. Miyashita didn't ask you to initial the payment, the printout; is that correct?

A Mr. Miyashita asked me to approve --

Q Did he ask you to sign, initial this?

A Mr. Nelson came to my office, not Miyashita.

Q Did Mr. Miyashita tell you he would send Nelson to get your written approval?

A I don't know. Mr. Nelson directly came to me. So, I don't know. So I don't know if Mr. Miyashita asked him or not. I don't know.

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Q Did Mr. Miyashita tell you he would send Mr. Nelson to you to get written authorization?

A I suppose so. I suppose so, but I cannot determine such.

Q When did Mr. Traeger next approach you to obtain compensation for payments for political purposes?

A Sorry. I cannot remember.

Q Would it have been in June or July of 1987?

A Yes, judging from such page maybe.

Q Turning to page 3 of Exhibit Number 1, is this your signature?

A Right.

Q The date below that is July 16, 1987?

A Yes.

Q Is that correct?

A Yes.

Q You have seen this page before; correct?

A Yes, when I signed here on that day.

Q How did this check come about? Did Mr. Traeger approach you again?

A Yes, same thing.

Q Did he show you an invitation?

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A I think he didn't.

Q Did he tell you that he had received a solicitation?

A Received a solicitation.

Q Did he tell you who it was from?

A He might tell me, but I cannot remember the name.

Q Do you recall him -- do you recall whether he told you the names for all of these checks at the time he requested payment?

A Yes. But not familiar name --

Q So, you don't remember?

A That's the reason.

Q But he told you the names at that time?

A I think so.

Q Did you again approach Mr. Miyashita to issue a check to Robert Traeger for $600?

A Yes.

Q Then Mr. Nelson came to you?

A Right.

Q Did you discuss this payment with anyone else?

A No.

Q Did you tell Mr. Miyashita who this check was for?

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A No, he didn't.

Q Did you tell Mr. Miyashita that again, Mr. Traeger had received an invitation to an event for political purposes?

A Yes.

Q Did you again explain that it was legal, the third time?

A Yes. Sorry. Let me cancel my words. I didn't say anything about legality because we believed that was the right thing. Miyashita never questioned me. I never questioned.

Q You said the first time you told him about what Mr. Traeger had said about its being legal?

A Right.

Q Looking at page 3 of Exhibit 1, why isn't there a characterization of the payment to Mr. Traeger? It doesn't say "bonus" like the other statements did. Do you know why?

A No particular reason. Just he come to my office and just ask me to sign. That's all.

Q In the previous two cases, did you write the term "bonus"?

A Yes.

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Q You wrote that on the second page where it says "bonus." Did you write that?

A No.

Q So, what exactly -- what did you say to Mr. Miyashita about the third check?

A I cannot remember the exact what I told him, same thing as Traeger approached me again, so approve, please go ahead, as well as the previous time. I cannot exactly remember.

Q So, you told him, generally, that this was for the same purpose?

A Yes.

Q As the first two checks?

A Right.

Q Looking at page 4 of Exhibit Number 1, have you seen this page before?

A No. Not until I get a copy of this.

Q Until today?

A No. Before relating to this response I get a copy from Nelson. That is the first time I saw.

Q At the bottom of this page, in handwriting, there are two payments to Robert Traeger identified, one for $600

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and one for $500. What were those -- what were those payments for?

A I think it is the same purposes. Mr. Traeger received another invitation. He may contact to get approval so he might not -- right now I cannot recall. He -- I appear -- I cannot recall whether I approved or not. He himself also the previous three times approved. So he might think automatically approved. So, sorry, I cannot remember whether officially I approved it or not for this purpose.

Q Do you recall whether Mr. Traeger told you that he had received an invitation from Bob Clement or a solicitation from Bob Clement to make a payment for political purposes?

A Bob Clement, not a familiar name for me.

Q Did Mr. Traeger tell you that he had received solicitations from Bart Gordon or Albert Gore to make payments for political purposes in October or November of 1987?

A 1987, I can't remember.

Q Did Mr. Traeger approach you to get authorization for -- did Mr. Traeger approach you to get authorization for the $600 check that is reflected on page 4 of Exhibit Number 1?

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MR. BARAN: Page 4 of Exhibit Number 1, I believe that that is a variation of a question you asked earlier.

MS. GREENE: I want to make sure that we have the answer.

MR. BARAN: You can say it 100 times and it will be answered in the same way.

THE WITNESS: Your question is $400?

BY MS. GREENE:

Q I want to look at each payment. The payment to Robert Traeger for $600 -- did Mr. Traeger talk to you about making contributions -- about making payments for political purposes and ask that the corporation again reimburse him?

A I cannot exactly recall. But he might request.

Q He might have requested?

A Yes. He might requested me.

MR. BARAN: Do you recall that he requested this payment?

THE WITNESS: Sorry. I cannot recall.

BY MS. GREENE:

Q But you think that he might have?

A Yes.

MR. BARAN: I object to speculative questions

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asking speculative answers.

BY MS. GREENE:

Q Last fall, was there a race for -- was there a campaign for a Congressional seat from Nashville, Tennessee that you knew of?

A I did don't know.

Q Did you know that Terry Holcomb was running for a Congressional seat from Tennessee last year?

A Who?

Q Terry Holcomb?

A No. I am not familiar with that name.

Q Did Mr. Traeger have authority to ask -- to get a payment from Toshiba America made out to him without your signature or approval?

A Actual officially I think, no. But three or four times approved by me and he might think so he can authorize himself such request would be automatically approved by me. So, that is my understanding.

Q Between the time that you authorized the first and the third check, was there any time that Mr. Traeger asked you to authorize compensation for -- I am getting long-winded. Let's try again.

9204090448 3

Between the first and the third check to compensate Robert Traeger for his political payments, did he approach you -- did you ever reject a request from him for payment for political purposes?

A No. That's all, three occasions, everything he approached me. My answer is enough for you?

Q After the third payment, did you ever turn down Mr. Traeger, a request from Mr. Traeger for compensation for political payments?

A I requested who?

Q Did you ever turn down or deny a request from Robert Traeger for political payments?

A No.

MR. BARAN: The question is ever? Did he ever deny?

MS. GREENE: Yes.

MR. BARAN: He has previously testified that he denied the first --

MS. GREENE: It was a shorter time period.

MR. BARAN: If I may complete my response here. He previously testified that he turned down a request the first time Mr. Traeger came to him.

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BY MS. GREENE:

Q Is that correct?

A Yes, first time.

Q Was the request that you turned down the first time a request to increase his salary overall?

A No. First time I just explained, he touched bases, approached to me and received this invitation, said "I want to attend this party." But it was for the couple, Mr. and Mrs. Traeger. It was very expensive. That was my feeling. Judging from my operation, financial situation, I was reluctant to approve at that time. I didn't reply to it that time.

Q So, you didn't reject the idea the first time?

A I didn't strongly deny, just this type of so-so situation. There were such questions. If possible, he -- how to say -- cancel, I prefer.

MS. GREENE: Let's take a short break.

(Recess.)

MS. GREENE:

MR. BARAN: I would like to make a statement now that we are on the record. The time right now is 12 minutes to 12. This deposition commenced at 9:30 promptly. We are

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reconvening at this moment after a 20 plus minute break at which time --

MS. GREENE: I don't think we broke until after 11:30.

MR. BARAN: No. It has been 20 minutes since the counsel for the FEC left. Since the commencement of this deposition at 9:30, Mr. Ikeda has been here for a total of half an hour without any questions being asked. May I inquire how much longer counsel thinks this will go on, assuming there are no further breaks?

MS. GREENE: Reserving the option to break, I assume the deposition should go no later than 3:00, hopefully, substantially earlier if there is cooperation on everyone's part.

MR. BARAN: We have been here the whole time counsel. We are cooperating. We have not asked for a break.

MS. GREENE: I hope it will continue.

BY MS. GREENE:

Q Mr. Ikeda, did Mr. Nelson ever question the legality of these payments to Mr. Traeger?

A No.

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Q Did Mr. Traeger ever ask for an activity fee for his activities relating to Toshiba?

A Mr. Traeger asked me his activities?

Q To pay him an additional sum of money in addition to his salary as an activity fee.

A No.

Q At Toshiba America, do you ever have any educational programs relating to the American system of government and how it relates to Toshiba America's business?

A No. Not ~~through~~ to me.

Q At the weekly meeting has anyone made presentations about the American political system?

A No.

Q In 1987, did Toshiba America have a policy regarding compensating Toshiba America officials or officers for payments for political purposes?

A 1987?

Q Last year.

A I think after this issue, ~~o~~ Toshiba America had issued a policy.

Q Do you have a copy of that policy?

A No.

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Q What was the policy that was issued?

A No payment, that's my understanding, at all. Not allowed. That is a written (wording)?

Q Did you have any training in the office in Tokyo before you came here about the American political system, about doing business in America?

A No.

Q Do you know who Paul Wexler is?

A Paul what?

Q Paul Wexler.

A No.

Q Did Mr. Traeger receive any compensation from Toshiba America for making payments for political purposes after November 1987?

A After November. I don't know. I think no. Other than this, no.

Q Why were there no payments to Mr. Traeger after November 1987?

A He didn't approach, he didn't request. That is it.

Q You stated earlier that Mr. Traeger had gone to Washington on an average of once a month; is that correct?

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A At that time exactly, I cannot remember the frequency.

Q In 1987, after the Toshiba machinery story was in the newspapers, did Mr. Traeger go to Washington for any meetings?

A Yes.

Q Were they with other Toshiba America representatives?

A I don't know who represented such meeting. I was not involved.

Q To your knowledge, did Mr. Traeger attend meetings in Washington which involved Mr. Ishizaka in 1987?

A I don't know.

Q Did Mr. Traeger discuss anything about meetings in Washington with Mr. Ishizaka?

A 1987? I cannot remember. He -- I cannot remember if he told me or not.

Q Did Mr. Traeger tell you about meetings in Washington involving John Anderson?

A John Anderson. [redacted] attorney, you mean?

Q Yes.

A He didn't tell me.

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Q Did he tell you about meetings in Washington involving Floyd Bender, the president or vice president of the international manufacturing division of Toshiba in Texas?

A Floyd what?

Q Floyd Bender.

A Floyd Bender?

Q Yes.

A No.

Q Did he tell you about meetings in Washington with Mr. Miyashita in 1987?

A 1987, he went to Washington, as I told you, around once a month.

A But what we -- what was discussed, who attended, he didn't tell me. I cannot remember.

Q Did he tell you that there were meetings about how to protect Toshiba America from -- did he -- did he tell you that there were meetings in Washington to protect Toshiba America's business after the Toshiba machinery story hit the papers?

A To protect our job security in Lebanon is -- is I and Mr. Traeger's biggest concern at that time. So I spoke with him every day, what is going on here, that type of

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discussion.

Q In those type of discussions, did Mr. Traeger tell you that there were meetings in Washington regarding how to protect Toshiba America's business and the job security of people in Lebanon?

A I don't know. I can't remember.

A Of course, meeting in Washington he attended, discussed our job security, I suppose.

Q Did he tell you that there was any plan of action discussed with other Toshiba America representatives in Washington about how to protect Toshiba America's business?

A Sorry. I am not -- I didn't come to Washington, never. This is the second time the trip for me. You -- so, I don't remember the meetings. So, I ~~don~~'t know what ~~its~~ didn't was discussed.

Q I am asking you what Mr. Traeger told you.

A Yes. He told me what the situation in the House and the Senate and if that legislation becomes law, what impact will come to our operation, that type of discussion.

Q Did he tell you that at these meetings in Washington about the harmful legislation, that he was told to contact the congressmen and senators from Tennessee on behalf

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of Toshiba?

A I think so, on behalf of our employees, our 600 employees. It seems that the concern, not only our concern, but also the, I think, representatives of our -- of such constituency. That's my understanding.

Q Are you referring to people in Lebanon or Toshiba America throughout the country? Which are you referring to?

A My concern, just Toshiba Lebanon plant.

Q Did Mr. Traeger tell you that he was asked to contact the people, the congressmen and senators that he had made political payments to?

A He was asked --

Q He was asked.

A He was asked to contact with --

Q To contact the senators and congressmen from Tennessee about the Toshiba machinery issue.

A Yes.

Q He did tell you that?

A Yes.

Q He told you that that advice or that instruction came from a meeting with other Toshiba America representatives in Washington?

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A I don't know. I don't know because I am not a member of the meeting.

Q I am asking you what he told you about those meetings.

A I don't think so, no. The whole -- on behalf of Toshiba Lebanon's employees, so much concern as volunteering contact with our representatives. That is my understanding.

Q Were you aware of the harmful legislation proposed in Congress when Robert Traeger asked you for compensation for his political payments?

A Please repeat.

Q When Mr. Traeger told you about -- asked you to authorize payment for his political -- his payments for political purposes, were you aware of the harmful legislation in Congress?

A No.

Q When did you first learn that there was legislation in Congress that would have been harmful to Toshiba?

A My memory is after the first of July, this case blow up. Then some visibility or presence of Toshiba case. I think the legislation appeared in ~~August~~ June or ~~September~~ July. I

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can't recall the time.

MS. GREENE: I would like to take a short break at this time. For five minutes. We will be back on the record in five minutes.

(Recess.)

BY MS. GREENE:

Q Mr. Ikeda, were any other employees or officers of Toshiba America, to your knowledge, compensated by Toshiba America for making payments for political purposes?

A No.

Q You stated earlier that there was an article in the Tennessee Democrat about the Toshiba machinery problem.

A Yes.

Q Do you recall when that was?

A After the first of July of last year.

Q You said that the major newspapers got it, got the story after the first of July. You said earlier that the Tennessee Democrat ran the story much earlier.

A No.

Q At the same time?

A Yes.

Q When did you learn about the Toshiba machinery

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problem?

A Sometime in May or ~~July~~ June 1987, last year.

Q Did you know about the problem before or at the time that Robert Traeger talked to you about his contribution -- excuse me. Did you know about the Toshiba machinery problem at the time Robert Traeger asked you to authorize Toshiba to pay him for his payments for political purposes?

A I knew the problem, exactly, after July. But before that some newspaper reported the problem in June, May. But when Mr. Traeger came to my office, I didn't know exactly what it was.

Q Did you know that there was a problem?

MR. BARAN: He just said no, he did not.

BY MS. GREENE:

Q Did did you discuss the Toshiba machinery problem in any of the other conversations with Mr. Traeger about making payments for political purposes?

A No.

A As I told you, he received an invitation letter. Said he wanted to attend such a dinner party. That's all.

MS. GREENE: At this point I would like to end the questioning for today, unless you have questions.

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MR. BARAN: We have no questions.

MS. GREENE: We would like to continue the deposition in case we would like to call you back and ask you more questions.

MR. BARAN: We reserve the right to object.

MS. GREENE: Okay. Do you want -- do you waive the right to signature?

MR. BARAN: We do not.

MS. GREENE: A copy of the transcript will be provided for you. I remind you that the confidentiality requirement of the act will apply to this proceeding. Now I present Mr. Ikeda with a $30 check for the witness fee.

(Whereupon, at 12:10 p.m., the deposition was concluded.)

H. Ikeda

HIROSHI IKEDA

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CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, BRENDA M. SMONSKEY, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken in shorthand and thereafter reduced to typewriting by me or under my direction; that said deposition is a true record of the testimony given by said witness; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

9204090447

Brenda M. Smonskey

Notary Public in and for the
District of Columbia

My Commission Expires MARCH 31, 1991

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2575

DATE FILMED 6/24/92 CAMERA NO. 1

CAMERAMAN E.E.S.

92040904498

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2515.

7/7/92

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PERKINS COIE

A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
607 FOURTEENTH STREET, N.W. • WASHINGTON, D.C. 20005-2011 • (202) 628-6600

CLOSED

July 2, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL -2 PM 1:21

Tony Buckley
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2575 - Robert and Betty Traeger

Dear Mr. Buckley:

Enclosed is a check in the amount of $6,300 in payment of the civil penalty assessed against the above Respondents in this Matter Under Review.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Robert F. Bauer
Judith L. Corley
Counsel to Respondents

enclosure

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[/DA921840.008]

Folder copy

OGC 5029

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 2, 1992

RECEIVED
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OFFICE OF GENERAL COUNSEL
92 JUL -2 PM 3:29

TWO WAY MEMORANDUM

TO: Virginia Whitted
OGC, Docket

FROM: Philomena Brooks PB
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Perkins Cole, check number 226270, dated July 1, 1992, and in the amount of $6,300.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

Hand Delivered

TO: Philomena Brooks
Accounting Technician

FROM: Virginia Whitted
OGC, Docket

In reference to the above check in the amount of $6,300.00, the MUR number is 2575 and in the name of Betty and Robert Traeger. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

xx Civil Penalties Account, 95-1099.160

__ Other: _____

Virginia Whitted
Signature

July 6, 1992
Date

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PERKINS COIE

1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099
(206) 583-8888

DATE	CHECK NO.	AMOUNT
7/1/92	226270	$6300.00

CHECK NO. 226270

19-3/252
1250

PAY: SIX THOUSAND THREE HUNDRED AND 00/100 DOLLARS

VENDOR NO. FEDERAL13-001

PAY TO THE ORDER OF:
FEDERAL ELECTION COMMISSION

PERKINS COIE

VOID IF NOT NEGOTIATED WITHIN SIX MONTHS

SECURITY PACIFIC
BANK WASHINGTON
2nd & Spring Branch
Seattle, Washington

⑈226270⑈ ⑆125000037⑆ 2921694850⑈